



## Forthcoming judgments

The European Court of Human Rights will be notifying in writing 33 judgments on Tuesday 25 March 2014 and five on Thursday 27 March 2014.

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

### Tuesday 25 March 2014

#### [M.G. v. Bulgaria \(application no. 59297/12\)](#)

The applicant, M.G., is a Russian national of Chechen origin, who was born in 1965. He is currently in prison in Sofia. The case concerns the request for his extradition to Russia. In October 2003 his home in Ingushetia was searched by officers of the Federal Security Service of the Russian Federation ("FSB"). They discovered weapons of all calibres, together with munitions, explosives and toxic chemical agents. An FSB investigator in Ingushetia subsequently accused M.G. of being involved in an armed group, preparing terrorist acts, and trafficking in arms, munitions, explosives and toxic substances as a member of an armed group. The court in Ingushetia issued an arrest warrant against M.G., and the Russian authorities issued a wanted notice. In the meantime, in March 2004, M.G., his wife and his three children entered Poland, where they obtained refugee status. In December 2005 M.G. and his family moved to Berlin, where they were also granted refugee status on humanitarian grounds. In July 2012 he was intercepted with his family when his car was stopped for an identity check while crossing the Romanian-Bulgarian border. The Bulgarian court ordered his detention until the end of the extradition procedure. The Office of the Prosecutor General of the Russian Federation sent the official extradition request to the Bulgarian Minister of Justice. The representative of the United Nations High Commissioner for Refugees sent a letter to the court pointing out that M.G. held official refugee status in Poland and Germany, that the decisions to grant such status had been justified by the danger of persecution in his country of origin and that this danger was still extant. On 23 August 2012 the Bulgarian court dismissed the request for M.G.'s extradition. The public prosecutor's office appealed, and the court of appeal ruled in favour of extraditing M.G., ordering his continued detention pending his extradition. On 14 September 2012 the Court decided, under Rule 39 of the Rules of Court (interim measures), to indicate to the Government that M.G. should not be extradited to the Russian Federation for the duration of the proceedings before the Court. Relying on Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Court of Human Rights, M.G. contends that if his extradition to the Russian Federation were to go ahead, he would run a serious risk of suffering torture or other inhuman or degrading treatment.

#### [Stoyanov-Kobuladze v. Bulgaria \(no. 25714/05\)](#)

The applicant, Stelian Kirilov Stoyanov-Kobuladze, is a Bulgarian and Georgian national who was born in 1963. The case concerns Mr Stoyanov-Kobuladze's complaint that, having moved to Georgia in 1995, the Bulgarian courts convicted him in his absence of large-scale fraud and, when arrested on returning to Bulgaria, was denied a retrial. After his departure from Bulgaria to Georgia, criminal proceedings were brought against him for operating a financial pyramid scheme which accrued large amounts of money through taking loans from individuals with the promise of repaying them at significant levels of interest. The majority of the loans were never returned. The applicant being abroad and his address unknown, the proceedings were conducted in his absence and in October 1996 he was convicted as charged and sentenced to ten years' imprisonment. He was then arrested

at the Bulgarian border in October 2004 and taken to prison to serve his sentence. He requested the reopening of the proceedings, which the Supreme Court of Cassation ultimately refused in April 2007 as the file on his case had been destroyed in 2004 and as it considered that Mr Stoyanov-Kobuladze had absconded and waived his right to participate in the proceedings against him. He served six years and five months of his sentence and was released in March 2011. Relying on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, he alleges that the proceedings against him were unfair as he had been convicted in his absence and without subsequently being given the opportunity to have the proceedings reopened. Also relying on Article 5 § 2 (right to be informed promptly of the reasons for one's arrest) of the European Convention, he alleges that he had only been informed in vague terms of the reasons – a conviction against him and sentence ordering his imprisonment – for his arrest in October 2004.

