



## Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing nine judgments on Tuesday 1 December 2020 and 15 judgments and / or decisions on Thursday 3 December 2020.

*Press releases and texts of the judgments and decisions will be available at 10 a.m. (local time) on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int))*

### Tuesday 1 December 2020

#### [Lamatic v. Romania \(application no. 55859/15\)](#)

The applicant, Ioan Valentin Lamatic, is a Romanian national who was born in 1992 and lives in Piatra Neamț (Romania).

The case concerns the applicant's allegation that proceedings against him for stealing a handbag were unfair.

In November 2014 Mr Lamatic was indicted on three counts of robbery. The first-instance court went on to convict him of two of the robberies, committed in September 2014, but acquitted him of the other robbery, committed in July 2014. In the acquittal decision, the court found that video footage of the first robbery contradicted the victim's description of her attacker, whom she had later identified as the applicant, and that, in any case, she would have found it difficult, if not impossible, to recognise him given that the robbery had taken place at night and from behind.

The appellate court subsequently overturned the lower court's findings in respect of the robbery committed in July 2014, and upheld its decision in respect of the other two crimes. It ruled that the victim's statements, which had been consistent throughout the proceedings, were corroborated by the other evidence, namely the footage of the incident, showing a person resembling the applicant and the description given by the victim, and documents from the applicant's employer contradicting his claim that he had been at work at the time of the attack.

The applicant, who was present during the appeal hearing and assisted by his lawyer, waived his right to be heard again in the appeal proceedings. The appellate court did not re-examine any of the witnesses.

Relying on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, the applicant complains that the appellate court overturned his acquittal without rehearing the victim and that his conviction, which had been based on her testimony, was therefore unfair.

#### [Berkman v. Russia \(no. 46712/15\)](#)

The applicant, Yelena Vladimirovna Berkman, is a Russian national who was born in 1992 and lives in St Petersburg.

The case mainly concerns the applicant's allegation that the authorities failed to facilitate access to a public LGBTI (lesbian, gay, bisexual, transgender and intersex) meeting and to protect her and other participants from aggressive counter-protestors.

On 12 October 2013 the applicant and a small group of LGBTI activists went to the Field of Mars, a large square in St Petersburg, to take part in a meeting marking Coming Out Day. The organisers had warned the authorities in advance of the event and enhanced security had been ordered in anticipation of clashes with counter-demonstrators.

However, according to the applicant, when she arrived the square was blocked by more than 100 aggressive counter-demonstrators in national costumes and armed with whips. They surrounded the participants, including the applicant, and started to insult, push and bully them. The police officers deployed to the site did not react, despite the participants asking them for help. They apparently only stepped in when tensions between the two groups reached a critical point, making arrests and taking only participants in the LGBTI demonstration to police stations.

The Government submit that about 90 people were arrested on account of their disorderly conduct.

The applicant in particular was arrested at about 1.55 p.m., taken to the central police station and charged in minor offence proceedings with using foul language in a public place. She was released around 6.30 p.m. The domestic courts subsequently dismissed the charges against her, and other participants, owing to lack of evidence.

The applicant's civil claim, challenging the lawfulness of her arrest and detention at the police station, was ultimately unsuccessful in February 2016. The courts found that her arrest had been lawful, while her other allegation regarding the authorities' failure to ensure the personal safety of the LGBTI demonstrators was unsubstantiated.

Relying on Article 5 (right to liberty and security), Article 11 (freedom of assembly) and Article 14 (prohibition of discrimination), the applicant complains that her arrest and subsequent detention were arbitrary and unlawful and that the authorities failed to ensure that the public meeting proceed peacefully. She argues that these breaches of her rights were a part of the State's discriminatory policy towards LGBTI people.

#### [Danilov v. Russia \(no. 88/05\)](#)

The applicant, Valentin Vladimirovich Danilov, is a Russian national who was born in 1948 and lives in Novosibirsk (Russia).

The case concerns the applicant's criminal conviction for high treason for disclosure of State secrets related to space science.

