



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

FIFTH SECTION

CASE OF CABUCAK v. GERMANY

(Application no. 18706/16)

JUDGMENT

STRASBOURG

20 December 2018

This judgment is final but it may be subject to editorial revision.

In the case of Cabucak v. Germany,

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

André Potocki, *President*,

Angelika Nußberger,

Carlo Ranzoni, *judges*,

and Milan Blaško, *Deputy Section Registrar*,

Having deliberated in private on 27 November 2018,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 18706/16) against the Federal Republic of Germany lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Turkish national, Mr Yunus Cabucak (“the applicant”), on 5 April 2016.

2. The applicant was represented by Mr R. Giebenrath, a lawyer practising in Strasbourg. The German Government (“the Government”) were represented by two of their Agents, Ms K. Behr and Mr H.-J. Behrens, of the Federal Ministry of Justice and Consumer Protection.

3. The application concerns the expulsion of the applicant, a Turkish national born in Germany, to Turkey subsequent to his criminal convictions, *inter alia*, for drug trafficking. On 23 November 2016 the application was communicated to the Government.

4. The Turkish Government, having been informed of their right to intervene in the proceedings (Article 36 § 1 of the Convention and Rule 44 of the Rules of Court), did not indicate that they wished to exercise that right.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant, a Turkish national, was born in 1980 in Neustadt/Weinstraße (Neustadt) and lives in Speyer. He has a daughter of German nationality, born in 2009, who lives with her mother.

A. Background to the case

6. The applicant's parents had migrated to Germany. In 1982 the applicant witnessed the murder of his mother by his father. His father subsequently fled to Turkey, where he was sentenced to imprisonment, and where he continued to live after his release from prison.

7. After the death of his mother, the applicant lived and grew up, together with his sister, with his grandparents in Neustadt. He was partly accommodated in a daytime clinic and attended a special needs school, from which he was expelled, without a school certificate, for physical violence against a teacher.

8. On 25 January 1996, the competent authority of the city of Neustadt issued the applicant a permanent residence permit.

B. The applicant's criminal convictions

9. Since 1996 the applicant has repeatedly been convicted of criminal offences. On 26 September 1996 the Neustadt District Court convicted the applicant of drug trafficking and sentenced him to a juvenile sentence of one year and four months, suspended on probation. On 20 July 2000 the same court convicted him on twenty counts of drug trafficking and sentenced him to a juvenile sentence of ten months, again suspended on probation. On 2 July 2001 it convicted him on twelve counts of commercial trafficking of drugs and, cumulating it with the judgment of 20 July 2000, sentenced him to juvenile custody for two years and three months. On 10 January 2002 it convicted him on two counts of attempted aggravated extortion by use of force and, cumulating it with the judgment of 2 July 2001, sentenced him to juvenile custody for four years.

10. On 18 January 2005 the applicant was released from prison. The execution of the remainder of his sentence was suspended on probation, subject to the condition of long-term therapy for his drug addiction. The applicant subsequently participated in outpatient drug rehabilitation and a methadone programme.

11. On an unspecified date in spring/summer 2005 a different District Court convicted the applicant of drug possession and fined him. It established that on 7 May 2005 the applicant had been found in possession of heroin. On 9 July 2007 the Neustadt District Court convicted him of several offences committed in 2005 and 2006, including violent and traffic offences, as well as drug trafficking, and sentenced him to two years and six months' imprisonment.

12. In June 2008 the sentence was deferred when the applicant was admitted to a specialist clinic for the purpose of receiving drug therapy. The deferment was revoked two weeks later, after the applicant had been expelled from drug therapy for disciplinary reasons. In August 2008 the

sentence was again deferred and the applicant was again admitted to a specialist clinic for the purpose of receiving drug therapy. He was diagnosed with polysubstance dependence, which is simultaneous addiction to different drugs, and a dissocial personality disorder. In February 2009 the execution of the remainder of the sentence of the judgment of 9 July 2007 was suspended on probation and the applicant was released from prison. He continued therapy.

