EUROPEAN COURT OF HUMAN RIGHTS

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HEARINGS IN JUNE

The European Court of Human Rights will be holding the following **six** hearings in **June 2008**:

Wednesday 11 June: **9 a.m.**

Grand Chamber[1]

Gorou v. Greece (No. 2) (application no. 12686/03)

The applicant, Anthi Gorou, is a Greek national who was born in 1957 and lives in Brussels. She is a civil servant in the employ of the Ministry of Education. In 1998 she lodged a complaint and a civil claim against her hierarchical superior, alleging perjury and defamation.

The applicant complains that insufficient reasons were given for the decision by means of which the public prosecutor rejected her application for leave to appeal on points of law in September 2002. In addition, she complains of the length of the proceedings. She relies on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights.

In its judgment of 14 June 2007, the European Court of Human Rights held by four votes to three that there had been no violation of Article 6 § 1 of the Convention as regards the allegation that the proceedings had been unfair, and unanimously that there had been a violation of Article 6 § 1 as regards the length of the proceedings, namely more than four years and three months at one level of jurisdiction.

On 12 November 2007, the case was referred to the Grand Chamber at the applicant's request.

Tuesday 17 June: **9 a.m.**

Chamber hearing on the admissibility and the merits

[1] Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Polish Autocephalous Orthodox Church v. Poland (no. 31994/03)

The applicant, the Polish Autocephalous Orthodox Church (*Polski Autokefaliczny Kościół Prawosławny*), is established in Warsaw. It is the second largest denomination in Poland, after the Catholic Church, in terms of the number of members.

The applicant Church runs 24 places of worship which are the object of a dispute between it and the Ukrainian Greek Catholic Church (*Kosciół Katolicki obrządku bizantyńsko-ukraińskiego*).

The case concerns the applicant Church's complaints regarding ownership of those 24 places of worship.

In February 2002 the applicant Church asked the Constitutional Court to examine the compatibility with the Constitution of various provisions of the Law of 4 July 1991 on relations between the Polish State and the Polish Autocephalous Orthodox Church. The law provided for the acquisition by the Church of the buildings in its possession at the time of entry into force of the law, but made an exception in respect of buildings held by the applicant Church which had previously been the property of the Ukrainian Greek Catholic Church. The acquisition of those buildings was to be covered by a special law, but it was never passed. Before the Constitutional Court the applicant Church alleged breaches of constitutional principles such as the rule of law, equality between churches and religious associations, equality before the law and the protection of property in general.

On 2 April 2003 the Constitutional Court dismissed the appeal, pointing out, among other things, that the process of settling matters concerning the ownership of churches and properties belonging to religious communities had begun in 1989 with the Law on relations between the State and the Catholic Church. Where the applicant Church was concerned, the Constitutional Court, referring to the preparatory work on the Law, noted that the initial draft had made no provision for any exception to the granting of ownership rights. The proposal to defer the matter was made by the Senate and adopted in the final vote. In July 2003 the Constitutional Court refused to reopen the proceedings.

Relying on Articles 6 (right to a fair hearing), 9 (right to freedom of thought, conscience and religion) and 13 (right to an effective remedy), the applicant Church complains about the decision of 2 April 2003, which it claims infringes the right of members of the Polish Autocephalous Orthodox Church to practise their religion peacefully. The applicant Church alleges that one place of worship was taken from it and acquired by the Catholic Church by adverse possession, and denounces the legal uncertainty surrounding the status of the 24 buildings in dispute. Under Article 14 (prohibition of discrimination) of the Convention and Article 1 of Protocol No. 1 (protection of property) the applicant maintains that the right of other religious groupings to respect for their property was guaranteed in full, whereas the applicant Church enjoyed only limited guarantees in respect of the property in its possession. It objects to the fact that the Catholic Church was granted title to its properties by the Law on relations between the Polish State and the Catholic Church, whereas a comparable Law on relations between the Polish State and the Polish Autocephalous Orthodox Church subjected that Church's ownership rights to the enactment of a special law.