#### [Biao v. Denmark \(no. 38590/10\)](#)

The applicants, Ousmane Ghanian Biao, a Danish national of Togolese origin, and his wife, Asia Adamo Biao, a Ghanaian national, were born in 1971 and 1979 respectively and live in Malmö, Sweden. They have a son, born in Sweden in May 2004, who is Danish due to his father's nationality. The case concerns the couple's complaint about the Danish authorities' refusal to grant them family reunion in Denmark. Mr Biao was born in Togo and lived there until the age of six when he went to live in Ghana with his uncle until the age of 21. He entered Denmark in July 1993 and, having married a Danish national in November 1994, was issued with a residence permit in 1997. He learnt Danish and had steady employment for the next five years and was granted Danish nationality in 2002. In the meantime, Mr Biao had divorced in 1998 and married his current wife in Ghana in February 2003. A week after their marriage, Ms Biao requested a residence permit for Denmark, which was refused by the Aliens Authority in July 2003 and then on appeal in August 2004. The authorities found in particular that the applicants did not comply with the requirement that a couple applying for family reunion must not have stronger ties with another country, Ghana in the applicants' case, than with Denmark (known as the "attachment requirement"). Ms Biao entered Denmark on a tourist visa in the summer of 2003 and the couple moved to Sweden in November 2003. Mr and Ms Biao complain that the decision of August 2004 refusing to grant Ms Biao a residence permit in Denmark for family reunion breached their rights under Article 8 (right to respect for private and family life). The applicants also rely on Article 14 (prohibition of discrimination) in conjunction with Article 8, alleging that an amendment to the Aliens Act in December 2003 – notably the attachment requirement was lifted for those who held Danish citizenship for at least 28 years – resulted in a difference in treatment between those born Danish nationals and those, like Mr Biao, who had acquired Danish citizenship later in life. They also allege that this 28-year rule implied a difference in treatment between Danish nationals of Danish ethnic origin and Danish nationals of other ethnic origin since the vast majority of persons born Danish would be of Danish ethnic origin, while persons acquiring Danish nationality later in life would generally be of other ethnic origin.

#### [Antofie v. Romania \(no. 7969/06\)](#)

The applicants, Constantin Antofie and Verginia Antofie, a married couple, are Romanian nationals who were born in 1942 and 1952 respectively and who live in Drobeta Turnu Severin (Romania). The case concerns the annulment of their judicial action on the grounds of non-payment of the stamp duty required for commencing the action. In November 2005 the couple brought a court action for damages seeking payment of the interest on amounts which they had previously deposited in a bank. The court of first instance ordered them to pay stamp duty. Owing to their financial situation, the couple requested exemption from this duty, submitting that the amount of duty payable exceeded the amount of their retirement pension. Their request was dismissed in December 2005. At the hearing the couple had still not paid the stamp duty demanded, and they reiterated that they were unable to pay it. In a judgment delivered in January 2006, the court declared their action void

on the ground of non-payment of the stamp duty. Mr and Ms Antofie did not appeal. They allege a violation of Article 6 § 1 (right to a fair hearing/right of access to court????).

#### [Contoloru v. Romania \(no. 22386/04\)](#)

The applicant, Dumitru Contoloru, is a Romanian national who was born in 1957 and lives in Târgu-Jiu (Romania). Mr Contoloru, the director of a local bank, was arrested in August 2003 and charged, among other things, with abuse of office, fraud and forgery. He was acquitted in July 2007, and this decision was finally upheld by the High Court of Cassation and Justice in November 2011. Suffering from chronic coronary heart disease, he had in the meantime been released in January 2005 for medical reasons. The case concerns Mr Contoloru's complaint that his pre-trial detention for almost one and a half years was excessive and had aggravated his state of health. Relying on Article 5 § 3 (right to liberty and security), he alleges in particular that the repeated extensions of his pre-trial detention were not based on relevant and sufficient reasons and did not take into account the severity of his medical condition. He also alleges that this situation had caused him suffering and had contributed to a deterioration in his state of health, in breach of Article 3 (prohibition of inhuman or degrading treatment).

