



## Judgments and decisions of 30 January 2020

The European Court of Human Rights has today notified in writing 14 judgments<sup>1</sup> and four decisions<sup>2</sup>: six Chamber judgments are summarised below;

separate press releases have been issued for five other Chamber judgments in the cases of *Saribekyan and Balyan v. Azerbaijan* (application no. 35746/11), *J.M.B. and Others v. France* (no. 9671/15 and 31 other applications), *Studio Monitori and Others v. Georgia* (nos. 44920/09 and 8942/10), *Breyer v. Germany* (no. 50001/12), and *Sukachov v. Ukraine* (no. 14057/17);

three Committee judgments, concerning issues which have already been submitted to the Court, and the four decisions can be consulted on [Hudoc](#) and do not appear in this press release.

*The judgments below are available only in English.*

### Ahmadov v. Azerbaijan (application no. 32538/10)

The applicant, Eldar Ziyadkhan oglu Ahmadov was born in 1973 in Georgia and lives in Baku. He is of Azerbaijani ethnicity.

The case concerned the authorities' refusal to issue him an identity card.

Mr Ahmadov was born in Georgia but moved to Baku in 1991 to begin studies at the Azerbaijan Oil and Chemistry Institute. In 1998 the Azerbaijan police put a stamp in his Soviet-issue passport that he was a "citizen of the Republic of Azerbaijan".

In 2008 he applied for an identity card, but was refused pursuant to Article 5 of the 1998 Law on Citizenship, which stated that only people who had permanent registration in Azerbaijan before the Law entered into force were considered citizens. However, the applicant had only had temporary registration as a student and thus did not qualify.

The applicant appealed against the administrative decision and won at first instance. However, on appeal by the authorities the refusal to issue the identity card was confirmed, a ruling upheld in December 2009 by the Supreme Court. The courts rejected his argument that his participation in elections, being designated as an Azerbaijani citizen on his son's birth certificate, issued in Georgia, and his registration as a reserve military officer in Azerbaijan were proof of citizenship, although they failed to address his argument about the stamp in his passport.

The applicant complained under Article 8 (right to respect for private and family life, the home, and the correspondence) of the European Convention on Human Rights about the refusal to issue him an ID card.

### Violation of Article 8

**Just satisfaction:** 6,000 euros (EUR) for non-pecuniary damage and EUR 1,500 for costs and expenses

<sup>1</sup> Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

<sup>2</sup> Inadmissibility and strike-out decisions are final.

### Babayeva v. Azerbaijan (no. 57724/11)

The applicant, Laman Feruz gizi Babayeva, is an Azerbaijani national who was born in 1981 and lives in Ganja (Azerbaijan).

The case concerned the courts giving custody of her children to her ex-husband after finding she had allegedly had an extramarital affair.

Ms Babayeva applied for a divorce from her husband in 2010. The court dealing with the case ultimately awarded custody of the couple's two children to the husband, basing its decision mainly on the fact that the applicant had previously had an affair and concluding that her actions were "incompatible with moral standards".

The applicant appealed, arguing among other things that the court had unlawfully disregarded the first opinion submitted by a Custody and Guardianship Commission, which had not objected to her having custody, and had failed properly to assess two subsequent Commission opinions. The appeal was rejected in October 2010, a decision which was upheld by the Supreme Court in March 2011.

Relying in particular on Article 8 (right to respect for private and family life) of the European Convention, Ms Babayeva complained about the court child custody order in favour of the father.

#### Violation of Article 8

**Just satisfaction:** EUR 4,500 (non-pecuniary damage)

### Namazov v. Azerbaijan (no. 74354/13)

The applicant, Elchin Yusif oglu Namazov, is an Azerbaijani national who was born in 1978 and lives in Baku.

The case concerned his disbarment as a lawyer after a verbal altercation with a judge.

In 2011 the applicant was the defence lawyer for a man accused of a breach of the peace after taking part in an opposition demonstration. In four hearings during August of that year the applicant had verbal altercations with the judge, who eventually took a formal decision to inform the Azerbaijani Bar Association of a breach of ethics by the applicant.

According to the judge's decision, the applicant, when examining a prosecution witness, had uttered various phrases which had to be considered as a breach of lawyer ethics. The applicant was not provided with a copy of the judge's decision or the official transcripts of the hearings where he had had altercations with the judge.

The Bar Association subsequently found that he had breached the Law on Advocates and Advocacy Activity and applied to a court to have him disbarred.

In December 2011 the first-instance court ordered the applicant's disbarment. He appealed, arguing among other things that he had not insulted the judge but had tried to defend his client, and that he had not been duly examined by the Bar Association, which had wanted to punish him for his independence and activism. The appeal and a subsequent cassation appeal were rejected in 2012.