Wednesday 18 June: **9 a.m.**

Grand Chamber[1]

Bykov v. Russia (no. 4378/02)

The applicant, Anatoliy Petrovich Bykov, is a Russian national who was born in 1960 and lives in Krasnoyarsk (Russia). He was chairman of the board of the Krasnoyarsk Aluminium Plant from 1997 to 1999. At the time of his arrest in October 2000 he was a major shareholder and an executive of a corporation called OAO Krasenergomash-Holding and a founder of a number of affiliated firms. He was also a member of the Krasnoyarsk Regional Parliamentary Assembly.

In September 2000 Mr Bykov allegedly ordered V., a member of his entourage, to kill Mr S., the applicant's former business associate. V. did not comply with the order, but on 18 September 2000 he reported the applicant to the Federal Security Service ("the FSB").

The FSB and the police decided to conduct a covert operation to obtain evidence of the applicant's intention to murder S. On 29 September 2000 the police staged the discovery of two dead bodies at S.'s home. They officially announced in the media that one of those killed had been identified as S. The other man was his business partner, Mr I.

On 3 October 2000, V. went to see the applicant at his home. He carried a hidden radio-transmitting device while a police officer outside received and recorded the transmission. Following the instructions he had been given, V. engaged the applicant in conversation, telling him that he had carried out the murder. As proof of his accomplishment he handed the applicant several objects borrowed from S. and I. The police obtained a 16-minute recording of the conversation between V. and the applicant.

On 4 October 2000 the applicant's house was searched. The objects V. had given him were seized. The applicant was arrested and remanded in custody. He was charged with conspiracy to commit murder and conspiracy to acquire, possess and handle firearms.

The applicant's pre-trial detention was prolonged several times and his numerous appeals and requests for his liberation were rejected because of the gravity of the charges against him and the risk that he might abscond and bring pressure to bear on the witnesses.

Two voice experts were appointed to examine the recording of the applicant's conversation with V. They found that V. had shown subordination to the applicant, that the applicant had shown no sign of mistrusting V.'s confession to the murder and that he had insistently questioned V. on the technical details of its execution. They established that V. and the applicant had a close relationship and that the applicant played an instructive role in the conversation.

On 19 June 2002 the applicant was found guilty on both counts and sentenced to six and a half years' imprisonment. He was conditionally released on five years' probation. The sentence was upheld on appeal on 1 October 2002.

On 22 June 2004 the Supreme Court of the Russian Federation examined the case in supervisory proceedings. It found the applicant guilty of "incitement to commit a crime

involving a murder", and not "conspiracy to murder". The rest of the judgment, including the sentence, remained unchanged.

Relying on Article 5 § 3 (right to liberty and security), the applicant alleges that his pre-trial detention was excessively long and that it was successively extended without any indication of relevant and sufficient reasons. Under Article 6 § 1 (right to a fair trial), he complained of the unfairness of the proceedings against him, the police having set a trap to trick him into incriminating himself in his conversation with V. and the court having allowed the recording of the conversation as evidence in the trial. The applicant also complains that the covert operation involved an unlawful intrusion into his home and that the interception and recording of his conversation with Mr V. amounted to interference with his private life and his correspondence, in violation of Article 8 (right to respect for private and family life).

The Chamber to which the case was assigned decided to relinquish jurisdiction to the Grand Chamber on 22 November 2007.

Thursday 19 June: **9 a.m.**

Chamber hearing on the admissibility and merits

Association of Citizens "Radko" and Paunkovski v. the former Yugoslav Republic of Macedonia (no. 74651/01)

The applicants are the Association of Citizens "Radko", and its Chairman, Boris Paunkovski, a Macedonian and Bulgarian national, who was born in 1954 and lives in Ohrid (the former Yugoslav Republic of Macedonia).

The case concerns the dissolution of the applicant association for being unconstitutional and for inciting national or religious hatred and intolerance.

