Scan of communicated cases

Cases covered from 9 June until 20 June

Contents

Fuad ISMAYILOV v. Azerbaijan (Applications nos. 21786/20 and 41464/20)

Articles 3, 6, 10, 18 – administrative detention, planted evidence, courtroom cage, alleged political retaliation for expression, ulterior motives for conviction

SUBJECT MATTER OF THE CASE

The applications concern two separate sets of administrative proceedings against the applicant, who was a representative of a candidate in parliamentary elections of 9 February 2020, resulting in his administrative conviction under Article 206 of the Code on Administrative Offences for illegal drug possession on two different occasions.

On 7 March 2020 the police arrested the applicant and brought him to a police station where he was searched allegedly in the absence of a lawyer and drugs were found on him. By a final decision of 13 March 2020, the Baku Court of Appeal upheld the lower court's judgment convicting the applicant as charged. He was sentenced to two months' administrative detention.

After having been released from detention, on 21 May 2020 the applicant was arrested again, and drugs were found on his person after a search at the police station. By a final decision of 1 June 2020, the Baku Court of Appeal upheld the first-instance court's judgment by which he was again sentenced to two months' administrative detention.

Relying on Articles 3 and 6 the Convention, the applicant complains about confinement in a metal cage in the courtroom and the alleged unfairness of both sets of domestic proceedings. In particular, he complains that his conviction was based on planted evidence. Relying on Article 10 of the Convention and Article 18 in conjunction with Article 6, he complains that he was arrested and convicted after he had written graffiti about the chairman of the Central Electoral Commission (CEC) on a wall of the building in front of the CEC and that his conviction pursued ulterior purposes of silencing and intimidating him and preventing his protests about the alleged irregularities during the elections.

QUESTIONS TO THE PARTIES

1. Has the applicant been subjected to degrading treatment when he was confined in a metal cage during the hearing before the appellate court on 13 March 2020, in breach of Article 3 of the Convention (see *Natig Jafarov v. Azerbaijan*, no. 64581/16, §§ 37-41, 7 November 2019)?

2. Did the applicant have a fair hearing in the determination of the criminal charges against him, in accordance with Article 6 § 1 of the Convention? In particular, was the principle of equality of arms respected and was the applicant's conviction based on unlawfully obtained evidence? Was the applicant afforded an adequate opportunity to challenge the authenticity of the evidence against him and to oppose its use? Was the applicant's right to a reasoned judgment respected (see *Layijov v. Azerbaijan*, no. 22062/07, §§ 62-76, 10 April 2014)? Was the applicant able to defend himself through legal assistance of his own choosing, as required by Article 6 § 3 (c) of the Convention (see *Gafgaz Mammadov v. Azerbaijan*, no. 60259/11, §§ 88-93, 15 October 2015)?

3. Has there been an interference with the applicant's freedom of expression, within the meaning of Article 10 § 1 of the Convention? If so, was that interference prescribed by law and necessary in terms of Article 10 § 2 (see *Ibrahimov and Mammadov v. Azerbaijan*, nos. 63571/16 and 5 others, §§ 164-74, 13 February 2020)?

4. Were the restrictions imposed by the State on the applicant, purportedly pursuant to Article 6 of the Convention, applied for a purpose other than those envisaged by that provision, contrary to Article 18 of the Convention (see *Ukraine v. Russia* (*re* Crimea) [GC], nos. 20958/14 and 38334/18, §§ 1337-1338, 25 June 2024)?

The parties are requested to submit evidence in support of their submissions (copies of documents related to the applicant's arrest, search and seizure records, video recordings of search, if any, and so on).

Nikolay Vasilev NIKOLOV v. Bulgaria (Application no. 12694/22)

Article 6 § 1 – failure to address key argument in civil procedure about a loan dispute (unfair contract terms)

SUBJECT MATTER OF THE CASE

The application concerns civil proceedings, in which the national courts allegedly failed to address an important argument raised by the applicant.

The proceedings were brought in 2021 by a credit company seeking a payment order against the applicant, following his failure to repay in full a loan taken in 2013. In his defence, the applicant raised the following arguments: 1) that the plaintiff company was acting in ill faith, since it had had the chance to bring its claim in previous proceedings, 2) that repayment of the loan had become time-barred, and 3) that the credit contract was null and void due to unfair terms; specifically, the annual credit cost of about 110% exceeded the limit provided for in section 19(4) of the Consumer Credits Act, which, under section 19(5), constituted a ground for nullity.

In a judgment dated 28 July 2021, the Sliven District Court ruled in favour of the credit company, without addressing any of the arguments referred to above. In a final judgment of 3 November 2021, the Sliven Regional Court upheld the lower court's conclusions. It stated that: 1) there was no proof of ill faith on the part of the credit company, 2) the prescription period had started to run in 2017 when the last payment had been due, and had not expired by the time the company had brought proceedings against the applicant, and 3) the applicant had received a reimbursement plan upon signing the contract, and it was undisputable that he had not fully repaid the loan.

The applicant complains under Article 6 § 1 of the Convention (relying in addition on Article 13) that the national courts failed to adequately consider his arguments, in particular that the credit contract was null and void due to unfair terms.

QUESTIONS TO THE PARTIES

Did the national courts adequately consider the arguments raised by the applicant in the civil proceedings brought against him? If not, did their failure amount to a violation of Article 6 § 1 of the Convention? In particular, did the courts respond to the applicant's argument that the credit contract he had signed was null and void due to unfair terms?

Dražen FRIDERIĆ v. Croatia (Application no. 15071/23)

Article 8 — private detective surveillance by employer; data shared with third party; adequacy of legal safeguards and balancing of interests
Article 6 — fairness and reasoning of judicial review proceedings

SUBJECT MATTER OF THE CASE

The case concerns the applicant's surveillance by a private detective hired by his employer.

The applicant was employed with company T., which in 2016 hired a private detective to follow the applicant with a view to establishing whether he violated his employment-related obligations. The private detective mistakenly sent the surveillance report to another (sister) company.

The applicant then filed a request for the protection of rights with the Agency for the protection of personal data ("the Agency") complaining, *inter alia*, that his surveillance had been unlawful, disproportionate and overly intrusive and that his data had been shared with an unauthorised third person. His request was upheld in the part relating to the sharing of the data with an unauthorised person, whereas the remainder of his complaints were dismissed. His subsequent action for judicial review lodged with the Zagreb Administrative Court and an appeal lodged with the High Administrative Court were equally dismissed. The applicant's constitutional complaint was dismissed on the merits on 10 November 2022 (date of service 1 December 2022).

The applicant complains under Article 6 of the Convention that the proceedings were unfair, that the court decisions were arbitrary and lacked proper reasoning to an extent that they amounted to a lack of access to court.

The applicant also complains under Article 8 of the Convention that his surveillance was unlawful, disproportionate and overly intrusive in that it involved his wife and other aspects of his personal and family life which were irrelevant to his employment obligations.

QUESTIONS TO THE PARTIES

1. Did the applicant exhaust all available domestic remedies in the present case? In particular, was a civil claim for damages an available and effective remedy in the circumstances, offering the applicant reasonable prospects of success? The parties are invited to submit any relevant jurisprudence of the national courts in this respect.

2. Have the State authorities effectively protected the applicant's right to respect for his private life (cf. *López Ribalda and Others v. Spain* [GC], nos. 1874/13 and 8567/13, §§ 110-11, 17 October 2019)? In particular, did the domestic courts strike a fair balance between the competing interests at stake, namely, the applicant's right to respect for his private life, on the one hand, and his employer's interests, on the other hand? In this regard, have the factors deriving from the Court's case-law (compare, among others, *Bărbulescu v. Romania* [GC], no. 61496/08, §§ 121-22, 5 September 2017, and *Florindo de Almeida Vasconcelos Gramaxo v. Portugal*, no. 26968/16, §§ 109-10, 13 December 2022) to be treated as relevant by the domestic authorities in such a context duly been taken into consideration?

Vladimir KESER v. Croatia (Application no. 13709/24)

SUBJECT MATTER OF THE CASE

The application concerns administrative proceedings regarding the applicant's entitlement to State housing.

In 2007 the Ministry of Development's Administration in charge of displaced persons issued an approval for temporary lease of a State-owned house to the applicant and his wife, who moved therein. In 2009 the Administration withdrew the approval as it had established that in 2005 the applicant had inherited a flat which he had transferred to his son and that he was therefore ineligible for allocation of State housing. In the same year (2009) the applicant's request for State housing was dismissed. The applicant, however, remained living in the house with his wife.

In 2016 proceedings with a view to evicting the applicant and his wife from the house were instituted and then stayed. In 2019 another set of administrative proceedings were instituted against the applicant, in which the authorities established that the applicant was not entitled to State housing owing to the fact that in 2005 he had inherited a flat which he had transferred to his son. Before the domestic authorities the applicant argued that the eviction from the house would be disproportionate to the aim pursued. He submitted that he and his wife had moved into the house in 2007 following the authorities' approval; were living there ever since; had made the house suitable for living; and had meanwhile both become ill (he from bladder and prostate cancer and his wife from breast cancer) and thereby unable to secure themselves other housing. He stressed that the house was owned by the State, meaning that there were no opposing private interests involved.

The Rijeka Administrative Court found that no issue arose under Article 8 of the Convention because the interference with the applicant's right to respect for his home was lawful. The High Administrative Court did not address the applicant's arguments concerning his right to respect for his home. The Constitutional Court held that the applicant's case fell outside the scope of application of Articles 34 and 35 of the Croatian Constitution (which protect a person's home from unjustified searches and guarantee the right to respect for private and family life).

Before the Court the applicant complains about a breach of his right to respect for his home, guaranteed by Article 8 of the Convention. He notably argues that his eviction from the State-owned house in which he has been living with his wife since 2007 would be disproportionate in view of his individual circumstances.

QUESTIONS TO THE PARTIES

Has there been a violation of the applicant's right to respect for his home guaranteed by Article 8 of the Convention by the decision to evict him from the State-owned house he has been living in with his wife? In particular, was the interference with his right to respect for his home proportionate to the aim pursued and thus "necessary in a democratic society"? Did the domestic courts assess the proportionality of the interference in the light of the applicant's personal circumstances (see, for example, *Ćosić v. Croatia*, no. 28261/06, §§ 20-23, 15 January 2009; *Paulić v. Croatia*, no. 3572/06, §§ 40-45, 22 October 2009; *Orlić v. Croatia*, no. 48833/07, §§ 63-72, 21 June 2011; *Bjedov v. Croatia*, no. 42150/09, §§ 64-72, 29 May 2012, and *Hasanali Aliyev and Others v. Azerbaijan*, no. 42858/11, §§ 47-50, 9 June 2022)?

Khalid ALAOUI MHAMMEDI v. Cyprus (Application no. 5755/25)

Article 5 §§ 1 & 4 — asylum seeker detained on national security grounds; no deportation or criminal charges; procedural unfairness and lack of access to evidence

SUBJECT MATTER OF THE CASE

The application concerns the detention of the applicant – who entered Cyprus irregularly seeking asylum – on national security grounds from 10 January 2019 until 24 February 2020, and the procedural fairness of the domestic proceedings (nos. 422/2019 and 78/2019) whereby he challenged such detention. These proceedings were terminated on 16 October 2024 through final judgment by the Supreme Constitutional Court.

The applicant complains under Article 5 § 1 of the Convention about the lawfulness of his detention in the absence of a deportation order or any criminal proceedings against him. He also complains that his detention was arbitrary on account of its length. The applicant further complains under Article 5 § 4 of the Convention that the judicial review proceedings concerning the lawfulness of his detention had not fulfilled the requirements of procedural fairness and equality of arms. In particular, material evidence

concerning the allegations that he posed a danger to national security was not disclosed to him and he was not granted appropriate alternative counterbalancing procedural safeguards *vis-à-vis* the limitations of his rights of disclosure on the reasons of his detention.

QUESTIONS TO THE PARTIES

1. Was the applicant deprived of his liberty in breach of Article 5 § 1 of the Convention? If so, was his deprivation of liberty in line with the purpose of protecting the individual from arbitrariness, given *inter alia,* its length? Was there a sufficiently close connection between the ground relied on to justify detention and the prevention of unauthorised entry (see *B.A. v. Cyprus,* no. 24607/20, §§ 55-59, 2 July 2024)?

2. Did the applicant have at his disposal an effective procedure by which he could challenge the lawfulness of his detention, as required by Article 5 § 4 of the Convention? In particular, was the principle of equality of arms between the applicant and the State authorities respected in the present case notably in terms of access to the case file (see, among other authorities, *Al Husin v. Bosnia and Herzegovina* (no. 2), no. 10112/16, §§ 114-15, 25 June 2019, and *A. and Others v. the United Kingdom* [GC], no. 3455/05, §§ 202-11, ECHR 2009)?