The applicant is a renowned physicist and at the relevant time was head of the Thermophysics Centre at Krasnoyarsk State Technical University. In 2000 the FSB opened an investigation in respect of him, ultimately bringing charges of high treason. He was accused of divulging State secrets in the course of a collaboration with Chinese academics.

Over four sets of proceedings the applicant consistently denied that the information given had been a State secret. In the fourth set of proceedings he was found guilty by the Krasnoyarsk Regional Court on 24 November 2004 following a jury trial.

The applicant appealed against the judgment of 24 November 2004, contesting, in particular, the quality and conclusions of the expert reports, his inability to challenge those experts in court, the impartiality of the jurors and judge earlier in the trial. The applicant also challenged the objectivity of the presiding judge. The Supreme Court rejected the challenge. It then upheld the conviction, but reduced the sentence to 13 years' imprisonment.

Relying on Article 6 (right to a fair trial), Article 7 (no punishment without law), and Article 10 (freedom of expression), the applicant complains that the judge and jury in his criminal case were biased, that he did not have a fair trial, and that his actions did not amount to treason as the information was available from open sources.

#### [Makhmudova v. Russia \(no. 61984/17\)](#)

The applicant, Aminat Makhmudova, is an Estonian national who was born in 1987 and lives in Haabneeme (Estonia).

The case concerns the applicant's attempts to have an order for her children to be returned to her enforced in the Russian Federation.

Between 2010 and 2014 the applicant had two children with her then husband, A., a Russian national. The children hold Russian and Estonian nationality and divided their time between both States. In 2016 A. took the children without her consent from Estonia to Dagestan in Russia to live.

On 9 February 2016 the applicant commenced proceedings under the 1980 Hague Convention on the Civil Aspects of International Child Abduction in Estonia for the children's return. On 5 July 2016 the applicant divorced Mr A. and was awarded custody of the children.

On 20 January 2017 the Russian courts ordered the children's return and the surrender of their passports in a final decision. The enforcement procedure commenced in March 2017 under the aegis of bailiffs in Dagestan. A. informed the applicant that she had to come to Dagestan for the handover to take place. The handover did not take place. In May 2017 enforcement was attempted again. A. avoided the handover, despite the applicant's having travelled to Dagestan.

The applicant lodged a request for the Federal Bailiffs Service to ensure enforcement by an external team. She also challenged the decisions of the bailiffs in Dagestan, alleging bias. In September 2017 enforcement was transferred to the Federal Bailiffs Service. In November 2017 a third attempt was made to enforce the judgment, but this was abandoned after two hours spent in the children's company.

In 2019 the applicant commenced proceedings to have the children transferred to her care regardless of their wishes, especially in the light of A.'s non-cooperation. That application was dismissed. That dismissal was upheld on appeal.

Relying on Article 8 (right to respect for private and family life), the applicant complains that the failure of the Russian authorities to enforce the return of her children infringed her rights.

#### [Yevgeniy Dmitriyev v. Russia \(no. 17840/06\)](#)

The applicant, Yevgeniy Borisovich Dmitriyev, is a Russian national who was born in 1956 and lives in Kostomuksha (Russia).

The case concerns the applicant's complaint with regard to the noise and other nuisances from a police station located beneath his flat.

Between February 1995 and May 2008 Mr Dmitriyev lived with his family in an apartment building in Kostomuksha. The basement floor of the building was occupied by the local police station and by temporary detention cells.

In 1996 he complained to the local authorities regarding the noise and refuse from the police station. The head of the local police replied that although the police station was housed in a building which was not designed for such a purpose, its relocation was not possible. The applicant and his neighbours brought a collective complaint in 2000, which the authorities never replied to.

The applicant thus lodged a complaint with the courts against the authorities, demanding the police station's relocation. In a judgment of September 2000, the domestic court acknowledged a violation of his right "to peaceful rest" and ordered the authorities to find a solution within a year. The applicant's claim for non-pecuniary damage was dismissed.

The applicant subsequently complained about the non-enforcement of that judgment, but his complaints were dismissed by the domestic courts, most recently in February 2006.

Also in 2006, the regional consumer-protection agency inspected the building and concluded that the authorities had failed to comply with sanitary norms and regulations, in particular with regard to litter. Furthermore, banging could be heard coming from the basement and police vehicle engines were left running.