The association, named after Ivan Mihajlov-Radko (leader of the Macedonian Liberation Movement from 1925 to 1990), was officially registered in May 2000. Its articles of association defined it as an independent, non-political and public organisation with the aim of "popularising the objectives, tasks and ideas of the Macedonian Liberation Movement" and/or promoting "the Macedonian cultural space and traditional, ethical and human values". A leaflet describing the association's activities referred, in particular, to the struggle of Bulgarians from Macedonia. The association intended to achieve those aims through its own newspaper, publications, library and website and by organising seminars, conferences and forums.

There was a high-profile campaign in the media against the association, both before and after its official launch on 27 October 2000. Daily newspapers accused the association of fostering terrorism and fascism as advocated by Hitler's collaborator, Vančo Mihajlov (otherwise known as Ivan Mihajlov-Radko). In particular, the then President of the former Yugoslav Republic of Macedonia, Boris Trajkovski, allegedly stated to the press that "there is no place here for a man who claims that Macedonians are (ethnic) Bulgarians".

In October 2000 three lawyers from Skopje, a political party and the Association of War Veterans from the Second World War filed a petition with the Constitutional Court which

challenged the constitutionality of the association's articles and programme and the lawfulness of the decision to register the association.

On 21 March 2001 the Constitutional Court annulled the association's articles and programme as their aims involved the violent destruction of the constitutional order and incitement to national or religious hatred and intolerance.

On 16 January 2002 Ohrid Court of First Instance dissolved the association. On 11 February 2002 that decision was upheld on appeal.

The applicants complain about the Constitutional Court's decision, claiming that their activities, articles and programme did not advocate violence or the use of anti-democratic or unconstitutional means. They rely on Article 11 (right to freedom of association). Mr Paunkovski further relies on Article 10 (right to freedom of expression), complaining that the dissolution of the association took away from him the possibility to express his views on the ethnic origin of certain segments of the population and that the then President had been referring to him in his statement to the media.

Wednesday 25 June: **9 a.m.**

Grand Chamber[1]

Andrejeva v. Latvia (no. 55707/00)

The applicant, Natālija Andrejeva, was born in 1942 and lives in Riga (Latvia). She has lived in Latvia for 54 years and, previously a national of the former USSR, now has the status of a permanently resident non-citizen (*nepilsone*) of Latvia. Now retired, she was employed in a recycling plant at Olaine chemical complex, formerly a public body under the authority of the USSR's Ministry for the Chemical Industry. The complex is situated in what was USSR territory and is now Latvian territory following the restoration in August 1991 of Latvian independence.

The case concerns, in particular, the applicant's complaint that application of the transitional provisions of the Latvia State Pensions Act in her case has deprived her of pension entitlements in respect of 17 years' employment.

The applicant first entered Latvian territory in 1954, at the age of 12, at a time when it was part of the Soviet Union**.** She has been a permanent resident ever since. She started her job at the Olaine chemical complex in 1966. In 1973 she was assigned to the regional division of the Environmental Protection Monitoring Department of the USSR's Ministry for the Chemical Industry and, until 1981, was under the authority of a State-run company, with its head office in Kiev. She was subsequently placed under the authority of a subdivision of the same company, which was subordinate to a division with its head office in Moscow. Although the applicant's salary was paid by post-office giro transfer, initially from Kiev and then from Moscow, her successive reassignments did not entail any significant change in her working conditions, as she continued her duties at the Olaine recycling plant.

Following the declaration of Latvia's independence, on 21 November 1990 the Environmental Protection Monitoring Department was abolished and the applicant came under the direct authority of the plant's management.