#### [Larie and Others v. Romania \(no. 54153/08\)](#)

The applicants, Gheorghe Larie, Anamaria Eugenia Larie and Reghina Grigorov (the latter died in April 2013) are Romanian nationals who were born in 1945, 1976 and 1973 respectively and who live in Tulcea and Mahmudia. The case concerns the deaths of two members of their families during a fishing boat accident and the alleged lack of a prompt and efficient investigation. At about 11 pm on 18 July 2007, Mircea Larie, the son of Gheorghe Larie and husband of Anamaria Eugenia Larie, and Ionel Grigorov, husband of Reghina Grigorov, were on board a fishing boat on a canal in the Danube delta. Their boat was hit by another boat. The bodies of Mircea Larie and Ionel Grigorov were pulled out of the water the next day, at the site of the collision. Police investigations were immediately launched. On 23 July and 1 August the applicants lodged criminal complaints seeking clarification of the circumstances surrounding the deaths of their relatives. A naval expert report established that the victims' boat displayed damage which could not have been caused by a collision but must have been caused by blows from a hard objet. In October 2007 the public prosecutor's office ordered the prosecution of the two occupants of the other fishing boat. In a decision of 20 December 2012 the public prosecutor at the High Court of Cassation and Justice ordered the termination of the proceedings against the two men who had been on board the other boat on the charge of aggravated homicide and a discharge for the counts of accidental homicide *vis-à-vis* one of them and aggravated homicide *vis-à-vis* three other fishermen. The criminal prosecution was subsequently reopened pursuant to a court decision on 3 July 2013, and it is still ongoing. Relying on Article 2 (right to life), the applicants complain of a lack of prompt and effective investigations into the circumstances surrounding the deaths of their relatives during the collision between the two fishing boats.

#### [Oțet v. Romania \(no. 14317/04\)](#)

The applicant, Emil Oțet, is a Romanian national who was born in 1957 and lives in Resita. The case concerns a civil-party application submitted out of time in criminal proceedings in which the applicant was ordered to pay tax surcharges. In October 2002 Mr Oțet was acquitted on charges of tax evasion and forgery because the facts on which the charges were based had not been established. The Ministry of Finance had not submitted an application to join the proceedings as a civil party. The public prosecutor's office appealed. On 9 April 2003 the court received from the Directorate General of Public Finances an application to join the proceedings as a civil party, claiming a total of 15,000 euros (EUR) from Mr Oțet, covering VAT, income tax and the corresponding surcharges. On 14 April 2003 the court allowed the public prosecutor's appeal and sentenced Mr Oțet to 2 years' immediate imprisonment. Furthermore, noting that the Ministry of Finance had

joined the proceedings as a civil party, the court ordered Mr Oğet to pay the equivalent of EUR 6,075. Relying on Article 6 § 1 (right to a fair trial), Mr Oğet complains that he was ordered to pay compensation for pecuniary damage despite the fact that, in his view, the civil action had not been lodged within the statutory time-limit.

#### [Palanci v. Switzerland \(no. 2607/08\)](#)

The applicant, Erol Palanci, is a Turkish national who was born in 1971 and lives in Basel (Switzerland). The case concerns Mr Palanci's expulsion to Turkey. Mr Palanci entered Switzerland in 1989 and claimed asylum. His claim was refused and he left Switzerland for Germany where he married his wife, a Turkish national, in February 1994. Because his wife had a residence permit for Switzerland he was allowed to re-enter Switzerland in July 1994 and shortly after was granted a residence permit. The couple has three daughters, born in Switzerland in 1995, 1997 and 2000. From 1997 Mr Palanci was repeatedly cautioned by the Swiss immigration authorities for his behaviour, which included 19 offences committed between 1995 and 2005, one of which had involved a serious incident of domestic violence against his wife, a considerable accumulation of debts and failure to pay maintenance to his family following a separation from his wife between 1999 and 2004. He left Switzerland in 2008 when an expulsion order against him had finally been upheld in October 2007. Having been granted a fresh residence permit in February 2013, he has, however, since returned to Switzerland where he lives with and supports his wife and children. Relying on Article 8 (right to respect for private and family life), Mr Palanci complains about the refusal of the authorities to extend his residence permit and the decision to expel him from Switzerland where he had lived and worked for 18 years and raised his family.

