

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Guide on Article 18 of the European Convention on Human Rights

Limitation on use of restrictions on rights

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Note to readers

This Guide is part of the series of Case-Law Guides published by the European Court of Human Rights (hereafter "the Court", "the European Court" or "the Strasbourg Court") to inform legal practitioners about the fundamental judgments and decisions delivered by the Strasbourg Court. This particular Guide analyses and sums up the case-law on Article 18 of the European Convention on Human Rights (hereafter "the Convention" or "the European Convention"). Readers will find herein the key principles in this area and the relevant precedents.

The case-law cited has been selected among the leading, major, and/or recent judgments and decisions.*

The Court's judgments and decisions serve not only to decide those cases brought before the Court but, more generally, to elucidate, safeguard and develop the rules instituted by the Convention, thereby contributing to the observance by the States of the engagements undertaken by them as Contracting Parties (*Ireland v. the United Kingdom*, 18 January 1978, § 154, Series A no. 25, and, more recently, *Jeronovičs v. Latvia* [GC], no. 44898/10, § 109, 5 July 2016).

The mission of the system set up by the Convention is thus to determine, in the general interest, issues of public policy, thereby raising the standards of protection of human rights and extending human rights jurisprudence throughout the community of the Convention States (*Konstantin Markin v. Russia* [GC], 30078/06, § 89, ECHR 2012). Indeed, the Court has emphasised the Convention's role as a "constitutional instrument of European public order" in the field of human rights (*Bosphorus Hava Yolları Turizm ve Ticaret Anonim Şirketi v. Ireland* [GC], no. 45036/98, § 156, ECHR 2005-VI, and more recently, *N.D. and N.T. v. Spain* [GC], nos. 8675/15 and 8697/15, § 110, 13 February 2020).

Protocol No. 15 to the Convention recently inserted the principle of subsidiarity into the Preamble to the Convention. This principle "imposes a shared responsibility between the States Parties and the Court" as regards human rights protection, and the national authorities and courts must interpret and apply domestic law in a manner that gives full effect to the rights and freedoms defined in the Convention and the Protocols thereto (*Grzęda v. Poland* [GC], § 324).

This Guide contains references to keywords for each cited Article of the Convention and its Additional Protocols. The legal issues dealt with in each case are summarised in a List of keywords, chosen from a thesaurus of terms taken (in most cases) directly from the text of the Convention and its Protocols.

The HUDOC database of the Court's case-law enables searches to be made by keyword. Searching with these keywords enables a group of documents with similar legal content to be found (the Court's reasoning and conclusions in each case are summarised through the keywords). Keywords for individual cases can be found by clicking on the Case Details tag in HUDOC. For further information about the HUDOC database and the keywords, please see the HUDOC user manual.

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* The case-law cited may be in either or both of the official languages (English or French) of the Court and the European Commission of Human Rights. Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber. Chamber judgments that were not final when this update was published are marked with an asterisk (*).

I. Introduction

Article 18 of the Convention – Limitation on use of restrictions on rights

"The restrictions permitted under [the] Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

HUDOC keywords

Restrictions for unauthorised purposes (18)

1. The object and purpose of Article 18 of the Convention are to prohibit the misuse of power (*Merabishvili v. Georgia* [GC], 2017, §§ 303 and 306; *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], 2019, § 189; *Kavala v. Türkiye* (infringement proceedings) [GC], 2022, § 144). Article 18 was designed with a broad scope aimed at preserving democracy and protecting the rights and freedoms enshrined in it from the dangers posed by totalitarianism. Article 18 was thus intended to prevent abusive and illegitimate limitations of Convention rights and freedoms through State actions, such as politically motivated prosecutions, which run counter to the very spirit of the Convention (*Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1335).

2. According to the *Travaux préparatoires* of the Convention, it presents an "application of the theory of misapplication of power" (CDH (75) 11, p. 8). It guards against State suppression of the Convention rights and freedoms "by means of minor measures which, while made with the pretext of organising the exercise of these freedoms on its territory, or of safeguarding the letter of the law, have the opposite effect" (ibid., p. 3).

3. Article 18 complements the clauses which provide for restrictions of the rights and freedoms set forth in the Convention. Its wording "shall not be applied for any purpose other than" matches closely the wording of those clauses, for example, the second sentence of Article 5 § 1 and the second paragraphs of Articles 8 to 11 (*Merabishvili v. Georgia* [GC], 2017, §§ 287 and 293). Article 18 does not, however, serve merely to clarify the scope of the restriction clauses. It also expressly prohibits the High Contracting Parties from restricting the rights and freedoms enshrined in the Convention for purposes not prescribed by the Convention itself, and to this extent it is autonomous (ibid., § 288; *Mammadli v. Azerbaijan*, 2018, § 93; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 116; *Navalnyy v. Russia* [GC], 2018, § 164; and *Korban v. Ukraine*, 2019, § 209; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 421; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 234; *Miroslava Todorova v. Bulgaria,* 2021, § 192; *Juszczyszyn v. Poland*, 2022, § 307).

4. Parallel to its autonomous function, Article 18 has been used by the Court as an aid to interpretation of the restriction clauses contained in other provisions of the Convention or its Protocols (*Merabishvili v. Georgia* [GC], 2017, § 269):

- Article 5 § 1 of the Convention: *Winterwerp v. the Netherlands*, 1979, § 39; *Guzzardi v. Italy*, 1980, § 102; *Ashingdane v. the United Kingdom*, 1985, § 44; *Weeks v. the United Kingdom*, 1987, § 42; *Kafkaris v. Cyprus* [GC], 2008, § 117; *Kucheruk v. Ukraine*, 2007, § 177;
- Article 8 § 2 of the Convention: *De Wilde, Ooms and Versyp v. Belgium*, 1971, § 93; *Gillow v. the United Kingdom*, 1986, § 54;
- Article 10 § 2 of the Convention: *Lingens v. Austria*, 1986, § 36;
- Article 11 § 2 of the Convention: *United Macedonian Organisation Ilinden-PIRIN and Others v. Bulgaria (no. 2)*, 2011, § 83;

- Article 15 of the Convention: *Lawless v. Ireland (no. 3)*, 1961, § 38 of "the Law" part;
- Article 1 of Protocol No. 1: *Beyeler v. Italy* [GC], 2000, § 111.

5. Article 18 is rarely invoked and there have been few cases where the Court declared a complaint under Article 18 admissible, let alone found a violation (*Khodorkovskiy and Lebedev v. Russia*, 2013, § 898). A comprehensive survey of the Court's case-law under Article 18 can be found in *Merabishvili v. Georgia* [GC], 2017 (§§ 264-281).

6. In view of the scarcity of its case-law under Article 18, the Court exercises increased diligence when deciding cases where allegations of improper motives are made (*Khodorkovskiy and Lebedev v. Russia*, 2013, § 898).

7. The Court examines the admissibility of complaints under Article 18 in accordance with the criteria set forth in Articles 34 (individual applications) and 35 (admissibility criteria) and the rules established in its case-law (see the Practical Guide on Admissibility Criteria; see also, among many examples, *Merabishvili v. Georgia* [GC], 2017, §§ 247-251; *Denisov v. Ukraine* [GC], 2018, § 136; *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, 2019, §§ 269, 274 and 318; *Khodorkovskiy and Lebedev v. Russia (no. 2),* 2020, § 621; *Kavala v. Turkey*, 2019, § 201; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 144; *Rustamzade v. Azerbaijan*, 2019, § 58; and *Savalanli and Others v. Azerbaijan*, 2022, § 107). The Court examines the admissibility of such complaints also in the absence of a specific preliminary objection by the Government (*Korban v. Ukraine*, 2019, §§ 204-205; *Aliyev v. Azerbaijan*, 2018, § 191; *Natig Jafarov v. Azerbaijan*, 2019, § 57; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 106; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 180; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 229; *Mirgadirov v. Azerbaijan and Turkey*, 2020, § 127; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 64).

8. In *Georgia v. Russia (IV)* (dec.), 2023, and in *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1341, the Court declared admissible the applicant Government's complaint of an administrative practice by the respondent State in breach of Article 18 in conjunction with several substantive provisions.

9. The Court has made indications under Article 46 following its finding of a violation of Article 18 (*Aliyev v. Azerbaijan*, 2018, §§ 223-228; *Navalnyy v. Russia* [GC], 2018, §§ 185-186; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 441-442; *Kavala v. Turkey*, 2019, § 240; *Yuksekdag Senoglu and Others v. Türkiye,* 2022, § 655; for more details see Case-Law Guide on Article 46).

10. In *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], 2019, the Court determined the obligations of State responsibility following its finding of a violation of Article 18 in conjunction with Article 5 in *Ilgar Mammadov v. Azerbaijan*, 2014.

11. In *Kavala v. Türkiye* (infringement proceedings) [GC], 2022, the Court, while clarifying the role of the explicit indications under Article 46, observed that by its very nature the violation found may not leave any real choice as to the measures required to remedy it. This is particularly true where the case concerned detention that the Court had found to be manifestly unjustified under Article 5 § 1, in that there was an urgent need to put an end to the violation in view of the importance of the fundamental right to liberty and security. This observation is all the more valid where the violation originated in detention that had also been held to be contrary to Article 18. In consequence, the fact of giving indications under Article 46 (for example, the indication to secure an applicant's immediate release from detention) firstly enables the Court to ensure, as soon as it delivers its judgment, that the protection afforded by the Convention is effective and to prevent continued violation of the rights in issue, and subsequently assists the Committee of Ministers in its supervision of the execution of the final judgment. Such indications also enable and require the State concerned to put an end, as quickly as possible, to the violation of the Convention found by the Court (§§ 147-148).

12. An overview of the Committee of Ministers' practice regarding the supervision of the execution of judgments, where the Court found a violation of Article 18, is outlined in *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], 2019 (§§ 104-114).

II. Scope of application

A. The accessory nature of Article 18

13. In a similar way to Article 14, Article 18 of the Convention has no independent existence; it can only be applied in conjunction with an Article of the Convention or the Protocols thereto which sets out or qualifies the rights and freedoms that the High Contracting Parties have undertaken to secure to those under their jurisdiction (*Kamma v. the Netherlands*, Commission's report, 1974, p. 9; *Gusinskiy v. Russia*, § 73; *Cebotari v. Moldova*, 2007, § 49; *Khodorkovskiy v. Russia*, 2011, § 254; *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, § 663; *Lutsenko v. Ukraine*, 2012, § 105; *Tymoshenko v. Ukraine*, 2013, § 294; *Ilgar Mammadov v. Azerbaijan*, 2014, § 137; *Rasul Jafarov v. Azerbaijan*, 2016, § 153; *Tchankotadze v. Georgia*, 2016, § 113; *Mammadli v. Azerbaijan*, 2018, § 93; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 116; *Aliyev v. Azerbaijan*, 2018, § 198; *Navalnyy v. Russia* [GC], 2018, § 164; *Navalnyy v. Russia (no. 2),* 2019, § 84; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 421; *Miroslava Todorova v. Bulgaria,* 2021, § 191; *Juszczyszyn v. Poland*, 2022, § 306; *Kogan and Others v. Russia*, 2023, § 67).

14. In view of its accessory nature, the complaint under Article 18 raised in conjunction with a given substantive provision of the Convention should be lodged within the same time-limits as those concerning the submission of the complaint under the relevant substantive provision taken alone (*Avraamova v. Ukraine*, 2022, § 105).

15. As with Article 14, there can be a breach of Article 18 even if there is no breach of the Article in conjunction with which it applies (*Merabishvili v. Georgia* [GC], 2017, § 288; see also *Kamma v. the Netherlands*, Commission's report, 1974, p. 9; *Gusinskiy v. Russia*, 2004, § 73; *Cebotari v. Moldova*, 2007, § 49; *Aliyev v. Azerbaijan*, 2018, § 198; *Navalnyy v. Russia* [GC], 2018, § 164; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 421; *Miroslava Todorova v. Bulgaria,* 2021, § 192; *Juszczyszyn v. Poland*, 2022, § 307).

B. Applicability of Article 18

16. For Article 18 to become applicable in conjunction with another substantive provision of the Convention or its Protocols, a restriction should be imposed on the right under the substantive provision (*Josephides v. Turkey* (dec.), 1999, § 4; *Akhalaia v. Georgia* (dec.), 2022, § 67). Where no arguable issue, or no interference with the applicant's rights, under the relevant substantive provision was established, Article 18 cannot be relied upon (*Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, 2019, §§ 316-317; *Akhalaia v. Georgia* (dec.), 2022, §§ 67-68; compare *Juszczyszyn v. Poland*, 2022, §§ 284-286).

17. A violation of Article 18 can only arise where the right or freedom which has been interfered with is subject to restrictions permitted under the Convention (*Kamma v. the Netherlands*, Commission's report, 1974, p. 9; *Oates v. Poland* (dec.), 2000; *Gusinskiy v. Russia*, 2004, § 73); in other words when it is a qualified right (*Merabishvili v. Georgia* [GC], 2017, §§ 265, 271 and 290; *Mammadli v. Azerbaijan*, 2018, § 93; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 116; *Navalnyy v. Russia* [GC], 2018, § 164; *Navalnyy v. Russia (no. 2),* 2019, § 84; *Khodorkovskiy and Lebedev v. Russia (no. 2),* 2020, § 620; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 421; *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 98; *Miroslava Todorova v. Bulgaria,* 2021, § 193; *Juszczyszyn v. Poland*, 2022, § 308; *Kogan and Others v. Russia*, 2023, § 67; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 135).

18. A complaint under Article 18 in conjunction with an absolute right will therefore be incompatible with the Convention *ratione materiae* (*Timurtaş v. Turkey*, Commission's report, 1998, § 329; *Tretiak v. Ukraine* [Committee], 2020, §§ 66-68; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, §§ 1335 *in fine* and 1340).

19. Regarding the application of Article 18 to procedural safeguards, the Court has examined an alleged violation of this provision taken in conjunction with Article 5 § 3 (right to trial within a reasonable time or to be released pending trial) (*Azizov and Novruzlu v. Azerbaijan*, 2021, §§ 67-80).

20. Following a period of uncertainty as to whether Articles 6 and 7 of the Convention contain express or implied restrictions which may form the subject of the Court's examination under Article 18 of the Convention, the Court clarified the question in *Ukraine v. Russia (*re *Crimea)* [GC], 2024. It held that the object and purpose of Article 18, as described by the *travaux préparatoires*, did not support a narrow application of Article 18, for example only in relation to Articles which expressly provide for restrictions. It can therefore be applied in conjunction with other Articles of the Convention which contain inherent restrictions. By contrast, it will not be applicable in conjunction with absolute rights which do not allow such limitations (*Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1335). In that connection, the Court considered that Article 6 of the Convention allows for both explicit and implicit restrictions and that the rights protected under Article 6 are guarantees through which fundamental abuses by a State may be likely to manifest themselves. Therefore, Article 18 is capable of applying in conjunction with Article 6 (Ibid. §§ 1337-1338). However, given the non-derogable nature of the rights guaranteed under Article 7, the Court considered that Article 18 cannot apply in conjunction with it (ibid., §§ 1339-1340).

C. Examples of application of Article 18 in conjunction with other substantive provisions

21. The Convention organs have examined complaints under Article 18 in conjunction with the provisions listed below:

- Article 5 of the Convention: *Gusinskiy v. Russia*, 2004, § 78; *Cebotari v. Moldova*, 2007, § 53; *Khodorkovskiy v. Russia*, 2011, § 254; *Lutsenko v. Ukraine*, 2012, § 110; *Dochnal v. Poland*, 2012, § 114; *Tymoshenko v. Ukraine*, 2013, § 301; *Ilgar Mammadov v. Azerbaijan*, 2014, § 144; *Rasul Jafarov v. Azerbaijan*, 2016, § 163; *Tchankotadze v. Georgia*, 2016, § 110; *Merabishvili v. Georgia* [GC], 2017, §§ 318-354; *Ramishvili and Kokhreidze v. Georgia* (dec.), 2007; *Mammadli v. Azerbaijan*, 2018, § 105; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 127; *Aliyev v. Azerbaijan*, 2018, § 216; *Navalnyy v. Russia* [GC], 2018, § 176; *Navalnyy v. Russia (no. 2),* 2019, § 86; *Korban v. Ukraine*, 2019, § 225; *Batiashvili v. Georgia*, 2019, § 103; *Kavala v. Turkey*, 2019, § 232; *Natig Jafarov v. Azerbaijan*, 2019, § 71; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 158; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 119; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 195; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 402; *Sabuncu and Others v. Turkey*, 2020, § 235; *Şık v. Turkey (no. 2)*, 2020, § 194*; Ahmet Hüsrev Altan v. Turkey,* 2021, § 228; *Mirgadirov v. Azerbaijan and Turkey*, 2020, § 135; *Yuksekdag Senoglu and Others v. Türkiye,* 2022, § 640; *Kutayev v. Russia,* 2023, § 142; *Ugulava v. Georgia*, 2023, § 131; *Melia v. Georgia*, 2023, § 144; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1341; *Yuriy Dmitriyev v. Russia*, 2026, §§ 108-116; *Kavala v. Türkiye (no. 2)* [GC], 2026, §§ 256-257;
- Article 5 § 3 of the Convention: *Azizov and Novruzlu v. Azerbaijan*, 2021, § 80;
- Article 6 of the Convention: *Nastase v. Romania* (dec.), 2014, §§ 105-109; *Khodorkovskiy v. Russia (no. 2)* (dec.), 2011, § 16; and *Lebedev v. Russia (no. 2)* (dec.), 2010, §§ 310-314; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1341; *Kezerashvili v. Georgia*, 2024, § 128; *Sytnyk v. Ukraine*, 2025, §§ 138 and 146; *Yuriy Dmitriyev v. Russia*, 2026, §§ 108-109 and 116; *Kavala v. Türkiye (no. 2)* [GC], 2026, §§ 256-257;
- Article 8 of the Convention: *Bîrsan v. Romania* (dec.), 2016, § 73; *Khodorkovskiy v. Russia (no. 2)* (dec.), 2011, § 16; *Lebedev v. Russia (no. 2)* (dec.), 2010, §§ 310-314; *Aliyev v. Azerbaijan*, 2018, § 216; *Khodorkovskiy and Lebedev v. Russia (no. 2),* 2020, §§ 624-626; *Ovcharenko and Kolos v. Ukraine,* 2023, § 136; *Juszczyszyn v. Poland*, 2022, § 338; *Kogan and*

Others v. Russia, 2023, § 77; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1341; *Sytnyk v. Ukraine*, 2025, §§ 138 *in fine* and 147; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 134; *Vovk v. Ukraine* (dec.), 2026, § 114;

- Article 9 of the Convention: *C.R. v. Switzerland* (dec.), 1999;
- Article 10 of the Convention: *Şener v. Turkey*, 2000, §§ 59-62; *Sabuncu and Others v. Turkey*, 2020, § 235; *Şık v. Turkey (no. 2)*, 2020, § 194*; Miroslava Todorova v. Bulgaria,* 2021, § 214; *Ukraine v. Russia (*re *Crimea)* [GC], 2024 § 1341; *Khadija Ismayilova v. Azerbaijan (no. 4)*, 2026; *Kavala v. Türkiye (no. 2)* [GC], 2026, §§ 256-257;
- Article 11 of the Convention: *Navalnyy v. Russia* [GC], 2018, § 176; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1341; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 134; *Kavala v. Türkiye (no. 2)* [GC], 2026, §§ 256-257;
- Article 1 of Protocol No. 1: *Isik v. Turkey*, Commission's decision, 1995; *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, §§ 663-666; *Bîrsan v. Romania* (dec.), 2016, § 73; *Rustavi 2 Broadcasting Company Ltd and Others v. Georgia*, 2019, §§ 316-317; *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, §§ 97-98; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 134;
- Article 3 of Protocol No. 1: *Sanchez i Picanyol and Others v. Spain*, 2025, §§ 307 and 323;
- Article 2 of Protocol No. 4: *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, §§ 97-98.