13. On 6 November 2009 the applicant was taken into pre-trial custody. On 9 December 2010 the Frankenthal Regional Court convicted him of drug trafficking and acquisition of drugs and sentenced him to four years and three months' imprisonment. It established that the applicant had been a heroin dealer since August 2009, in order to finance his own consumption and to earn a living. After serving the initial part of his sentence in prison, the applicant was moved to a psychiatric prison as of August 2011. He was again diagnosed with polysubstance dependence and a combined personality disorder characterised by narcissistic and dissocial symptoms.

14. The subsequent therapy evolved slowly. In May 2014, the clinic still considered the applicant's risk of relapse to be significant. It was only in November 2014, after the applicant had graduated from secondary school, that the clinic's evaluation changed. On 2 December 2014 the applicant was released and the remainder of the sentence was suspended on probation.

C. The first set of expulsion proceedings

15. On 31 July 2002, after the conviction of 10 January 2002 (see paragraph 9 above), the competent authority of Neustadt ordered the expulsion of the applicant to Turkey. It referred, in particular, to the applicant's prior convictions. On 22 April 2003, the competent committee on legal affairs (hereafter - "the committee") rejected the application for administrative review of the expulsion order. On 18 October 2003 the Neustadt Administrative Court rejected the appeal. On 14 January 2005 the Rhineland-Palatinate Administrative Court of Appeal reversed the decision of the Administrative Court and quashed the expulsion order. It established that the applicant could rely on a right of residence under Article 7 of the Decision No. 1/80 of the EEC/Turkey Association Council of 19 September 1980 (see paragraph 30 below). He could hence only be expelled on the basis of a discretionary decision of the authority, requiring a current and concrete danger of further significant criminal offences. Against this background, the reasons provided for the justification of the expulsion order were not sufficient. In this context the Court of Appeal referred, in particular, to the fact that the applicant had at the time not yet undergone inpatient therapy, which he was willing to do. Moreover, the applicant could refer to exceptional life circumstances, in particular the violent death of his mother.

D. The proceedings at issue

16. In December 2007 the competent authority notified the applicant that it was willing to order expulsion to Turkey, anew. The applicant informed the authorities that he was now engaged to J., a German national, and that he was intending to undergo stationary treatment of his addiction. On 1 February 2008, the authority nevertheless ordered the expulsion of the applicant to Turkey. It referred to the numerous previous criminal offences, in particular those after 14 January 2005, and concluded that the applicant posed a sufficiently significant risk to the public.

17. The applicant applied for administrative review of that decision. On 4 June 2009, shortly after the applicant had acknowledged paternity of the child J. expected at that time, the city committee suspended the proceedings.

18. The applicant's daughter was born out of wedlock on 23 September 2009. As of that day, J. exercised sole custody rights. In the following weeks, the applicant lived with his daughter and J. in a common apartment, until he was taken into pre-trial custody in November 2009 (see paragraph 13 above).

19. On 19 September 2013, the city committee resumed the suspended proceedings and orally heard the applicant as well as J. who had, in 2011, given birth to a second child by a different father. On 24 September 2013, the committee rejected the application, maintaining that the applicant posed a current and concrete danger for public safety, as he was likely to commit further significant criminal offences. He was a chronic offender with a high potential for aggressive behaviour. Having regard to the applicant's interests protected by Article 8 of the Convention, it found the expulsion order to be a proportionate interference.

20. On 22 May 2014 the Neustadt Administrative Court ordered the reduction of the re-entry ban to five years and dismissed the remainder of the applicant's appeal. It found that the expulsion order did not contravene the binding force of the judgment of the Court of Appeal of 14 January 2005 (see paragraph 15 above) since it was essentially based on events subsequent to that judgment, in particular the judgments of the District Court of 9 July 2007 (see paragraph 11 above) and the judgment of the Regional Court of 9 December 2010 (see paragraph 13 above). The expulsion order was based on sections 55 § 1 and 56 § 1 of the Residence Act in conjunction with section 14 of Decision No. 1/80 of the EEC/Turkey Association Council of 19 September 1980 (see paragraph 30 below). The authority had correctly established that the applicant posed a current and concrete danger to the basic interests of Germany, and that his expulsion was indispensable to preserve these basic interests.