L.T. v. the Czech Republic (Application no. 22850/24)

Articles 6, 14, 13, Protocol No. 1 Article 2 – minor tries to challenge closure of schools during Covid, denial of access to court access based on socio-economic status (not found in best interest of child)

SUBJECT MATTER OF THE CASE

The application concerns a denial of access to a court to an applicant, born in 2007 and minor at the material time, to lodge an action concerning discrimination in education. Represented by his mother, he lodged an action complaining about the closure of schools in autumn 2020 in response to the spreading of the SARS-CoV-2 virus in the context of the COVID-19 state of emergency. However, the court stayed the proceedings until the applicant provided a decision of a guardianship court confirming his right to lodge the action, as required by law.

Subsequently, two levels of guardianship courts denied the application for a decision confirming the applicant's right to lodge the action. They considered his wish to pursue the action, expressed during an oral hearing, as well as the position of the appointed public guardian (a child protection authority) who recommended that the court allow the action. They also took note that the applicant would only pay legal fees if his action was successful and that the mother had undertaken to cover the possible adverse legal costs and a court fee. Nevertheless, they considered that filing the action would not be in his best interest because the mother's financial situation was unstable owing to her unemployment, and he thus still risked incurring a debt.

The applicant's constitutional appeal complaining about the denial of access to a court and challenging the courts' assessment of his best interests was dismissed as manifestly ill-founded (decision no. III. ÚS 3185/23, delivered to the applicant on 5 April 2024).

Before the Court, the applicant complains under Article 6 § 1 that he was denied access to a court to determine his civil claim. He further relies on Article 14 in conjunction with Article 6 § 1, arguing that access was denied to him on the basis of his socio-economic status. As a consequence, he did not have an effective remedy under Article 13 in relation to his original complaint under Article 2 of Protocol No. 1 to the Convention. Lastly, the applicant also claims that his rights under Article 2 of Protocol No. 1 in

conjunction with Article 14 were breached due to the closure of schools during the COVID-19 state of emergency.

QUESTIONS TO THE PARTIES

1. Has there been a breach of the applicant's right of access to a court under Article 6 § 1 of the Convention on account of the domestic courts' refusal to grant him an approval to lodge an action against the alleged interference with the right to education and discrimination in education?

2. Has the applicant been discriminated against on the grounds of his socioeconomic status in the enjoyment of his right of access to a court, in violation of Article 14 in conjunction with Article 6 § 1 of the Convention?

3. Have there been any other violations of the Convention as alleged by the applicant?

Artesh Salim IBRAHIM v. Denmark (Application no. 7375/25)

Article 3 – pepper spray during arrest; alleged ill-treatment and ineffective investigation

STATEMENT OF FACTS

On 8 November 2021, during an arrest, the applicant was exposed to pepper spray in the face by a police officer. The applicant complained to the Independent Police Complaints Authority (*Den Uafhængige Politiklagemyndighed*, "IPCA") about "a possible criminal behaviour".

On 1 April 2024 the Director of Public Prosecution decided not to initiate criminal proceedings against the police officer, and on 18 February 2025 he refused the applicant's request to reopen the investigation subsequent to IPCA's decision of 31 October 2024 holding that the pepper spray exposure was deemed unnecessary, exaggerated, and disproportional. It appears that the case is currently pending before the IPCA.

The applicant complained that he was subjected to treatment in breach of Article 3 of the Convention and that the investigation thereof had been ineffective.

QUESTIONS TO THE PARTIES

1. Has the applicant complied with the time-limit laid down in Article 35 § 1 of the Convention, in particular, should the four-months' time-limit be calculated from 1 April 2024 (see, *inter alia*, *Stanimirović v. Serbia*, no. 26088/06, §§ 29 and 33, 18 October 2011 and *Jørgensen v. Denmark* (dec.), no. 30173/12, §§ 36, 52-54, 28 June 2016, and the cases cited therein)?

2. Has the applicant been subjected to treatment in breach of Article 3 of the Convention, when in connection with his arrest on 8 November 2021, he was exposed to pepper spray in the face (see, for example, *Bouyid v. Belgium* [GC], no. 23380/09, §§ 100-103), ECHR 2015)?

3. Was the investigation by the domestic authorities concerning the applicant's complaint that he was exposed to pepper spray in breach of Article 3 of the Convention (see, among others, *Bouyid v. Belgium* [GC], cited above, §§ 114-23, and *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, §§ 316-25 ECHR 2014 (extracts)?

Laurent GRAVIER and Others v. France and 6 other applications (Application no. 11314/24)

Article 6, Article 7 – disciplinary sanctions on auditors, fairness of proceedings, retroactivity

SUBJECT MATTER OF THE CASE

The applications concern the fairness and legality of disciplinary procedures and sanctions imposed on the applicants, who are statutory auditors, by the restricted panel of the High Council for Statutory Auditors (H3C), as well as the judicial oversight exercised by the Conseil d'État over those sanctions (Articles 6 and 7 of the Convention).
The H3C, the regulatory authority for the auditing profession, was created by the Financial Security Act of 1 August 2003. Ordinance no. 2016-315 of 17 March 2016 on statutory auditing, which transposed into domestic law the EU reform of statutory audit enacted by Directive 2014/56/EU and Regulation (EU) no. 537/2014 of 16 April 2014, reorganized the disciplinary and oversight rules for the auditing profession. It replaced the regional disciplinary chambers and the H3C, which previously had jurisdiction in first instance and on appeal respectively to impose disciplinary sanctions, with regional disciplinary commissions or the H3C sitting in restricted formation, administrative bodies now responsible for imposing such sanctions under the control of the Conseil d'État. The regional commissions were abolished by the Law of 22 May 2019 on business growth and transformation ("Law of 22 May 2019"), making the H3C the sole adjudicatory body for disciplinary procedures against statutory auditors. Pursuant to Ordinance no. 2023-1142 of 6 December 2023, which came into force on 1 February 2024, the H3C became, as of 1 January 2024, the High Authority for Audit (H2A). The restricted formation of the H3C was replaced by a sanctions commission whose members are no longer part of the regulatory authority's College.

The applicants, both natural and legal persons (Annex I), all performed statutory audit functions for the Agripole group, a food industry group comprising several companies.
Following the death of the group's director in November 2016, the court-appointed representative informed the public prosecutor at the Paris Tribunal de Grande Instance that the companies' accounts had been presented misleadingly for several years.
In this context, Mr Gravier was criminally charged with certifying false information as an auditor (Gravier v. France, no. 49904/21, §32, 4 July 2024). This also appears to be the case for the other applicants.

In parallel, on 27 March 2017, the President of the National Company of Statutory Auditors referred the matter to the General Rapporteur of the H3C, requesting an investigation into the certification of the Agripole group's accounts. On 28 March 2017, the General Rapporteur opened an investigation into the statutory audits of the Agripole company and its subsidiaries for the fiscal years 2012 to 2015/2016. Following review of the investigation report, the body ruling on individual cases (FCI) of the H3C College (the prosecuting body) decided to initiate proceedings and issued the charges against the applicants.

On 7 February 2019, the General Rapporteur notified the applicants of the charges and invited them to submit observations, specifying that they could access and obtain a copy of the case file at any time during the procedure. They were particularly accused of breaching professional obligations by issuing unsupported opinions in relation to the certification of the aforementioned companies' accounts or failing to implement procedures conducted independently of the audited entities, as well as failing to ensure periodic evaluation of engagement conditions and identification of high-risk files. In particular,

they were accused of violating Article 15 of the Code of Ethics for statutory auditors and numerous professional standards, including NEP 500, 530, and 240, concerning the evidential value of collected elements, sampling methods, and consideration of potential fraud in audits.
On 12 November 2019, the General Rapporteur sent to the President of the H3C restricted formation (the adjudicatory body) a copy of the final report, the notifications of the charges, the applicants' observations, and the full case file.
The hearing before the restricted formation took place from 28 September to 6 October 2020.
By decision dated 19 February 2021, the restricted formation, after rejecting requests for recusal and all procedural objections raised by the applicants—including alleged violations of the adversarial principle, rights of the defense, impartiality, and legality—on the grounds of inapplicability of Article 6 §1 of the Convention prior to the notification of charges phase, its lack of jurisdiction to assess compliance of national law with France's international commitments, or on substantive grounds, imposed the following sanctions:

- Mr Gravier and the companies PwC Audit and PwC Entreprises: a reprimand and a fine of €50,000 for PwC Audit and €10,000 for Mr Gravier
- Mr Tamet: removal from the list of statutory auditors; and the firm Michel Tamet et Associés: prohibition from practicing for five years, suspended for the full term
- Mr Sardet: removal from the list of statutory auditors, a €100,000 fine, and a three-year ban from holding management roles in auditing firms or public-interest entities
- Mr Schwaller: an 18-month suspension from practicing, fully suspended, and a €50,000 fine
- The firm Mazars: a 12-month suspension from practicing, fully suspended, and a €400,000 fine
- Mr Krief: a warning.

The restricted formation "noted" that its decision would be "published non-anonymously on the H3C website" for five years.
The applicants filed a full-jurisdiction appeal (Article L. 824-14 of the Commercial Code) with the Conseil d'État seeking annulment of the sanctions. In some cases (applications nos. 11314/24, 11374/24, 11938/24, 11380/24), the President of the H3C filed a cross-appeal, arguing the sanctions were too lenient. By five decisions dated 18 December 2023 (nos. 451866, 451835, 451878, 451785, 451947), the Conseil d'État rejected their appeals. It upheld the restricted formation's reasoning and the sanctions imposed, except for the fine against PwC, which was increased from €50,000 to €300,000 (application no. 11314/24), and the fine against Mazars, increased from €400,000 to €800,000 (application no. 11380/24). It ruled that procedural changes removing a second review by the FCI before referral to the restricted formation did not affect the applicants' rights to access the file, submit observations, or be assisted by counsel at every stage. It further held that the dual role of the H3C—as both norm-setting and sanctioning body—did not in itself breach Article 6 §1 of the Convention. The deontology code and professional standards were found sufficiently clear for the applicants to understand their obligations.
Invoking Articles 6 §1 and 7 of the Convention, the applicants raise one or more of the following complaints (see Annex II).

Under Article 6 §1 of the Convention, some applicants (applications nos. 11555/24, 11559/24, 11874/24, 11938/24) allege violations of the rights of defense, adversarial principle, and equality of arms during the investigation phase and before the notification of charges. They claim they had no access to the file prior to the notification or to the investigation report sent to the FCI. They also challenge the

General Rapporteur's dominant role, who presented the case to the FCI without it having their version, and argue there was a role conflict, as the rapporteur served as investigator, prosecutor, and FCI representative before the restricted formation (although not participating in deliberations). They also complain of not being heard by the FCI and not being informed of their right against self-incrimination.

Still under Article 6 §1, invoking the principles of adversarial procedure and legal certainty, all applicants argue that applying the Law of 22 May 2019 immediately to proceedings initiated under the previous law deprived them of a second review by the FCI on whether to proceed, and the possibility of dropping charges based on the adversarial phase. Under the new system, the notification of charges no longer triggered referral to the restricted formation but was merely preparatory.

Also under Article 6 §1, except for the applicant in application no. 11874/24, the applicants allege a lack of impartiality on the part of the restricted formation because some members, including the president, had participated in drafting the professional standards on which the sanctions were based.

Continuing under this provision, five applicants (11314/24, 11374/24, 11380/24, 11938/24, 21389/24) argue that judicial review by the Conseil d'État did not meet the standards of "full jurisdiction" under the Court's case law or the requirement for reasoned judgments. They allege a summary examination by the Conseil d'État, acting as a court of cassation, and, in some cases, failure to justify the increased fines.

Under Article 7 of the Convention, some applicants (applications nos. 11938/24, 11380/24, 11374/24) complain about the lack of clarity and foreseeability of the professional standards underlying the sanctions. Mr Schwaller complains of unforeseeable findings regarding sampling procedures (NEP 500 and 530). The applicant firm Mazars complains of the unforeseeability of failures related to the absence of a risk file identification procedure (Article 15 of the code of ethics). Mr Sardet complains that the Conseil d'État gave an unforeseeable interpretation of NEP 240 (fraud consideration during audits) by wrongly finding it imposed a "duty of vigilance."
Also invoking Article 7, the applicants in applications nos. 11380/24 and 11374/24 claim the sanctions breached the principle of non-retroactivity of harsher penalties, as no fines were provided by law at the time of the alleged conduct. Two other applicants (nos. 11555/24 and 11559/24) make the same argument regarding the use of criteria for sanctions and publication that did not exist at the time.

QUESTIONS TO THE PARTIES

1. Is Article 6 §1 of the Convention, under its civil or criminal limb, applicable to the disciplinary proceedings at issue (see, in particular, Ramos Nunes de Carvalho e Sá v. Portugal (GC), nos. 55391/13 and 2 others, 6 November 2018; X and Y v. France, no. 48158/11, 1 September 2016)?