22. Where the respondent Government was not given notice of a complaint under Article 18 in conjunction with one of the substantive provisions relied upon by the applicant, and no specific question was put to the parties about it, the Court will not consider the complaint under Article 18 in conjunction with the said substantive provision. It will consider the complaint under Article 18 only in conjunction with those substantive provisions of which notice was given when communicating the case to the respondent Government (*Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 402; *Yuksekdag Senoglu and Others v. Türkiye,* 2022, § 623).

23. The Court has not yet examined a complaint under Article 18 in conjunction with a given substantive provision, where a complaint under the latter provision *taken separately* was declared inadmissible on procedural grounds. For example, in *Azizov and Novruzlu v. Azerbaijan*, 2021, the applicants' complaint under Article 5 § 1 alone (regarding their detention in the absence of a "reasonable suspicion" of their having committed an offence) was rejected for failure to exhaust domestic remedies. The Court decided not to examine, *separately under Article 18*, the question of whether the applicants' detention had pursued a legitimate purpose prescribed by Article 5 § 1 (c). It examined rather Article 18 in conjunction with Article 5 § 3, the complaint under the latter provision, taken separately, having been declared admissible (*Azizov and Novruzlu v. Azerbaijan*, 2021, §§ 68 and 70).

24. Where restrictions on the applicant's rights under substantive provisions other than Article 5 were imposed as part of the detention order and, as such, are indissociable therefrom, the Court may consider it appropriate to examine the complaint under Article 18 in conjunction only with Article 5 (*Navalnyy v. Russia (no. 2),* 2019, § 86).

25. The Court has thus far found a breach of Article 18 in conjunction with:

- Article 5 of the Convention: *Gusinskiy v. Russia*, 2004, § 78; *Cebotari v. Moldova*, 2007, § 53; *Lutsenko v. Ukraine*, 2012, § 110; *Tymoshenko v. Ukraine*, 2013, § 301; *Ilgar Mammadov v. Azerbaijan*, 2014, § 144; *Rasul Jafarov v. Azerbaijan*, 2016, § 163; *Merabishvili v. Georgia* [GC], 2017, § 354; *Mammadli v. Azerbaijan*, 2018, § 105; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 127; *Aliyev v. Azerbaijan*, 2018, § 216; *Navalnyy v. Russia* [GC], § 176; *Navalnyy v. Russia (no. 2),* 2019, § 99; *Natig Jafarov v. Azerbaijan*, 2019, § 71; *Kavala v. Turkey*, 2019, § 232; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 158; *Khadija*

Ismayilova v. Azerbaijan (no. 2), 2020, § 120; *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 195; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 438; *Yuksekdag Senoglu and Others v. Türkiye,* 2022, § 640; *Kutayev v. Russia,* 2023, § 142; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1382; *Kavala v. Türkiye (no. 2)* [GC], 2026, § 279;

- Article 5 § 3 of the Convention: *Azizov and Novruzlu v. Azerbaijan*, 2021, § 80;
- Article 6 of the Convention: *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1382; *Sytnyk v. Ukraine*, 2025, §§ 146, 156-57 and 159; *Kavala v. Türkiye (no. 2)* [GC], 2026, § 279;
- Article 8 of the Convention: *Aliyev v. Azerbaijan*, 2018, § 216; *Juszczyszyn v. Poland*, 2022, § 338; *Kogan and Others v. Russia*, 2023, § 78; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1382; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 148;
- Article 10 of the Convention: *Miroslava Todorova v. Bulgaria,* 2021, § 214; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1382; *Kavala v. Türkiye (no. 2)* [GC], 2026, § 279;
- Article 11 of the Convention: *Navalnyy v. Russia* [GC], 2018, § 176; *Ukraine v. Russia (*re *Crimea)* [GC], 2024, § 1382; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 148; *Kavala v. Türkiye (no. 2)* [GC], 2026, § 279;
- Article 1 of Protocol No. 1: *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 111; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 148
- Article 2 of Protocol No. 4: *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 111.

D. Allegations of ulterior purposes examined under other provisions of the Convention

26. Allegations of improper motives or ulterior purposes underlying restrictions of Convention rights are sometimes raised and examined under substantive provisions of the Convention.

- Article 5 § 1: If there is some manifest irregularity which, seen in context, shows that a deprivation of liberty was chiefly meant for an ulterior purpose, the Court finds an absence of a legitimate ground for the deprivation of liberty and accordingly a breach of Article 5 § 1. Such was the case where:
  - the applicants were detained on vague or fabricated charges or their detention was extended in order to prevent or punish their participation in rallies (*Shimovolos v. Russia*, 2011, §§ 52-57; *Hakobyan and Others v. Armenia*, 2012, § 123; *Nemtsov v. Russia*, 2014, § 103; *Gafgaz Mammadov v. Azerbaijan*, 2015, §§ 107-108; *Kasparov v. Russia*, 2016, §§ 50-56; *Huseynli and Others v. Azerbaijan*, 2016, §§ 146-147; *Ibrahimov and Others v. Azerbaijan*, 2016, §§ 126-127; *Navalnyy and Yashin v. Russia*, 2014, §§ 92-95);
  - the authorities manipulated procedures to delay having to obtain judicial authorisation for the detention, as required under domestic law (*Oleksiy Mykhaylovych Zakharkin v. Ukraine*, 2010, §§ 86-88), or in order to proceed with a disguised extradition (*Bozano v. France*, 1986, §§ 59-60; *Nowak v. Ukraine*, 2011, § 58; *Azimov v. Russia*, 2013, §§ 163 and 165; *Eshonkulov v. Russia*, 2015, § 65);
  - the applicant was illegally abducted and surrendered to another State (*Iskandarov v. Russia*, 2010, §§ 109-115 and 148-151);
  - the authorities summoned asylum-seekers to complete their asylum request, thereby seeking to gain their trust with a view to arresting and subsequently deporting them (*Čonka v. Belgium*, 2002, § 41);
  - citizens of another State were indiscriminately arrested with a view to being deported *en masse* as a measure of reprisal (*Georgia v. Russia (I)* [GC], 2014, §§ 185-186);

- the applicant was arrested and detained with a view to acquiring leverage over the criminal proceedings against his brother (*Giorgi Nikolaishvili v. Georgia*, 2009, § 57);
- the applicant was apprehended as a witness – although the investigator's real intent was to charge him as a defendant – in order to change the venue of the detention proceedings to a more convenient one (*Khodorkovskiy v. Russia*, 2011, § 142);
- the criminal proceedings against the applicant followed the same pattern of misuse of power as the proceedings against other government critics and civil society activists, which the Court had previously found to be in breach of Article 18; the Court relied on this consideration to conclude that the applicant had not been deprived of his liberty on a "reasonable suspicion" of having committed a criminal offence, within the meaning of Article 5 § 1(c) (*Ayyubzade v. Azerbaijan*, 2023, §§ 48-54).

- Article 6: In *Jordan v. the United Kingdom*, 2004, criminal proceedings against the applicant were stayed on health grounds, providing, *inter alia*, that he did not engage in any activities either political, social or personal, which would demonstrate that he was in fact able to stand trial irrespective of his medical condition. The Court examined whether this condition was an instance of a prohibition on political activity "in return" for the dropping of criminal charges. In *Nikëhasani v. Albania,* 2022*,* the Court examined various complaints of a prosecutor who had been dismissed due to serious doubts as to her financial propriety based on findings of a vetting process. The Court, in particular, rejected her allegation that the manner in which the vetting proceedings had been conducted pursued an ulterior purpose of persecuting her for, essentially, her husband's political views or activities (§ 77).
- Article 10: In *NIT S.R.L. v. the Republic of Moldova* [GC], 2022, the Court examined, *inter alia*, whether the revocation of the broadcasting licence of a TV channel after a breach of the statutory requirement of political pluralism had sought to hinder it from expressing critical views of the government, or had pursued any other ulterior purpose (§ 222).
- Article 11: In *United Macedonian Organisation Ilinden-PIRIN and Others v. Bulgaria (no. 2)*, 2011, the Court examined whether a refusal to register the applicant party sought to penalise it on account of the views or policies it promoted (§§ 85-89).
- Article 14 in conjunction with Article 11: In *Bączkowski and Others v. Poland*, 2007, the Court examined whether the refusal to allow a protest march against homophobia was influenced by the mayor's publicly expressed homophobic opinions (§§ 97 and 100).

E. When to apply Article 18

27. The mere fact that a restriction of a Convention right or freedom does not meet all the requirements of the clause that permits it does not necessarily raise an issue under Article 18. Separate examination of a complaint under that Article is only warranted if the claim that a restriction has been applied for a purpose not prescribed by the Convention appears to be a fundamental aspect of the case (*Merabishvili v. Georgia* [GC], 2017, § 291; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 421; *Mammadli v. Azerbaijan*, 2018, § 97; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 120; *Aliyev v. Azerbaijan*, 2018, § 199; *Navalnyy v. Russia* [GC], 2018, § 164; *Navalnyy v. Russia (no. 2),* 2019, § 92; *Kavala v. Turkey,* 2019, § 198*; Natig Jafarov v. Azerbaijan*, 2019, § 63; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 150; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 112; *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 186; *Sabuncu and Others v. Turkey*, 2020, § 252; *Şık v. Turkey (no. 2)*, 2020, § 211; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 234; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 68; *Miroslava Todorova v. Bulgaria,* 2021, §§ 194, 203; *Juszczyszyn v. Poland*, 2022, § 309, *Kogan and Others v. Russia*, 2023, § 69; *Kavala v. Türkiye (no. 2)* [GC], 2026, § 266).

28. Where the parties' submissions under Article 18 are essentially the same as their arguments regarding the alleged interference with the applicant's rights under the relevant substantive provisions of the Convention, the Court has no grounds to conclude that the complaint under Article 18 represents a fundamental aspect of the case (*Razvozzhayev v. Russia and Ukraine and*

Udaltsov v. Russia, 2019, § 305; see, however, *Khadija Ismayilova v. Azerbaijan (no. 4)*, 2026, § 107). Thus, before embarking on the analysis of a complaint under Article 18, the Court will first ascertain whether the crux of it has been already examined under the relevant substantive provision (*Korban v. Ukraine*, 2019, § 204; *Khodorkovskiy and Lebedev v. Russia (no. 2)*, 2020, § 622; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 401; *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 103; *Juszczyszyn v. Poland*, 2022, § 317; *Yuriy Dmitriyev v. Russia*, 2026, § 109). Where this has been the case, the Court will generally consider that the complaint under Article 18 does not raise any separate issue (*Navalnyy and Gunko v. Russia*, 2020, §§ 96-98; *Staykov v. Bulgaria*, 2021, §§ 120-121). The Court may also prefer such a course of action even after having established, in another case brought by the same applicant, a pattern of misuse of power indicative of personal targeting of the applicant concerned (*Navalnyy and Others v. Russia*, 2022, § 18). The Court may also find no separate issue under Article 18 after having established, in its finding under the relevant substantive provision, that the applicant's case followed the same pattern of misuse of power as identified in the Court's previous judgments against the State concerned (*Ayyubzade v. Azerbaijan*, 2023, § 60). Alternatively, the Court may find no violation of Article 18 (*Udaltsov v. Russia*, 2020, §§ 195-196).

29. The Court does not usually raise the issue of the application of Article 18 of its own motion. However, in *Azizov and Novruzlu v. Azerbaijan*, 2021, the Court did raise the issue *ex officio* and found a violation of Article 18 (see also *Haziyev v. Azerbaijan*, 2018, § 43, *Rustamzade v. Azerbaijan*, 2019, § 56, and *Savalanli and Others v. Azerbaijan*, 2022, § 107: when communicating these cases to the respondent Government, the Court put a question regarding Article 18 on its own initiative to eventually find that the issue either did not warrant a separate examination or had not been raised before the domestic courts either expressly or in substance).

30. The Court has examined complaints under Article 18 raised in substance (*Lutsenko v. Ukraine*, 2012, § 104; *Mammadli v. Azerbaijan*, 2018, § 80).

III. The purpose of restrictions

A. The notion of "ulterior purpose"

31. An ulterior purpose is a purpose which is not prescribed by the relevant provision of the Convention and which is usually different from that proclaimed by the authorities (or the one which can be reasonably inferred from the context) (*Merabishvili v. Georgia* [GC], 2017, § 292; *Khodorkovskiy v. Russia*, 2011, § 255; *Lutsenko v. Ukraine*, 2012, § 106; *Tymoshenko v. Ukraine*, 2013, § 294; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 899; *Ilgar Mammadov v. Azerbaijan*, 2014, § 137; *Rasul Jafarov v. Azerbaijan*, 2016, § 153; *Tchankotadze v. Georgia*, 2016, § 113).

32. The notion of ulterior purpose is related to that of "bad faith", but they are not necessarily equivalent in each case (*Merabishvili v. Georgia* [GC], 2017, § 283).

33. The Court has distanced itself from its previous approach, which consisted in applying a general rebuttable assumption that the national authorities of the High Contracting States have acted in good faith and in focusing its scrutiny on proof of bad faith (*Khodorkovskiy v. Russia*, 2011, § 255; *Lutsenko v. Ukraine*, 2012, § 106; *Tymoshenko v. Ukraine*, 2013, § 294; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 899; *Ilgar Mammadov v. Azerbaijan*, 2014, § 137; *Rasul Jafarov v. Azerbaijan*, 2016, § 153). Instead, it aims at an objective assessment of the presence or absence of an ulterior purpose, and thus of a misuse of power (*Merabishvili v. Georgia* [GC], 2017, §§ 282-283).

34. At the same time, the importance of the good faith obligation is paramount in the context of the execution of the Court's judgments, especially where a violation of Article 18 was found. When examining the respondent State's compliance with their obligation under Article 46, the Court will consider whether they have acted in "good faith", in a manner compatible with the "conclusions and spirit" of the judgment to be executed (*Ilgar Mammadov v. Azerbaijan* (infringement proceedings)

[GC], 2019, §§ 214 and 217; *Kavala v. Türkiye* (infringement proceedings) [GC], 2022, § 169; *Kavala v. Türkiye (no. 2)* [GC], 2026, § 306).

35. The Court examines allegations of an ulterior purpose, having regard to the manner in which the applicant framed his/her complaint (*Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 425).

36. The Court has examined allegations of the following ulterior purposes:

- intimidation and putting pressure on the applicant with a view to obtaining information or other advantages (*Gusinskiy v. Russia*, 2004, § 76; *Cebotari v. Moldova*, 2007, § 53; *Merabishvili v. Georgia* [GC], 2017, § 353; *Dochnal v. Poland*, 2012, § 116);
- punishing and silencing the applicant and/or impeding his/her activities (*Ramishvili and Kokhreidze v. Georgia* (dec.), 2007; *Lutsenko v. Ukraine*, 2012, § 109; *Tymoshenko v. Ukraine*, 2013, § 299; *Ilgar Mammadov v. Azerbaijan*, 2014, § 143; *Rasul Jafarov v. Azerbaijan*, 2016, § 162; *Mammadli v. Azerbaijan*, 2018, § 104; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 125; *Aliyev v. Azerbaijan*, 2018, § 215; *Natig Jafarov v. Azerbaijan*, 2019, § 70; *Kavala v. Turkey,* 2019, § 232; *Ibrahimov and Mammadov v. Azerbaijan,* 2020, § 157; *Khadija Ismayilova v. Azerbaijan (no. 2),* 2020, § 119; *Yunusova and Yunusov v. Azerbaijan (no. 2),* 2020, § 194; *Sabuncu and Others v. Turkey*, 2020, § 249; *Şık v. Turkey (no. 2)*, 2020, § 207; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 238; *Mirgadirov v. Azerbaijan and Turkey*, 2020, § 133; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 79; *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 110; *Miroslava Todorova v. Bulgaria,* 2021, § 213; *Kutayev v. Russia,* 2023, § 141; *Juszczyszyn v. Poland*, 2022, § 337; *Kogan and Others v. Russia*, 2023, § 77);
- political and/or economic motivation behind criminal prosecution and other relevant proceedings (*Khodorkovskiy v. Russia*, 2011, § 254; *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, § 665; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 889; *Nastase v. Romania* (dec.), 2014, § 109; *Tchankotadze v. Georgia*, 2016, § 114; *Merabishvili v. Georgia* [GC], 2017, § 332; *Batiashvili v. Georgia*, 2019, §§ 101-103; *Korban v. Ukraine*, 2019, § 203; *Ovcharenko and Kolos v. Ukraine,* 2023, § 130; *Ugulava v. Georgia*, 2023, § 123; *Melia v. Georgia*, 2023, § 137; *Sytnyk v. Ukraine*, 2025, §§ 154 and 158);
- suppression of political pluralism and limiting freedom of political debate (*Navalnyy v. Russia* [GC],2018, § 175; *Navalnyy v. Russia (no. 2),* 2019, § 98; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 437; *Yuksekdag Senoglu and Others v. Türkiye,* § 639; *Ukraine v. Russia (re Crimea)* [GC], 2024, § 1375; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, §§ 144-45).

B. Methodology and general principles

1. Single purpose and plurality of purposes

37. Sometimes, a right or freedom is restricted solely for a purpose which is not prescribed by the Convention. It is equally possible that a restriction is applied both for an ulterior purpose and a purpose prescribed by the Convention, so that it is considered to pursue a plurality of purposes (*Merabishvili v. Georgia* [GC], 2017, § 292; *Miroslava Todorova v. Bulgaria,* 2021, § 195; *Juszczyszyn v. Poland*, 2022, § 310).

38. When considering an allegation under Article 18, the Court must therefore establish:

- whether the restriction of the applicant's right or freedom was applied for an ulterior purpose;
- whether the restriction pursued both a purpose prescribed by the Convention and an ulterior one, that is, whether there was a plurality of purposes;
- which purpose was predominant (*Merabishvili v. Georgia* [GC], 2017, § 309).

39. The Court may also proceed on the assumption that the restriction of the applicant's right or freedom pursued a legitimate purpose and examine a case from the standpoint of a *potential* plurality of purposes.

40. For example, in *Azizov and Novruzlu v. Azerbaijan*, 2021, the Court was unable to examine the question of whether the applicants' detention had pursued a legitimate purpose prescribed by Article 5 § 1(c), since the complaint under this substantive provision taken alone had been found to be inadmissible on procedural grounds (non-exhaustion of domestic remedies). The Court decided not to examine this issue *separately* under Article 18. It proceeded on the assumption that there had been a legitimate purpose, which led to the examination of the case on the basis of a *potential* plurality of purposes behind the applicants' detention (the Court rather examined Article 18 in conjunction with Article 5 § 3: the complaint under the latter provision taken alone had been declared admissible) (*Azizov and Novruzlu v. Azerbaijan*, 2021, §§ 68-70).