21. The Administrative Court essentially based its conclusions on the seriousness, the frequency and the drug context of the criminal offences, as well as on the expectation that the applicant would be likely to commit such

offences again. In this connection, the court referred to the numerous convictions based on drug-related offences, as well as the frequent failure of therapy for his drug addiction. Not even favourable conditions, such as the drug therapy as of August 2008, the suspension of the remaining sentence, further therapy, the expected paternity and finally the birth of his child brought about substantial changes in the applicant's life. Also, at the time, the treating clinic considered the applicant's risk of relapse to be significant.

22. The applicant's relationship with his daughter was protected by Article 8 § 1 of the Convention. It had, however, been kept from developing more intensely, due to his arrest only months after his daughter's birth. The same was true for the relationship with his family of origin, in particular his sister. He had also failed to substantiate the actual status of the relationship with J. After initial, rather frequent visits by J. and their common daughter in prison, contact became rather infrequent after J. gave birth to a second child by a different father. The fact that the applicant was about to finish secondary school (see paragraph 14 above) did not justify a more positive prognosis. Since he lacked the necessary vocational training, his prospects of finding a job were still rather slim. The authorities had correctly taken account of the applicant's interests, of the fact that he had been born in Germany and that he had family in Germany, in particular his daughter and his sister. Making explicit reference to Article 8 of the Convention and the Court's case-law, the Administrative Court established that the reasons at the heart of the expulsion were sufficient to justify it, even though the expulsion might cause hardship for the daughter, who did not live with the applicant. The applicant's interests were sufficiently taken into account by limiting the re-entry ban and he could, moreover, apply for a further reduction of the re-entry ban, if the relevant facts were to change.

23. The applicant also lacked economic or social integration. He had never worked and essentially lived on social benefits. As for any difficulties the applicant might face in Turkey, those seemed surmountable. Regarding his allegation that he had no command of the Turkish language, criminal investigations into his offences had shown that he had been perfectly capable of switching between German and Turkish for drug dealing. Also, other oral communication in Turkish had been established, for example two telephone calls with his father from prison. At the oral hearing, he had also conceded that his fluency had improved since 2005. Moreover, the applicant was familiar with Turkish living conditions, since he had visited Turkey twice as a child. His grandfather had shown a rather traditional attitude and he had, in order to improve his Turkish skills, spent a lot of time with family since 2005. He would not be without support in Turkey, even though the relationship with his father might be tense and other contact in Turkey could only be established through his sister.

24. On 25 March 2015 the Rhineland-Palatine Administrative Court of Appeal rejected the applicant's request for leave to appeal, endorsing the Administrative Court's assessment, while also taking into account the developments that had taken place since.

25. On 7 October 2015, the Federal Constitutional Court did not accept the complaint for adjudication without providing reasons (no. 2 BvR 826/15).

E. Subsequent events

26. An attempt to deport the applicant on 9 October 2015 was unsuccessful, because the applicant did not possess a valid passport.

27. On 17 December 2015, the applicant submitted an asylum application, invoking the danger of re-traumatisation as a bar to his deportation. He was granted a temporary permit to stay for the purposes of the asylum proceedings (*Aufenthaltsgestattung*). No information about the current state of these proceedings has been submitted to the Court.

28. On 17 March 2016 the competent authority rejected an application by the applicant concerning a further reduction of the duration of the re-entry ban. The applicant appealed against that decision to the Administrative Court. No information about the current state of those proceedings has been provided.

II. RELEVANT DOMESTIC LAW AND PRACTICE

29. The rights of entry and residence for foreigners are governed by the Residence Act. According to section 55 § 1 of the Act, as applicable at the material time, a foreigner may be expelled if his stay is detrimental to public safety and order or other substantial interests of Germany. According to section 56 §1 of the Act, a foreigner who possesses a permanent residence permit and has lawfully resided in Germany for at least five years can only be expelled on serious grounds pertaining to public security and law and order. This requirement is, as a rule, met in cases falling under section 53 of the Act, that is, if the foreigner has been sentenced by final judgment to a prison term or a term of juvenile custody of at least three years for one or more intentionally committed offences or several prison terms or terms of juvenile custody for intentionally committed offences totalling at least three years within a five-year period, or if he or she has been sentenced by final judgment to at least two years' juvenile custody or a prison term for an intentionally committed offence under the Narcotics Act.