#### [Bayar v. Turkey \(no. 1\) \(no. 39690/06\)](#)

#### [Bayar v. Turkey \(no. 2\) \(no. 40559/06\)](#)

#### [Bayar v. Turkey \(no. 3\) \(no. 48815/06\)](#)

#### [Bayar v. Turkey \(no. 4\) \(no. 2512/07\)](#)

#### [Bayar v. Turkey \(no. 5\) \(no. 55197/07\)](#)

#### [Bayar v. Turkey \(no. 6\) \(no. 55199/07\)](#)

#### [Bayar v. Turkey \(no. 7\) \(no. 55201/07\)](#)

#### [Bayar v. Turkey \(no. 8\) \(no. 55202/07\)](#)

The applicant, Hasan Bayar, is a Turkish national who was born in 1982 and lives in Berne. These eight cases concern the inability of an editor-in-chief who was convicted of publishing declarations from an illegal armed organisation to lodge an appeal with the Court of Cassation. Mr Bayar is editor-in-chief of the *Ülkede Özgür Gündem* daily newspaper, based in Istanbul. In June, July, August and September 2004 the newspaper published a series of articles expressing, in various ways, the positions of the PKK (the Kurdistan Workers' Party), as well as statements by its leaders, or transmitting appeals from prisoners to the Turkish Government to negotiate with Mr Öcalan, the PKK leader, and describing events linked to Mr Öcalan's incarceration. After the publication of each article, the public prosecutor charged Mr Bayar and the proprietor of the newspaper with spreading propaganda via the press and publishing material from an illegal armed organisation. On each occasion Mr Bayar and the newspaper proprietor were ordered to pay a fine. Mr Bayar appealed to the Court of Cassation against each of these decisions. The appeals were declared inadmissible in respect of Mr Bayar on the grounds that under the Code of Criminal Procedure in force at the time, if the fine imposed did not exceed 2,000 Turkish liras (TRY), no appeal lay to the Court of Cassation against the decision in question. Only the decisions concerning the proprietor of the newspaper (relating to fines of over TRY 2,000) were quashed and revised or set aside, and some are still pending in the Court of Cassation. Relying on Articles 6 (right to a fair trial) and 10 (freedom of expression), Mr Bayar complains that the Court of Cassation wrongfully declared his appeals inadmissible and that the findings against him breached his right to freedom of expression.

**Karahan v. Turkey (no. 11117/07)**

The applicant, Fuat Karahan, is a Turkish national who was born in 1973 and lives in Mardin (Turkey). The case concerns Mr Karahan's allegation that he was a victim of police violence during a demonstration. On 2 April 2006, when confrontations broke out between the police and demonstrators, Mr Karahan was transported to hospital. The medical report drawn up after his examination stated that he was suffering from numerous injuries. The next day the police registered his statements as both a victim and a suspect. He pointed out that during the incidents between the security forces and the demonstrators he had been at home watching television. He states that the police broke the windows of his house, dragged him outside his front door and beat him up. He had time before passing out to recognise one police officer, namely I.K. On 5 April 2006 Mr Karahan lodged a complaint against the police officers in question alleging assault. Mr Karahan and I.K. both gave evidence during preliminary police investigations on 21 June 2006. I.K. contended that he had been sent to an address different to that of the victim's home. Two days later, statements by two of his colleagues confirmed his contentions. On 30 June 2006, permission to prosecute the police officers was refused. In July 2006 Mr Karahan challenged that decision, but it was upheld by the administrative court in September 2006. Relying on Articles 3 (prohibition of inhuman and degrading treatment) and 13 (right to an effective remedy), Mr Karahan complains that he was a victim of police violence during a demonstration in which he alleges he did not take part, and that he had no access to an effective remedy in respect of his complaint.