41. Similarly, in *Juszczyszyn v. Poland*, 2022, in view of its finding as to the unlawfulness of the impugned interference, the Court did not consider it necessary to examine the question of whether it had pursued a legitimate aim under Article 8 taken alone. However, for the purposes of its examination of the applicant's complaint under Article 18 in conjunction with Article 8, the Court was prepared to assume that the measures against the applicant had pursued the legitimate aim relied upon by the Government. The Court therefore proceeded on the basis of the plurality of purposes (*Juszczyszyn v. Poland*, 2022, §§ 318-321; see also *Kogan and Others v. Russia*, 2023, §§ 59 and 77).

42. In *Ukraine v. Russia (*re *Crimea)* [GC], 2024, the Court followed the same approach. Despite its findings that the extension of the application of Russian law in Crimea was unlawful and led to a violation of Articles 5, 6, 8, 10 and 11 of the Convention, the Court proceeded from the standpoint of a potential plurality of purposes (*Ukraine v. Russia (*re *Crimea)* [GC], 2024, §§ 1354-1356).

43. The following principles, formulated for situations of *plurality of purposes*, also provide guidance for situations where no legitimate aim or purpose has been shown (*Navalnyy v. Russia* [GC], 2018, § 165; *Miroslava Todorova v. Bulgaria,* 2021, § 195; *Juszczyszyn v. Poland*, 2022, § 310).

2. The notion of "predominant purpose"

44. Any public policy or individual measure may have a "hidden agenda" (*Khodorkovskiy v. Russia*, 2011, § 255; *Lutsenko v. Ukraine*, 2012, § 106; and *Tymoshenko v. Ukraine*, 2013, § 294). Where it is established that a restriction pursues a plurality of purposes, the mere presence of a purpose which does not fall within the respective restriction clause cannot of itself give rise to a breach of Article 18. On the other hand, a finding that the restriction pursues a purpose prescribed by the Convention does not necessarily rule out a breach of Article 18 either. The prescribed purpose does not invariably expunge the ulterior one (*Merabishvili v. Georgia*, 2017, §§ 303-304; *Miroslava Todorova v. Bulgaria,* 2021, §§ 197-198; *Juszczyszyn v. Poland*, 2022, § 312).

45. Where a restriction pursues an ulterior purpose and a purpose prescribed by the Convention, the Court will determine which is predominant. A predominant purpose in this context is the one that truly actuated the authorities and which was the overriding focus of their efforts (*Merabishvili v. Georgia* [GC], 2017, § 303; *Navalnyy v. Russia* [GC], 2018, § 165; and *Korban v. Ukraine*, 2019, § 211-213).

46. A restriction can be compatible with the substantive Convention provision which authorises it because it pursues an aim permissible under that provision, but still infringe Article 18 because the prescribed purpose, while present, was in reality simply a cover enabling the authorities to attain an extraneous purpose, which was the overriding focus of their efforts (*Merabishvili v. Georgia* [GC], 2017, § 305). In other words, if it is established that a restriction also pursued an ulterior purpose, there will only be a breach of Article 18 if the ulterior purpose is predominant (ibid., § 318; *Navalnyy v. Russia* [GC], 2018, § 165; and *Korban v. Ukraine*, 2019, § 211-213; *Miroslava Todorova v. Bulgaria,* 2021, § 199; *Juszczyszyn v. Poland*, 2022, § 314; *Kogan and Others v. Russia*, 2023, § 68).

47. Conversely, if the prescribed purpose was the main purpose, the one that truly actuated the authorities, though they also wanted to gain some other advantage, the restriction does not run counter to Article 18 (*Merabishvili v. Georgia* [GC], 2017, § 305, and *Navalnyy v. Russia* [GC], § 165; *Miroslava Todorova v. Bulgaria,* 2021, § 199).

48. Which purpose is predominant in a given case depends on all the circumstances (*Merabishvili v. Georgia* [GC], 2017, § 307; *Azizov and Novruzlu v. Azerbaijan*, 2021, §§ 75; *Miroslava Todorova v. Bulgaria,* 2021, § 200; *Juszczyszyn v. Poland*, 2022, § 315; *Kogan and Others v. Russia*, 2023, § 68).

49. In assessing this point, the Court will analyse the extent to which the authorities were *determined* to pursue the alleged ulterior purpose (*Juszczyszyn v. Poland*, 2022, § 329). It will give weight to the following considerations: in the first place, whether the authorities attached the *utmost importance* to their actions targeting a specific individual or a group; and whether a given case belongs to an established pattern of misuse of power by the respondent State (*Azizov and Novruzlu v. Azerbaijan*, 2021, §§ 76-77; *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, § 142).

3. Nature and degree of reprehensibility of the alleged ulterior purpose

50. The Court will have regard to the nature and degree of reprehensibility of the alleged ulterior purpose, and bear in mind that the Convention was designed to maintain and promote the ideals and values of a democratic society governed by the rule of law (*Merabishvili v. Georgia* [GC], 2017, § 307; *Navalnyy v. Russia* [GC], 2018, § 165; *Korban v. Ukraine*, 2019, § 214; *Miroslava Todorova v. Bulgaria,* 2021, § 200; *Juszczyszyn v. Poland*, 2022, § 315; *Kogan and Others v. Russia*, 2023, § 68).

51. The Court will proceed in this way where allegations of an ulterior purpose appear coherent with the relevant domestic context or with a view to establishing which purpose is predominant (*Merabishvili v. Georgia* [GC], 2017, § 307; *Navalnyy v. Russia* [GC], 2018, §§ 173-174; and *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 436).

52. In this respect, the Court will assess the impact of the impugned restriction and the extent of gravity of the ulterior purpose, as defined by the core of the applicant's Article 18 complaint. In particular, the Court may examine whether the impugned restriction would affect merely the applicant or his fellow activists/supporters or the very essence of democracy as a means of organising society in which individual freedom may only be limited in the general interest (*Navalnyy v. Russia* [GC], 2018, §§ 173-174; *Natig Jafarov v. Azerbaijan*, 2019, § 69; *Kavala v. Turkey*, 2019, § 231; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 436; and *Kogan and Others v. Russia*, 2023, §§ 70 and 77).

4. Continuing situation

53. Where the restriction of a Convention right amounts to a continuing situation, in order for it not to contravene Article 18, its chief purpose must remain the purpose prescribed by the Convention throughout its duration. The Court will therefore assess what purpose(s) it pursued throughout the whole period of its duration. In particular, as the assessment of which purpose was predominant may vary over time, it will ascertain whether, at a given moment during the course of the application of the impugned restriction, an ulterior purpose supplanted the prescribed one or become predominant (*Merabishvili v. Georgia* [GC], 2017, §§ 308 and 351, and *Navalnyy v. Russia* [GC], 2018, § 171).

5. Repetitive restrictions and patterns of misuse of power

54. A sequence of repetitive measures specifically and personally targeting an applicant can be analysed as a continuing situation, in which the predominant purpose may vary over the period under examination. What might possibly have seemed a legitimate aim or purpose at the outset may appear less plausible over time (*Navalnyy v. Russia* [GC], 2018, §§ 165-171).

55. The repetitive nature of restrictions imposed by a respondent State in pursuance of ulterior purposes is an important factor to consider. Faced with a series of similar cases brought by different applicants, or a sequence of identical measures directed against the same applicant, the Court will assess whether such instances, viewed as a whole, amount to a pattern of misuse of power targeting specific groups or individuals (*Navalnyy v. Russia* [GC], 2018, § 167-170; and *Aliyev v. Azerbaijan*, 2018, § 223).

56. Where this is the case, the Court will consider whether any subsequent well-founded allegations of ulterior purposes against the impugned State belong to the established pattern (*Navalnyy v. Russia (no. 2),* 2019, § 94; *Natig Jafarov v. Azerbaijan*, 2019, §§ 64-65; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, §§151-152; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, §§ 113-114; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 187-188; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 76).

57. Where a certain pattern of misuse of power by the respondent State was established, this factor is relevant for the purposes of ascertaining the existence of an ulterior purpose in a given case (*Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 109). It also can, in the context of a plurality of purposes, point to a predominance of the ulterior purpose pursued by the authorities of the State concerned (*Azizov and Novruzlu v. Azerbaijan*, 2021, § 77).

58. The Court may also establish a pattern of misuse of power on the basis of a single case, where domestic context provides sufficient evidence that it is not an isolated example and that identical restrictions affect a significant number of persons belonging to the same category or group as the applicant (*Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 427-428).

59. Even where a clear pattern misuse of power by the respondent State, in breach of Article 18, is established, this does not dispense the Court from examining whether an applicant's particular conduct amounts to an abuse of rights within the meaning of Article 17 of the Convention (*Yuksekdag Senoglu and Others v. Türkiye,* 2022, §§ 487-488 and 638-640).

6. Allegations of several ulterior purposes

60. When examining allegations of several ulterior purposes, the Court will assess whether an ulterior purpose was predominant with respect to each of the purposes cited by the applicant (*Merabishvili v. Georgia* [GC], 2017, § 319).

61. In some cases, the Court has focused its scrutiny on distinguishable case features allowing it to look into the matter separately from allegations of politically motivated prosecution (*Lutsenko v. Ukraine*, 2012, § 108; *Tymoshenko v. Ukraine*, 2013, § 298; *Ilgar Mammadov v. Azerbaijan*, 2014, § 140; and *Rasul Jafarov v. Azerbaijan*, 2016, § 155).

C. Restrictions applied solely for an ulterior purpose

62. In the following cases, where the Court found a breach of Article 18 in conjunction with Article 5, the applicants' detention pursued solely an ulterior purpose, as there had been either no valid grounds to detain them (*Lutsenko v. Ukraine*, 2012, §§ 63-65 and 67-72; *Tymoshenko v. Ukraine*, 2013, §§ 269-271; *Navalnyy v. Russia* [GC], 2018, § 71; *Navalnyy v. Russia (no. 2),* 2019, § 93; *Kutayev v. Russia,* 2023, § 135; and *Kavala v. Türkiye (no. 2)* [GC], 2026, § 268) or the charges against them were not based on a "reasonable suspicion" within the meaning of Article 5 § 1 (c) (*Cebotari v. Moldova*, 2007, § 52; *Ilgar Mammadov v. Azerbaijan*, 2014, § 100; *Rasul Jafarov v. Azerbaijan*, 2016, § 133; *Mammadli v. Azerbaijan*, 2018, § 96; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 119; *Aliyev v. Azerbaijan*, 2018, § 164; *Natig Jafarov v. Azerbaijan*, 2019, § 68; *Kavala v. Turkey,* 2019, § 218; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 149; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 111; *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 185; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 423; and *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, § 308). In *Navalnyy v. Russia* [GC], 2018, *Aliyev v. Azerbaijan*, 2018, and *Democracy and Human Rights Resource Centre and*

Mustafayev v. Azerbaijan, 2021, the Court found a violation of Article 18 also in conjunction with other substantive provisions (respectively, Article 11, Article 8, Article 1 of Protocol No. 1 and Article 2 of Protocol No. 4), noting that the impugned restrictions had not pursued any of the legitimate aims under the said provisions.

1. Cases not concerning an established pattern of misuse of power

63. In the case of *Cebotari v. Moldova*, 2007, which is closely linked to the case of *Oferta Plus S.R.L. v. Moldova*, 2006, the applicant, in his capacity as the head of Moldtranselectro, a State-owned power distribution company, requested the Moldovan Ministry of Finance to issue a Treasury bond in favour of Oferta Plus, a private company which had paid for the electricity supplied from Ukraine to Moldtranselectro and consumed, *inter alia,* by State institutions. Subsequently, Oferta Plus brought successful proceedings against the Ministry of Finance for refusing to cash in the bond. After the Moldovan Government had been informed about the application lodged by Oferta Plus with the Court in respect of the non-enforcement of the final judgment in its favour, that judgment was quashed and criminal proceedings were initiated against its Chief Executive Officer and Mr Cebotari on charges of large-scale embezzlement of State property. The charges were based on the premise that Oferta Plus had not paid for the electricity supplied specifically to State institutions and thus had fraudulently obtained the Treasury bond. In *Oferta Plus S.R.L. v. Moldova*, 2006, the Court found a breach of Article 34 on the ground that the impugned criminal proceedings were aimed at discouraging the company from pursuing its application before the Court (§ 143). In *Cebotari v. Moldova*, 2007, having regard to the clear findings in the final judgments of the civil courts in the dispute between Oferta Plus and the Ministry of Finance, the Court held that the Government had failed to satisfy it that there was a reasonable suspicion that the applicant had committed an offence, with the result that there was no justification for his arrest and detention. The only aim of his pre-trial detention, therefore, was to put pressure on him with a view to hindering Oferta Plus from pursuing its application before the Court. There had thus been a breach of Article 18 in conjunction with Article 5 § 1 (§§ 52-53).

64. In *Lutsenko v. Ukraine*, 2012, soon after a change of power, the applicant – a former Minister of the Interior and opposition leader – was charged with abuse of office. Shortly after a newspaper had published an interview in which he denied the accusations against him, he was remanded in pre-trial detention. His detention did not pursue any purpose prescribed by the Convention, as none of the grounds advanced by the authorities were found by the Court to be compatible with the requirements of Article 5 § 1 (§§ 66-74). In addition, the fact that the applicant's communication with the media was explicitly indicated as one of such grounds clearly demonstrated an attempt by the authorities to punish him for publicly disputing the charges against him, which qualified as an ulterior purpose contrary to Article 18 in conjunction with Article 5 (§§ 108-110).

65. The case of *Tymoshenko v. Ukraine*, 2013, also concerned criminal prosecution of an opposition leader and a former Prime Minister, who was charged with excess of authority and abuse of office soon after a change of power. The Court likewise found a breach of Article 5 § 1 taken alone, as the applicant's pre-trial detention did not pursue any of the purposes envisaged by that provision. In addition, the factual context and the reasons given by the domestic authorities suggested that the main justification for the applicant's detention was in fact her supposed hindering of the proceedings and contemptuous behaviour. For the Court, her detention therefore pursued solely an ulterior purpose, namely punishing her for her conduct during the impugned trial, in violation of Article 18 in conjunction with Article 5 (§§ 299-301).

66. In *Kavala v. Turkey*, 2019, the applicant, a businessman and human-rights defender who had contributed to setting up numerous non-governmental organisations, was remanded in custody on suspicion of attempting to trigger an insurrection, in connection with mass protests in 2013, and to overthrow the Government through force and violence, in connection with an attempted military *coup d'état* in 2016. He was eventually charged only with the former of the above offences and shortly after public accusations made against him by the President, even though, by that time, he had been held in

pre-trial detention for more than a year, without any significant investigative acts taking place. The Court considered that the measures taken against the applicant had not been justified by reasonable suspicions, but had essentially been based on facts that could not be reasonably considered as behaviour criminalised under domestic law and, moreover, were largely related to his exercise of the rights guaranteed by Articles 10 and 11 of the Convention. While leading to a breach of Article 5 § 1 taken alone, these circumstances were also taken into account in the context of the complaint under Article 18. A breach of the latter provision was found since the impugned measures were found to have pursued solely the ulterior purpose of reducing the applicant to silence as a human-rights defender and NGO activist. That was an ulterior purpose of significant gravity, especially given the particular role of such groups in a pluralist democracy (§§ 220-232).

67. In *Kutayev v. Russia*, 2023, the applicant, a politician and human-rights activist in Chechnya, organised a conference to commemorate the 70th anniversary of the 1944 deportation of the Chechen population on the orders of Stalin. The next day, the President of Chechnya Ramzan Kadyrov met the participants, expressing his strong dissatisfaction with the scheduling of the conference: close to 23 February, the old day of remembrance, and not 10 May, the new day decreed by Mr Kadyrov. While the applicant was summoned to the above meeting with Mr Kadyrov, he refused to attend and on the following day he was arrested and placed in pre-trial detention on drug possession charges. The Court found a violation of Article 5 § 1 taken separately. In its view, the applicant's deprivation of liberty was arbitrary and clearly involved an element of bad faith on the part of the police officers and the investigators. The Court further considered that the authorities' actions had been solely driven by improper motives in breach of Article 18, notably the ulterior purpose of punishing the applicant for the non-compliance with the new day of remembrance and his refusal to attend a meeting with Mr Kadyrov (§§ 134-135 and 141).

2. Pattern indicative of specific and personal targeting

68. In *Navalnyy v. Russia* [GC], 2018, the applicant, an important political opposition figure and anti-corruption campaigner, was arrested seven times over a period of two years at various peaceful public gatherings and was prosecuted for administrative offences related to their technically unlawful nature. The Court found that the applicant's arrest and detention were arbitrary and unlawful, in violation of Article 5 § 1 taken alone. It also found a breach of Article 11 taken alone, as on five occasions the impugned measures had been disproportionate and on two occasions they had not pursed any of the legitimate aims for which Article 11 § 2 provides. In particular, during the fifth episode, the applicant was penalised when he was followed by a group of people after he had left a stationary demonstration. During the sixth episode, he found himself amidst a group of activists in front of a courthouse because they had been denied entry to the court hearing. Under Article 18, the Court focused its examination on those two episodes, which, taken separately, did not raise any issue of the plurality of purposes. However, taking into account the sequence and pattern of the events viewed as a whole, the Court considered that targeting the applicant as an opposition politician, affecting as it did not only himself or his fellow activists/supporters but the very essence of democracy, would amount to an ulterior purpose of "significant gravity". Seen in the broader context of the Russian authorities' attempts at the material time to bring the opposition's political activity under control, the restrictions imposed in the fifth and sixth episodes were found to have pursued an ulterior purpose, namely to suppress political pluralism, in violation of Article 18 in conjunction with Articles 5 and 11 (§§ 163-176).

69. In *Navalnyy v. Russia (no. 2)*, 2019, the same applicant was placed under house arrest with restrictions on communication, correspondence and use of the Internet, radio and television. The Court found a violation of Article 5 and Article 10 taken separately, since the impugned measures had been applied without any apparent connection with the requirements of the criminal investigation. As they had been imposed on the applicant immediately following his two arrests examined in *Navalnyy v. Russia* [GC], 2018 (sixth and seventh episodes - see above), the Court considered them in

the light of the sequence of events and the contextual evidence analysed in the above judgment of the Grand Chamber. The impugned measures were found to have pursued the same ulterior purpose, namely to suppress political pluralism through curtailing the applicant's public activity, in breach of Article 18 in conjunction with Article 5 (§§ 93-98).

3. Pattern of misuse of power targeting specific groups

70. In *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, the applicant, a pro-Kurdish leader of the political opposition in Turkey, was one of the 154 elected members of parliament (MPs) who were stripped of parliamentary immunity by virtue of a constitutional amendment. The amendment provided for such a measure in respect of all MPs who were the subject of requests to this effect transmitted to the National Assembly prior to its date of adoption. The amendment had its origin in the serious violence in Turkey, with the involvement of the PKK (Workers' Party of Kurdistan – a terrorist organisation), which had led to the breakdown of negotiations aimed at resolving the "Kurdish question". The applicant was placed in pre-trial detention on terrorist charges on account of his speeches on the above issues and participation in certain lawful meetings. For the Court, the charges against the applicant were based essentially on facts that could not be reasonably considered criminal conduct under domestic law and related mainly to the exercise by him of his Convention rights. No legitimate aim of his detention was therefore identified, which was found to be in breach of Article 5 § 1, for failure to meet the standard of "reasonable suspicion", and of Article 10. Having regard to the contemporaneous prosecution and detention of a number of the opposition MPs and politicians, the Court considered that the applicant's case followed a certain pattern targeting dissenting voices. The Court concluded that there had been a violation of Article 18 in conjunction with Article 5, as his prolonged detention, especially during two crucial campaigns (a referendum on significant constitutional reform and a presidential election), had pursued an ulterior motive, that of stifling pluralism and limiting freedom of political debate (§ 437) (see also *Yuksekdag Senoglu and Others v. Türkiye,* 2022, §§ 638-640, a case brought by other opposition MPs, and *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, §§ 307-320, a follow-up case brought by Mr Demirtaş himself).