2. If so, was the review by the Conseil d'État "sufficient" to remedy the alleged shortcomings in fairness and impartiality in the disciplinary proceedings before the High Council for Statutory Auditors (investigation phase, proceedings before the FCI and the restricted formation, role of the General Rapporteur)? Did the scope of its review of the merits of the sanctions, including their proportionality, meet the standard of "full jurisdiction" under the Court's case law (Ramos Nunes de Carvalho e Sá; Dahan v. France, no. 32314/14, 3 November 2022)?

3. Is Article 7 of the Convention applicable in this case?
   a) If so, did the violations for which the applicants were sanctioned constitute offences under domestic law at the time they were committed, within the meaning of Article 7 of the Convention?
   b) Was the principle of legality of penalties violated by the fines imposed on the applicants and by the publication of sanctions on the H3C website?

Jeanne, Gabrielle DINOMAIS v. France (Application no. 36642/23)

Article 10 — disciplinary sanction for psychiatrist reporting suspected child abuse; professional secrecy vs. duty to report; necessity and proportionality of interference

SUBJECT MATTER OF THE CASE

The application concerns, under Article 10 of the Convention, the disciplinary sanction imposed on a psychiatrist for reporting suspicions of child abuse involving a minor under her care.
The applicant was treating a child, E., who allegedly confided that he had been subjected to sexual abuse by his father, Mr C. The applicant reported her suspicions to both the juvenile court judge and the public prosecutor.
Mr C. filed a complaint against the applicant before the regional disciplinary chamber of the Medical Council. On 14 March 2017, the chamber dismissed the complaint, holding that there had been no breach of professional ethics.
Mr C. appealed to the national disciplinary chamber of the Medical Council. On 4 April 2019, the national chamber overturned the lower decision and imposed a one-month suspension from medical practice. It found that, by sending letters containing information covered by medical confidentiality to the juvenile court judge — who, it held, was not among the authorities entitled to receive such reports — the applicant had breached her duty of professional secrecy.
The applicant appealed in cassation to the Conseil d'État. On 19 May 2021, the Conseil d'État quashed the decision and referred the case back to the national disciplinary chamber, finding that the mere fact of informing the juvenile court judge — who was already involved in the child's case — could not, on its own, constitute a breach of medical secrecy.
On 26 April 2022, the national disciplinary chamber again found a breach of professional ethics and imposed a three-month suspension. It held that the applicant had expressed strongly worded and extremely negative opinions about Mr C. and the appropriateness of the child protection measures ordered by the court. It considered that she had failed to observe the prudence and restraint expected of a doctor when reporting suspicions of abuse.
The applicant asked the Conseil d'État to annul this second decision, arguing that the disciplinary chamber had erred in law by finding fault without assessing her good faith, and that it had mischaracterised the facts by stating she had not met the required standard of caution. She claimed that her letters were measured, merely offered a professional opinion on protective measures for the child's health, and were not intended to discredit the judiciary.
On 26 May 2023, the Conseil d'État dismissed the cassation appeal on the grounds that no serious grounds of appeal had been raised.
Invoking Article 10 of the Convention, the applicant contends that the disciplinary sanction constituted an interference with her freedom of expression. She accepts that the interference was prescribed by law and pursued a legitimate aim but argues that the reasons given by the disciplinary chamber were neither sufficient nor relevant, and that the penalty was disproportionate and had a chilling effect.

QUESTIONS TO THE PARTIES

1. Has the applicant exhausted domestic remedies as required by Article 35 § 1 of the Convention? In particular, did she raise, at least in substance, before the domestic authorities the right guaranteed by Article 10 that she now invokes before the Court?

2. Was there an interference with the applicant's right to freedom of expression, in particular her right to impart information, within the meaning of Article 10 § 1 of the Convention? If so, was this interference necessary in a democratic society within the meaning of Article 10 § 2?

R.B. v. France (Application no. 13348/25)

Articles 2 & 3 — risk to life or inhuman treatment if extradited; quality of diplomatic assurances
Article 5 § 1(f) — lawfulness and duration of extradition detention
Article 6 — risk of flagrant denial of justice upon extradition

SUBJECT MATTER OF THE CASE

The application concerns the extradition of a Russian national of Karachay origin, who has been held in extradition detention at Fresnes prison since 6 September 2018.
Relying on Articles 2 and 3 of the Convention, the applicant claims to fear for his life if extradited to Russia and argues that he risks being subjected to inhuman treatment there.
Under Article 5 § 1 (f) of the Convention, he contends that his extradition detention in France has lost any effective legal basis and no longer serves the purpose for which it was ordered.
Invoking Article 6 of the Convention, he complains that he would not receive a fair trial in Russia, particularly regarding the respect for the rights of the defence, if the extradition order were executed.

QUESTIONS TO THE PARTIES

1. Having regard to the applicant's allegations and the documents submitted, would the enforcement of the extradition order expose him to a risk to his life within the meaning of Article 2 of the Convention or to a risk of treatment contrary to Article 3 of the Convention?
   In particular, for the purposes of enforcing the extradition order, has the Government undertaken an ex nunc reassessment of the risks the applicant might face in the Russian Federation of being subjected to treatment contrary to Articles 2 and 3 of the Convention (*Compaoré v. France*, no. 37726/21, § 129, 7 September 2023)?
   Have any assurances been provided by the Russian Federation regarding the applicant's extradition subsequent to the onset of the armed conflict between Russia and Ukraine? If so, has the French Government assessed the quality and reliability of those assurances in accordance with the criteria established by the Court and reiterated in *Compaoré v. France* (cited above, § 98)?

2. Has the applicant been deprived of his liberty in violation of Article 5 § 1 (f) of the Convention? In particular, given the circumstances of the case, can the extradition proceedings be considered to have been conducted with the required diligence by the French authorities (see, among others, *Khlaifia and Others v. Italy* [GC], no. 16483/12, §§ 88–92, 15 December 2016, and *Khokhlov v. Cyprus*, no. 53114/20, §§ 88–90, 13 June 2023)?
3. Would the applicant risk suffering a flagrant denial of justice in the proceedings relating to the offence for which his extradition is sought, in violation of Article 6 of the Convention (*Harkins v. the United Kingdom* (dec.) [GC], no. 71537/14, §§ 62–65, 15 June 2017)?

Irine NADASHVILI v. Georgia (Application no. 31727/23)

Article 6 – excessive length of civil proceedings, psychiatric detention

SUBJECT MATTER OF THE CASE

The application concerns the alleged excessive length of civil proceedings which have been pending before a court of first instance since April 2021.

In particular, on 9 August 2020, upon her return from Turkey to Georgia, the applicant was placed in a designated hotel for quarantine – a measure imposed in the context of the COVID-19 health pandemic. On 10 August 2020, in view of her alleged refusal to undergo a nasal polymerase chain reaction test (PCR), she was transferred by the police to a psychiatric hospital. The applicant alleges that, while in hospital, she was confined to a room, deprived of her personal belongings, including her mobile phone, and prevented from communicating with the outside world. She further claims that she was forcibly subjected to a nasal PCR test and also compelled to take certain psychotropic medication.

After multiple complaints lodged with, among others, the police and the hospital, on 8 April 2021 the applicant filed a civil complaint against the regional Ministry of Health and Social Protection, requesting compensation for what she described as unlawful detention and inhuman and degrading treatment at the psychiatric facility. According to the case file, the case is still pending before the court of first instance.

Relying on Article 6 of the Convention, the applicant complains about the excessive length of the civil proceedings.

QUESTION TO THE PARTIES

Does the length of the civil proceedings in the present case constitute a breach of the "reasonable time" requirement set forth in Article 6 § 1 of the Convention?

Jimsher TSKHADADZE v. Georgia (Application no. 15498/24)

Article 6, Article 14, article 1 Protocol No. 12 – age-based dismissal of Court bailiff, non-retroactivity of constitutional ruling, length of proceedings

SUBJECT MATTER OF THE CASE

The application concerns domestic proceedings initiated by the applicant who argued that his dismissal from his position as a bailiff at the Tbilisi City Court – on the grounds of having reached the mandatory retirement age of fifty, as prescribed by a special statutory provision governing that post – constituted age-based discrimination, given that the general statutory retirement age was sixty-five.

On 25 May 2016 the applicant instituted proceedings against the Tbilisi City Court before the Administrative Chamber of the same court. Subsequently, in June 2016, he also initiated proceedings before the Constitutional Court of Georgia. In both sets of proceedings, the applicant contended that his dismissal, effected pursuant to Article 59 of the Organic Law on Common Courts, had been discriminatory and, consequently, unconstitutional.

As it appears from the case file, the applicant requested the first-instance court to initiate constitutional referral procedure under Article 6 of the Code of Civil Procedure. This provision allows a court, on its own initiative, to stay the proceedings and refer a matter to the Constitutional Court if it considers that the relevant legal provision may be unconstitutional, in whole or in part. The applicant's request was rejected on the grounds that the constitutional referral procedure lies within the court's discretion, and the judge did not deem it necessary to trigger it.

On 14 December 2018 the Constitutional Court accepted the applicant's appeal and declared Article 59 of the Organic Law on Common Courts unconstitutional in so far as it provided for the compulsory retirement of court bailiffs at the age of fifty. The Constitutional Court found that such difference in treatment, when compared to the general retirement age, lacked sufficient justification and thus amounted to unjustified age-based discrimination. The ruling specified that it would have a prospective effect, applying from the date it was published on the Constitutional Court's website.

On 23 December 2021 the Tbilisi City Court dismissed the applicant's application. It acknowledged the Constitutional Court's finding that the legal provision underlying the applicant's dismissal was unconstitutional, but emphasized that such a finding could only have a prospective effect, as expressly provided for in the domestic legislation and stated in the Constitutional Court's judgment. It could not, therefore, apply to the applicant's dismissal retroactively. Accordingly, the first-instance court found that the applicant's dismissal had a lawful basis at the time it had occurred. The applicant appealed arguing, among other things, that at the time the Constitutional Court delivered its ruling, the dismissal order had not yet become final due to the ongoing judicial proceedings challenging its validity. Therefore, according to the applicant, the judgment of the Constitutional Court should have been applied to his labour dispute.

On 21 September 2022 the Tbilisi Court of Appeal overturned the lower court's judgment. While acknowledging the general principle that the Georgian Constitutional Court's findings do not have retroactive effect, it made a reference to the constitutional referral mechanism that allows a judge, in cases of doubt as to the constitutionality of a legal provision, to refer the matter to the Constitutional Court. The appellate court considered the applicant's situation similar to that mechanism, even though the Constitutional Court had been seized by the applicant himself rather than by a judge. It found that the proceedings in the applicant's case had, in effect, been stayed pending the outcome of his constitutional complaint considering, on the one hand, the normally short processing time of labour disputes and, on the other hand, the multiple postponements made in the applicant's case by the first-instance court. Accordingly, and given that his case had not yet been finally adjudicated by the courts of general jurisdiction, the Constitutional Court's ruling ought to have been applied by the lower court as if the Constitutional Court had been seized by the trial judge by means of the constitutional referral mechanism.

On 15 April 2024 the Supreme Court of Georgia overturned the judgment of the Tbilisi Court of Appeal. While it acknowledged the reasoning provided by the appellate court, it held that the principle whereby the Constitutional Court's judgments do not have retroactive effect could not be revoked by means of a judicial interpretation or by analogy with another procedure such as the constitutional referral mechanism and its legal consequences.

The applicant complained about age-based discrimination, the length of the related labour dispute, and his inability to successfully litigate his case before the domestic courts. He relied on Articles 6 and 14 of the Convention, and Article 1 of Protocol No.12 thereto.

QUESTIONS TO THE PARTIES

1. Has the applicant suffered discrimination on account of his age, contrary to Article 1 of Protocol No. 12, given that he was forced to retire at an age different from that set for the general population (see, for instance, *Molla Sali v. Greece* [GC], no. 20452/14, §§ 133-37, 19 December 2018)?

2. Did the applicant have a fair trial, within the meaning of Article 6 § 1 of the Convention, as regards the effects of the Constitutional Court's findings? In this respect, did the domestic courts approach the

matter without excessive formalism (see, for instance, *Zubac v. Croatia* [GC], no. 40160/12, § 97, 5 April 2018)?

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

Roland Helmut WOLFRUM v. Germany (Application no. 621/24)

Articles 5 §§ 1 & 5, Article 8, Article 13 — deprivation of liberty via guardianship and addiction facility placement; procedural defects in guardianship; denial of compensation despite findings of rights violations

SUBJECT MATTER OF THE CASE

In 2013 the Bayreuth District Court ordered the applicant's placement under guardianship after a court-appointed medical expert had attested an acute danger for the applicant's life. In a second set of proceedings, it authorised the applicant's placement in an addiction treatment facility upon the guardian's initiative.

The applicant's appeals against the decisions concerning the placement in the addiction treatment facility were of no avail. As to the decisions on the applicant's placement under guardianship, the Federal Constitutional Court found that the Bayreuth Regional Court's decision in the appeal proceedings had violated the applicant's personality rights, notably because the Regional Court had not given the applicant a second oral hearing. In a declaratory decision, the Federal Court of Justice later found that the District Court's initial decision concerning the guardianship had also breached the applicant's rights because the report of the medical expert had only been handed over to him at the oral hearing.