30. Parallel and additional protection against expulsion may be drawn from Decision No. 1/80 of the EEC/Turkey Association Council of 19 September 1980. According to section 7, sentence 1, indent 2, of that Decision, the members of the family of a Turkish worker duly registered as

belonging to the labour force of a member State, who have been authorised to join him, enjoy free access to any paid employment of their choice provided they have been legally resident there for at least five years. Article 14 of that Decision guarantees that section 7 is to be applied, subject to limitations justified on grounds of public policy, public security or public health. In substance, the German courts, referring to the case-law of the Court of Justice of the European Union, take these provisions to allow for the expulsion of a person, who can rely on a right of residence under Article 7 of the Decision, only on the condition that the conduct of that person poses a current and concrete danger to a basic interest of Germany and if the expulsion is necessary in order to secure that interest (compare Federal Administrative Court, no. 1 VR 3/18, decision of 22 May 2018).

31. Section 11 of the Residence Act, as applicable at the material time, provides that a foreigner who has been expelled may not re-enter or reside in Germany. He or she may not be granted a residence permit. Upon application, these statutory consequences of the expulsion are to be subject to a time-limit. The time-limit is to be set taking due account of the circumstances of the case and may exceed five years only if the foreigner was expelled on the ground of a criminal conviction or if he or she presents a serious threat to public safety and order. This period should not exceed ten years. The period shall begin to run when the foreigner leaves the country. Prior to the expiry of that time-limit the foreigner may, by way of exception, be allowed to enter Germany for a short period of time if this time is required for compelling reasons or if the refusal of permission would constitute undue hardship.

THE LAW

32. The applicant complained that his expulsion was in breach of his private and family life as provided in Article 8 of the Convention, which reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

33. The Government contested that argument.

I. ADMISSIBILITY

34. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

II. MERITS

A. The parties' submissions

1. *The applicant*

35. The applicant submitted that his expulsion constituted not only an interference with his “private life”, but also his “family life” within the meaning of Article 8 § 1 of the Convention, because he had a very close relationship with his daughter. He argued that the interference was not justified under Article 8 § 2 of the Convention, as it was disproportionate. He had been polysubstance-dependent when he committed the crimes in order to finance his drug habit. The criminal offences had not been of such a nature as to cause anyone severe harm. He had not committed a crime since 2009. Rather, he had graduated from school (see paragraph 14 above) and successfully fought his polysubstance dependence since.

36. He had lived in Germany all his life and had solid social, economic and family links to Germany. He had founded a family with a German woman and spoke German fluently. The prevailing interest of his daughter had not been taken into account sufficiently. She would suffer significantly from his deportation. He had always played an important role in her life, had been involved in her upbringing from her birth and had taken care of her on an almost daily basis since his release. Contact with his daughter had become more difficult, in particular since October 2016, because the mother had attempted to prevent it without any reason. He had therefore filed a complaint before the District Court to secure contact, initially once a week, later twice a week and every other weekend, and to be awarded joint custody rights with the mother.

37. In contrast, he lacked any ties with Turkey. He did not possess a good command of the language and had no social links to the country. His mental health was fragile, required constant treatment and would be adversely affected by his removal to Turkey, where he would be at an increased risk of further traumatising, given that his father, with whom he had no contact and who had killed his mother, lived there.

2. *The Government*

38. The Government accepted that the applicant's expulsion constituted an interference with his "private life" within the meaning of Article 8 § 1 of the Convention and added that it could be left open whether the applicant's relationship with his daughter constituted "family life" within the meaning of Article 8 § 1 of the Convention. They argued that the interference was, in any event, justified under Article 8 § 2 of the Convention. The domestic courts had given full consideration to the applicant's private and family situation and had carefully weighed the applicant's interests against the state's interest.

39. The crimes committed by the applicant weighed heavily, due to his involvement in drugs and his violent nature, the high number of offences, the severity and lengthiness of his criminal career as well as his repeated failure to improve his behaviour following his criminal convictions and drug therapy. The applicant could not rely on his polysubstance dependence in order to shed a different light on his offences, because the dependence had already been taken into account by the criminal courts when concluding the sentence. The administrative courts had reasonably concluded that the applicant was likely to reoffend.