71. In a series of similar cases against Azerbaijan, the Court established a relevant pattern of arbitrary arrest and detention of government critics, civil society activists and human-rights defenders through retaliatory prosecutions and misuse of the criminal law in breach of Article 18 (*Ilgar Mammadov v. Azerbaijan*, 2014; *Rasul Jafarov v. Azerbaijan*, 2016; *Mammadli v. Azerbaijan*, 2018; *Rashad Hasanov and Others v. Azerbaijan*, 2018; *Aliyev v. Azerbaijan*, 2018, § 223; *Natig Jafarov v. Azerbaijan*, 2019, §§ 64-65; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 152; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, §§ 113-114; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 187-188).

72. In *Ilgar Mammadov v. Azerbaijan*, 2014, the applicant, an opposition politician critical of the Government, published on his Internet blog his first-hand account of a local riot, which had spontaneously started a day before he arrived on site. His blog posts, which were immediately picked up by the press, contradicted the Government's version of the events and contained sourced information which the Government had reportedly attempted to withhold from the public. On the following day the Prosecutor General's Office and the Ministry of Internal Affairs issued a joint press statement accusing the applicant of acting illegally with a view to inflaming the situation in the country. Several days later, after being questioned, the applicant was charged with organising the riot and remanded in custody. The Court found a breach of Article 5 § 1 taken alone, since the prosecution had failed to produce, either before the domestic courts or otherwise, any objective information or evidence giving rise to a "reasonable suspicion" against the applicant. The Court further inferred from the above circumstances that his detention was linked to his blog posts and thus pursued only the ulterior purpose of silencing and punishing him for criticising the Government and attempting to disseminate the information the Government were trying to hide. The detention thus constituted a breach of Article 18 in conjunction with Article 5 (§§ 142-143).

73. In the following cases, well-known Azerbaijani civil society activists, human rights defenders and leaders of non-governmental organisations (NGOs) were remanded in custody and charged mainly with illegal entrepreneurship, large-scale tax evasion and/or abuse of power on account of alleged administrative irregularities in connection with the receipt and use of foreign grants by their NGOs. This took place in the general context of the increasingly harsh and restrictive legislative regulation of NGO activity and funding and an ongoing campaign to crack down on human rights defenders in Azerbaijan.

74. In *Aliyev v. Azerbaijan*, 2018, and *Rasul Jafarov v. Azerbaijan*, 2016, the applicants had been involved in the preparation of various reports, including in the context of the work of international bodies, relating to human rights issues in Azerbaijan. They were arrested shortly after their participation in a Council of Europe event where they had criticised the Azerbaijani authorities for human rights abuses.

75. In *Mammadli v. Azerbaijan*, 2018, the applicant was the chairman and co-founder of an NGO specialising in the monitoring of the elections. Criminal proceedings were instituted in connection with alleged irregularities in the financial activities of the NGO a few days after it had published a report criticising the 2013 presidential elections as falling short of democratic standards. The applicant was arrested and charged a month later.

76. In *Natig Jafarov v. Azerbaijan*, 2019, the applicant was an official representative of an opposition political movement campaigning against the amendments to the Constitution, which were proposed for adoption at a referendum. He was arrested during the active phase of the registration process for the referendum campaign and released only after his movement had announced its decision to stop its participation in the said campaign.

77. In *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, the applicant was a well-known investigative journalist who published articles on corruption involving the President and his family and received threats in this respect (see *Khadija Ismayilova v. Azerbaijan*, 2019). She was arrested on the basis of a false claim obtained under coercion, shortly after the then head of the Presidential Administration had publicly accused her of treason and spreading lies.

78. In *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, the applicants were a director and senior researcher of an NGO involved in joint projects with its Armenian counterparts with a view to promoting peace and reconciliation between the two countries. They were arrested and placed in pre-trial detention, on suspicion, *inter alia*, of cooperating with Armenian secret services.

79. The Court found that the applicants had been placed in pre-trial detention in the absence of a "reasonable suspicion", in violation of Article 5 § 1 (c) taken alone (*Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 185; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 111; *Natig Jafarov v. Azerbaijan*, 2019, § 62 ; *Aliyev v. Azerbaijan*, 2018, § 164; *Rasul Jafarov v. Azerbaijan*, 2016, § 156; and *Mammadli v. Azerbaijan*, § 96). They had been charged with serious offences "whose core constituent elements could not reasonably be found on the existing facts".

80. Taking into account the general context of these cases, the Court found a breach of Article 18 in conjunction with Article 5 as the applicants' arrests and detentions had pursued solely the ulterior purpose of silencing and punishing them for their political engagement and/or activities as well as preventing them from pursuing these (*Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 194; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 119; *Natig Jafarov v. Azerbaijan*, 2019, § 70; *Aliyev v. Azerbaijan*, 2018, § 215; *Rasul Jafarov v. Azerbaijan*, 2016, §§ 159-163; and *Mammadli v. Azerbaijan*, 2018, §§ 99-104). In *Aliyev v. Azerbaijan*, 2018, on the same grounds, the Court found a violation of Article 18 in conjunction with Article 8, in connection with the search and seizure at the applicant's home and office, which had not pursued any of the legitimate aims under Article 8 § 2 taken alone (*Aliyev v. Azerbaijan*, 2018, § 187).

81. In *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, the applicants were a lawyer and an NGO specialising in the protection of human rights. Their bank accounts were frozen in connection with a criminal case against third parties. Travel bans were imposed on the applicant lawyer. These restrictions lacked either a legal basis or legitimate purpose, which led the Court to find a breach of Article 1 of Protocol No. 1 and Article 2 of Protocol No 4 taken separately. Referring to the pattern of misuse of power, as established in *Aliyev v. Azerbaijan*, 2018, the Court concluded that the impugned measures had been intended to punish the applicants for, and impede, their work (including legal representation in a large number of cases before the Court). There was thus a violation of Article 18 in conjunction with the above substantive provisions.

82. The following cases concern prosecution of the members of the NGO NIDA, one of the most active youth movements in Azerbaijan, which had been behind a number of protests against the government.

83. In *Rashad Hasanov and Others v. Azerbaijan*, 2018, the applicants were civil society activists and board members of the said NGO. They actively participated, together with other NIDA members, in organising and conducting a series of peaceful protests against the deaths of Azerbaijani soldiers in non-combat situations. Three days before one of the scheduled demonstrations, some NIDA members were arrested and charged with possessing narcotics and Molotov cocktails. In this respect, the Prosecutor General's Office and the Ministry of National Security said, in a joint press statement, that the arrested NIDA members, who "had actively participated in a number of illegal activities of the organisation", planned to incite violence and civil unrest. The statement also denounced illegal attempts to undermine the social-political stability of the country by some radical destructive forces. A few days later, the applicants were remanded in custody and accused of unlawfully obtaining the Molotov cocktails and arranging their storage in the flats of the NIDA members previously arrested. The Court found a violation of Article 5 § 1 taken alone, as the prosecution authorities had never demonstrated any information or evidence showing that the applicants had any connection with the Molotov cocktails in question, and thus providing a "reasonable suspicion" to justify their arrest and detention. These circumstances, seen against the background of the crackdown on civil society in Azerbaijan, led the Court to conclude that the actual purpose of the applicants' detention was to silence and punish them for their active social and political engagement and their activities in NIDA and that there was thus a violation of Article 18 in conjunction with Article 5 (§§ 122-125; see also below, in the next Section, *Azizov and Novruzlu v. Azerbaijan*, 2021, a case brought by the other NIDA members who had been detained on the same charges and convicted within the framework of the same criminal proceedings; this case was examined on the basis of a potential plurality of purposes).

84. In *Ibrahimov and Mammadov v. Azerbaijan*, 2020, the applicants, members of the above NGO NIDA, were arrested several hours after painting graffiti with anti-government slogans on the statue of the former president of Azerbaijan and disseminating photographs thereof on social networks. They were charged with serious drug-related offences. In this connection, the Court found a violation of Article 5 § 1 taken alone, concluding that the minimum standard of "reasonableness" of suspicion had not been met in view of the applicants' status, sequence of events, investigations and the authorities' conduct. In the light of the general context and its findings in the above case *Rashad Hasanov and Others v. Azerbaijan*, disclosing specific targeting of NIDA and its members by the authorities, the Court established that the actual purpose behind the applicants' detention and prosecution was to punish them for the above anti-government conduct. Accordingly, a breach of Article 18 in conjunction with Article 5 was found (§§ 151-157).

D. Restrictions pursuing a plurality of purposes

1. Cases not concerning an established pattern of misuse of power

85. In the following cases, the Court found a violation of Article 18 in conjunction with Article 5 § 1, on the grounds that the applicants' detention, while pursuing the purpose of bringing them before a

competent legal authority, as prescribed by Article 5 § 1 (c), was chiefly meant for another purpose not prescribed by the Convention.

86. In *Gusinskiy v. Russia*, 2004 (§§ 73-78), the applicant was a former chairman and majority shareholder of a private media holding company, Media Most, which had been involved in a bitter dispute over its debts with Gazprom, a natural gas monopoly controlled by the State. The applicant was arrested and imprisoned on suspicion of fraud. While he was in detention, the acting Minister for Press and Mass Communications offered to drop the charges against him if he sold his media company to Gazprom, at a price to be determined by Gazprom. An agreement was signed by the parties and endorsed by the Acting Minister. A few days later, the investigator stayed the prosecution on the grounds that the applicant had significantly compensated for the harm caused to the interests of the State by voluntarily transferring Media Most shares to a legal entity controlled by the State. For the Court, the evidence gathered by the investigating authorities could "satisfy an objective observer" that the applicant might have committed the fraud offence; however, the facts strongly suggested that his prosecution had in fact been "used as part of commercial bargaining strategies". The predominant purpose for his detention was therefore not to bring him before a competent legal authority, but to intimidate him into selling his company. There had thus been a breach of Article 18 (§ 76).

87. In *Merabishvili v. Georgia* [GC], 2017, shortly after a change of power, the applicant – a former Prime-Minister and the leader of the main opposition party – was placed in pre-trial detention on charges of embezzlement, abuse of authority and other offences. One night during his pre-trial detention, he was covertly removed from his cell to be questioned by the Chief Prosecutor about the death of another former Prime Minister and about the financial activities of the former President, Mr Saakashvili. The Court found that nothing in the incriminating material appeared to cast doubt on the reasonableness of the suspicion against the applicant. His pre-trial detention was lawful and pursued a purpose consistent with Article 5 § 1 (c) (§§ 187, 206 and 208). However, as the pre-trial detention constituted a continuing situation, the Court was called to assess what purposes it pursued throughout the whole period of its duration and which one was predominant. There was no evidence that until the applicant's removal from his cell for questioning, that is, for a period of nearly seven months, the authorities had pursued any ulterior purpose. That incident revealed, however, that the authorities had attempted to use his pre-trial detention as a means to pressure him into providing information and that, at the material time, his detention thus pursued an ulterior purpose alongside the prescribed one. At the same time, the reasons for keeping him in pre-trial detention appeared to have already receded for some time before the incident, which led the Court to find a breach of Article 5 § 3. Having regard to all the circumstances of the impugned incident, the Court was satisfied that the predominant purpose of the applicant's detention had changed from the initial, prescribed purpose of investigating offences on the basis of reasonable suspicion to the subsequent, ulterior purpose of obtaining information from the applicant. There had therefore been a violation of Article 18 read in conjunction with Article 5 § 1 (§ 353).

88. In *Miroslava Todorova v. Bulgaria,* 2021, the Court found a violation of Article 18 in conjunction with Article 10, on account of the disciplinary proceedings and sanctions against a judge in retaliation for her criticism of the Supreme Judicial Council (SJC) and the executive. The applicant was elected President of the main professional association of judges, the Bulgarian Union of Judges (BUJ). In that capacity she made numerous public statements aimed at ensuring greater transparency and limiting interventions by the executive in judicial promotions and thus strengthening the independence of the judiciary. However, they provoked a hostile reaction from the SJC and the Government. In particular, the Minister of the Interior publicly criticised the applicant's work as a judge. The SJC Inspector General ordered an audit at the Sofia City Court, where the applicant was in post. According to the Inspector's comments to the press, the audit was a response to criticism by judges, including the BUJ, of the appointment of the new president of the Sofia City Court (a judge known to be a close friend of the Minister of the Interior). Following the audit findings, disciplinary proceedings were brought against

the applicant on account of delays in processing cases. She was subject to an initial sanction of a two-year reduction in salary, followed by dismissal. As a result of her appeal to the Supreme Administrative Court, the latter penalty was replaced by a two-year demotion in post. The Supreme Administrative Court observed in this connection that the SJC had perceived critical statements by the BUJ and other NGOs as a form of warfare. The Court accepted, on the one hand, that the impugned measures had been based formally on grounds of undisputed breaches of professional duty on the applicant's part; on the other hand, they had been directly linked to her public pronouncements. In the Court's view, they had therefore pursued both a legitimate aim and the ulterior purpose of penalising and intimidating her on account of her criticism of the SJC and the executive. The Court eventually concluded that the ulterior purpose was the predominant one, having regard to the above chain of the events, the clearly hostile opinions expressed towards the BUJ and other NGOs by the SJC, as well as the exceptional severity of the decision to dismiss the applicant. The Court found particularly alarming the intention to use disciplinary procedure to retaliate against the applicant whose activities had been neither unlawful, nor incompatible with the judicial code of ethics (§§ 205-212).

89. The case of *Juszczyszyn v. Poland*, 2022, concerned the specific context of the successive wide-scale reforms of the Polish judiciary which resulted in substantial weakening of its independence. The Court of Justice of the European Union (CJEU) had made key findings in this regard, notably, as to the lack of independence of the remodelled National Council of the Judiciary ("the NCJ") and the status of judges appointed upon its recommendations. In implementing this CJEU ruling, the applicant judge issued an order aimed at verifying whether the first instance judge, who had been appointed by the President upon the recommendation of the new NCJ, complied with the requirement of independence. Shortly afterwards, a series of measures were taken against him by the Minister of Justice and the persons appointed by the latter (termination of his secondment to the appellate court and an immediate interruption in his judicial duties). The Disciplinary Chamber of the Supreme Court eventually suspended the applicant from judicial duties and reduced his salary. The Court was prepared to assume that the applicant's suspension pursued one of the legitimate aims invoked by the Government (protection of the rights and freedoms of others). Having regard to the legislative and jurisprudential developments following the applicant's suspension, the Court considered that the authorities had been determined to demonstrate, that challenging the status of judges appointed with the participation of the recomposed NCJ, would expose a judge doing so to sanctions. The Court found a violation of Article 18 in conjunction with Article 8, as the ulterior purpose of sanctioning and dissuading the applicant was found to be predominant (*Juszczyszyn v. Poland*, 2022, §§ 322-337).

90. In *Kogan and Others v. Russia*, 2023, the Court found a violation of Article 18 in conjunction with Article 8 on account of the unjustified revocation, on undisclosed national security grounds, of a residence permit of a prominent human rights defender. In view of several indications of the pressure on the applicant lawyers in connection with their work, the Court concluded that the predominant purpose of that measure was to punish them for, and prevent them from continuing, their human rights activities in Russia (*Kogan and Others v. Russia*, 2023, § 77).

2. Pattern of misuse of power targeting specific groups

91. The case of *Azizov and Novruzlu v. Azerbaijan*, 2021, belongs to the established pattern of arbitrary arrest and detention of government critics, civil society activists and human-rights defenders through retaliatory prosecutions and misuse of the criminal law (see *Aliyev v. Azerbaijan*, 2018). While most such cases concerned restrictions that had been imposed solely for an ulterior purposes (see the previous section), in *Azizov and Novruzlu v. Azerbaijan*, the Court proceeded on the assumption that there had been a legitimate purpose behind the applicants' detention, and assessed the case on the basis of a potential plurality of purposes. Having participated in a series of peaceful anti-government demonstrations, the applicants, members of the "NIDA" NGO, were remanded in custody on the same charges as the applicants in *Rashad Hasanov and Others v. Azerbaijan*, 2018. They were subsequently

convicted within the framework of the same criminal proceedings. The Court found that the predominant purpose of the applicants' continued detention had been the ulterior purpose of punishing and silencing them for their active involvement in anti-government demonstrations. Referring to the established pattern of misuse of power by the respondent State, the Court also observed that the law-enforcement authorities had attached the utmost importance to their actions, which were clearly indicative of the specific targeting of the NIDA and its members (see also *Ibrahimov and Mammadov v. Azerbaijan*, 2020). The Court therefore concluded as to a breach of Article 18 in conjunction with Article 5 § 3.

92. The case of *Ukraine v. Russia (re Crimea)* [GC], 2024, concerned the existence of an administrative practice of restricting the rights and freedoms of "Ukrainian political prisoners" in Crimea. The Court proceeded with the examination of the case from the standpoint of a potential plurality of purposes and found a breach of Article 18 in conjunction with Articles 5, 6, 8, 10 and 11 of the Convention. In particular, having regard to the evidence before it, the Court first concluded that the prosecution and conviction of individuals in question were triggered by an ulterior political purpose which was ultimately meant to punish and silence any political opposition and then found that the ulterior purpose of restricting the rights of "Ukrainian political prisoners" constituted the predominant purpose (*Ukraine v. Russia (re Crimea)* [GC], 2024, §§ 1375 and 1380).

3. Ulterior purpose not considered to be predominant

93. In the following cases the Court did not exclude the possibility that the authorities had pursued an ulterior purpose, but was unable to find that such purpose was predominant.

94. In *Merabishvili v. Georgia* [GC], 2017, the Court also examined the allegation that the applicant's arrest and pre-trial detention were meant to remove him from the political scene. Having regard to the broader political context, in particular, the bitter antagonism between the applicant's opposition party and the ruling party, the timing of his detention and the nature of the offences with which he had been charged, the Court found it understandable that there was a degree of suspicion of a political impetus behind the charges, even though the charges themselves were not overtly political. However, having examined the manner in which the criminal proceedings had been conducted, the Court was not satisfied that the predominant purpose of the applicant's detention was to hinder his participation in politics rather than to ensure the proper conduct of the criminal proceedings against him (§§ 320-332).

95. In *Khodorkovskiy and Lebedev v. Russia*, 2013, the applicants, who were wealthy businessmen and senior managers of the Yukos oil company, were prosecuted on charges of fraud and tax evasion. They maintained that their prosecution was driven by political motives. Having regard to the applicants' political status and other circumstances surrounding the case, the Court was prepared to accept that some political groups or government officials had had their own reasons to push for the applicants' prosecution. It did not exclude the possibility that in limiting some of the applicants' rights throughout the proceedings some of the authorities or State officials might have had a "hidden agenda". However, the Court could not agree with the applicants' "sweeping claim that their whole case was a travesty of justice". Possible elements of "improper motivation" or a "mixed intent" behind the applicants' prosecution were insufficient to conclude that they would not have been convicted otherwise. The Court therefore found no breach of Article 18 as the alleged ulterior purpose was not predominant (§§ 906-908).