Relying in substance on Article 8 (right to respect for private and family life), the applicant complained that his disbarment had been unlawful and had not pursued a legitimate aim.

#### Violation of Article 8

**Just satisfaction:** EUR 7,000 (non-pecuniary damage) and EUR 850 (costs and expenses)

## Franz v. Germany (no. 29295/16)

The applicant, Friedrich-Carl Franz, is a German national who was born in 1955 and lives in Lüneburg (Germany).

The case concerned his complaints of bias against judges of the Celle Court of Appeal who had decided on his removal from the office of notary and who had therefore had to examine a decision of the president of that court.

The applicant became a notary in 1997 but in 2013 he was removed definitively from that office by the President of the Celle Court of Appeal.

The applicant appealed and the case was assigned to the notary senate of the Celle Court of Appeal. He also subsequently lodged complaints of bias against the judges of the notary senate, but those complaints were rejected as inadmissible in November 2013.

The Court of Appeal rejected his challenge to the decision to remove him from the office of notary in March 2014. It cited legal provisions which stated that a notary had to be removed from office if his economic circumstances, the manner of his business administration or his conduct regarding deposits jeopardised the interests of users of legal services.

In November 2014 the Federal Court of Justice rejected an application by the applicant for leave to appeal as ill-founded. He lodged a constitutional complaint with the Federal Constitutional Court, relying on his constitutional right to a lawful judge. In November 2015 the Federal Constitutional Court refused to adjudicate on the complaint.

Relying on Article 6 § 1 (right to a fair trial), the applicant complained that he had not had an independent and impartial tribunal.

### **No violation of Article 6 § 1**

## Cicero and Others v. Italy (nos. 29483/11, 33534/11, 69172/11, 13376/12, and 14186/12)

The applicants are 20 Italian nationals who were born between 1941 and 1966 and live in Messina, Florence, Scandicci, Orta di Atella, Sant'Arpino, Rome, Palestrina and Collesferro (Italy).

The case concerned judicial proceedings on the calculation of their length of service as employees in Italian State schools.

The applicants were all employed by local government until 2000 when they were transferred under a new law to the Ministry of Education, Universities and Research.

They subsequently lodged proceedings to complain that, upon their transfer, they had not obtained full recognition of their length of service with the local government authorities.

Pending the completion of those proceedings a new law on the 2006 budget was enacted. This law did not provide for the recognition of the applicants' full length of service, and their claims were dismissed.

Relying in particular on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property), the applicants complained about the retrospective application of the new budget law to their pending proceedings, alleging that this had amounted to legislative interference.

**Violation of Article 6 § 1** – in respect of all the applicants, except Mr Ficorella and Ms Di Francescantonio, whose complaints were declared inadmissible

**Violation of Article 1 of Protocol No. 1** – in respect of all the applicants, except Mr Ficorella and Ms Di Francescantonio

**Just satisfaction:** See, for the details of the amounts awarded to the applicants in respect of pecuniary and non-pecuniary damage, as well as costs and expenses, the text of today's judgment.

### Vinks and Ribicka v. Latvia (no. 28926/10)

The applicants, Vladimirs Vinks and Jeļena Ribicka, are Latvian nationals who were born in 1975 and 1972 and lived together in Ķekava parish (Latvia) at the time in question.

The case concerned a police search of their home during an investigation into serious financial crimes.

In June 2009 the Finance Police Department of the State Revenue Service (VID FPP) began a criminal investigation into tax evasion and money laundering allegedly carried out by 25 people, including the first applicant and involving more than 200 fictitious companies.

That month the police also searched the applicants' house, which in particular involved the participation of at least four armed members of the Omega anti-terrorism unit, followed by five VID FPP officers. The VID FPP case against the first applicant is still at the pre-trial investigation stage.

The applicants made various complaints to the authorities, including about the lawfulness of the search warrant; the VID FPP's actions; and the need for armed police. All the complaints were dismissed by judges, prosecutors or investigators.

The first applicant also complained to the authorities that the VID FPP allegations of tax evasion and money laundering and the house search had been motivated by revenge after he had testified against two of the service's officers in a separate case.

The applicants complained about the search of their house and the way it had been carried out under Article 8 (right to respect for private and family life, the home, and the correspondence) in particular.

#### Violation of Article 8

**Just satisfaction:** EUR 1,500 each to Mr Vinks and Ms Ribicka for non-pecuniary damage

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#### Press contacts

[echrpresse@echr.coe.int](mailto:echrpresse@echr.coe.int) | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

Patrick Lannin (tel: + 33 3 90 21 44 18)

**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.