On retiring in 1997 the applicant asked her local district Social Insurance Board to calculate her retirement pension. She was informed that, in accordance with paragraph 1 of the transitional provisions of the State Pensions Act, only periods of work in Latvia could be taken into account in calculating the pensions of foreign nationals or stateless persons resident in Latvia on 1 January 1991. As the applicant had been employed from 1 January 1973 to 21 November 1990 by entities based in Kiev and Moscow, the Board calculated her pension solely in respect of the time she had worked before and after that period. As a result, she was awarded a monthly pension of 20 lati (approximately 35 euros (EUR)).

The applicant brought administrative and judicial proceedings, without success. Ultimately, the applicant's appeal on points of law to the Senate of the Supreme Court, examined at a public hearing on 6 October 1999, was dismissed. The Senate upheld the district and regional courts' findings that the period during which the applicant had been employed by Ukrainian and Russian companies could not be taken into account in calculating her pension. Furthermore, as those employers were not taxpayers in Latvia, there was no reason for the applicant to be covered by the Latvian mandatory social-insurance scheme.

The applicant requested her case to be re-examined because she had been unable to take part in the hearing of 6 October 1999 as it had started earlier than scheduled. That request was also dismissed.

In February 2000 the applicant was informed that, on the basis of an agreement reached between Latvia and Ukraine, her pension had been recalculated, with effect from 1 November 1999, to take account of the years she had worked for her Ukrainian-based employers.

Relying on Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1 (protection of property), the applicant complains that application of the transitional provisions of the State Pensions Act, in that they impose a nationality condition for periods of service outside Latvia to be taken into account, constitutes discrimination which has deprived her of pension entitlements in respect of 17 years' employment. She also complains, in particular, that the hearing of 6 October 1999 was held earlier than scheduled, which prevented her from taking part in the examination of her appeal on points of law, in breach of Article 6 § 1 (right to a fair hearing).

The Chamber to which the case was assigned decided to relinquish jurisdiction to the Grand Chamber on 11 December 2007.

Thursday 26 June: **9 a.m.**

Chamber hearing on the merits

TV Vest AS & Rogaland Pensjonistparti v. Norway (no. 21132/05)

The applicants are TV Vest AS Ltd. – a television company in Stavanger, Rogaland, on the west coast of Norway – and the regional branch of a Norwegian political party, the Rogaland Pensioners Party (*Rogaland Pensjonistparti*).

The case concerns a fine imposed on TV Vest for showing adverts for the Pensioners Party without authorisation prior to the local and regional elections of 2003.

On 12 August 2003 TV Vest notified the State Media Administration (*Statens medieforvaltning*) of its intention to air three, 15-second adverts seven times a day over an eight-day period for the Pensioners Party.

The broadcasts were shown between 14 August and 13 September 2003 at a cost of 30,000 Norwegian kroner (NOK) (approximately EUR 3,730) to the party.

On 27 August 2003 the Media Administration warned TV Vest that they could be fined for breaching the prohibition on political advertising on television, imposed under section 10-3 of the Broadcasting Act 1992 and section 10-2 of the Broadcasting Regulation. TV Vest nevertheless continued with the broadcasts, arguing that it was a question of freedom of expression and that the Pensioners Party would otherwise be denied fair media exposure.

On 10 September 2003 the Media Administration fined TV Vest NOK 35,000 (approximately EUR 4,351) for breaching the prohibition on political advertising. TV Vest appealed against the decision to Oslo City Court, submitting that the relevant provisions were incompatible with the right to freedom of expression guaranteed by Article 100 of the Norwegian Constitution and Article 10 of the European Convention on Human Rights. Its appeal was rejected.

TV Vest then appealed unsuccessfully to the Supreme Court (*Høyesterett*) which found, among other things, that allowing political parties and interest groups to advertise on television would give richer parties and groups more scope for marketing their opinions than their poorer counterparts. The court also maintained that the Pensioners Party had many other means available to put across its message to the public.

The applicants complain about the fine imposed on TV Vest, relying on Article 10 (right to freedom of expression).

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Decisions, judgments and further information about the Court can be found on its Internet site (http://www.echr.coe.int)[2].

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[2] These summaries by the Registry do not bind the Court.

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.*