IV. Issues of proof and evidence

A. General evidentiary standards

96. When deciding a case under Article 18, the Court no longer applies the general presumption of good faith on the part of national authorities or any special rules with regard to proof (contrast

Khodorkovskiy v. Russia, 2011, §§ 255-256 and 260; and *Khodorkovskiy and Lebedev v. Russia*, 2013, § 899). Instead, it adheres to its usual approach to proof (*Merabishvili v. Georgia* [GC], 2017, § 310; *Navalnyy v. Russia* [GC], 2018, § 165; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422; and *Miroslava Todorova v. Bulgaria*, 2021, § 202; *Juszczyszyn v. Poland*, 2022, § 316), rather than to the stricter standard that it had applied under this Article in a number of previous cases.

97. The first aspect of that approach is that, as a general rule, the burden of proof is not borne by one or other party because the Court examines all the material before it irrespective of its origin, and can obtain material of its own motion. On a number of occasions, the Court has recognised that strictly following the approach whereby the burden of proof in relation to an allegation lies on the party which makes it is not possible, notably in instances where the applicants face specific evidentiary difficulties (*Merabishvili v. Georgia* [GC], 2017, § 311; *Ireland v. the United Kingdom*, 1978, §§ 160-161; *Cyprus v. Turkey* [GC], 2001, §§ 112-113 and 115; *Georgia v. Russia (I)* [GC], 2014, §§ 93 and 95; *Navalnyy v. Russia* [GC], 2018, § 165; *Korban v. Ukraine*, 2019, § 215; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422; *Miroslava Todorova v. Bulgaria*, 2021, § 202; *Juszczyszyn v. Poland*, 2022, § 316).

98. The Court relies on the evidence which the parties adduce spontaneously, although it can of its own motion ask applicants or respondent Governments to provide material which can corroborate or refute the allegations made before it. If the respondent Government in question do not accede to such a request, the Court can draw inferences if they do not duly account for their failure or refusal (*Janowiec and Others v. Russia* [GC], 2013, § 202). Rule 44C § 1 of the Rules of Court allows it also to combine such inferences with contextual factors (*Merabishvili v. Georgia* [GC], 2017, § 312; *Navalnyy v. Russia* [GC], 2018, § 165; and *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422).

99. The possibility for the Court to draw inferences from the respondent Government's conduct in the proceedings before it, especially in situations where the State alone has access to information capable of corroborating or refuting the applicant's allegations, is of particular relevance in relation to allegations of ulterior purpose (see, among other authorities, *Timurtaş v. Turkey*, 2000, § 66; *Aktaş v. Turkey*, 2003, § 272; *El-Masri v. the former Yugoslav Republic of Macedonia* [GC], 2012, § 152; *Merabishvili v. Georgia* [GC], 2017, § 313; *Navalnyy v. Russia* [GC], 2018, § 165; and *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422).

100. The second aspect of the Court's approach is that the standard of proof before it is "beyond reasonable doubt". That standard is not co-extensive with that of the national legal systems which employ it. First, such proof can follow from the coexistence of sufficiently strong, clear and concordant inferences or similar unrebutted presumptions of fact. Secondly, the level of persuasion required to reach a conclusion is intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake (*Merabishvili v. Georgia* [GC], 2017, § 314; *Navalnyy v. Russia* [GC], 2018, § 165; *Korban v. Ukraine*, 2019, § 215; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422; *Miroslava Todorova v. Bulgaria*, 2021, § 202; *Juszczyszyn v. Poland*, 2022, § 316).

101. The third aspect of the Court's approach is that the Court is free to assess not only the admissibility and relevance but also the probative value of each item of evidence before it. When assessing evidence it is not bound by formulae and adopts the conclusions supported by the free evaluation of all the evidence, including such inferences as may flow from the facts and the parties' submissions (*Nachova and Others v. Bulgaria* [GC], 2005, § 147). It is sensitive to any potential evidentiary difficulties encountered by a party (*Merabishvili v. Georgia* [GC], 2017, § 315; *Navalnyy v. Russia* [GC], 2018, § 165; *Korban v. Ukraine*, 2019, § 215; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422; *Miroslava Todorova v. Bulgaria*, 2021, § 202; *Juszczyszyn v. Poland*, 2022, § 316).

102. The Court will not restrict itself to direct proof in relation to complaints under Article 18 or apply a special standard of proof to such allegations (*Merabishvili v. Georgia* [GC], 2017, §§ 282 and 310; contrast *Khodorkovskiy v. Russia*, 2011, § 260; *Dochnal v. Poland*, 2012, § 116; *Nastase v. Romania* (dec.), 2014, § 109; *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, § 603; *Bîrsan v. Romania* (dec.), 2016, § 73; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 899; *Mammadli v. Azerbaijan*, 2018,

§ 98; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 120; *Aliyev v. Azerbaijan*, 2018, § 204; *Navalnyy v. Russia* [GC], 2018, § 165; *Korban v. Ukraine*, 2019, § 215; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 237; *Kogan and Others v. Russia*, 2023, § 68). Indeed, depending on the circumstances of the case, an ulterior purpose cannot always be proved by pointing to a particularly inculpatory piece of evidence, which clearly reveals an actual reason behind the authorities' action (for example, a written document as in *Gusinskiy v. Russia*, 2004), or a specific isolated incident (*Mirgadirov v. Azerbaijan and Turkey*, 2020, § 132), or the fact that the applicant was interviewed in connection with events not related to the ongoing criminal case (*Ugulava v. Georgia*, 2023, § 125; *Kavala v. Turkey*, 2019, § 222).

103. Finally, circumstantial evidence in this context means information about the primary facts, or contextual facts or sequences of events which can form the basis for inferences about the primary facts (*Ilgar Mammadov v. Azerbaijan*, 2014, § 142; *Rasul Jafarov v. Azerbaijan*, 2016, § 158; *Merabishvili v. Georgia* [GC], 2017, § 317; *Korban v. Ukraine*, 2019, § 215; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 422; *Miroslava Todorova v. Bulgaria*, 2021, § 202; *Juszczyszyn v. Poland*, 2022, § 316; *Kogan and Others v. Russia*, 2023, § 68).

104. When examining a sequence of events, the Court may analyse whether, viewed as a whole, they disclose a certain pattern indicative of specific and personal targeting (*Navalnyy v. Russia* [GC], 2018, § 167-170). The Court may also have regard to its own findings in previous related cases brought by the same applicant (*Kavala v. Türkiye (no. 2)* [GC], 2026, § 271). The authorities' awareness at the material time that the contested practice was incompatible with Convention standards is also a relevant factor to consider (*Navalnyy v. Russia* [GC], 2018, § 171).

105. The Court may also analyse whether a single case or a series of similar cases brought against the same State, viewed as a whole and within their broader context, disclose a certain pattern of misuse of power targeting specific groups, such as dissenting voices (for example, government critics, opposition politicians), civil society activists and/or human-rights defenders (*Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 427-428; *Aliyev v. Azerbaijan*, 2018, § 223; *Natig Jafarov v. Azerbaijan*, 2019, §§ 64-65; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, §§151-152; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, §§ 113-114; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 187-188; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 76; *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 109).

106. Where a certain pattern of misuse of power by the respondent State was established, this factor is relevant for verifying the existence of an ulterior purpose in a given case (*Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, § 109). In the context of a plurality of purposes, it can point to a predominance of the ulterior purpose pursued by the authorities of the State concerned (*Azizov and Novruzlu v. Azerbaijan*, 2021, § 77).

107. Reports or statements by international observers, non-governmental organisations or the media, or the decisions of other national or international courts are often taken into account, in particular, to shed light on the facts, or to corroborate findings made by the Court (*Baka v. Hungary* [GC], 2016, § 148; *Merabishvili v. Georgia* [GC], 2017, § 317; *Mammadli v. Azerbaijan*, 2018, § 95; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 118; *Aliyev v. Azerbaijan*, 2018, § 205; *Navalnyy v. Russia* [GC], 2018, § 165; *Korban v. Ukraine*, 2019, § 215; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 422, 424 and 434; *Miroslava Todorova v. Bulgaria*, 2021, § 202; *Kutayev v. Russia*, 2023, § 139; *Juszczyszyn v. Poland*, 2022, § 316; *Kogan and Others v. Russia*, 2023, § 68). However, in the absence of concrete and converging factual elements, expressions of concern and criticism by international bodies and observers may be insufficient to establish the presence of an ulterior purpose (*Yuriy Dmitriyev v. Russia*, 2026, § 114).

108. The Court may also analyse the relevant legislative developments which took place in the reference period (*Navalnyy v. Russia* [GC], 2018, § 172; *Aliyev v. Azerbaijan*, 2018, § 212; *Rasul Jafarov v. Azerbaijan*, 2016, § 159; and *Mammadli v. Azerbaijan*, 2018, § 99).

109. Where certain factual details of a given case could be interpreted as possible indicators of an ulterior purpose and had even been perceived as such by political parties, mass media and/or civil society at the material time, the Court, while bearing that in mind, will focus its assessment on the well-foundedness of the specific arguments raised by the applicant in support of his complaint under Article 18 (*Korban v. Ukraine*, 2019, §§ 218-224). The extent of specification of such arguments is an important element of the Court's analysis (*Mirgadirov v. Azerbaijan and Turkey*, 2020, § 133).

110. The political process and adjudicative process being fundamentally different, the Court will base its decision on "evidence in the legal sense", in accordance with the above criteria (*Merabishvili v. Georgia* [GC], 2017, §§ 310-317) and its own assessment of the specific relevant facts (see *Kavala v. Turkey*, 2019, § 217; *Khodorkovskiy v. Russia*, 2011, § 259; *Ilgar Mammadov v. Azerbaijan*, 2014, § 140; *Rasul Jafarov v. Azerbaijan*, 2016, § 155; *Sabuncu and Others v. Turkey*, 2020, § 250; *Şık v. Turkey (no. 2)*, 2020, § 209; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 238; *Ugulava v. Georgia*, 2023, § 123; *Melia v. Georgia*, 2023, § 140). In this connection, it will consider whether the elements relied upon by the applicant, taken separately or in combination with each other, form a sufficiently homogeneous whole (*Sabuncu and Others v. Turkey*, 2020, § 256; *Şık v. Turkey (no. 2)*, 2020, § 218; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 246).

111. The Court needs to treat with caution statements that may have been influenced by political considerations (*Akhalaia v. Georgia* (dec.), 2022, § 66).

112. Where an impugned restriction is based on a domestic legislative provision, which, though lacking a legitimate aim and/or requisite justification, is applied indiscriminately to all its addressees, the Court will be unable to find, in the fact of its application in a given case, evidence of an ulterior motive as alleged by the applicants (*Khodorkovskiy and Lebedev v. Russia (no. 2),* 2020, §§ 624-625).

B. Specific issues of pre-trial detention and criminal prosecution

113. When it comes to allegations of ulterior purpose in the context of criminal prosecution, it is hard to divorce the pre-trial detention from the criminal proceedings. The Court has previously acknowledged its competence to examine allegations of political or other ulterior motives for pre-trial detention in so far as it may dissociate pre-trial detention from the criminal proceedings within which such detention was ordered (*Navalnyy v. Russia (no. 2),* 2019, § 85; *Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], 2019, § 185; *Lutsenko v. Ukraine*, 2012, § 108; *Tymoshenko v. Ukraine*, 2013, § 298; *Tchankotadze v. Georgia*, 2016, § 114).

114. At the same time, where it is established that the applicant was charged and placed in pre-trial detention solely on the basis of improper reasons, the Court's finding of a violation of Article 18 in conjunction with Article 5 in this respect normally vitiates any subsequent action resulting from the imposition of the abusive charges, including the applicant's conviction and imprisonment (*Ilgar Mammadov v. Azerbaijan* (infringement proceedings) [GC], 2019, § 189). In some cases, however, the Court specifically verifies the point (*Khadija Ismayilova v. Azerbaijan (no. 4)*, 2026, § 108).

115. Where an allegation is made under Article 18 in conjunction with Article 5, the Court focuses its scrutiny on the court decisions ordering and/or extending pre-trial detention. It can also take into account the manner in which the impugned criminal proceedings were conducted (*Merabishvili v. Georgia* [GC], 2017, §§ 320 and 325; *Yuriy Dmitriyev v. Russia*, 2026, §§ 110-112).

C. Allegations of political purposes

116. When examining allegations of political purposes in the context of criminal prosecution, the Court has regard to the following factors:

- the broader political and legislative context in which the criminal case was brought against the applicant (*Merabishvili v. Georgia* [GC], 2017, § 322; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 426-431; *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, §§ 311-312;

Khodorkovskiy v. Russia, 2011, § 257; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 901; *Nastase v. Romania* (dec.), 2014, § 107; *Ilgar Mammadov v. Azerbaijan*, 2014, § 142; *Rasul Jafarov v. Azerbaijan*, 2016, §§ 159-161; *Mammadli v. Azerbaijan*, 2018, § 103; *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 124; *Aliyev v. Azerbaijan*, 2018, §§ 212 and 214; *Navalnyy v. Russia* [GC], 2018, §§ 171-173; *Navalnyy v. Russia (no. 2),* 2019, § 96; *Korban v. Ukraine*, 2019, § 222; *Natig Jafarov v. Azerbaijan*, 2019, § 67; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 156; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 118; and *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 191-193; *Sabuncu and Others v. Turkey*, 2020, § 253; *Şık v. Turkey (no. 2)*, 2020, § 212; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 241; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 76; *Kutayev v. Russia,* 2023, § 138);

- whether the prosecution and judicial authorities themselves were driven by ulterior motives (*Tchankotadze v. Georgia*, 2016, § 114; *Merabishvili v. Georgia* [GC], 2017, § 323; and *Batiashvili v. Georgia*, 2019, § 102), notably:
  - public statements by such authorities can, in certain cases, point to a specific targeting of the individuals/organisations concerned (*Ilgar Mammadov v. Azerbaijan*, 2014, § 142; *Rashad Hasanov and Others v. Azerbaijan*, 2018, §§ 122-124; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 155; *Azizov and Novruzlu v. Azerbaijan*, 2021, §§ 71-73; *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, §§ 316 and 317 *in fine*; *Kavala v. Türkiye (no. 2)* [GC], 2026, § 273; the absence of such statements can also be a factor (*Yuriy Dmitriyev v. Russia*, 2026, § 113);
  - a particular political climate can create an environment capable of influencing decisions of the domestic courts in relation to the applicant and other persons belonging to the same group or category. In order to establish the existence of such an environment, it does not have to be shown that the whole legal machinery of the respondent State is systematically misused and that the judicial authorities continually act in bad faith and in blatant disregard of the Convention in all cases concerning the targeted group or category (*Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 434 and 436);
- whether there is evidence that the courts were not sufficiently independent from the executive authorities (*Merabishvili v. Georgia* [GC], 2017, § 324; and *Batiashvili v. Georgia*, 2019, § 102; *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, §§ 316-317); in this regard, the Court attaches significant weight to the relevant findings of the European Commission for Democracy through Law (Venice Commission), for instance those relating to the composition of the main self-governing body of the judiciary, overseeing appointments, disciplinary measures and the dismissal of judges and public prosecutors (*Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 434);
- the timing and the manner in which the applicant's arrest was carried out and/or in which the criminal proceedings or judicial review of pre-trial detention were conducted (*Merabishvili v. Georgia* [GC], 2017, § 325; *Navalnyy v. Russia* [GC], 2018, §§ 167-168; *Batiashvili v. Georgia*, 2019, § 102; *Korban v. Ukraine*, 2019, § 218; *Natig Jafarov v. Azerbaijan*, 2019, § 68; *Kavala v. Turkey*, 2019, §§ 222-229; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 153; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 429-433; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 73; *Kutayev v. Russia,* 2023, § 139), particularly:
  - whether an excessive length of time elapsed between the acts of which the applicant was accused and the opening of the criminal investigation on their account or the applicant's detention (*Kavala v. Turkey*, 2019, § 228; *Sabuncu and Others v. Turkey*, 2020, § 254; *Şık v. Turkey (no. 2)*, 2020, § 213; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 242; *Ugulava v. Georgia*, 2023, § 126; *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, § 313 *in fine*);
  - whether a special treatment was given to the applicant's case (*Rashad Hasanov and Others v. Azerbaijan*, 2018, § 124), for example an unexplained involvement of high-ranking officials (*Kutayev v. Russia,* 2023, § 140);

  - whether a confession obtained under duress was used in the criminal proceedings (*Kutayev v. Russia,* 2023, § 139);
- whether the charges against the applicant were genuine and amounted to a "reasonable suspicion" within the meaning of Article 5 § 1 (c) (*Khodorkovskiy v. Russia*, 2011, § 258; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 908; *Dochnal v. Poland*, 2012, § 111; *Merabishvili v. Georgia* [GC], 2017, § 318; *Korban v. Ukraine*, 2019, § 216; *Aliyev v. Azerbaijan*, 2018, § 209; *Natig Jafarov v. Azerbaijan*, 2019, § 68; *Kavala v. Turkey*, 2019, § 218; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 154; and *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 111; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 338-339 and 423; *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, §§ 314 and 318; *Sabuncu and Others v. Turkey*, 2020, § 251; *Şık v. Turkey (no. 2)*, 2020, § 217; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 239; *Ugulava v. Georgia*, 2023, § 125; *Yuriy Dmitriyev v. Russia*, 2026, § 110); where the charges are based on facts that cannot be reasonably considered as behaviour criminalised under domestic law, especially where they are related to the exercise of the rights under the Convention by the applicant, such circumstances are particularly relevant in the context of a complaint under Article 18 and can be considered as corroborating an allegation of an ulterior purpose (*Kavala v. Turkey*, 2019, §§ 220 and 224; *Kavala v. Türkiye (no. 2)* [GC], 2026, §§ 272 and 274-275);
- whether the charges against the applicant concerned his/her political activities or common criminal-law offences (*Khodorkovskiy and Lebedev v. Russia*, 2013, § 906; *Merabishvili v. Georgia* [GC], 2017, § 320; *Ugulava v. Georgia*, 2023, § 130);
- whether domestic judicial decisions were well-reasoned and based on the relevant provisions of domestic law (*Nastase v. Romania* (dec.), 2014, § 107; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 78);
- whether the domestic courts subjected the applicant's complaints under the relevant substantive provisions to a thorough scrutiny (*Sabuncu and Others v. Turkey*, 2020, § 256; *Şık v. Turkey (no. 2)*, 2020, § 217; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 245);
- whether the preventive measures and accompanying restrictions imposed on the applicant were in sufficient connection with the objectives of criminal justice and whether their duration appeared appropriate to the nature of the criminal charges at stake (*Navalnyy v. Russia (no. 2),* 2019, § 95).

117. The above factors are also of relevance in the context of disciplinary proceedings (*Miroslava Todorova v. Bulgaria,* 2021, §§ 205-213; *Juszczyszyn v. Poland*, 2022, §§ 322-337). Where the case circumstances indicate that such proceedings and the imposed sanctions are tainted by ulterior motives, the Court will scrutinise whether the domestic judicial review has properly addressed this issue, in light of the applicant's allegations (*Miroslava Todorova v. Bulgaria,* 2021, § 212).