**Repetitive cases**

The following cases raise issues which have already been submitted to the Court.

**Memishaj v. Albania (no. 40430/08)**

This case concerns the non-enforcement of a final domestic decision ordering the applicant's reinstatement to his job as an accountant for Tirana City Hall. The applicant relies on Article 6 § 1 (right to a fair hearing), Article 13 (right to an effective remedy), and Article 1 of Protocol No. 1 (protection of property).

**Biasucci and Others v. Italy (nos. 3601/08, 3615/08, 3645/08, 3705/08, 3708/08, 5340/08, 5345/08, 6628/08, and 6642/08)**

These cases concern the transfer of personnel from the local civil service to the State civil service without their periods of service in the original local authorities being recognised. Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicants complain of a change to legislation during the related proceedings which they consider infringed their right to a fair hearing.

**Banaszkowski v. Poland (no. 40950/12)**

This case concerns the provision of an escort by prison officers for an applicant serving a sentence who had obtained permission from the prison governor to attend his mother's funeral. The applicant rejected this proposal because, in his view, it would have prevented close personal contact with his family; in his own view he did not present a risk to public order, and he therefore refrained from attending the ceremony. Mr Banaszkowski complains of an infringement of his right to respect for his family life as secured under Article 8.

**Bryda v. Poland (no. 1902/05)**

This case concerns the applicant's complaint about the revocation of her early retirement pension (the so-called "EWK" pension) which she was awarded to care for her son, whose state of health required her constant care. She relies in particular on Article 1 of Protocol No. 1 (protection of property).

**Petroiu v. Romania (no. 33055/09) – Just Satisfaction**

This case concerned an action for recovery of property. In its principal judgment of 24 November 2009 the Court held that there had been a violation of Article 1 of Protocol No. 1 (protection of property) and reserved the question of just satisfaction. The Court will deal with this question in its judgment of 24 March 2014.

**Length-of-proceedings cases**

In the following cases, the applicants complain in particular about the excessive length of (non-criminal) proceedings.

**Abbas v. Hungary (no. 36124/10)**

**Barna v. Hungary (no. 35364/09)**

**Bartha v. Hungary (no. 33486/07)**

**Bodor v. Hungary (no. 81099/12)**

**Kulcsár v. Hungary (no. 22434/08)**

**Lakat v. Hungary (no. 54289/09)**

**Lambertné Bársony v. Hungary (no. 48689/10)**

**Rakssányi v. Hungary (no. 40478/10)**

**Sára Anna Kovács v. Hungary (no. 62552/10)**

**Walch v. Hungary (no. 13711/09)**

**Ware v. Hungary (no. 8982/10)**

Thursday 27 March 2014

**Just satisfaction****[Kummer v. the Czech Republic \(no. 32133/11\)](#)**

The applicant, Vladimír Kummer, is a Czech national who was born in 1956 and lives in Aš (Czech Republic). The case concerned Mr Kummer's allegation that he had been ill-treated in police custody following his arrest for not having his identity papers on him when he was on his way back home from a bar. He alleged in particular that he had been shackled to an iron ring inside the police cell and stretched and that the ensuing investigation into his allegations had been inadequate. In its [principal judgment](#) of 25 July 2013 the Court found two violations of Article 3 (degrading treatment and ineffective investigation into the allegations of ill-treatment in police custody) and held that the question of the application of Article 41 (just satisfaction) was not ready for decision and reserved it. The Court will deal with this question in its judgment on 27 March 2014.

**[Müller v. Germany \(no. 54963/08\)](#)**

The applicant, Roger Müller, is a German national who was born in 1958 and is currently serving a life sentence in Schwalmstadt prison (Germany). The case concerns the German courts' refusal to grant his request for probationary release in decisions of September 2007 and October 2007. Having been convicted of murder and negligent bodily injury and sentenced to life imprisonment in 1984, Mr Müller has been imprisoned ever since. While serving his sentence in a semi-custodial regime from November 1995 until March 1997, he was suspected of having caused bodily harm to a female acquaintance in January 1997 while on prison leave. In 1999 he was acquitted of the related charges. Relying on Article 6 § 2 (presumption of innocence), Mr Müller complains that the court decisions rejecting his request for probationary release disrespected the presumption of innocence, since they took the alleged violent incident of January 1997 into consideration for assessing his dangerousness, even though he had been acquitted.