In 2016 the applicant brought official liability proceedings for pecuniary and non-pecuniary damages stating that his placement under guardianship – and by extension his placement in the addiction treatment facility – had been unlawful. The civil courts dismissed the claim for compensation stating, *inter alia*, that the decisions in the guardianship proceedings had not been unreasonable and the applicant had not shown a link of causality between the court decisions and the damages claimed.

The Federal Constitutional Court refused to admit the applicant's constitutional complaint against these decisions. It found the applicant's complaints about a violation of his personality rights to be inadmissible for lack of substantiation and the remaining complaints to be ill-founded. The Federal Constitutional Court found *inter alia* that official liability could only be established where a decision was both objectively and subjectively unreasonable. While a decision that had been found to be unconstitutional was, in general, also objectively unreasonable, the civil courts had sufficiently established that the procedural deficiencies in the guardianship proceedings had not been so severe as to render them subjectively unreasonable.

The applicant alleged a violation of Article 5 § 1 of the Convention, arguing that his placement in the addiction treatment facility had been unlawful because it had been ordered upon the guardian's initiative and his placement under guardianship had been unlawful. The applicant further alleged a violation of his rights under Article 8 of the Convention on account of his placement under guardianship. Lastly, he alleged a violation of Article 13 of the Convention because he had not been granted compensation in the official liability proceedings, even though the domestic courts had established earlier that his rights had been violated in the guardianship proceedings, as well as a violation of Article 5 § 5 of the Convention, arguing that his detention, which in his view had been in breach of Article 5 § 1 of the Convention, had to be compensated for.

QUESTIONS TO THE PARTIES

1. Was the applicant deprived of his liberty in breach of Article 5 § 1 of the Convention? In particular, was the applicant's placement in the addiction treatment facility in breach of Article 5 § 1 of the Convention because it had been ordered by the courts on the guardian's initiative and there had been a violation of the applicant's rights in the guardianship proceedings (see, for the general principles, *Mooren v. Germany* [GC], no. 11364/03, §§ 73-75, 9 July 2009)?

2. If the applicant was the victim of detention in contravention of Article 5 § 1 of the Convention, did he have an effective compensatory remedy in respect of his complaint under Article 5 § 1 of the Convention, as required by Article 5 § 5 of the Convention (see *Danija v. Switzerland* (dec.), 1654/15, §§ 34 and 37, 28 April 2020)?

3. Has there been a breach of Article 8 § 1 of the Convention on account of the applicant's placement under guardianship? In particular, can the applicant still claim to be a "victim" within the meaning of Article 34 of the Convention in respect of the alleged violation, given the domestic courts' finding that his rights had been breached in the guardianship proceedings? Was a monetary award required for the applicant to lose his victim status in respect of the alleged violation (see *Roth v. Germany*, nos. 6780/18 and 30776/18, §§ 75-78, 22 October 2020; *Stollenwerk v. Germany*, no. 8844/12, §§ 47-49, 7 September 2017)?

4. Did the applicant have at his disposal an effective domestic remedy for his complaint under Article 8 § 1 of the Convention, as required by Article 13 of the Convention (see *Roth*, cited above, §§ 90-98)?

Nikolin MARGJOKAJ v. Greece (Application no. 30027/19)

Article 6 §§ 1, 3(d) – conviction of murder on eyewitness testimony only, only his photo showed to witnesses

SUBJECT MATTER OF THE CASE

The application concerns the conviction of the applicant of murder, based on eyewitness testimonies. On 8 May 2010 a man was lured to a meeting through a fake Facebook profile and killed. Three witnesses, who saw the crime from some distance, provided descriptions of the perpetrator. On 23 May 2010 two of them were shown only the applicant's photographs and identified him as the perpetrator, while one of them questioned why his photo was being shown. The police replied that he was suspected of murder. On 22 May 2011 one of the witnesses identified the applicant in person, among three or four other persons shown at the police station, noting that "he had a typical Albanian face". All three witnesses recognised the applicant again during the trials.

On 9 May 2012 the applicant was convicted of murder by the Athens Assize Court. On 5 December 2016, following his appeal, the Athens Assize Court of Appeal confirmed his conviction. The court rejected the applicant's requests to order additional expert evidence (including additional DNA examination), satisfied, in particular, that the testimonies of the witnesses during pre-trial and trial were sufficient to establish the applicant's guilt. The applicant lodged an appeal on points of law, which was dismissed by final judgment no. 1745/2018 of the Court of Cassation which was finalised on 5 December 2018. The Court of Cassation held that the identification procedure and the dismissal of the applicant's requests were part of the substantive courts' (*juridictions de fond*) assessment and outside of its own.

Relying on Article 6 §§ 1 and 3 (d), the applicant complains that the identification was unlawful, having been conducted not in accordance with the applicable rules and procedure, given that only his photographs were shown to the witnesses. He also complains that, contrary to the official version, during

the in-person identification he was the only person shown to the witness. He complains that the conduct of the identification resulted in a violation of his right to a fair trial, considering the dismissal of his requests for the further expert evidence.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair trial, considering the criminal proceedings as a whole, in accordance with Article 6 § 1 of the Convention? In particular, was the pre-trial identification procedure of the applicant and the reliance of the domestic courts on the witnesses' testimonies in accordance with the guarantees provided by Article 6 § 1 of the Convention (see, for instance, *Berhani v. Albania*, no. 847/05, §§ 54-56, 27 May 2010; and *Laska and Lika v. Albania*, nos. 12315/04 and 17605/04, §§ 57-68, 20 April 2010)?

2. Was the dismissal of the applicant's requests for further evidence in accordance with Article 6 § 3 (d) of the Convention, considering the manner in which the identification procedure was conducted and the arguments raised by the applicant before the domestic courts (see, for instance, *Gäfgen v. Germany* [GC], no. 22978/05, §§ 163-164, ECHR 2010)?

CEM S.P.A. v. Italy (Application no. 37273/21)

Article 7, Article 1 of Protocol No. 1 – retroactive tax law interpretation, VAT surcharge

SUBJECT MATTER OF THE CASE

The application concerns the imposition of a fine on the applicant company for having entered into three real estate leasing contracts concerning immovable goods, without paying value-added tax (VAT) in 2005.

Pursuant to Section 8 § 1 (c) of Presidential Decree no. 633 of 26 October 1972 (hereinafter "Presidential Decree no. 633/1972"), the applicant company, being classified as habitual exporter, could benefit from VAT exemption with respect to contracts relating to the provision of services and transfer of goods, except immovable goods.

On 23 December 2010, the Revenue Agency requested the payment of VAT for the three leasing contracts and applied a tax surcharge equal to 100% of the amount due.

The applicant challenged the measure before the judicial authorities. By final judgment of 14 January 2021 (no. 535/2021), the Court of Cassation upheld the sanction. It acknowledged that at the material time the prevailing domestic and European case-law (see Court of Cassation, judgment no. 23329 of 15 October 2013; and Court of Justice of the European Union, judgment of 21 February 2008, C-425/06 and references therein) qualified the real estate leasing contracts as provision of services rather than transfer of goods. However, in the light of a change in the European Union and domestic case-law (see Court of Cassation, judgment no. 20951 of 2015; Court of Justice of the European Union, judgment of 2 July 2015, C-209/14 and judgment of 16 February 2012, C-118/11), the court departed from that interpretation and held that those contracts should be qualified as transfer of immovable goods, and therefore were not covered by the VAT exemption.

The applicant company complains of a violation of Article 7 of the Convention and of Article 1 of Protocol No. 1 to the Convention on account of the unforeseeable change in the interpretation given by the Court of Cassation to the nature of real estate leasing contracts for the purposes of Section 8 § 1 (c) of Presidential Decree no. 633/1972. The applicant company further complains about the retroactive application of that new interpretation to its case.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicant company's rights under Article 7 of the Convention on account of the alleged lack of clarity and foreseeability of the applicable law and how it was applied in the applicant company's case (*Del Río Prada v. Spain* [GC], no. 42750/09, §§ 111-17, ECHR 2013)?

2. Has there been an interference with the applicant company's peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1? If so:

(a) was the interference in accordance with the principle of lawfulness, within the meaning of the provision?

(b) was the interference proportionate to the aim pursued or did it impose an excessive burden on the applicant company?

Paola Bastianelli and Others v. Italy (Application no. 72245/14)

Article 6 § 1, Article 1 of Protocol No. 1, Article 13 — retroactive legislation affecting ongoing salary disputes of civil servants; excessive length proceedures

SUBJECT MATTER OF THE CASE

The application concerns the retroactive application of a provision of interpretative legislation to ongoing judicial proceedings brought by the applicants, civil servants at the Ministry of Economic Development and the Ministry of Economy and Finance.
In August 2000, relying on Article 7 § 1 of Decree-Law no. 384/1992, the applicants brought a case before the Lazio Regional Administrative Court (TAR) seeking recognition of their right to receive a seniority-based pay increase (accrued up to 31 December 1993, in accordance with Presidential Decree no. 44/1990).
Subsequently, the 2001 Finance Act, no. 388/2000 (entered into force on 1 January 2001), gave an interpretative reading of Article 7 § 1, stating that the relevant date for the salary increase was 31 December 1990.
The TAR ruled in favour of the applicants, but the Council of State overturned that judgment on 8 May 2014.
On 11 January 2024, the Constitutional Court declared the contested provision unconstitutional.
The applicants argue that the application of Article 51(3) of the 2001 Finance Act to their proceedings violated Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.
Additionally, under Articles 6 § 1 and 13 of the Convention, they complain that they were unable to obtain compensation under the "Pinto" remedy due to an admissibility condition ("istanza di prelievo") applicable to lengthy administrative proceedings.

QUESTIONS TO THE PARTIES

1. Did the application of Law no. 388/2000—specifically Article 51(3)—to the applicants' judicial proceedings violate the rule of law or the fairness of the proceedings under Article 6 § 1 of the Convention (*Vegotex International S.A. v. Belgium* [GC], no. 49812/09, § 92, 3 November 2022)?

2. Was the legislative intervention justified by compelling general-interest grounds and proportionate to the aims pursued (*Vegotex International S.A.*, §§ 102–123)?

3. Did the retroactive application of Law no. 388/2000 violate the applicants' right to the peaceful enjoyment of their possessions under Article 1 of Protocol No. 1 (*Agrati and Others v. Italy*, nos. 43549/08 et al., § 75, 7 June 2011)?

4. Was the length of the administrative proceedings compatible with the "reasonable time" requirement under Article 6 § 1 of the Convention (*Cocchiarella v. Italy* [GC], no. 64886/01)?

5. Did the applicants have an effective domestic remedy as required by Article 13 of the Convention (*Olivieri and Others v. Italy*, nos. 17708/12 et al., 25 February 2016)?

Bugaleti v. Italy (Application no. 20535/23)

Article 5 § 1, Article 5 § 5 — continued detention in ordinary prison despite court order for transfer to specialized psychiatric detention facility; no compensation for unlawful deprivation of liberty

SUBJECT MATTER OF THE CASE

The case concerns the applicant's detention in an ordinary prison despite a judicial order for placement in a residence for the enforcement of security measures (REMS).
On 18 May 2019, the applicant was arrested and placed in pre-trial detention. On 8 July 2019, based on a medical report diagnosing a delusional disorder, the Rome court revoked detention and ordered his placement in a REMS.
On 16 July 2019, the applicant was acquitted on grounds of mental incapacity and the REMS placement was confirmed for two years.
On 16 October 2020, the applicant was transferred to the REMS of Ceccano.
He later filed a compensation claim for wrongful detention under Article 314 of the Code of Criminal Procedure, which was rejected by the Rome Court of Appeal on 26 April 2022. That rejection was upheld by the Court of Cassation on 29 March 2023.
Invoking Article 5 §§ 1 and 5 of the Convention, the applicant alleges his detention was unlawful and that, following the rejection of his compensation claim, he had no effective remedy to obtain redress.

QUESTIONS TO THE PARTIES

1. Was the application lodged within the time-limit laid down in Article 35 § 1 of the Convention (*Varnava and Others v. Turkey* [GC], nos. 16064/90 et al.)?

2. Was there a violation of Article 5 § 1? Specifically, was the applicant's detention from 8 July 2019 to 16 October 2020 lawful and "in accordance with a procedure prescribed by law" (*Sy v. Italy*, no. 11791/20, §§ 129–137)?

3. In light of the rejection of the compensation request under Article 314 of the CCP, did the applicant have an enforceable right to compensation under Article 5 § 5 of the Convention (*Sy*, §§ 141–148)?