118. The fact that a suspect's political opponents or business competitors might directly or indirectly benefit from his/her conviction should not prevent the authorities from prosecuting such a person if there are genuine charges against him/her. In other words, high political status does not grant immunity (*Khodorkovskiy v. Russia*, 2011, § 258; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 903; *Ugulava v. Georgia*, 2023, § 128).

119. Although criminal prosecutions initiated against politicians and high-ranking officials after a change of power could suggest a wish to eliminate or harm them or their political parties, they could equally reflect a desire to deal with alleged wrongdoings under a previous government whose members could not be held to account while in power (*Merabishvili v. Georgia* [GC], 2017, § 323; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 903). Moreover, the fact that Interpol deleted all data relating to the applicant and that the competent courts of other States dismissed extradition requests in respect of the applicant on the basis, *inter alia*, that the criminal prosecutions against him were politically motivated, does not necessarily determine the Court's assessment since the extradition

courts were essentially assessing a future risk, whereas the Court is concerned with past facts (*Kezerashvili v. Georgia*, 2024, § 129).

120. The mere fact that a politician is criminally prosecuted, even during an electoral campaign or a referendum, is not automatically in breach of his/her right to run for office; nor does it automatically indicate that the aim pursued is to restrict political debate (and *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 424; *Uspaskich v. Lithuania*, 2016, §§ 90-100). There is no right as such under the Convention not to be criminally prosecuted (*Merabishvili v. Georgia* [GC], 2017, § 320; *Melia v. Georgia*, 2023, § 135).

121. The fact that the applicant does not stand as a candidate for election may render less convincing his argument concerning a possible link between the restrictions imposed on him and the upcoming elections (*Ugulava v. Georgia*, 2023, § 126). The domestic authorities' decisions, to suspend the criminal proceedings against the applicant in order to allow him to participate properly in the parliamentary elections and to return his identity documents for that purpose, were also taken into account in the examination of the applicant's allegation that the authorities had wished to remove him from the political scene (*Melia v. Georgia*, 2023, § 137).

122. The Court has regard to the applicant's specific status and activities (*Navalnyy v. Russia* [GC], 2018, § 174; *Aliyev v. Azerbaijan*, 2018, §§ 208; *Kavala v. Turkey*, 2019, § 231; *Natig Jafarov v. Azerbaijan*, 2019, § 66; *Ibrahimov and Mammadov v. Azerbaijan*, 2020, § 153; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 115; *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020, § 189; and *Khodorkovskiy v. Russia*, 2011, § 257; *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, § 424; *Azizov and Novruzlu v. Azerbaijan*, 2021, § 73; *Kutayev v. Russia,* 2023, § 138; *Kogan and Others v. Russia*, 2023, § 70). At the same time, the absence of a particular political status, such as that of an opposition leader or a public official, does not rule out political motivation behind the contested measures. The Court has established political purposes in cases concerning detention of well-known civil society activists and NGO leaders, critical of elections or involved in protests against the government (*Mammadli v. Azerbaijan*, 2018, § 103, and *Rashad Hasanov and Others v. Azerbaijan*, 2018, § 124). At the same time, the mere fact that the applicant is an NGO activist may be insufficient in that respect (*Yuriy Dmitriyev v. Russia*, 2026, §§ 109 and 114).

123. In this context, the Court takes into account indications of pressure on the part of the authorities and/or State-supported media in connection with the applicant's status and activities. The Court further examines the relevant proceedings in order to establish whether procedural defects taken together are indicative of an ulterior purpose behind the contested measure. The Court also relies on the overall context and the political and social climate concerning the relevant group or category of actors (*Kogan and Others v. Russia*, 2023, §§ 71-76).

124. Where a complaint under Article 18 is brought by a judge in connection with the disciplinary sanctions and/or other measures imposed on him/her, the Court will have regard to judicial independence and be particularly attentive to the protection of members of the judiciary against measures that can threaten their judicial independence and autonomy. This is especially relevant in cases where a judge incurs civil or disciplinary liability for issuing a judicial decision. The Court is aware of the risk that the disciplinary regime might be diverted from its legitimate purposes in such cases and used to exert political control over judicial decisions or pressure on judges (*Juszczyszyn v. Poland*, 2022, §§ 327 and 333-335).

125. The applicant's specific status and activities might suggest, in a particular context, a political motive behind the measures targeting him/her. However, this does not exonerate the applicant from specifying his allegations of an ulterior purpose to a sufficient degree. The Court has found such allegations unsubstantiated where the applicant failed to indicate any specific action he had taken (for example, a speech or a piece of writing), which could, in his view, have triggered a retaliatory or persecutory response from the authorities (*Mirgadirov v. Azerbaijan and Turkey*, 2020, § 133).

126. Public statements by politicians and government officials can in some circumstances, constitute evidence of an ulterior purpose behind a judicial decision (*Sabuncu and Others v. Turkey*, 2020, § 255; *Şık v. Turkey (no. 2)*, 2020, § 214; *Kutayev v. Russia*, 2023, § 140; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 117), particularly so if there is evidence that the courts were not sufficiently independent from the executive authorities (*Tchankotadze v. Georgia*, 2016, § 114; *Merabishvili v. Georgia* [GC], 2017, § 324; *Batiashvili v. Georgia*, 2019, § 102; *Ugulava v. Georgia*, 2023, § 127; *Juszczyszyn v. Poland*, 2022, §§ 322-327).

127. Seen together with other factors undermining the prosecution's credibility, such statements can corroborate allegations of an ulterior purpose, especially where there are close temporal links between such statements and the impugned restrictions (*Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, §§ 424-426 and 432-434; *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 117; contrast *Ugulava v. Georgia*, 2023, § 127) or a correlation between, on the one hand, the wording of the charges and the content of the impugned statements, on the other (*Kavala v. Turkey*, 2019, §§ 229-230).

128. Conversely, where there is no evidence that the domestic courts were influenced by such statements, the latter will carry less weight in the Court's analysis (see *Sabuncu and Others v. Turkey*, 2020, § 255; *Şık v. Turkey (no. 2)*, 2020, § 214).

129. In this context, the Court will also examine to what extent the applicant is directly targeted by the impugned statements. Where such statements concern a given organisation and its policy, the Court may not necessarily consider them as being directed against its employees and managers (regarding a newspaper and its journalists, see *Sabuncu and Others v. Turkey*, 2020, § 255; *Şık v. Turkey (no. 2)*, 2020, § 214).

130. Criminal prosecution and detention can have a chilling effect on the applicant's willingness to express his views in public and even create a climate of self-censorship affecting his/her fellows, for example journalists, opposition politicians etc. However, a finding to this effect is insufficient by itself to conclude that Article 18 was breached (*Sabuncu and Others v. Turkey*, 2020, § 256; *Şık v. Turkey (no. 2)*, 2020, § 216; *Ahmet Hüsrev Altan v. Turkey*, 2021, § 244).

131. Domestic judgments refusing extradition do not necessarily determine the Court's assessment of the existence of political motivation behind criminal prosecution, as the extradition courts in essence assess a future risk, whereas the Court is concerned with past facts; that colours their respective assessment of inconclusive contextual evidence (*Merabishvili v. Georgia* [GC], 2017, § 330).

D. Evidence leading to a finding of a breach of Article 18

1. Direct evidence

132. In the following cases, the Court based its findings of a breach of Article 18 in conjunction with Article 5 on direct written evidence of an ulterior purpose. These cases do not belong to any established pattern of misuse of power.

133. In *Gusinskiy v. Russia*, 2004, the applicant, a wealthy businessman, was charged and placed in pre-trial detention in order to pressurise him into selling his media company to a State-owned company. Direct proof flowed from a written agreement, endorsed by a government minister, linking the dropping of the charges against the applicant to the sale of the company, and from the terms of the decision discontinuing the criminal proceedings against him, which referred to that agreement; the respondent Government had not sought to deny that link (§§ 73-78).

134. In *Lutsenko v. Ukraine*, 2012, the Court relied on the arguments in the investigator's request to place the applicant in pre-trial detention that, by talking to the media, he was trying to distort public opinion, discredit the prosecuting authorities and influence his upcoming trial. For the Court, that showed that the detention was aimed at punishing the applicant for publicly asserting his innocence (§§ 26 and 108-109).

135. In *Tymoshenko v. Ukraine*, 2013, the Court relied on the statements in the prosecution's request to place the applicant in pre-trial detention and in the corresponding court order which showed that the purpose had been to punish her for disrespect towards the court and perceived obstructive conduct during hearings (§§ 30-31 and 299).

2. Circumstantial evidence

136. In the following cases the Court found a breach of Article 18 in conjunction with Articles 5 and 8 or 11, basing itself on contextual evidence of ulterior purpose.

a. Cases not concerning an established pattern of misuse of power

137. In *Cebotari v. Moldova*, 2007, the Court found that the head of a State-owned company had been placed in pre-trial detention on fabricated charges in order to put pressure on him with a view to hindering a private company, Oferta Plus, with which he was linked from pursuing its application to the Court. The Court based that finding on the fact that the materials in the case could not lead an objective observer reasonably to believe that the applicant could have committed the offence in relation to which he had been detained. The Court was also influenced by the context of the case (§§ 50-53), in particular,

- its findings in the case of *Oferta Plus S.R.L. v. Moldova*, 2006, regarding the breach of the company's right of petition (§§ 137-143);
- the fact that the charges against the applicant were indissociable from those against the Chief Executive Officer of Oferta Plus and that they were closely connected with the subject matter of the application of Oferta Plus to the Court (*Oferta Plus S.R.L. v. Moldova*, 2006, § 137);
- the fact that the criminal proceedings against the applicant and Oferta Plus's Chief Executive Officer and their detention coincided in time, were initiated and dealt with by the same investigators and couched in similar terms;
- the fact that the charges were brought for the first time after the Moldovan Government had been informed about of Oferta Plus's application to the Court and that those charges, which were discontinued in the meantime, were reactivated shortly after the communication of the case to the Government (*Oferta Plus S.R.L. v. Moldova*, 2006, § 142).

138. In *Merabishvili v. Georgia* [GC], 2017, the Court found a violation of Article 18 in conjunction with Article 5 § 1 because, during the course of the applicant's pre-trial detention, its predominant purpose had changed from one that was Convention compliant to the ulterior purpose of pressuring him into providing information. This was shown by the incident of his covert removal from his cell to be questioned by the Chief Prosecutor about the death of a former Prime Minister and about the financial activities of the former President.

139. Some of the factors which led the Court to that conclusion related to the time of the incident: the reasons for keeping the applicant in pre-trial detention appeared to have receded; the former President, who had become the target of several criminal investigations, had just left Georgia following the end of his term of office; the investigation into the former Prime Minister's death had apparently not made significant progress.

140. Other factors showed the considerable importance of the questions regarding the two men for the authorities. Thus, the Government had stated at the hearing before the Grand Chamber that there was still a "huge question" for the applicant to answer on this point. The prosecuting authorities had had the power to drop all the charges against the applicant at any point without judicial control and had promised to do so if he provided the requested information, so the courts would have had to discontinue the criminal proceedings against him. The applicant had been taken in a covert and apparently irregular manner, in a clandestine operation carried out in the middle of the night, to meet

with an individual who had been appointed to his post three weeks previously. The authorities' initial reaction in that respect had been to issue firm denials, and the ensuing inquiry and investigation had been marred by a series of omissions from which it could be inferred that the authorities had been eager that the matter should not come to light: the main protagonists had not been interviewed during the initial inquiry but only some three years after the events, and the crucial evidence in the case – the footage from the prison surveillance cameras – had not been recovered (*Merabishvili v. Georgia* [GC], 2017, §§ 352-353).

141. In *Kavala v. Turkey*, 2019, the Court found a violation of Article 18 in that the applicant's pre-trial detention had served only the ulterior purpose of silencing him as a human-rights defender and NGO activist. The proof followed from the combination of case-specific facts, particularly the timing of the arrest and the charges. In the first place, the Court considered it crucial that no plausible explanation had been advanced for a considerable lapse of time between the events forming the basis for the applicant's detention and the court decisions to detain him: more than four years after the mass protests and more than a year after the attempted *coup d'état*. Importantly, the bulk of the evidence relied upon by the prosecutor had already been collected well in advance of the date of the arrest. Secondly, the contested measures had not been justified by reasonable suspicions based on an objective assessment of the alleged acts, which led the Court to find a breach of Article 5 § 1 taken alone. Moreover, and it was particularly relevant in the context of Article 18, those measures had been essentially based on facts that could not be reasonably considered as behaviour criminalised under domestic law and were largely related to the exercise of the rights guaranteed by Articles 10 and 11 of the Convention. The bill of indictment had also referred to ordinary and legitimate activities on the part of a human-rights defender and the leader of an NGO, without indicating their relevance to the charges of triggering an insurrection. Nor had it clearly specified the facts or actions on which the applicant's criminal liability had been based. Thirdly, from the outset, the investigating authorities had not been primarily interested in the applicant's presumed involvement in the above events. In particular, during the police interview, the applicant had been asked many irrelevant questions. Before being officially charged, the applicant had been kept in pre-trial detention for more than a year, without any significant investigative acts being carried out. Lastly, there was a correlation between, on the one hand, the wording of the charges and, on the other, the public accusations against him by the President some three months previously. Having regard to all the above factors taken together, as well as to the international concerns expressed about a wider campaign of repression targeting human-rights defenders in Turkey, the Court found that the prosecution's credibility had been undermined such as to corroborate the applicant's allegations of an ulterior purpose. As the contested measures had affected not merely the applicant or human-rights defenders/NGO activists, but the very essence of democracy, the ulterior purpose of silencing the applicant had attained significant gravity, especially in the light of the particular role of human-rights defenders and NGOs (§§ 220-232).

142. In *Miroslava Todorova v. Bulgaria,* 2021, disciplinary sanctions were imposed on the applicant, a judge, on account of serious delays in case-processing. The Court, however, established that these measures had been directly linked to the public statements the applicant had made in her capacity as President of the Bulgarian Union of Judges (BUJ). Without questioning the existence of a legitimate aim for the impugned sanctions (namely, that of ensuring the proper functioning of the justice system), the Court found that they had also pursued the ulterior purpose of punishing and intimidating the applicant. Indeed, the disciplinary proceedings had begun in a context of heated controversy between the BUJ and the executive. The critical views expressed by the BUJ, which concerned interventions by the executive in judicial promotions, appeared to have provoked a hostile reaction from the Government and the Supreme Judicial Council (SJC). In particular, as publicly announced by the SJC Inspector General, the audit which gave rise to the disciplinary proceedings against the applicant had been a response to criticism by judges, including the BUJ, of the appointment of the new president of the Sofia City Court (a judge known to be a close friend of the Minister of the Interior). Further, the Minister of the Interior had made personal attacks on the applicant.

143. Faced with a plurality of purposes, the Court turned to the question of whether the ulterior purpose was predominant. In the first place, the Court had regard to the above chain of the events which tended to indicate that the main reason for the audits had been a wish to penalise the applicant. Indeed, the audits had been conducted shortly after the BUJ criticisms, some of them had been prompted by the judges targeted by these. Secondly, the Court pointed to the clearly hostile opinions expressed towards the BUJ and other NGOs at a meeting of the SJC, held a few days after the decision to dismiss the applicant. As also noted by the Supreme Administrative Court, the SJC had perceived the BUJ criticisms as a form of warfare. Thirdly, the Court attached weight to the exceptional severity and the disproportionate nature of the applicant's dismissal. It was further noteworthy that in ordering such a sanction, the SCJ had taken account of delays in respect of which the applicant's disciplinary liability was time-barred. Finally, while the applicant's dismissal had been set aside by the Supreme Administrative Court, that Court had ignored the applicant's allegations of the ulterior purpose. The judicial review of the ultimate sanction (a two-year demotion in post) imposed by the SJC had also failed to address the use of the disciplinary procedure to retaliate against the applicant for her views and activities, which were neither unlawful, nor incompatible with the judicial ethics. On this basis, the Court considered the identified ulterior purpose to be predominant, so as to amount to a breach of Article 18 in conjunction with Article 10 (*Miroslava Todorova v. Bulgaria,* 2021, §§ 205-213).

144. In *Juszczyszyn v. Poland*, 2022, the Court found that the disciplinary suspension of the applicant judge had pursued predominantly, not the legitimate aim relied upon by the Government, but the ulterior purpose of sanctioning him for, and dissuading from, verifying *via* judicial order the lawfulness of the appointment of judges in the context of the wide-scale reforms of the Polish judiciary. The Court found a breach of Article 18, for the first time in a case concerning these reforms, on the basis of the following considerations. In the first place, the general context vividly demonstrated that successive judicial reforms had been aimed at, and resulted in, the substantial weakening judicial independence. Secondly, a series of measures were taken against the applicant by the Minister of Justice and the persons appointed by him shortly afterwards and directly in response to the above-noted judicial order of the applicant, the Minister of Justice publicly stating that the applicant's order amounted to "anarchisation of the Polish judiciary and overstepping the judges' powers". Thirdly, the suspension decision was taken by a body that lacked independence and, on its merits, was incompatible with the principle of judicial independence and manifestly unreasonable. It disregarded fundamental findings by the Court of Justice of the European Union's (CJEU) and by the Polish Supreme Court. Fourthly, the Court had regard to the adoption of the legislation which coincided with the proceedings against the applicant and introduced new disciplinary offences for judges, including for actions questioning judicial appointments, and to new rulings by the Constitutional Court which excluded the possibility for courts to review a judge's right to adjudicate on the basis of the manner of his appointment. In sum, these developments showed the authorities' determination to demonstrate that any such actions would expose judges to sanctions, and therefore pointed to the predominance of the ulterior purpose behind the applicant's suspension. In so concluding, the Court also relied on the relevant opinion of the Venice Commission, the CJEU's judgment in *Commission v. Poland (Disciplinary regime for judges),* as well as on the resolution of the PACE.

145. In *Kutayev v. Russia,* 2023, the Court established that the applicant's detention had served only the ulterior purpose of punishing him for organising a conference to commemorate victims of the 1944 deportation on a date other than the one decreed by the President of Chechnya and for refusing to attend a meeting with the latter. The proof flowed from a juxtaposition of the relevant circumstances of the case with contextual factors. Firstly, the applicant was arrested the day after his failure to attend the meeting with the President. Indeed, the President shortly thereafter made a public statement explicitly linking the applicant's arrest to the scheduling of the commemoration conference. Secondly, his arrest was arbitrary and with clear elements of bad faith on the part of the police and investigators. Thirdly, high-ranking officials were involved in his arrest: this involvement, unexplained by any reasons related to his criminal case, clearly attested to its importance for the

highest levels of the Chechen government. Fourthly, the applicant was tortured, and his confession obtained in breach of Article 3 was used for his subsequent conviction. Fifthly, the applicant is a human rights activist, and his case had to be viewed in the context of intimidation and a general crackdown on such activists in Chechnya, which issue was raised by the European Parliament, PACE and a number of NGOs. This led the Court to find a violation of Article 18 in conjunction with Article 5 § 1 of the Convention (§§ 137-141).