### [Erfar-Avef v. Greece \(no. 31150/09\)](#)

The applicant, Erfar-Avef, is a pharmaceutical company which was set up in 1991 by G. Hadjioannou and is based in Pikermi, Athens (Greece). The case concerns the length of civil proceedings and an alleged violation of the right to a fair hearing, whereby the applicant company contends that the court of appeal provided insufficient reasons for its judgment and the Court of Cassation dismissed its appeal on excessively formalistic grounds. The national bank ETVA had sold a plot of land with a pharmaceutical factory to Mr Hadjioannou under a contract concluded in February 1986. He had made a down-payment on the selling price, the remainder being treated as a bank loan to be repaid by instalments. The land and the factory were subsequently mortgaged to the bank. Mr Hadjioannou later found himself unable to comply with the terms of the contract, which was consequently renegotiated several times between 1990 and 1993. After Mr Hadjioannou's death in 1995, the applicant company contested the extent of the debts claimed by the bank. In October 1999 the company lodged two objections with the Greek courts. Its claims having been dismissed at first instance in March 2001 and then on appeal in August 2006, it went on to lodge an appeal with the Court of Cassation. The latter gave a judgment in December 2008 dismissing the appeal. In April 2009 the applicant company initiated declaratory proceedings seeking recognition that all the bank's claims had been met and cancellation of all the mortgages on the property. The outcome of these proceedings is unknown. Relying on Article 6 § 1 (right of access to a court / right to a fair hearing), the applicant company complains that the court of appeal did not specify the *raisons* why the conditions for the application of the legislation on which it relied were not met in this particular case. It also complains that the Court of Cassation dismissed its appeal on the ground that the argument relating to the application of this legislation had only been submitted to the court of appeal, whereas it could not have done otherwise because the legislation in question had been enacted after its initial objection had been lodged.

### [Matytsina v. Russia \(no. 58428/10\)](#)

The applicant, Veronika Matytsina, is a Russian national who was born in 1971 and lives in Khabarovsk (Russia). As an instructor with a non-profit association called "The Art of Living" she conducted a course named "the healing breath workshop" in 2002, which included elements of yoga, breathing techniques, mantra singing and meditation. The case concerns criminal proceedings on charges of "illegal medical practice", which were brought against her after one of the regular participants in the course had started experiencing serious psychological problems and had been repeatedly hospitalised. In 2007, Ms Matytsina was acquitted, but the judgment was quashed on appeal and, in a judgment eventually upheld in March 2010, she was found guilty as charged and sentenced to two years' imprisonment. Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), she complains in particular that the defence was unable to question the alleged victim in the proceedings and that expert opinions suggested by the defence were rejected by the courts. She further relies on Article 7 (no punishment without law), complaining that her conviction was unpredictable as it was based on legislation adopted after the events in question.

### [W.H. v. Sweden \(no. 49341/10\)](#)

The case concerns the deportation of a failed-asylum seeker from Sweden to Iraq. The applicant, W.H., is an Iraqi national who was born in 1978 and currently lives in Sweden. She is originally from Baghdad and is of Mandaean denomination. She arrived in Sweden in August 2007 and subsequently claimed asylum. Her request was examined by the Migration Board and Migration Court and ultimately rejected in 2010 on the ground that she was not in need of protection in Sweden. Relying on Article 3 (prohibition of inhuman or degrading treatment), W. H. alleges that, a divorcee belonging to a small, vulnerable ethnic/religious minority, she would be at real risk of inhuman and degrading treatment if returned to Iraq. She submits in particular that, without a male network or

any remaining relatives in Iraq, she would be at risk of persecution, assault, rape, forced conversion to another religion and forced marriage.

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