40. The applicant's relationship with his German daughter and her best interests had been taken into consideration sufficiently. There were doubts as to the depth of the relationship, since applicant and daughter had only lived together for a very short time and seen one another only occasionally thereafter. The applicant had failed to substantiate his allegation that he played a significant role in his daughter's life. As regards the prevention of contact by the child's mother, the latter had expressed severe doubts to the youth office as to the applicant's capacity to look after the child. The main figure in his daughter's life was obviously her mother. The applicant and his daughter could maintain contact through letters or different forms of electronic communication and the applicant's re-entry ban was limited to five years. Furthermore, the applicant's expulsion had already been foreseeable when the family relationship was formed.

41. Even though the applicant had been born in Germany and had lived there all his life, he did not have strong social, cultural and family ties to that country. He was not integrated into German society, was unemployed, he had no vocational training and no prospects of entering the labour market. His social network did not extend beyond immediate family boundaries and the criminal world. While his connections to Turkey were not particularly strong either, he had grown up with traditionally oriented grandparents, who had familiarised him with Turkish culture. He had a good command of Turkish. His possibilities to find employment there were not worse than in Germany. He could continue his medical treatment in Turkey and there was nothing to indicate that the living conditions in Turkey would have a specifically negative impact on his condition.

B. The Court's assessment

42. The relevant general principles have recently been summarised in *Krasniqi v. Austria* (no. 41697/12, §§ 46-49, 25 April 2017).

43. The Court notes that it is not in dispute between the parties whether the applicant can rely on the notion of private life within the meaning of Article 8 § 1 of the Convention and that the expulsion order against him interfered with that right. It is in dispute, however, whether the applicant can rely on the notion of “family life” within the meaning of Article 8 § 1 of the Convention. In this respect, it has to be kept in mind that this question has to be determined with regard to the position at the time the expulsion order became final, which was, according to domestic law (compare *Kaya v. Germany*, no. 31753/02, § 57, 28 June 2007), on 25 March 2015, when the Court of Appeal refused to grant leave to appeal. The Court takes the view that the applicant has sufficiently demonstrated that he enjoyed a relationship with his daughter which constituted family life within the meaning of Article 8 § 1 of the Convention (compare *Paradiso and Campanelli v. Italy* [GC], no. 25358/12, § 140, 24 January 2017), having submitted, in particular, that he had had regular contact with her over previous years, even though he was detained in prison for a long period during those years.

44. The interference with the applicant's right to private and family life will infringe the Convention if it does not meet the requirements of paragraph 2 of Article 8. It is therefore necessary to determine whether it was “in accordance with the law”, justified by one or more of the legitimate aims set out in that paragraph, and “necessary in a democratic society”. It is not in dispute that the decision to order the applicant's expulsion was based on the relevant provisions of the Residence Act and that it pursued aims that were fully compatible with the Convention, namely the interest of public safety and the prevention of disorder or crime.

45. It thus remains to be ascertained whether the revocation of the residence permit and expulsion were “necessary in a democratic society”, that is to say, if these measures were justified by a pressing social need and proportionate to the legitimate aims pursued.

46. The Court observes that the applicant was, between 1996 and 2010, repeatedly convicted of a large number of serious criminal offences, in particular in connection with the trafficking of drugs, some of which involved violence (see paragraphs 9-13 above). The prison sentences bear testimony to the seriousness of the offences. The Court has held on previous occasions that it understands – in view of the devastating effects drugs have on people's lives – why the authorities show great firmness to those who actively contribute to the spread of this scourge (see, among others, *Salem v. Denmark*, no. 77036/11, § 66, 1 December 2016; *Savasci v. Germany*, no. 45971/08, § 27, 19 March 2013). The applicant committed at least a

substantial part of his offences as a criminally responsible adult. This, as well as the nature and the gravity of the offences, rules out their assessment as mere examples of juvenile delinquency (*Kaya v. Germany*, no. 31753/02, § 62, 28 June 2007). Finally, it has to be taken into account that the applicant continued to commit criminal offences even though his expulsion had already been ordered for the first time in 2002 and the relevant decision had only been quashed by the Court of Appeal on 14 January 2005 (compare *Trabelsi v. Germany*, no. 41548/06, § 58, 13 October 2011). Against this background, the domestic authorities' conclusion that the applicant's criminal offences were particularly serious cannot be put into question.