Roberto Giallombardo v. Italy (Application no. 4790/16)

Article 6 §§ 1, 2 & 3(c), Article 7 — confiscation upheld after statute of limitations; adequacy of reasoning; presumption of innocence and legality of penalty

SUBJECT MATTER OF THE CASE

The case concerns the confiscation of the applicant's property under Article 44 § 2 of the Construction Code (Presidential Decree no. 380/2001), on the basis that the buildings constituted illegal subdivision.
The applicant built three properties on land in Albenga with municipal permits. However, the judicial police found them non-compliant and seized them on 1 October 2007.
The Savona court convicted the applicant on 23 June 2006 (note: this date precedes the seizure) and ordered confiscation.

The Genoa Court of Appeal acquitted him and annulled the confiscation, but the Court of Cassation overturned that ruling in 2012, ordering demolition and a retrial.
On 1 July 2013, the Court of Appeal declared the offence time-barred but confirmed the confiscation, having found all elements of the offence present.
The applicant complained to the Court of Cassation that his arguments were not properly addressed; his appeal was dismissed in 2015.
He alleges a violation of Article 6 §§ 1 and 3 (c) due to inadequate review following the statute of limitations, and of Articles 6 § 2 and 7 regarding the presumption of innocence and the imposition of a penalty despite limitation.

QUESTIONS TO THE PARTIES

1. Did the applicant have a fair trial under Article 6 § 1 of the Convention? Was the reasoning of the Genoa Court of Appeal's judgment of 1 July 2013 adequate (*Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, § 84)?

2. Was the presumption of innocence under Article 6 § 2 respected? Did the national courts impute criminal liability to the applicant despite the statute of limitations (*G.I.E.M. S.r.l. and Others v. Italy* [GC], § 317)?

3. Was the confiscation based on a substantive finding of liability, in line with Article 7 of the Convention (*G.I.E.M.*, § 261)?

Lukas SVIRPLYS and Raimedas LATVYS v. Lithuania (Application no. 9195/23)

The facts and complaints in this application have been summarised in the Court's *Subject matter of the case and Questions to the parties*, which is available in HUDOC.

QUESTION TO THE PARTIES

Can the applicants still claim to be "victims", within the meaning of Article 34 of the Convention, of a violation of their rights under Article 8 of the Convention read in conjunction with Article 14 of the Convention, following the decision of the Vilnius District Court of 15 April 2025 by which the perpetrator was convicted of the criminal offence of discrimination and the applicants were awarded compensation in respect of non-pecuniary damage?

Michał Grzegorz OJCZYK v. Poland and 2 other applications (Application no. 53611/20)

Article 8 — eviction from State-owned housing; proportionality; failure to consider personal and health circumstances

SUBJECT MATTER OF THE CASE

The applications concern the applicants' inability to pay the relevant court fees for lodging civil claims, and the domestic courts' refusal to exempt them from those costs. Consequently, the applicants' civil claims were not examined on the merits by the domestic courts. In particular, they held that the applicants' requests for exemption from the court fees were unsubstantiated, and/or that they, or their relatives, should have made necessary savings to secure the payment of the court fees (see the appended table for details).

The applicants complain that this resulted in a disproportionate restriction of their right of access to a court as guaranteed by Article 6 § 1 of the Convention.

The applicant in application no. 41222/23 further complained under Article 1 of Protocol No. 1 to the Convention that she was unable to pursue her claim relating to a property dispute due to the domestic court's refusal to exempt her from the court fee.

QUESTION TO THE PARTIES

Did the applicants have access to a court for the determination of their civil rights and obligations in accordance with Article 6 § 1 of the Convention (see *Mogielnicki v. Poland*, no. 42689/09, §§ 61-62, 15 September 2015; *Wieczorek v. Poland*, no. 18176/05, §§ 47-49, 8 December 2009; and *Kreuz v. Poland*, no. 28249/95, §§ 66-67, 19 June 2001)?

António José PEREIRA DE ALMEIDA v. Portugal (Application no. 17355/22)

Article 1 of Protocol No. 1, Article 6, Article 13, Article 14, Protocol No. 12 — state programme harmed business; denied court access due to formalism; discrimination in public tender

SUBJECT MATTER OF THE CASE

The applicant was the sole owner of computer distribution company M. (*empresário em nome individual*). The application concerns an alleged loss of clientele and market share by his company M. due to the implementation of a State programme in the digital sector. The applicant claims this resulted in an unlawful direct award to a market competitor.

On 17 December 2013 the applicant instituted non-contractual liability proceedings against the Ministry for the Economy with the Porto Administrative Court. He alleged that his business had been compromised irreparably when his two biggest clients revoked their distribution contracts with his company M. following the implementation of "*e.Iniciativa*", a government programme launched in June 2007 which aimed at, *inter alia*, providing subsidised laptops to school students. On 23 June 2014 these proceedings were rejected on the grounds that the action had been lodged against the wrong respondent.

On 13 March 2015 the applicant instituted new proceedings against the Ministry for the Economy with the Porto Administrative Court, seeking both the annulment of the "*e.Iniciativa*" programme's regulations and compensation for damages. On 8 February 2016 these proceedings were also rejected on the grounds that the action had been lodged against the wrong respondent.

On 3 March 2016 the applicant instituted non-contractual liability proceedings against the State with the Porto Administrative Court. By a decision of 11 February 2021 the Porto Administrative Court declared the action inadmissible on the grounds that the claim had become statute barred. On 9 March 2021 the applicant appealed against this decision to the North Administrative Tribunal ("TCAN") which upheld the lower court's decision on 21 May 2021.

On 25 October 2021 the applicant lodged a constitutionality appeal with the Constitutional Court, arguing that the interpretation adopted by the TCAN to the effect that his claim had become statute-barred infringed several constitutional principles. On 2 November 2022 the Constitutional Court ruled that the interpretation in question was not unconstitutional.

Relying on Article 1 of Protocol No. 1 of the Convention, the applicant alleges that, through an unlawful State programme, the Government created a monopoly situation for a single manufacturer which led his company to lose clientele, market share, and ultimately to become insolvent.

Under Article 14 of the Convention and Article 12 of Protocol No. 12, he claims that he was discriminated against in the implementation of the said programme, since the tender specifications were designed to benefit a single market operator.

Relying on Article 6 § 1 of the Convention, the applicant complains of the lack of access to a tribunal because the domestic courts failed to analyse the merits of his claims by resorting to formalist and unfair interpretations of the applicable law.

Under Article 13 of the Convention, the applicant claims that he was deprived of an effective remedy in respect of the alleged interference into his property rights.

QUESTIONS TO THE PARTIES

1. Did the applicant's company market share constitute a "possession" within the meaning of Article 1 of Protocol 1 to the Convention (see *Könyv-Tár Kft and Others v. Hungary*, no. 21623/13, §§ 31-32, 16 October 2018)?

In the affirmative:

(a) Did the impugned measures constitute a measure entailing control of the use of property and an interference with the applicant's right to the peaceful enjoyment of his possessions (*ibid.*, § 43)?

(b) If so, were the impugned measures in compliance with the requirements of Article 1 of Protocol No. 1, read alone or in conjunction with Article 14 of the Convention?

More specifically:

- Were the impugned measures in accordance with the law and did they pursue a legitimate aim (*ibid.*, §§ 44-59)?

- Has the applicant been afforded a reasonable opportunity to challenge effectively the measures affecting his possessions and to obtain adequate redress (see *Lekić v. Slovenia* [GC], no. 36480/07, § 95, 11 December 2018)?

2. Did the applicant have access to a court for the determination of his civil rights and obligations, in accordance with Article 6 § 1 of the Convention (see *Zubac v. Croatia* [GC], no. 40160/12, §§ 76-81, 5 April 2018)? In particular, did the national courts' decisions to declare the three actions introduced by the applicant inadmissible amount to excessive formalism (*ibid.*, §§ 96-99)?

3. Did the applicant have an effective domestic remedy at his disposal through which he could have raised his complaints under Article 1 of Protocol No. 1 to the Convention, as required by Article 13 of the Convention?

Săndel Matei v. Romania (Application no. 4082/20)

Articles 10, 11, 6 – fine for chaining to government fence in anti-corruption protest

SUBJECT MATTER OF THE CASE

The application concerns a petty fine of 1,000 Romanian lei (RON), approximately 200 euros, imposed on the applicant by a final judgment of the Bucharest County Court dated 8 April 2019 (communicated on 16 September 2019).

The court found fault with the applicant's participation in a demonstration on 19 July 2017, during which he chained himself to the fence of the Government's headquarters. The protest was aimed at denouncing governmental measures perceived by the demonstrators as hindering the fight against corruption.
The court held that the applicant's conduct violated Article 26 § 1 (d) of Law no. 60/1991, penalising participation in an undeclared or prohibited public assembly followed by refusal to disperse when requested by law enforcement, and Article 2 § 1 of Law no. 61/1991, penalising offensive or violent acts likely to disturb public order and tranquillity.
The applicant denies both the unlawful character of the demonstration and any conduct violating Article 2 § 1 of Law no. 61/1991. He alleges violations of Articles 6, 10, and 11 of the Convention.

QUESTIONS TO THE PARTIES

1. Was there an interference with the applicant's rights to freedom of expression and peaceful assembly, as guaranteed by Articles 10 § 1 and 11 § 1 of the Convention, as a result of his conviction and fine by the final judgment of the Bucharest County Court dated 8 April 2019 (communicated on 16 September 2019)?

2. If so, was this interference prescribed by law, did it pursue a legitimate aim related to public order, and was it necessary in terms of Articles 10 § 2 and 11 § 2?

3. In the domestic proceedings, did the applicant enjoy the guarantees of Article 6 § 1 of the Convention, given the courts' refusal to assess the merits of the facts recorded in the contravention report?

Teodora-Ludmila Vlad v. Romania (Application no. 2022/20)

Articles 10, 11, 6 – fine for protesting arrest during light-projection demonstration

SUBJECT MATTER OF THE CASE

The applicant, a declared supporter of an association called "Evolution in the Institution," participated in an ad hoc light-projection protest organised by the association on 13 April 2018. During the event, messages such as "#Rezist" and "The Romanian Gendarmerie defends the criminal, not the people" were projected onto the façade of the National Art Museum, during the "Spotlight" festival hosted by the Bucharest city council.
During the protest, C.M.D., the association's president, was arrested and handcuffed by police. The applicant and others verbally protested the arrest, considering it and its manner of execution to be disproportionate.
As a result of her protest, the applicant was fined 200 RON for disturbing public order by shouting in a way likely to attract the attention of passers-by, under Article 2 § 25 of Law no. 61/1991. The fine was upheld by a final judgment of the Bucharest County Court dated 18 June 2019 (communicated on 28 June 2019).
The applicant, who denies having disturbed public order, alleges violations of Articles 6, 10, and 11 of the Convention.

QUESTIONS TO THE PARTIES

1. Was there an interference with the applicant's rights to freedom of expression and/or peaceful assembly, as guaranteed by Articles 10 § 1 and/or 11 § 1 of the Convention, as a result of her conviction and fine by the final judgment of the Bucharest County Court dated 18 June 2019 (communicated on 28 June 2019)?

2. If so, was this interference prescribed by law, did it pursue a legitimate aim related to public order, and was it necessary in terms of Articles 10 § 2 and/or 11 § 2?

3. In the domestic proceedings, did the applicant enjoy the guarantees of Article 6 § 1 of the Convention, given the courts' refusal to assess the merits of the facts recorded in the contravention report?

4. The Government is invited to submit a complete copy of the domestic case file.

Kateryna Viktorivna KOROVKEVYCH v. Russia and 54 other applications (Application no. 18454/24)

Article 1 of Protocol No. 1, Article 13 — property damage or loss of access due to Russia-Ukraine conflict; lack of effective domestic remedy; jurisdiction pending Grand Chamber decision

Following a preliminary examination of the admissibility of the applications on 22 May 2025, the Court decided, under Rule 54 § 2 (b) of the Rules of Court, that notice of the applications should be given to the Government of Russia. It is to be noted that the issue of jurisdiction over the area where the incidents giving rise to the complaints allegedly took place is currently under consideration and will be decided by the Grand Chamber of the Court in the case of *Ukraine and the Netherlands v. Russia* (applications nos. 8019/16, 43800/14, 28525/20 and 11055/22). The Grand Chamber's finding will then be applied in these individual cases.

In some applications, other complaints were raised. Their examination has been adjourned, or they have been struck out of the Court's list of cases or declared inadmissible by the Court, sitting in a single-judge formation, assisted by a rapporteur as provided for in Article 24 § 2 of the Convention.

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

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

SUBJECT MATTER

The applications concern complaints raised under Article 1 of Protocol No. 1 and Article 13 of the Convention relating to damage, destruction and/or continuous lack of access to property arising from the conflict between Russia and Ukraine and the lack of any effective remedy in domestic law which are the subject of well-established case law of the Court (see *Ukraine and the Netherlands v. Russia* (dec.) [GC], nos. 8019/16 and 2 others, 30 November 2022).

Aladin PAUČINAC v. Serbia (Application no. 27105/24)

Article 10 – criminal conviction for insulting public officials on Facebook in COVID-19 criticism

STATEMENT OF FACTS

The case concerns the applicant's conviction for insult in respect of a post made on his Facebook page during the COVID-19 pandemic.