The applicant decided to sell his flat, and moved out in early May 2008. In the meantime, in 2007 the project and budget for the construction of a new police station had been approved. However, no other information has been submitted to the European Court concerning the progress of the project or the relocation of the police station.

The applicant alleges that the noise and other nuisances from the police station for more than 13 years interfered with his right to respect for private life and home, in breach of Article 8 of the Convention.

Thursday 3 December 2020

### [Le Mailloux v. France \(no. 18108/20\)](#)

The applicant, Renaud Le Mailloux, is a French national who was born in 1974 and lives in Marseille.

The case concerns the applicant's objections to the management by the French State of the Covid-19 health crisis.

The spread of the coronavirus responsible for the Covid-19 disease in France has led the French authorities to adopt various measures to prevent and mitigate the effects of the concomitant threats to public health. The Aix and Region Medical Association (SMAER) and two private individuals, considering the measures adopted insufficient, lodged an urgent application for the protection of a fundamental freedom with the *Conseil d'État* seeking an injunction on the State to take the requisite action to provide doctors and health professionals with FFP2 and FFP3 facemasks, surgical masks for patients and the population as a whole, and mass screening facilities for all, as well as to authorise doctors and hospitals to prescribe and administer to patients at risk the hydroxychloroquin and azithromycin drug combination, also ordering medical laboratories to conduct screening tests.

The applicant, who states that he has been greatly weakened by a serious illness, intervened to support the urgent application.

By order of 28 March 2020, the urgent applications judge, having declared the applicant's intervention admissible, dismissed the application.

Relying on Article 2 (right to life), Article 3 (prohibition of torture and inhuman and degrading treatment), Article 8 (right to respect for private and family life) and Article 10 (right to freedom of expression), the applicant complains of the failure of the State to comply with its obligations to protect the lives and the physical integrity of persons under its jurisdiction. He complains in particular of restrictions on access to diagnostic tests, preventive measures and specific types of treatment, and interference in the private lives of individuals dying of the virus on their own.

### [Papachela and Amazon S.A. v. Greece \(no. 12929/18\)](#)

The application was lodged by Aliko-Maria Papachela (a Greek national who was born in 1961 and lives in Athens) and by a limited company, of which Ms Papachela is the sole shareholder.

In this case the applicants complain about the occupation of their hotel for over three years by migrants and individuals supporting them, and about the inaction of the authorities, accusing the latter of not doing anything to ensure the eviction of the occupants so that they could retake possession of the premises. The occupation began in April 2016 and ended in July 2019, at which point the squatters left the hotel of their own accord.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, the applicants complain of the illegal occupation of their hotel and the State's inaction in failing to resolve the matter. They also complain that the authorities have refused to compensate them. They allege that they had to pay taxes to the State as the legal proprietors of the hotel during that time.

The Court will give its rulings in writing on the following cases, some of which concern issues which have already been submitted to the Court, including excessive length of proceedings.

These rulings can be consulted from the day of their delivery on the Court's online database [HUDOC](#).

They will not appear in the press release issued on that day.

### Tuesday 1 December 2020

Name	Main application number
Burlakov v. Russia	50495/07
Ivanov v. Russia	16310/08
Kozlov v. Russia	56552/09
Yusupov v. Russia	30227/18

### Thursday 3 December 2020

Name	Main application number
Dadashbeyli v. Azerbaijan	11297/09
Damirov and Others v. Azerbaijan	38158/12
Mammadov v. Azerbaijan	7308/12
Lavić v. Bosnia and Herzegovina	6340/20
Rodić v. Bosnia and Herzegovina	38636/17
Šarganović and Others v. Bosnia and Herzegovina	28251/18
Bogdanov v. Bulgaria	12808/12
Marić v. Croatia	37333/17
Delimatsis and Others v. Cyprus	66772/13
Kosarev and Others v. Russia	10927/09
Nadezhkin v. Russia	39644/06
ZAO TD Setunskaya v. Russia	2607/14
Uzun v. Turkey	37866/18

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.