146. In *Kogan and Others v. Russia*, 2023, the Court concluded that when revoking a residence permit, the authorities had predominantly pursued the purpose of punishing the applicant lawyers for, and preventing them from, continuing their human rights activities in Russia. The Court particularly focussed on the indications of pressure and hostility in connection with the applicants' work: strong negative bias on the part of State-supported media outlets; the authorities' lack of action in response to threats received by the applicants; as well as contacts with a representative of the Federal Security Service (FSB) and law-enforcement activities directed at the NGO headed by one of the applicants and its partner organisations. Further, the identified procedural defects taken together indicated that the applicant concerned by the revocation decision had faced an insurmountable obstacle to challenge it, which revealed the authorities' intent to deprive her of the legal grounds to remain in Russia. Seen against the background of the overall hostile context in which civil society actors had been operating in the past years in Russia, the established ulterior purpose went clearly against the values of the Convention and was of particular gravity, given the prominent role of human rights defenders in a democratic society. The Court therefore found a violation of Article 18 in conjunction with Article 8 (§§ 70-78).

b. Pattern indicative of specific and personal targeting

147. The case of *Navalnyy v. Russia* [GC], 2018, concerned seven occasions when the applicant, one of the most significant opposition figures in Russia, was arrested and prosecuted on account of his alleged participation in unauthorised but peaceful public gatherings. Focusing its analysis on two of those episodes, the Court found a violation of Article 18 taken in conjunction with Articles 5 and 11, since the impugned restrictions, while not pursuing any legitimate aim under the latter substantive provisions, had pursued solely the ulterior purpose of suppressing political pluralism. That finding was based, particularly, on the sequence and pattern of the events viewed as a whole and against the broader context of the Russian authorities' attempts at the material time to bring the opposition's political activity under control.

148. In the first place, the sequence of arrests disclosed a certain pattern: the applicant had been arrested seven times in a relatively short period (two years) and in a virtually identical manner. The pretexts for the arrests had become progressively more implausible, whereas the degree of potential or actual disorder caused by the applicant had diminished. In particular, although in the first four episodes the applicant was one of the leaders of the gatherings, he had not played any special role in the subsequent episodes. That pattern suggested that the predominant purpose of the measures taken against the applicant had indeed changed over the period under examination.

149. Secondly, in light of the wider context, the authorities had become increasingly aware during the seven episodes that the impugned practices were incompatible with the Convention (see, notably, the Court's similar findings with regard to an earlier demonstration in *Navalnyy and Yashin v. Russia* and with regard to the parallel criminal proceedings against the applicant in *Navalnyy and Ofitserov v. Russia* and *Navalnyye v. Russia*).

150. Thirdly, there was "converging contextual evidence" corroborating the view that the authorities were becoming increasingly severe in their response to the conduct of the applicant as an opposition leader and of other political activists and, indeed, in their approach to public assemblies of a political nature. In particular, legislative changes (examined in and adopted since *Lashmankin and Others v. Russia*) increased and expanded liability for a breach of the procedure for conducting public events

and were thus indicative of a continuous trend of restricting freedom of assembly, about which concerns had been expressed by several Council of Europe bodies.

151. Fourthly, considering the nature and degree of reprehensibility of the alleged ulterior purpose, the Court found that it would attain significant gravity. Indeed, the restriction in question, which targeted an opposition politician committed to playing an important public function, would have affected not merely the applicant alone, or his fellow activists and supporters, but the very essence of democracy. It had thus been aimed at suppressing political pluralism (§§ 167-175).

152. In *Navalnyy v. Russia (no. 2)*, 2019, the Court relied on the same contextual evidence as in *Navalnyy v. Russia* [GC], 2018, to examine the applicant's house arrest and accompanying ban on access to means of communication, which had been imposed immediately after the last arrest in the sequence of the seven episodes in issue in the above Grand Chamber judgment. The impugned measures, increasingly incongruous and lacking connection to the objectives of criminal justice, also led the Court to a finding of violation of Articles 5 and 10 taken alone. Moreover, their duration (10 months) was found inappropriate to the nature of the criminal charges at stake: in particular, no such measures had been applied to the main accused in the relevant criminal case. In line with the findings in the above Grand Chamber judgment, the Court concluded that these measures had pursued solely the ulterior purpose of suppressing political pluralism, in breach of Article 18 in conjunction with Article 5 of the Convention.

c. Pattern of misuse of power targeting specific groups

153. In *Selahattin Demirtaş v. Turkey (no. 2)* [GC], 2020, the Court held that the prolonged pre-trial detention of an opposition MP on charges related to his speeches and participation in lawful meetings, had lacked any Convention prescribed purpose and pursued solely the ulterior motive of stifling pluralism and limiting freedom of political debate. The Court based its conclusion on the following factors. It had particular regard to the domestic context, which was marked by the breakdown of negotiations aimed at resolving the "Kurdish question" following terrorist attacks and serious violence. In the first place, the Court noted the tense political climate due to, on the one hand, the controversy between the opposition and the ruling party on the above issues, and, on the other, the election outcome for the ruling party which lost its majority in Parliament as a result of the success of the applicant's party. Secondly, the Court focused on the ensuing chain of events with close temporal links. In his public statements, the President of Turkey declared that the applicant and other leaders of his party had "to pay the price" for the acts of terrorism and that their speeches on those issues amounted to treason and crimes against the Constitution. At the same time, there was an increase in the number and pace of the criminal investigations in respect of the applicant. Some months later, the parliamentary immunity of 154 opposition MPs, including the applicant and almost all his party colleagues, was lifted by virtue of a newly adopted constitutional amendment. The applicant and a number of other opposition leaders were placed in pre-trial detention. On this basis, the Court identified a pattern aimed at silencing dissenting voices. Thirdly, the Court attached weight to the timing of the applicant's prolonged detention, notably during two crucial campaigns: a referendum on significant constitutional reform, which had been a matter of important disagreement between the ruling party and the opposition, and a presidential election, in which the applicant had stood as a candidate. Fourthly, the circumstances surrounding the applicant's return to pre-trial detention on the day of his release also suggested that the authorities had been simply interested in keeping him detained. Indeed, a separate investigation had been launched into the same facts that formed the basis of the ongoing trail against the applicant. In a comment the following day, the President of Turkey stated that he was keeping an eye on the matter and that the applicant could not be "let go". Fifthly, the Court accorded particular importance to the findings of the Venice Commission signalling serious jeopardy for the independence of the Turkish judicial system as a result of the newly implemented constitutional reform: notably, the President and his party had obtained control over the composition of the main self-governing body of the judiciary, overseeing appointments,

disciplinary measures and the dismissal of judges and public prosecutors. The Court concluded that such background had created an environment capable of influencing certain national court decisions – especially during the state of emergency after an attempted *coup d'état*, when hundreds of judges were dismissed, and particularly in relation to criminal proceedings instituted against dissenters, including the applicant. This led the Court to find a violation of Article 18 in conjunction with Article 5 (see also *Yuksekdag Senoglu and Others v. Türkiye,* 2022, §§ 638-640, a case brought by other opposition MPs, and *Selahattin Demirtaş v. Türkiye (no. 4)*, 2025, §§ 307-320, a follow-up case brought by Mr Demirtaş himself).

154. The case of *Kavala v. Türkiye (no. 2)* [GC], 2026 concerned the same applicant as *Kavala v. Turkey*, 2019 (see paragraph 141 above) and his continued detention and eventual conviction and sentence to life imprisonment in connection with the same mass protests. The Court assessed the case against the wider backdrop of prosecutions against political opponents, human-rights defenders and journalists on exaggerated charges. Its earlier findings, that the applicant's detention had not been based on a reasonable suspicion and had sought to silence him, remained relevant. The subsequent proceedings had produced no new, concrete evidence capable of dispelling prior concerns about the real purpose of the prosecution against him. His conviction was based on insufficiently individualised inferences which had required him to refute general hypotheses, while other converging evidence raised legitimate doubts about the independence and impartiality of the courts which had dealt with his case. Repeated public statements by high-ranking officials about the applicant's guilt had also created political and media pressure capable of affecting the courts. Moreover, the applicant's investigation and trial had focused on protected civic and political activities rather than his involvement in violence. Taken together, these facts established beyond reasonable doubt an ulterior purpose of stifling pluralism and limiting political debate. In assessing the predominance of that purpose, the Court emphasised the duration and intensity of the restrictions and their implications beyond the applicant's individual situation. His detention had continued despite a domestic acquittal and two judgments of the Court itself, through successive proceedings, reclassifications and detention orders which had circumvented procedural guarantees and had neutralised judicial decisions. The applicant's prosecution, continued detention and conviction had therefore been predominantly intended to punish him for his role in mass protests and his expression of opinions as a human-rights defender, and to silence him, in breach of Article 18 taken in conjunction with Articles 5 § 1, 6 § 1, 10 and 11 of the Convention (§§ 266-279).

155. In *Anti-Corruption Foundation (FBK) and Others v. Russia*, 2025, the Court dealt with 139 applications brought by Mr Aleksey Navalnyy, organisations affiliated with him, and his associates (and in some cases their family members). The case arose out of an array of measures taken against Mr Navalnyy's political and anti-corruption movement: mass home and office searches and related seizures; the freezing of personal and organisational bank accounts; and the designation of the FBK as a "foreign agent", of the FBK and two other organisations linked with Mr Navalnyy as "extremist", as well as their subsequent dissolution. Under Article 18, the Court noted the background of reprisals against Mr Navalnyy and those associated with him (established in earlier cases), the exceptional scale, coordination, breadth and consequences of the measures in issue, and their cumulative effect – which had been to dismantle Mr Navalnyy's organisational network, exclude its members from political life, and paralyse their political and civic activity (and also to send a clear warning to anyone who might seek to engage in opposition activity). The Court also took into account the progressive dismantling of independent institutions, suppression of dissenting voices, and the erosion of fundamental democratic safeguards in Russia. Lastly, it noted that the reasons cited by the authorities for the measures – the fight against money laundering and extremism – had not been supported by evidence of genuine criminal conduct. On that basis, the Court held that the restrictions had been imposed for a purpose not prescribed by the Convention, and accordingly found a breach of Article 18 taken in conjunction with Articles 8 and 11 of the Convention as well as Article 1 of Protocol No. 1 (§§ 139-148).

156. In the following cases v. Azerbaijan, disclosing a pattern of arbitrary arrest detention and other restrictions targeting government critics, civil society activists, opposition politicians and human-rights defenders, proof of an ulterior purpose – to silence or punish the applicants for their activities and to impede the latter – was drawn from a juxtaposition of the lack of "reasonable suspicion" within the meaning of Article 5 § 1 (c) (or the lack of a legitimate aim under other substantive provisions in issue) with a combination of relevant case-specific facts or contextual factors (with the exception of *Azizov and Novruzlu v. Azerbaijan*, 2021, where the complaint regarding the lack of a "reasonable suspicion" was declared inadmissible on procedural grounds).

157. In *Ilgar Mammadov v. Azerbaijan*, 2014, these case-specific facts included a close chronological correlation between the applicant's blog entries criticising the authorities and spreading information they were trying to suppress, the authorities' public statement denouncing them, the charges, and the arrest (§§ 141-143).

158. In *Yunusova and Yunusov v. Azerbaijan (no. 2)*, 2020 (§§ 191-193), *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, § 118; *Natig Jafarov v. Azerbaijan*, 2019 (§ 67), *Aliyev v. Azerbaijan*, 2018 (§§ 208-215), *Rasul Jafarov v. Azerbaijan*, 2016 (§§ 156-162), *Mammadli v. Azerbaijan*, 2018 (§§ 98-104) and *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, among the general relevant factors were: the increasingly harsh regulation of NGOs and their funding in Azerbaijan, allegations by high-ranking officials and the pro-government media that activists such as the applicant were foreign agents and traitors, and the contemporaneous detention and criminal prosecution of other such activists. Generally, the Court attached weight to the fact that these cases belong to the established pattern of misuse of power by the Azerbaijani authorities, resulting in a crack-down on civil society. In addition, the Court took account of the specific features relating to the applicants' activities and/or the chain of the impugned events.

159. In *Aliyev v. Azerbaijan*, 2018, and *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, the Court attached particular importance to the applicants' special role as human rights lawyers and legal representatives before the Court in a large number of cases. During the search at Mr Aliyev's home and office, which had been conducted arbitrarily, the authorities had not only seized documents related to his NGO's activities, but also taken case files covered by lawyer-client confidentiality, including those related to the applications pending before the Court, in disregard of legal professional privilege. As a result, the applicant had been prevented from conducting his activities in any meaningful way (*Aliyev v. Azerbaijan*, 2018, §§ 208, 211 and 213).

160. The case of *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, 2021, concerned the freezing of the applicants' bank accounts and the imposition of travel bans. The Court was particularly struck by the fact that the domestic court had adopted an attachment order in respect of an amount of money transferred from the Council of Europe to the applicant as legal aid on the grounds that the amount in question had constituted the object of a criminal offence and had been used "as its instrument". The restriction of the applicants' rights within the framework of a criminal case in which they had not been charged with any criminal offence, had not only been devoid of any legal basis, but had also been applied in a manner capable of paralysing their work: indeed, there was no explanation why the attachment orders had not been limited to specific amounts but had been applied in respect of all the applicants' bank accounts. No legitimate reasons had been put forward for the imposition of the travel bans (§§ 107-109).

161. In *Mammadli v. Azerbaijan*, 2018, the Court attached weight to the timing of the institution of criminal proceedings, that is, only a few days after the publication of the report critical of the presidential election by the applicant's NGO. It also took note of the fact that the charges against the applicant specifically referred to the grants which had been awarded for the purpose of financing the monitoring of the 2013 presidential election (§ 102).

162. In *Natig Jafarov v. Azerbaijan*, 2019, the Court attached particular weight to the timing of the institution of criminal proceedings and the whole chain of events: the applicant's arrest during the

active phase of the registration process for the constitutional referendum campaign and his subsequent release shortly after his political movement had announced its decision not to participate in the campaign because of the arrests of its several members. Regarding the nature and degree of reprehensibility of the ulterior purpose, the Court noted that the intimidation of a campaigning member of the opposition in the run-up to the constitutional referendum had serious potential to discourage opposition supporters from participating in open political debate and thus affected not only the applicant or his fellow opposition activists and supporters, but also the very essence of democracy (§§ 68-69).

163. In *Khadija Ismayilova v. Azerbaijan (no. 2)*, 2020, the Court had particular regard to the chain of the events: the applicant, an investigative journalist, was arrested two days after a public statement by a senior official to the effect that her activities were tantamount to treason and working for the foreign secret services. Initially detained on the basis of a false claim obtained under coercion, she was charged with additional crimes as soon as the prosecuting authorities' actions were about to be exposed (§§ 116-117).

164. In *Rashad Hasanov and Others v. Azerbaijan*, 2018, and in *Azizov and Novruzlu v. Azerbaijan*, 2021, the Court likewise attached weight to the timing of the institution of criminal proceedings against the applicants, that is, shortly after a series of demonstrations against the government which their NGO – NIDA – had organised and conducted, and on the eve of another one scheduled. In this connection, the Court took note of the special treatment given to their case, which had been investigated not by the police, but the Serious Crimes Department of the Prosecutor General's Office with the involvement of the Ministry of National Security. It was clear from the joint press statement, issued by those authorities after the arrests of a number of NIDA members, that from the outset they had targeted NIDA and linked the applicants' alleged possession of narcotic substances and Molotov cocktails to their NIDA membership. Significantly, in that statement, without any reason or evidence, NIDA had been described as a "destructive force" and its activities qualified as illegal, only a few days before the applicants – its four board members – were arrested. The Court took note particularly of the authorities' allegations regarding the applicants' intention to incite violence and civil unrest, based on the leaflets found in one of the applicants' flat and worded "democracy urgently needed, tel: + 994, address: Azerbaijan".

165. Absent any "reasonable suspicion" against the applicants in *Rashad Hasanov and Others v. Azerbaijan*, the Court found sufficient basis to conclude that their detention had pursued the alleged ulterior purpose (§§ 122-125). By contrast, in *Azizov and Novruzlu v. Azerbaijan*, 2021, the Court was unable to ascertain the existence of a legitimate purpose for the applicants' detention under Article 5 § 1 (c), as that complaint had been declared inadmissible on procedural grounds. Proceeding therefore on the assumption that there had been such a legitimate purpose, the Court examined the case on the basis of a potential plurality of purposes. The following factors were key to its finding that the alleged ulterior purpose had been the predominant one. The authorities had apparently attached the *utmost importance* to their actions targeting the NIDA aiming to prevent further protests and to paralyse its activities through the detention of its four board members. The Court further observed the manner in which the domestic courts had examined the extension of the applicants' pre-trial detention: in particular, they had completely ignored that the second applicant was a minor – a major element which, if taken into account, would probably have resulted in his rapid release (§§ 77-78).

166. In *Ibrahimov and Mammadov v. Azerbaijan*, 2020, the Court examined another example of targeting the NIDA NGO, whose members had been remanded in custody only some hours after painting anti-government graffiti on the statue of the former president, and charged with drug trafficking in the absence of a "reasonable suspicion". Relying on the general context and the specific features established in *Rashad Hasanov and Others v. Azerbaijan*, 2018, the Court accepted that the impugned measures had been intended to punish the applicants for that conduct (§§ 151-157).

167. Importantly, in *Mammadli v. Azerbaijan*, 2018 (§ 103), and *Rashad Hasanov and Others v. Azerbaijan*, 2018 (§ 124), in light of the applicants' status as civil society activists and other relevant contextual factors mentioned above, the Court rejected the Government's argument that their prosecution could not be politically motivated because they were not opposition leaders or public officials.

E. Unsubstantiated complaints

168. In the following cases, the Court was not satisfied there was sufficient evidence to conclude that the State authorities had pursued purposes other than those prescribed in the Convention, or that such purposes had been predominant.

169. In *Merabishvili v. Georgia* [GC], 2017, the Court was unable to find that the alleged ulterior purpose of removing the applicant from the political scene was the predominant purpose of his pre-trial detention. It had regard to the broader political context of the case, as well as the manner in which the criminal proceedings had been conducted. Firstly, the prosecution of various high officials from the applicant's political party and related statements by the Government officials could not in themselves lead to the conclusion that the courts deciding on the applicant's pre-trial detention had been driven by a political purpose, absent evidence that the courts were not sufficiently independent from the executive (§ 324). Secondly, the duration of the trial had not been unreasonably long, and the place of the proceedings (outside the capital) was not redolent of forum shopping. Thirdly, the shortcomings in the court decisions from the point of view of Article 5 § 3 were not in themselves proof of a political purpose. Fourthly, the fact that courts of other member States had turned down requests for the extradition of other former officials from the applicant's party on grounds that the criminal prosecutions against them were politically motivated did not necessarily determine the Court's assessment of that point. The facts of those cases had not been identical. Moreover, the extradition courts had been assessing a future risk, whereas the Court was concerned with past facts (§§ 322-332) (see also *Ugulava v. Georgia*, 2023, concerning the same political context of bitter antagonism between the new ruling party and the former one and instances of criminal prosecution of the latter's leaders, including the applicant. The Court found no violation of Article 18 in conjunction with Article 5 § 1 (§§ 123-131).

170. In *Kamma v. the Netherlands* (Commission's report, 1974), the applicant had been detained on extortion charges and the police had used his period in custody to question him about his alleged involvement in a murder. The Commission found no breach of Article 18, considering that the police had been entitled to proceed as they had, and that the detention had not prejudiced the applicant's position in the murder case (pp. 10-13).