The applicant is the founder of the "Free Citizens' Initiative", a civic union based in Novi Pazar. During the pandemic, he was active in criticising the authorities' response to the pandemic, participating in several civic protests prompted by allegations of disproportionately high death rate in Novi Pazar and mismanagement of the City Hospital in that context.

In September 2020 the applicant posted on his Facebook page about the "pandemic crisis response team" (*krizni štab*) in which he called M.M., the acting director of the hospital, and another member of the crisis team, "wretches" (*bednici)*. Following M.M.'s private criminal action the applicant was found guilty of insult and fined approximately 430 euros (EUR). The appellate court upheld the conviction, finding, as did the trial court, that the applicant's comment had been excessive and had been made with the intention of denigrating and insulting M.M.

On 11 April 2024, the Constitutional Court dismissed the applicant's constitutional appeal and upheld the reasoning of the lower court. It added that the relatively small amount of the fine imposed on the applicant would not discourage criticism of public officials.

It appears that several similar proceedings, both criminal and civil, all instituted by M.M., are pending against the applicant, who claims that he has so far had to pay approximately EUR 10,000 in fines, damages to M.M. and costs of the proceedings.

While invoking Articles 6 and 10 of the Convention, the applicant essentially complains that the above criminal conviction violated his right to freedom of expression.

QUESTIONS TO THE PARTIES

Has there been a violation of the applicant's right to freedom of expression contrary to Article 10 of the Convention? In particular, was the interference with the applicant's right to freedom of expression "necessary in a democratic society" in terms of Article 10 § 2 of the Convention (see *Magyar Helsinki Bizottság v. Hungary* [GC], no. 18030/11, § 187, 8 November 2016)? More specifically:

(a) Was the applicant's Facebook post a gratuitous personal attack on, or insult to M.M. (see *Mamère v. France*, no. 12697/03, § 25, ECHR 2006-XIII; *Lopes Gomes da Silva v. Portugal*, no. 37698/97, § 34, ECHR 2000-X; and, *mutatis mutandis*, *Janowski v. Poland* [GC], no. 25716/94, §§ 32-34, ECHR 1999-I)?

(b) Did the national authorities strike a fair balance between, on the one hand, the applicant's right to freedom of expression, and the protection of M. M.'s right to respect for his private life, on the other hand (see *Couderc and Hachette Filipacchi Associés v. France* [GC], no. 40454/07, §§ 90-93, ECHR 2015 (extracts); see also *Sanchez v. France* [GC], no. 45581/15, §§ 158-62, 15 May 2023; *Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary*, no. 22947/13, § 77, 2 February 2016; *Milosavljević v. Serbia*, no. 57574/14, § 61, 25 May 2021; and *Busuioc v. Moldova*, no. 61513/00, § 64, 21 December 2004)?

(c) Was the nature and the severity of the penalty imposed on the applicant a proportionate interference with his freedom of expression (see *Cumpănă and Mazăre v. Romania* [GC], no. 33348/96, § 111, ECHR 2004-XI; *Sanchez*, cited above, §§ 205-08)? Furthermore, and in view of the nature and number of legal actions initiated by M.M. against the applicant, do they amount to strategic lawsuits against public participation (see Recommendation CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs))? If so, have the authorities taken any action to protect the applicant from such alleged misuse or abuse of law? Has the aforesaid Recommendation been translated into Serbian and widely disseminated (notably among the domestic courts)?

The parties are invited to provide copies of all the documents produced in the course of all criminal and civil proceedings instituted by M.M. against the applicant which concern the applicant's statements made in the context of the COVID-19 pandemic and the functioning of the healthcare system in Novi Pazar.

The applicant is invited to provide the information about his income.

Vesna PETROVIĆ v. Serbia (Application no. 27905/24)

Article 1 of Protocol No. 1 – denial of firearm licence based on undisclosed information

SUBJECT MATTER OF THE CASE

The application concerns an alleged breach of the applicant's right to the peaceful enjoyment of her possessions.

The applicant had inherited a firearm from her late mother. Her request for a licence to possess the firearm was refused by the police, allegedly on the basis of confidential information which was never disclosed to her. By the same decision, she was required either to render the firearm inoperable, to sell it, or to surrender it to the authorities.

The applicant alleges a violation of Article 1 of Protocol No. 1 to the Convention, contending that she was effectively deprived of her property in an arbitrary manner.

Ultimately, the Constitutional Court also ruled against the applicant.

QUESTION TO THE PARTIES

Has there been a violation of Article 1 of Protocol No. 1 in the present case? In particular, did the refusal of the applicant's request for a firearm licence amount to an interference with her possessions? If so, was such interference in accordance with the conditions provided for by law and did it strike a fair balance between the demands of the general interest and the interests of the applicant (see, for example, *Waldemar Nowakowski v. Poland*, no. 55167/11, §§ 44-58, 24 July 2012)?

M.A.T. v. Switzerland (Application no. 35308/24)

Article 8 – family reunification refused for disabled refugee

SUBJECT MATTER OF THE CASE

The application concerns the request for family reunification made by an Eritrean national.
He entered Switzerland in 2014. He is blind in one eye and has cognitive, linguistic, and physical impairments. He was granted refugee status and temporary admission on the grounds that his removal would be unlawful. However, the authorities determined that asylum could not be granted, as this status is not afforded to individuals who became refugees only after leaving their country of origin or due to their subsequent conduct (Article 54 of the Federal Asylum Act).
In 2018, his family fled Eritrea for Ethiopia, where he has been able to visit them a few times since then. The family has been recognised as refugees and currently lives outside a camp.
On 6 March 2020, the applicant submitted a request for family reunification for his wife and four children, now aged 18, 14, 12, and 5. This request was rejected by the State Secretariat for Migration (SEM) on 26 May 2020 due to the applicant's reliance on social assistance and insufficient efforts to integrate into the labour market.
Since 2022, the applicant has been employed and receives a 50% salary due to his disability, while continuing to receive social assistance to supplement his income.
On 2 August 2024, the Federal Administrative Court (FAC) dismissed the applicant's appeal. It nonetheless held that the SEM had failed to apply the social assistance criterion as part of a comprehensive case assessment, in line with the Court's case-law, notably the judgment of *B.F. and Others v. Switzerland*, and acknowledged that the applicant had made every possible effort to integrate

into the labour market. However, since the applicant's family resides in a third country, the FAC found that he could at least continue to enjoy family life with them by travelling there, as he had done in the past. Furthermore, as the applicant had not provided sufficient information about his family's economic and social conditions in Ethiopia, the FAC concluded that he had not proven the existence of insurmountable obstacles to his return there.
Before the Court, the applicant argues that the FAC failed to carry out a careful balancing of the interests at stake under Article 8. He maintains that family life in Ethiopia would not be feasible due to the absence of government support, uncertainty about long-term entry permission into Ethiopia, his inability to work full-time, his disability, and the country's overall difficult situation, which should be assessed in light of the child's best interests.

QUESTIONS TO THE PARTIES

1. Does the rejection by the Swiss authorities of the family reunification request constitute a violation of the applicant's right to respect for private and family life within the meaning of Article 8 of the Convention? Was the interference with the applicant's private and family life in accordance with the law and necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country?

2. Can the applicant's lack of cooperation exempt the authorities from undertaking a balancing of the interests concerning the possibility of continuing family life abroad? Did the authorities sufficiently take into account the applicant's disability and his ability to reintegrate in a third country?

T.F. v. Switzerland (Application no.17088/23)

Articles 8, 13 – repeated reconsideration requests in removal case; disciplinary fine for filing reckless suit

SUBJECT MATTER OF THE CASE

The application concerns the request for reconsideration of the enforcement of the removal order issued against the applicant, an Algerian national born in 1966.
He submitted a first asylum application in Switzerland in 1999, which was rejected that same year, along with an order for his removal. However, he did not leave the country and continues to reside in Switzerland without a valid residence permit.
Between 2016 and 2022, the applicant submitted five requests for reconsideration of the enforcement of his removal to the State Secretariat for Migration (SEM), seeking a residence permit on account of his long stay in Switzerland and his depression. The first application was declared inadmissible by the Federal Administrative Court (FAC) in 2016 as being abusive. The applicant did not appeal the FAC's decision on his second request, submitted in 2017, and his third request was declared inadmissible by the FAC in 2021 on grounds of lateness. That same year, a two-judge panel of the FAC rejected the fourth reconsideration request, finding that the applicant had not proven that enforcement of his removal was impossible, unlawful, or unreasonable.
The present proceedings concern the fifth reconsideration request, submitted to the SEM on 10 November 2022. By a single-judge decision of 23 January 2023 (case D-68/2023), the FAC declared the appeal inadmissible. Without examining the merits, it considered the appeal abusive in light of the multiple previous reconsideration attempts. In addition, the FAC imposed a disciplinary fine of 1,000 CHF on the applicant's legal representative, finding that the representative had acted recklessly, given that the request was "manifestly devoid of any chance of success at the time of its filing." The FAC further warned that any future legal representative acting on the applicant's behalf in similarly abusive

or reckless proceedings would also face disciplinary sanctions.
Before the Court, the applicant contends that he did not have access to an effective remedy (Article 13 of the Convention) to assert his complaints under the right to respect for private life (Article 8 of the Convention), due to the summary nature of the FAC's decision. He also argues that the exercise of his right to appeal was unjustifiably and arbitrarily hindered—and may be again—given the monetary sanction imposed on his representative.

QUESTIONS TO THE PARTIES

1. In invoking Article 13 of the Convention, can the applicant first rely on an arguable claim under Article 8 of the Convention (*Nada v. Switzerland* [GC], no. 10593/08, § 208, ECHR 2012)?

2. Does the refusal by the domestic courts to examine the applicant's complaints on the grounds that his appeal was abusive—and therefore inadmissible—constitute a violation of his right to an effective remedy under Article 13 taken together with Article 8 of the Convention?

3. Can the imposition of a disciplinary fine on the applicant's legal representative be considered an impediment to the exercise of the applicant's right of appeal, as guaranteed by Article 13 in conjunction with Article 8 of the Convention, given the FAC's warning that any future representative would also be sanctioned?

İbrahim BEKTAŞ v. Türkiye and 2 other applications (Application no. 33264/23)

Article 10 – refusal of prison authorities to deliver periodicals sent by third parties to inmates

SUBJECT MATTER OF THE CASE

The applications concern the decisions of prison administrations to withhold various periodicals sent by third-party private individuals to the applicants, who were detained in different prisons. The withholding of these periodicals was based on Article 77 of the Regulation on the Administration of Penitentiary Institutions and the Execution of Sentences and Security Measures, which permits prisoners to receive only books and clothing as gifts.

The applicants unsuccessfully appealed against these decisions. The Constitutional Court subsequently declared their complaints concerning their right to freedom of expression in their individual applications inadmissible for being manifestly ill-founded. In doing so, the Constitutional Court referred to its *İbrahim Kaptan (2)* decision (no. 2017/30723, 12 September 2018), wherein it held that the confiscation of publications sent to prisoners in disregard of the legal procedures met a pressing social need and was not disproportionate.

Invoking, in particular, Article 10 of the Convention, the applicants allege that the refusal of the prison administrations to deliver the publications to them constituted an unjustified interference with their right to freedom of expression.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' right to freedom of expression, in particular their right to receive information and ideas, within the meaning of Article 10 § 1 of the Convention, due to the refusal of the prison administration to hand over the publications sent to the applicants by post?

2. If so, was that interference prescribed by law and necessary in terms of Article 10 § 2?

3. In particular, having regard to the circumstances of each case, did the national authorities, in their decisions, adequately examine and appropriately balance the applicants' right to freedom of expression against the other interests at stake, in the light of the criteria laid down by the Court in cases concerning freedom of expression (see *Mehmet Çiftci v. Turkey*, no. 53208/19, §§ 40-44, 16 November 2021; and *Osman and Altay v. Türkiye*, nos. 23782/20 and 40731/20, §§ 56-58, 18 July 2023)?

Ertan ERÇIKTI and Others v. Türkiye (Application no. 46683/15)

Article 5 §§ 3 and 4 – prolonged pre-trial detention of ex-police officers; insufficient judicial reasoning; lack of speedy review by Constitutional Court

SUBJECT MATTER OF THE CASE

The application concerns the alleged violation of Article 5 § 4 of the Convention on account of the lack of speediness of the Constitutional Court in the review proceedings concerning the applicants' pre-trial detention ordered in 2014. It further pertains to the alleged (i) lack of relevant and sufficient grounds in the decisions ordering and prolonging the pre-trial detention of some of the applicants, and (ii) the excessive length of these applicants' pre-trial detention under Article 5 § 3 of the Convention.

All the applicants are former police officers who were placed in pre-trial detention on terrorism-related charges in 2014 and 2015.