47. As regards the length of the applicant's stay in Germany, the Court observes that he was born there in 1980 and has lived there all his life. His stay in Germany has thus been of considerable length.

48. As regards the applicant's conduct, the Court notes that he committed the last offence in 2009 and was released from prison in late 2014. While he has not reoffended since, it has to be noted that he spent a considerable part of that time in prison. The domestic authorities considered that he had been granted several chances to adapt his conduct before and failed to make use of them, even when positive developments such as a relationship and the birth of his daughter could have triggered a turnaround, and that there had been a pattern in his life of criminal offences, sanctions, rehabilitation and rather short periods of improved conduct prior to the commission of further criminal offences. They concluded that his conduct since 2009, which included his completion of secondary education and the tackling of his psychological problems and his polysubstance dependence, did not allow for the conclusion that there was no longer a risk of his reoffending. The Court does not consider this finding unreasonable.

49. With regard to the applicant's family situation and the child's interests, it has to be noted that the applicant is not living with his daughter nor with the child's mother, both of German nationality, and that he only did so for a brief period of about two months between the daughter's birth in September 2009 and his arrest in November 2009. Their relationship was limited during the applicant's imprisonment and therapy. The domestic authorities considered that the daughter lived with her mother, who had exercised sole custody rights since the child's birth, and concluded that the mother is the central figure in the child's life. While the applicant is involved in her upbringing, and his deportation from Germany would certainly have an impact on his daughter, there is no reason why the applicant and his daughter cannot continue their relationship via different means of communication, and the applicant has not shown that it would be impossible for his daughter to visit him, at least together with her mother, in Turkey. Neither has he substantiated that the child's interests were otherwise adversely affected by his expulsion. Moreover, the re-entry ban is

limited to five years and he may apply to be allowed entry for compelling reasons and for short periods of time (see paragraph 31 above).

50. With regard to the solidity of his social, cultural and family ties with the host country, the domestic courts took account of the fact that the applicant was born in Germany and has lived there all his life. In this respect, the Court does not doubt that the applicant has strong ties to Germany (*Kaya*, cited above, § 64). The domestic authorities also emphasised, however, that the applicant lacked a more sustainable integration in his host country, in particular with regard to a lack of vocational training, the fact that he has never worked and has essentially lived on social benefits, and likely has little prospect of finding a job in the future. In this connection, the Court reiterates that not even a right to naturalisation as such hinders an expulsion (*ibid.*).

51. With regard to the solidity of social, cultural and family ties with Turkey, the domestic courts concluded that the applicant had a good command of the language and that he was familiar with Turkish living conditions, as he had been brought up in a rather traditional Turkish environment by his grand-parents. The Court, albeit concurring with this assessment, takes note of the fact that the applicant has visited Turkey only twice, as a child. With regard to the alleged damage to his health which might be caused by returning to his home country, which also has to be taken into account when weighing the applicant's private life (compare *Bensaid v. the United Kingdom*, no. 44599/98, § 48, ECHR 2001-I), the Court acknowledges that the applicant suffers from trauma and that he prefers ongoing treatment in a familiar environment. However, he has failed to substantiate why he could not continue treatment in Turkey or why the expulsion would significantly increase the risk of further trauma.

52. In the light of the above, the Court recognises that the domestic courts carefully balanced the competing interests and explicitly took into account the criteria set out in the Court's case-law. Moreover, having regard to the gravity of the drug-related criminal offences committed by the applicant, and considering the sovereignty of member States to control and regulate the residence of aliens on their territory, the Court finds that the interference was supported by relevant and sufficient reasons, and was proportionate in that a fair balance was struck between the applicant's right to respect for his private and family life, on the one hand, and the prevention of disorder or crime, on the other hand. In these circumstances the Court concludes that the interference with the applicant's right to private and family life as protected under Article 8 § 1 of the Convention was justified under Article 8 § 2 of the Convention.

53. There has accordingly been no violation of Article 8 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 20 December 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško
Deputy Registrar

André Potocki
President