171. In *Ramishvili and Kokhreidze v. Georgia* (dec.), 2007, the applicants, who were the co-founders and shareholders of a television channel, were remanded in custody on charges of extortion for demanding payment in exchange for not disclosing an embarrassing documentary about an allegedly corrupt parliamentarian. The Court was unable to find that their detention pursued, as claimed, the ulterior purpose of silencing their television channel and putting an end to their critical journalistic opinions in order to save the reputation of the parliamentarian concerned and that of the ruling party. Apart from referring to the general human rights problems in Georgia, the applicants did not point to specific facts in their particular case supporting the allegation of an ulterior purpose. On the other hand, the Court took note of a number of factors pointing to the absence of the alleged ulterior purpose. In particular, the charges against the applicants did not concern their journalistic activities. Unlike the position in *Gusinskiy v. Russia*, 2004, the Government had not offered them any kind of bargain in exchange for discontinuing the criminal proceedings. Their channel continued to broadcast and the controversial documentary was aired even after they had been detained. Moreover, the Georgian Parliament had conducted its own investigation into the parliamentarian's commercial activities, after which he resigned. The applicants' complaint under Article 18 in conjunction with Article 5 was therefore rejected as unsubstantiated.

172. In *Dochnal v. Poland*, 2012, the applicant, a businessman and lobbyist, was placed in pre-trial detention on charges of tax evasion, money-laundering and offering a bribe to a member of parliament. These charges amounted to a "reasonable suspicion" and his detention therefore pursued a purpose prescribed by Article 5 § 1 (c). The Court acknowledged that his case might raise a certain degree of suspicion as to whether the real intent of the authorities was to extract further depositions from him regarding various sensitive political matters. However, the applicant's submissions in respect of an alleged ulterior purpose were limited to an assertion that the authorities had kept him in detention in order to persecute and abuse him. His complaint under Article 18 in conjunction with Article 5 § 1 was therefore rejected as manifestly ill-founded (§§ 115-116).

173. In *Mirgadirov v. Azerbaijan and Turkey*, 2020, the applicant, a journalist and political analyst, was placed in pre-trial detention in Azerbaijan on high treason charges on account of transmitting information to the Armenian intelligence services. The Court considered that those charges had not been based on a "reasonable suspicion" and that his detention had therefore been in breach of Article 5 § 1. In so far as the applicant alleged that his detention had been intended to impede his professional activity, the Court noted the briefness and general character of his allegations lacking sufficient specification. In particular, he failed to refer to any action he had taken or any article or piece of writing he had produced as a political journalist which could, in his view, have prompted his arrest and detention for retaliatory or persecutory purposes. The Court was therefore unable to find a violation of Article 18 taken in conjunction with Article 5 of the Convention.

174. In *Nastase v. Romania* (dec.), 2014, the applicant, a former Prime Minister and chairman of a political party, alleged that his conviction of a number of corruption offences was politically motivated. To support his claim, he pointed to the statements in the judgment that he "personified the corruption of political class" and that an "exemplary sentence" of imprisonment was thus called for (§§ 34 and 106). For the Court, however, such statements were the consequence of the domestic court's finding in respect of his criminal liability rather than the expression of an ulterior motive. Moreover, the domestic court judgments were well-reasoned and based on the relevant provisions of domestic law. Even though the applicant's high political status might give rise to a certain suspicion as to the authorities' real interest in his conviction, his allegations in this respect were quite vague and did not refer to any concrete evidence of misuse of power. The Court therefore rejected as manifestly ill-founded the applicant's complaint under Article 18 in conjunction with Article 6 § 1 (§§ 108-109).

175. In *Tchankotadze v. Georgia*, 2016, the applicant, a high-ranking civil servant, was prosecuted for abuse of power and remanded in custody, shortly after Mr Saakashvili was elected President of Georgia. During his presidential election campaign, the latter publicly threatened that the applicant would be "jailed". The Court rejected as manifestly ill-founded the applicant's complaint under Article 18 in conjunction with Article 5 as the impugned threat was insufficient to find an ulterior purpose behind his prosecution and related pre-trial detention. The Court was unable, in the absence of any other additional evidence or arguments, to establish that the initiation of the criminal case was necessarily linked to that threat, or that President Saakashvili had in any other manner unduly influenced the unfolding of the case. Moreover, there was nothing to suggest that the prosecution or judicial authorities themselves had shown, either through official or unofficial channels, the existence of any ulterior motives (§§ 114-115).

176. In *Batiashvili v. Georgia*, 2019, the applicant, a prominent opposition figure, was remanded in custody in connection with criminal proceedings over his allegedly helping an armed group in carrying out a rebellion. Referring to the statements of the high-level political figures made immediately before and after his arrest, he claimed that the purpose behind his pre-trial detention had been to remove him from the political scene. For the Court, however, these elements, as such, could not lead to the conclusion that the courts had been driven by the ulterior purpose, in the absence of evidence that they had not been sufficiently independent from the executive authorities. Having regard to the speedy and reasoned manner in which the review proceedings against the applicant had been conducted, the Court was unable to establish that there was an ulterior motive behind his pre-trial

detention, which was, moreover, found to have been carried out for a purpose prescribed under Article 5 § 1 (c) (§§ 101-103).

177. In *Melia v. Georgia*, 2023, the applicant, an opposition politician and member of Parliament, was prosecuted for his involvement in the escalation of demonstrations in front of the Parliament building and was subsequently remanded in custody following his refusal to pay the amount of bail. Referring to the conditions in which criminal proceedings had been instituted against him and his pre-trial detention had been ordered, he claimed that the ulterior purpose behind his detention had been to remove him from the political scene. However, despite the political tensions and the particular context of the applicant's pre-trial detention, having regard to all the arguments submitted by the applicant, the Court did not find that the applicant's detention pursued a purpose not prescribed by the Convention. The Court therefore found no violation of Article 18 in conjunction with Article 5 § 1 (§§ 135-144).

178. In *Kezerashvili v. Georgia*, 2024, the applicant, a founding member of an opposition party and former Minister of Defence, was convicted *in absentia* of embezzlement by a final judgment of the Supreme Court which partially overturned his acquittal by the lower courts . Referring to the nature of the statements of the Prime Minister in Parliament and the close timing between those statements and the consideration of his case by the Supreme Court, along with links with the ruling party of one of the Supreme Court's judges sitting in the examination of his case, the applicant claimed that his criminal conviction had been the result of political considerations. However, the Court held that in the absence of evidence, in the legal sense, that the judicial authority had not been sufficiently independent from the executive authorities, the Prime Minister's political statements in the context of heated parliamentary debates could not, as such, lead to the conclusion that the courts had been driven by the ulterior purpose of removing the applicant from the political scene. The Court also found that the relative closeness in time between the impugned statements and the Supreme Court's judgment was an insufficient basis for finding that there had been an ulterior purpose behind the applicant's conviction. Accordingly, the Court concluded that there was insufficient evidence to substantiate the applicant's allegation of an ulterior motive behind his prosecution and conviction (§§ 132-133).

179. The following cases against Turkey (*Sabuncu and Others v. Turkey*, 2020, *Şık v. Turkey (no. 2)*, 2020, *Ahmet Hüsrev Altan v. Turkey*, 2021) concern the prolonged pre-trial detention of journalists and publishers owing to unreasonable equation of their editorial stance, covered by freedom of the press, with propaganda in favour of terrorist organisations or involvement in the attempted *coup d'état.* The Court found a breach of Articles 5 § 1 and 10 taken separately: indeed, the charges against the applicants had not been based on a "reasonable suspicion" within the meaning of Article 5 § 1 (c). They had essentially been based on acts which could not be considered as behaviour criminalised under domestic law but were related to the exercise of the right to freedom of expression. At the same time, in the Court's view, the specific features of these cases did not "form a sufficiently homogeneous whole", so as to pinpoint a possible ulterior purpose. The Court attached importance to the context of the attempted *coup*, which justified large-scale investigations, especially given the serious disruption, loss of life and the declaration of a country-wide state of emergency. In addition, the Court saw nothing untoward in the timing of the impugned measure: the lapse of time between the applicants' arrest and the acts, of which they had been accused, was not excessively long. Further, in *Sabuncu and Others v. Turkey*, and *Şık v. Turkey (no. 2)*, the Court considered the public statements of the President of the Republic threatening to make an author of a particular article "pay dearly", finding that those statements had not been directed *specifically* against the applicants themselves but rather against their newspaper as a whole under the editorial policy of its director at the material time. In any event, there was no evidence that the domestic courts had been, in any way, influenced by the impugned statements. In all the three cases, the Court noted the thorough scrutiny which had been given to the applicants' complaints by the Constitutional Court. Finally, while their detention had probably had a chilling effect on themselves and other political journalists, this finding was insufficient

by itself to conclude that there had been a breach of Article 18 taken in conjunction with Articles 5 § 1 and 10 of the Convention.

180. In *Korban v. Ukraine*, 2019, when dealing with the allegations of politically motivated deprivation of liberty of a well-known politician, the Court accepted that there had been a reasonable suspicion of his having committed an offence. However, while criminal proceedings were pending against the applicant for more than a year, all of a sudden and for no apparent reason, his arrest had taken place with the involvement of a special forces unit and his case had become a matter of particular urgency and zeal for the prosecuting authorities. While those events had been broadly perceived by political parties, mass media and civil society as selective justice and could indeed be interpreted as possible indices of an ulterior purpose, the Court focused its examination on the specific arguments raised by the applicant in support of his complaint under Article 18. None of them allowed the Court to identify possible ulterior motives behind his prosecution, let alone find them predominant. In the first place, while the applicant was a member of the political team of the then head of a regional state administration who had resigned allegedly following a conflict with the then President of Ukraine, neither that official nor his other supporters had raised any complaints of political persecution. Secondly, it appeared unlikely that the candidate from the President's party, who had won the parliamentary elections, would *post factum* seek to take revenge on the applicant, who had obtained less than half of his percentage of votes. Moreover, while the applicant claimed that the election results had been rigged, he had not lodged a complaint to that effect under Article 3 of Protocol No. 1. Thirdly, there was no information of any attempts to stifle voices critical of the then President or the government. Fourthly, the criminal proceedings against the applicant had been instituted about a year prior to the creation of his party. While the latter had been successful in the local elections, two other parties, which were unrelated to the then President and had obtained even better results, had made no allegations of persecution. The Court therefore found no violation of Article 18 in conjunction with Article 5 (§§ 216-225).

181. In *Ovcharenko and Kolos v. Ukraine,* 2023, the applicants were dismissed from their post of Constitutional judges in the exceptional context of the events known as the Ukrainian Revolution of Dignity. The Court accepted that the authorities had not pursued any ulterior motive but acted in genuine belief that the applicants had committed a "breach of oath" when participating in the judgment which had been found to be contrary to the fundamental principles of democracy and separation of powers. The applicants' complaint under Article 18 was therefore rejected as manifestly ill-founded (§§ 134-136).

182. The cases of *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, *Khodorkovskiy v. Russia*, 2011, and *Khodorkovskiy and Lebedev v. Russia*, 2013, were brought respectively by one of the biggest Russian oil producers and its senior managers and major shareholders, who were among the richest men in Russia. Mr Khodorkovskiy was also politically active: he allocated significant funds to support opposition parties. Both managers were detained and subsequently convicted of tax evasion and fraud. During the same period, tax and enforcement proceedings were brought against the Yukos company, which was put into liquidation. Its demise resulted from the uncompromising execution of tax debts and disproportionate bailiffs' fees.

183. The Court accepted that the circumstances surrounding these cases could be interpreted as supporting the applicants' claim of improper motives: the authorities were trying to reduce the political influence of "oligarchs" and Yukos's business projects ran counter to the petroleum policy of the State, which was one of the main beneficiaries of its dismantlement (*Khodorkovskiy and Lebedev v. Russia*, 2013, § 910; *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, §§ 237-238). Nevertheless, the Court was not satisfied that the impugned proceedings chiefly pursued, as claimed, the ulterior purpose of removing Mr Khodorkovskiy from the political scene and enabling the State to appropriate the assets of Yukos (*Khodorkovskiy v. Russia*, 2011, § 260; *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, § 665; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 908).

184. The applicants relied on contextual evidence and authoritative opinions by political institutions, non-governmental organisations or public figures to support their allegations under Article 18. The Court held that they had failed to produce "incontrovertible and direct proof" (*Khodorkovskiy v. Russia*, 2011, § 260; *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, § 663; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 902). However, in *Merabishvili v. Georgia* [GC], 2017, the Court clarified that it does not restrict itself to direct proof in relation to such complaints and that the burden of proof is not borne by one or the other party (§§ 311 and 316). These cases are therefore to be read in light of this clarification. The Court also relied on the following arguments.

185. First, the authorities' perception of Mr Khodorkovskiy as a serious political opponent and the benefit accruing to a State-owned company as a result of Yukos's demise were not enough to establish a breach of Article 18 because the criminal prosecution of anyone with such a high profile would benefit his opponents. Moreover, this consideration should not prevent the authorities from prosecuting such a person if there are serious charges against him: "high political status does not grant immunity" (*Khodorkovskiy v. Russia*, 2011, §§ 257-58; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 903).

186. Second, the charges against the Yukos managers had been genuine and serious, their criminal case had a "healthy core" (*Khodorkovskiy v. Russia*, 2011, § 258; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 908). The authorities had also legitimately acted to counter tax evasion by Yukos (*OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011, § 664). The Court rejected the company's claim that its debt had been recognised as a result of an unforeseeable, unlawful and arbitrary interpretation of domestic law (ibid., §§ 605, 616 and 664).

187. Third, none of the accusations against the Yukos managers concerned their political activities – they had been prosecuted for common criminal offences (*Khodorkovskiy and Lebedev v. Russia*, 2013, § 906).

188. Finally, the rulings of courts of other member States which had refused to extradite the applicants' associates to Russia, or had denied legal assistance to, issued injunctions against, or made awards against the Russian authorities in Yukos-related cases, although a strong argument, were not sufficient because the evidence and arguments before those courts could have differed from those before the Court (*Khodorkovskiy v. Russia*, 2011, § 260; *Khodorkovskiy and Lebedev v. Russia*, 2013, § 900).

189. The Court was unable to establish the presence of the alleged ulterior purposes and found no breach of Article 18 in conjunction with Article 5 in *Khodorkovskiy v. Russia*, 2011, and in conjunction with Article 1 of Protocol No. 1 in *OAO Neftyanaya Kompaniya Yukos v. Russia*, 2011 (see also *Nevzlin v. Russia*, 2022, §§ 124-125). In *Khodorkovskiy and Lebedev v. Russia*, 2013, the Court was prepared to accept that there was an ulterior purpose behind the applicants' criminal prosecution. However, it found no breach of Article 18 as the alleged ulterior purpose was not proven to be predominant.

190. In *Khodorkovskiy and Lebedev v. Russia (no. 2),* 2020, the applicants raised an issue under Article 18 in conjunction with Article 8 with regard to unavailability of long-term family visits in remand prisons to which they had been transferred, from the correctional facilities where they had been serving their sentences, on account of the novel pending investigation. The impugned restriction lacked any legitimate aim and requisite justification, and constituted a breach of Article 8 taken alone. As it was based on a domestic legislative provision that was applied indiscriminately to all detainees of remand prisons, the Court was unable to find, in the fact of its application in the present case, evidence of an ulterior motive as alleged by the applicants and found no violation of Article 18 (§§ 624-626).

191. In *Sanchez i Picanyol and Others v. Spain*, 2025, the applicants, three prominent Catalan politicians supporting independence from Spain, had been placed in pre-trial detention in connection with events related to the steps that they had taken to organise a referendum on the point despite a

decision of the Spanish Constitutional Court. Under Article 18, the applicants alleged that their detention had been intended to prevent them from exercising their functions as members of the Catalan Parliament and from participating in its sessions. The Court first noted that those allegations had been examined and rejected by the domestic courts, on the basis that the applicants had been genuinely suspected of rebellion and sedition. The Court itself had found (when dealing with the applicants' substantive complaints under Article 5 § 1 of the Convention and Article 3 of Protocol No. 1) that the restriction to their Convention rights had not been arbitrary and had been proportionate. The political context in which the case had unfolded did not in itself show that the domestic courts had been driven by political purposes: their decisions had been compatible with the applicants' substantive Convention rights, and had sought to prevent the applicants from carrying out their anti-constitutional designs. Their political parties had not been subjected to any restrictions, and had been able to take part in the elections and nominate the applicants as candidates. There had therefore been no breach of Article 18 (§§ 316-323).

192. In *Vovk v. Ukraine* (dec.), 2026, the applicant, a court president, was alleging, in particular, that several online publications in relation to him by the National Anti-Corruption Bureau had been intended to take revenge on him for having ruled against the Bureau, to compel his court to comply with requests by the Bureau, and to discredit him. The Court rejected the complaint under Article 18 as manifestly ill-founded. It accepted that it had been, in principle, legitimate to inform the public about the course of criminal proceedings concerning a senior judge and found that the applicant had failed to make out an arguable case that the Bureau's publications had been predominantly driven by ulterior purposes. The investigation in which the material published by the Bureau had been obtained had been initiated by another authority and the material had had no substantial connection with an investigation against the applicant conducted by the Bureau itself. The fact that the applicant's court (not the applicant himself) had given a number of judgments adverse to the Bureau did not show that the Bureau's publications about him had been driven by improper purposes: no concrete link between those judgments and the impugned publications had been demonstrated. In so far as the applicant complained about the reasons for the pursuit of criminal charges against him, the proceedings against him were still under way, which meant that he would be able to raise those concerns in those proceedings (§§ 114-128).

193. In *Yuriy Dmitriyev v. Russia*, 2026, the applicant, a historian and Memorial activist researching Stalin-era repression, alleged that his pre-trial detention and prosecution for sexual offences involving his adopted daughter had been intended to punish him for his work. The Court found violations of Article 5 § 3 of the Convention, because the domestic courts had failed to justify his continued detention during the first set of criminal proceedings, and of Article 6 §§ 1 and 3 (c). because they had unjustifiably overridden his choice of lawyer on appeal in the second set. Those findings did not, however, establish an ulterior purpose. The Court also noted that the initial detention had been based on reasonable suspicion and that the charges appeared genuine and concerned ordinary criminal offences. Neither the duration of detention nor deficiencies in the reasons given for extending it sufficed to show an improper motive. The evidence before the Court disclosed neither intervention by high-ranking officials suggesting such a motive nor any pattern comparable to cases in which criminal proceedings had been used to silence individuals. International observers had expressed concerns about the proceedings against the broader background of restrictions on civil society and the forced dissolution of Memorial-related organisations. However, those concerns and the other circumstances, considered together, did not provide a sufficient evidential basis for finding that the applicant's detention or prosecution had pursued a political or retaliatory purpose. There had therefore been no breach of Article 18 taken in conjunction with Articles 5 and 6 (§§ 108-116) of the Convention.

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The case-law cited in this Guide refers to judgments or decisions delivered by the Court and to decisions or reports of the European Commission of Human Rights ("the Commission").

Unless otherwise indicated, all references are to a judgment on the merits delivered by a Chamber of the Court. The abbreviation "(dec.)" indicates that the citation is of a decision of the Court and "[GC]" that the case was heard by the Grand Chamber.

Chamber judgments that are not final within the meaning of Article 44 of the Convention are marked with an asterisk ("*") in the list below. Article 44 § 2 of the Convention provides: "The judgment of a Chamber shall become final (a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or (c) when the panel of the Grand Chamber rejects the request to refer under Article 43". In cases where a request for referral is accepted by the Grand Chamber panel, the Chamber judgment does not become final and thus has no legal effect; it is the subsequent Grand Chamber judgment that becomes final.

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