They lodged numerous individual applications with the Constitutional Court upon non-execution of the decisions to release them ordered by the Istanbul 32nd Criminal Court of First Instance (see, for further information on the incident, *Başer and Özçelik v. Türkiye*, nos. 30694/15 and 30803/15, §§ 8-30, 13 September 2022). In 2018, 2019 and 2020 the Constitutional Court declared their individual applications inadmissible.

QUESTIONS TO THE PARTIES

1. Did the applicants have at their disposal a remedy by which they could challenge the lawfulness of their pre-trial detention, as required by Article 5 § 4 of the Convention? In particular, did the applicants have at their disposal an effective remedy before the Constitutional Court, by which the lawfulness of their detention could be determined speedily, and their release ordered if necessary (see *Khokhlov v. Cyprus*, no. 53114/20, §§ 72-83, 13 June 2023, and the case-law cited therein)?

2. Except for the second, third, seventh, fourteenth, fifteenth and eighteenth applicants, did the magistrates who ordered the applicants' initial and continued pre-trial detention fulfil their obligation under Article 5 § 3 of the Convention to provide relevant and sufficient grounds in support of the deprivation of liberty in question? In addition, was the length of these applicants' pre-trial detention in breach of the "reasonable time" requirement under Article 5 § 3 of the Convention (see, in particular, *Buzadji v. the Republic of Moldova* [GC], no. 23755/07, §§ 84-102, 5 July 2016)?

Abdurrahman KAVUN v. Türkiye and 2 other applications (Application no. 19092/20)

Article 8 – prison authorities' non-delivery of correspondence with family and media

SUBJECT MATTER OF THE CASE

All the applications listed below (see appendix) concern the refusal of the prison authorities to send or deliver the applicants' correspondence. In applications nos. 19092/20 and 2907/25, the prison authorities refused to dispatch letters sent to the applicants by their close family members. In application no. 7188/24, the authorities refused to send a letter written by the applicant to a journalist in which he requested the publication of a rectification after the appearance of an article in the daily newspaper Hürriyet that involved some allegedly false news about him.

The prison authorities based their decisions on section 68 of Law no. 5275 on the enforcement of sentences and preventive measures as well as sections 105 and 123 of the Regulation on the management of prisons and the execution of sentences and preventive measures. These provisions allow the prison authorities to monitor, censor and withhold incoming and outgoing correspondence of prisoners if it is deemed objectionable or a threat to prison order and security, targets officials, enables intra-organisational communication, contains false or misleading information or includes threats or insults.

Relying mainly on Article 8 of the Convention, the applicants complain of a breach of their right to respect for their correspondence by the prison authorities' decisions.

QUESTIONS TO THE PARTIES

Has there been an interference with the applicants' right to respect for their correspondence, within the meaning of Article 8 § 1 of the Convention, by the interception of the letters to be sent by them or to be delivered to them by the prison authorities?

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

In particular, did the national authorities carry out a sufficient examination and adequate balancing of the applicants' right to respect for their correspondence and other interests at stake in the light of the criteria set out and applied by the Court in similar cases (*Halit Kara v. Türkiye*, no. 60846/19, §§ 51-59, 12 December 2023)?

Mehmet SELÇUK v. Türkiye (Application no. 35902/22)

Article 6 – conviction for exam fraud allegedly based on insufficiently reasoned judgment; expert evidence not clearly linked to individual guilt

SUBJECT MATTER OF THE CASE

The application concerns the alleged unfairness of the criminal proceedings against the applicant due to the domestic courts' failure to deliver a sufficiently reasoned judgment in respect of, *inter alia*, his conviction for fraud to the detriment of public entities.

In convicting the applicant for fraud to the detriment of public entities, the Ankara Twenty-Fifth Assize Court attached weight, in its judgment dated 2 December 2020, to two expert reports. The reports stated that the applicant was among a group of 7,841 persons who had been suspected of having been given the questions for the 2010 Public Official Selection Exam ("KPSS"), prior to the exam, as individuals in this group had correctly answered 90 questions or more (out of 120) and had made mistakes in at least one of the three questions which had allegedly been leaked but the correct answers to which had been changed just before the exam. The expert panel further indicated that it had formed a strong opinion that the situation of these highly successful candidates could not statistically be explained by mere coincidence. The experts left the assessment of the situation to the discretion of the prosecuting authorities, holding that some candidates had only taken one exam which had prevented the panel from carrying out a statistical comparison. The applicant's conviction was upheld by the Fourth Criminal

Chamber of the Ankara Regional Court of Appeal on 1 April 2021 and by the Third Criminal Chamber of the Court of Cassation on 10 November 2021. On 15 March 2022 the Constitutional Court declared his individual application inadmissible.

The applicant complains, under Article 6 § 1 of the Convention, that the trial court had failed to indicate relevant and sufficient reasons for finding him guilty of fraud, arguing that he had sat the same exam in 2012 and had had a similar success.

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 violation of the applicant's right to a reasoned judgment regarding his conviction for fraud to the detriment of public entities (see *García Ruiz v. Spain* [GC], no. 30544/96, § 26, ECHR 1999-I, and *Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, §§ 83 and 84, 11 July 2017)?

The Government are invited to submit copies of all the relevant documents concerning the applicant's case, including but not limited to the expert reports dated 29 June 2016 and 11 August 2016.

Emre YAVAŞ v. Türkiye and Ömer Faruk AKDENIZ v. Türkiye (Applications nos. 41656/20 and 36296/21)

Article 8, Article 10 – refusal to hand over legal documents in prison (on grounds of language, volume, or alleged encryption)

SUBJECT MATTER OF THE CASE

The applications concern the refusal of the prison authorities to hand over to the applicants certain documents that their lawyers intended to transmit to them.

In application no. 41656/20, the documents were not accepted by the prison authorities on the grounds that they were in English and might contain encrypted contents. According to the applicant, the documents contained a report published by the European Union and observations of the Government in an application he had lodged with the Court. Relying on Article 10 of the Convention, the applicant complains that the prison authorities' refusal to hand over the documents in question to him violated his right to receive information.

In application no. 36296/21, the documents were not accepted by the authorities on the grounds that they comprised 252 pages of photocopies and their examination would impose such a burden on the prison authorities that could affect the proper administration of the prison. The applicant complains, under Article 8 of the Convention, about the prison authorities' refusal to hand over the documents, claiming that they concerned criminal proceedings against him and that he intended to use them to lodge an individual application with the Constitutional Court.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicants' right to respect for their correspondence, within the meaning of Article 8 § 1 of the Convention, and/or their right to receive information, within the meaning of Article 10 § 1 of the Convention, on account of the authorities' refusal to hand over to them the documents sent by their lawyers (see, in respect of Article 8, *Eylem Kaya v. Turkey*, no. 26623/07, § 28, 13 December 2016, and *Halit Kara v. Türkiye*, no. 60846/19, §§ 48, 12 December 2023; and in respect of Article 10, *mutatis mutandis*, *Mehmet Çiftci v. Turkey*, no. 53208/19, § 33, 16 November 2021, and *Osman and Altay v. Türkiye*, nos. 23782/20 and 40731/20, § 41, 18 July 2023)?

2. Has there been an interference with the applicants' right to respect for their correspondence, within the meaning of Article 8 § 1 of the Convention, and/or their right to receive information, within the meaning of Article 10 § 1 of the Convention, on account of the authorities' refusal to hand over to them the documents sent by their lawyers (see, in respect of Article 8, *Eylem Kaya v. Turkey*, no. 26623/07, § 28, 13 December 2016, and *Halit Kara v. Türkiye*, no. 60846/19, §§ 48, 12 December 2023; and in respect of Article 10, *mutatis mutandis*, *Mehmet Çiftci v. Turkey*, no. 53208/19, § 33, 16 November 2021, and *Osman and Altay v. Türkiye*, nos. 23782/20 and 40731/20, § 41, 18 July 2023)?

Mustafa AKGÜN v. Türkiye (Application no. 16054/23)

Article 6 § 1 — alleged unfairness of criminal proceedings for traffic fine; failure to assess key exculpatory evidence (hospital blood test); adequacy of court reasoning

SUBJECT MATTER OF THE CASE

The application concerns the alleged unfairness of criminal proceedings in which the applicant challenged a traffic fine imposed on him. The applicant alleges that the domestic courts failed to properly address and provide reasons regarding a blood test report which, he claimed, was decisive for the outcome of the case.

The applicant's driving licence was suspended for two years for drunk driving, and he was fined 1,256 Turkish liras. The police report, which served as the basis for the fine, indicated that his blood alcohol level was 53 mg/dl, based on an on-the-spot test carried out by the officers (above the legal limit of 50 mg/dl). The applicant subsequently rushed to a state hospital, where a blood alcohol test showed his level to be below 10 mg/dl.

The applicant lodged an appeal against the fine, relying on the aforementioned medical report, before the Magistrates' Court. The court communicated his appeal to the Istanbul Security Directorate, which responded that no assessment of the decrease in blood alcohol level could be made, as the Magistrates' Court had not included the blood test report in the case file.

The Magistrates' Court dismissed the appeal, holding that the applicant's claims were unsubstantiated due to the absence of supporting documents. This decision was upheld on appeal, and the Constitutional Court declared the applicant's individual application inadmissible as manifestly ill-founded, on the grounds that it constituted a *fourth-instance* matter and was unsubstantiated.

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,

(i) Were the domestic courts' decisions dealing with the applicant's objections arbitrary or manifestly unreasonable due to their alleged failure to address the blood test report obtained by the applicant approximately forty-five minutes after his encounter with the police, which indicated that his blood alcohol level was below the legal limit (see *Dulaurans v. France*, no. 34553/97, §§ 33-39, 21 March 2000, and *Moreira Ferreira v. Portugal (No. 2)* [GC], no. 19867/12, § 83, 11 July 2017)?

(ii) Did the domestic courts discharge their duty to properly examine and provide relevant and sufficient reasons for the applicant's defence submissions (see, for general principles, *Moreira Ferreira (No. 2)*, cited above, § 84, and *Ayetullah Ay v. Turkey*, nos. 29084/07 and 1191/08, § 127, 27 October 2020)?

The parties are invited to submit copies of all the relevant documents concerning the applicant's case, including but not limited to the minutes of all the hearings, documentary evidence against the applicant, and the written submissions of the applicant and his lawyer throughout the proceedings.

Vitaliy Vitaliyovych OSTROLUTSKYY v. Ukraine (Application no. 50141/20)

Article 8, Article 6, Article 13, Article 1 of Protocol No. 1 – unnecessary cardiac surgery, ineffective remedies, biased experts

SUBJECT MATTER OF THE CASE

The application concerns three cardiac surgeries performed on the applicant at a public hospital in Kyiv in July 2014 and January 2015. Although these surgeries were allegedly presented to the applicant as "lifesaving", he later learned that they had not been medically necessary.

Arguing that these allegedly unnecessary surgeries resulted in severe health complications, the applicant instituted civil compensation proceedings against the hospital in September 2017. By a ruling of the first-instance court of 14 July 2023, further upheld on appeal, the applicant's claim was dismissed. According to the applicant, the domestic courts did not address his key arguments, including a report by the Clinical expert commission of the Ministry of Health ("*Клініко-експертна комісія МОЗ України*"), which confirmed that the surgeries had not been medically justified. Instead, the courts relied on an opinion of other medical experts who reached the opposite conclusion. On 25 April 2024 the Supreme Court declared the applicant's appeal on points of law inadmissible.

In parallel, the police opened two criminal investigations into the conduct of the hospital's medical staff on grounds of alleged medical negligence and abuse of office. The present status of the first investigation is unknown. The second investigation was discontinued on 15 May 2020 for reasons that remain unclear, and the applicant's attempts to challenge that decision were unsuccessful.

Relying on Articles 3, 6 and 13 of the Convention, the applicant complains that the criminal and civil proceedings in relation to his allegations of medical malpractice were ineffective due to their excessive length, lack of thoroughness, the Supreme Court's excessive formalism in dismissing his appeal on points of law, the courts' reliance on medical experts who allegedly lacked independence, as well as the courts' failure to provide reasons for rejecting the applicant's principal arguments. He also relies on Article 1 of Protocol No. 1 to the Convention.

QUESTIONS TO THE PARTIES

1. Has there been a violation of the applicant's right to respect for his private life, contrary to Article 8 of the Convention? In particular:

- Did the applicant have access to a procedure capable of establishing the relevant facts, holding accountable those at fault and providing him with appropriate redress (see *Mehmet Ulusoy and Others v. Turkey*, no. 54969/09, §§ 90-93, 25 June 2019; *Botoyan v. Armenia*, no. 5766/17, §§ 90-92, 106-09, 8 February 2022)?

- Was the length of the domestic proceedings compatible with the procedural requirements of Article 8 of the Convention (see *Lopes de Sousa Fernandes v. Portugal* [GC], no. 56080/13, § 219, 19 December 2017; *Eryiğit v. Turkey*, no. 18356/11, §§ 49-52, 10 April 2018)?

- Did the domestic courts adequately respond to the applicant's pertinent and important arguments (see *Reyes Jimenez v. Spain*, no. 57020/18, §§ 33, 37-38, 8 March 2022)?

- Did the medical experts who carried out the forensic examination relied upon by the domestic courts enjoy both formal and *de facto* independence from those implicated in the events (see *Bajić v. Croatia*, no. 41108/10, §§ 95-102, 13 November 2012; *Lopes de Sousa Fernandes*, cited above, § 217)?

2. In respect of the applicant's complaint under Article 1 of Protocol No. 1 to the Convention, does it disclose a violation of the Convention, as claimed by the applicant?

Larysa Petrivna GERASYMCHUK v. Ukraine (Application no. 45705/18)

Article 1 of Protocol No. 1, Article 6 – denial of statutory death grant to widow of MP; failure to contract life insurance for MP

SUBJECT MATTER OF THE CASE

The application concerns the refusal to pay a statutory death grant to the widow of a deceased member of the Ukrainian Parliament.

According to the applicant, following her husband's death, she became entitled to a statutory death grant payable under an insurance policy that the Parliament's administration ("the Administration") was required to maintain for its serving members. However, she could not obtain the grant due to the Administration's failure to arrange life insurance for her husband during his term of office.

In May 2015 the applicant instituted administrative proceedings against the Administration seeking compensation for its failure to contract an insurance company, as required by law. By a final ruling of 14 March 2018, the Supreme Court of Ukraine dismissed the applicant's claim. The domestic courts found, *inter alia*, that the Administration could not be held liable as the lack of insurance cover resulted from insufficient State funding, and that the applicant had not shown any pecuniary loss directly attributable to the Administration's failure to insure her husband.

Relying on Article 1 of Protocol No. 1, the applicant mainly complains that she was unlawfully denied the statutory grant as the absence of insurance cover was entirely caused by the Administration's failure to act in appropriate manner. She also complains under Article 6 of the Convention that the ensuing compensation proceedings were unfair.

QUESTIONS TO THE PARTIES

1. Did the applicant have a "legitimate expectation" to obtain a statutory grant in connection with the death of her husband, within the meaning of Article 1 of Protocol No. 1 to the Convention (see *Béláné Nagy v. Hungary* [GC], no. 53080/13, §§ 80-86, 13 December 2016, and compare with *Volovik v. Ukraine*, no. 15123/03, § 68, 6 December 2007)?

2. If so, has there been an interference with the applicant's peaceful enjoyment of possessions, within the meaning of Article 1 of Protocol No. 1? Has that interference been in the public interest, and in accordance with the conditions provided for by law, and, if so, did it impose an excessive individual burden on the applicant (see *Moskal v. Poland*, no. 10373/05, § 64, 15 September 2009; *Suk v. Ukraine*, no. 10972/05, §§ 22-24, 10 March 2011; *Sukhanov and Ilchenko v. Ukraine*, nos. 68385/10 and 71378/10, § 55, 26 June 2014)? In particular, did the competent authorities act in good time, in an appropriate manner and with utmost consistency (see, for example, *Grobelny v. Poland*, no. 60477/12, § 68, 5 March 2020)?

3. Was there a breach of the applicant's right to a fair hearing, as guaranteed by Article 6 § 1 of the Convention?

Stanislav Oleksandrovych ANDRIYANENKO v. Ukraine and 2 other applications (Application no. 18538/18)

Article 2 of Protocol No. 4, Article 13 – freedom of movement restricted due to debt or administrative error

SUBJECT MATTER OF THE CASES

The applications concern restrictions on the applicants' freedom of movement, either imposed due to their failure to pay debts to private individuals (applications nos. 18538/18 and 40455/18) or resulting from the enforcement of an invalidated court decision due to a failure to duly transmit information between State authorities (application no. 55307/18). The relevant details are provided in the attached table.

The applicants allege a violation of Article 2 of Protocol No. 4 on account of restrictions on their freedom of movement. The applicant in application no. 55307/18 also invokes Article 13 of the Convention, claiming that he had no effective domestic remedy in this respect.

QUESTION TO THE PARTIES IN ALL APPLICATIONS

1. Has there been a violation of the applicant's freedom of movement, contrary to Article 2 of Protocol No. 4?

ADDITIONAL QUESTION TO THE PARTIES IN APPLICATION NO. 55307/18

2. Did the applicant have at his disposal an effective domestic remedy for his complaint under Article 2 of Protocol No. 4, as required by Article 13 of the Convention?

Taras Igorovych DOBROMIL v. Ukraine and 3 other applications (Application no. 4841/17)

Article 6, Article 1 of Protocol No. 1 – unfair customs sanctions proceedings; confiscation and fines imposed for alleged import violations

SUBJECT MATTER OF THE CASES

The applications concern an alleged breach by the applicants of customs regulations in the course of customs clearance of goods imported into Ukraine and sanctions imposed as a result: confiscation of the imported goods and a fine (for further details see the attached table).

Relying on Article 6 § 1 of the Convention, the applicants complain that the administrative offence proceedings in their cases were unfair, on account in particular of domestic courts' failure to give due consideration to important arguments put forward by them, including the lack of criminal intent on their part, and to give due consideration to supporting evidence.

Under Article 1 of Protocol No. 1 to the Convention, the applicants complain, directly or in substance, that the sanctions imposed on them were unlawful and disproportionate. The applicant in application no. 33089/17 also complains that the penalty in his respect was time-barred.

The applicants in applications nos. 4841/17, 33089/17 and 50215/18 further complain, under Article 13 in conjunction with Article 6 of the Convention, that the administrative offence proceedings were unfair and therefore did not constitute an effective remedy.

QUESTIONS TO THE PARTIES

Applications nos. 4841/17, 33089/17 and 50215/18

1. Did the applicant have a fair hearing in the determination of the criminal charges against him/her, in accordance with Article 6 § 1 of the Convention, in particular in view of the alleged failure of the domestic courts to give due consideration to relevant and important arguments put forward by the applicant to prove his/her innocence?

2. Did the sanction imposed on the applicant by the domestic courts for the alleged breach of customs regulations constitute an interference with the peaceful enjoyment of the applicant's possessions, within the meaning of Article 1 of Protocol No. 1? If so, was that interference lawful and compatible with the proportionality requirement under Article 1 of Protocol No. 1 (see *Krayeva v. Ukraine*, no. 72858/13, 13 January 2022*)*?

Application no. 39259/18

Did the sanction imposed on the applicant in connection with an alleged breach of customs regulations – by the final decision of the Mykolayiv Regional Court of Appeal on 28 February 2018 – including the order to pay the value of the goods, given that their confiscation was allegedly no longer possible, constitute an interference with the peaceful enjoyment of the applicant's possessions, within the meaning of Article 1 of Protocol No. 1? If so, was that interference lawful and compatible with the proportionality requirement under Article 1 of Protocol No. 1 (see *Krayeva v. Ukraine*, no. 72858/13, 13 January 2022)?

All the applications

In all cases, the Government are also requested to indicate whether the applicants have paid the sums ordered by the domestic courts and, if not, whether they remain under a legal obligation to do so. Relevant documents concerning the enforcement proceedings are also requested.

Vsevolod Valentynovych NOVOKHATKO v. Ukraine (Application no. 29091/20)

Articles 3, 10, 13 – ineffective investigation into journalist's assault following reporting on alleged construction corruption

SUBJECT MATTER OF THE CASE

The application concerns an allegedly ineffective investigation into an attack on the applicant.

The applicant was a journalist and an editor of an online newspaper. In 2017 he started a journalistic investigation into an allegedly unlawful construction. He collected information, submitted it to the police and published an article on the construction.

On 24 May 2018 the applicant was beaten up by unknown persons on a street near his apartment block. He received light bodily injuries. According to the applicant, the attack was instigated by the persons who were mentioned in his article on the allegedly unlawful construction.

A criminal investigation into the attack was terminated and resumed on several occasions. The applicant's appeal against the last decision to terminate the investigation is currently pending before the domestic authorities. The applicant alleges violations of Articles 3, 10 and 13 of the Convention.

QUESTIONS TO THE PARTIES

1. Having regard to the procedural protection from inhuman or degrading treatment (see, for example, *Muta v. Ukraine*, no. 37246/06, § 66, 31 July 2012) and, considering, in particular, the length of the proceedings at issue, was the investigation in the present case by the domestic authorities in breach of Article 3 of the Convention?

2. Did the Government discharge its positive obligation under Article 10 of the Convention to take the necessary measures to investigate the events of 24 May 2018 (see *Özgür Gündem v. Turkey* no. 23144/93, § 43, ECHR 2000-III; *Dink v. Turkey,* nos. 2668/07 and 4 others, § 137, 14 September 2010)?

3. Did the applicant have an effective remedy for his complaints under Articles 3 and 10 of the Convention, as required by Article 13 of the Convention?

K.S. and Others v. the United Kingdom and 3 other applications (Application no. 20367/24)

Article 14, Article 8, Article 1 of Protocol No. 1, Article 13 — bereavement benefits denied to unmarried partners pre-2018; limited retroactivity of remedy; discrimination and lack of effective redress

SUBJECT MATTER OF THE CASE

The applications concern the Government's policy of providing benefit payments to a surviving parent if his or her partner dies and there is one or more dependent child. Prior to 9 February 2023, these benefits could only be claimed by parents who were married to, or were in a civil partnership with, the deceased at the time of death. Under section 39A of the Social Security Contributions and Benefits Act 1992 ("the 1992 Act"), a widowed parent's allowance ("WPA") was payable to spouses and civil partners in respect of deaths occurring before 6 April 2017. Under section 30(1) and 30(4)(a) of the Pensions Act 2014 ("the 2014 Act"), bereavement support payments ("BSP") were generally payable at a higher rate to parent spouses and civil partners in respect of deaths occurring on or after 6 April 2017.

On 30 August 2018, the Supreme Court of the United Kingdom issued a judgment declaring legislation in Northern Ireland equivalent to the 1992 Act incompatible with Article 14 of the Convention, read with Article 8, in so far as it precluded any entitlement to WPA by a surviving unmarried partner of the deceased ("the *McLaughlin* judgment"). On 7 February 2020, the High Court in London declared section 30(4)(a) of the 2014 Act, read with Section 30(1), to be incompatible with Article 14 of the Convention, read with Article 8, in so far as it limited the availability of BSP at a higher rate to surviving parents who were spouses or civil partners of the deceased ("the *Jackson* judgment").

In response to the above declarations of incompatibility, the Government introduced the Bereavement Benefits (Remedial) Order 2023 SI No. 134 ("the Remedial Order"). The Remedial Order came into force on 9 February 2023 and amended the 1992 and 2014 Acts so as to extend the availability of WPA and BSP to "cohabiting partners" as well as spouses and civil partners. Such amendments had effect from 30 August 2018, i.e. the date of the *McLaughlin* judgment.

The present applications were brought by parents (together with their children) whose initial claims for WPA or BSP were refused by the Government on the basis that they were not married to, or in a civil partnership with, their partners at the time of death. The parent applicants successfully claimed WPA or BSP after the coming into force of the Remedial Order, but subsequently brought complaints before this Court under Article 13 and Article 14 read with Article 8 and/or Article 1 of Protocol No. 1 on the basis

that the payments received were backdated to 30 August 2018, rather than the (earlier) dates on which their partners (the child applicants' parents) died.

QUESTIONS TO THE PARTIES

1. Have the applicants exhausted domestic remedies with the meaning of Article 35 § 1 of the Convention?

To the extent not already cited in the applications, the parties are invited to provide references to any known proceedings instituted and/or judgments handed down within the United Kingdom concerning the limited retrospective nature of the Bereavement Benefits (Remedial) Order 2023 SI No. 134.

2. Have the applicants suffered discrimination in the enjoyment of their Convention rights, contrary to Article 14 of the Convention in conjunction with Article 8 and/or Article 1 of Protocol No. 1?

3. If so, and considering the terms of the Bereavement Benefits (Remedial) Order 2023 SI No. 134, do the applicants remain "victims" of the violation of their rights under Article 14 within the meaning of Article 34 of the Convention?

In particular, did the judgments of *In the matter of an application by Siobhan Mclaughlin for Judicial Review (Northern Ireland)* [2018] UKSC 48 and *Jackson and others v. the Secretary of State for Work and Pensions* [2020] EWHC 183 (Admin), as a matter of domestic law, have limited temporal effect (see, *mutatis mutandis*, *Grant v. the United Kingdom* (no. 32570/03, ECHR 2006-VII)) or did they state what the law has always been?

4. Considering the Court's approach in *Bizjak v. Slovenia* (no. 25516/12, §§ 43-44 and 48-49, 18 July 2014), and in view of *James and Others v. the United Kingdom* (21 February 1986, § 85, Series A no. 98) and *A. v. the United Kingdom* (no. 35373/97, § 112, ECHR 2002-X), is Article 13 of the Convention applicable to these cases?

5. If so, did the applicants have at their disposal an effective domestic remedy for their complaints under Article 14 of the Convention in conjunction with Article 8 and/or Article 1 of Protocol No. 1, as required by Article 13 of the Convention?