

EUROPEAN COURT OF HUMAN RIGHTS

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FORTHCOMING CHAMBER JUDGMENTS

6, 7 and 9 November 2006

The European Court of Human Rights will be notifying in writing one Chamber judgment on Monday 6 November 2006, nine on Tuesday 7 November 2006 and 24 on Thursday 9 November 2006.

Press releases and texts of the judgments will be available at **11 a.m.** (local time) on the Court's Internet site (<http://www.echr.coe.int>).

Monday 6 November 2006

Kovačić and Others v. Slovenia (application nos. 44574/98, 45133/98 and 48316/99)

The applicants are three Croatian nationals. Ivo Kovačić (now deceased) was born in 1922 and lived in Zagreb. Marjan Mrkonjić was born in 1941 and lives in Zurich. Dolores Golubović (now deceased) was born in 1922 and lived in Karlovac (Croatia). The Court accepted that the applications of Mr Kovačić and Ms Golubović could be pursued by their heirs.

Before the dissolution of the Socialist Federal Republic of Yugoslavia, the applicants or their relatives all deposited hard foreign currencies in savings accounts with the office of a Slovenian bank – the Ljubljana Bank – in Zagreb (Croatia).

The applicants complain that they had not been able to withdraw the money from those accounts. Mr Kovačić also complains that he had been discriminated against on the grounds of nationality, as Slovenian account holders had been allowed to withdraw their savings.

They rely on Article 1 of Protocol No. 1 (protection of property) to the European Convention on Human Rights and Article 14 (prohibition of discrimination) of the Convention.

Tuesday 7 November 2006

Mamère v. France (no. 12697/03)

The applicant, Noël Mamère, is a French national who was born in 1948 and lives in Paris. He is a leading member of the ecologist party “Les Verts”, a member of parliament and Mayor of Bègles.

In October 1999 the applicant took part in the television programme “*Tout le monde en parle*” (Everyone's talking about it) presented by Thierry Ardisson. During the programme the applicant, referring to the Chernobyl disaster, said that a Mr Pellerin (then director of the

Central Service for Protection against Ionising Radiation, a service responsible to a Government minister) was a sinister character and criticised him for announcing that the radioactive cloud would not cross France's borders.

The publication director of France 2 and the applicant were found guilty of criminal libel, fined and ordered to pay damages. The Court of Cassation dismissed an appeal on points of law in October 2002.

The applicant submits that his conviction for libelling a civil servant breached Article 10 (freedom of expression).

Holomiov v. Moldova (no. 30649/05)

The applicant, Victor Holomiov, is a Moldovan national who was born in 1955 and lives in Chişinău.

The applicant was arrested on 24 January 2002 on suspicion of having aided and abetted bribery. He remained in detention for more than four years.

The applicant alleges that he was detained in inhuman and degrading conditions of detention and that he was not provided with proper medical care. He further complains that he was detained unlawfully after his detention warrant expired. Finally, he complains about the length of the criminal proceedings against him. He relies on Article 3 (prohibition of inhuman or degrading treatment), Article 5 § 1 (right to liberty and security) and Article 6 § 1 (right to a fair trial within a reasonable time).

Hass v. Poland (no. 2782/04)

The applicant, Ryszard Hass, is a Polish national who was born in 1976 and lives in Torún (Poland).

On 15 November 2001 the applicant was arrested on suspicion of having committed several car thefts. He was remanded in custody until 18 August 2004. The proceedings against him are still pending.

The applicant complains about the length of his pre-trial detention. He relies on Article 5 § 3 (right to liberty and security).

Šmál v. Slovakia (no. 69208/01)

The applicant, Tibor Šmál, is a Slovakian national who was born in 1966 and lives in Příbovce (Slovakia).

On 10 December 1996 he was accused of illegally possessing arms, an offence for which he was later convicted and given a 6 months' suspended sentence. The judgment was upheld by the Supreme Court on 30 January 2002.

The applicant complains about the length of the criminal proceedings. He relies on Article 6 § 1 (right to a fair trial within a reasonable time).

Length-of-proceedings cases

In the following cases the applicants complain of the excessive length of civil or administrative proceedings.

Molander v. Finland (no. 10615/03)

Azjert v. Hungary (no. 18328/03)

Łukjaniuk v. Poland (no. 15072/02)

Romejko v. Poland (no. 74209/01)

Sekułowicz v. Poland (no. 64249/01)

Thursday 9 November 2006

Krone Verlags GmbH & Co KG v. Austria (No. 4) (no. 72331/01)

The applicant, Krone Verlags GmbH & Co KG, is a limited liability company with its registered office in Vienna. It is the owner of the daily newspaper *Neue Kronenzeitung*.

An article in the newspaper contained a statement for which its author was later convicted of defamation.

The applicant company complains about the conviction, relying on Article 10 (freedom of expression).

Stojakovic v. Austria (no. 30003/02)

The applicant, Milenko Stojakovic, is an Austrian national who was born in 1944 and lives in Linz (Austria). He was the head of the Federal Bacteriological Serological Research Institute in Linz.

In November 1999 the Disciplinary Commission at the Ministry for Work, Health and Social Affairs found him guilty of making sexually harassing statements about some of his employees. The applicant appealed but his complaint was dismissed. In the meantime, he was transferred to a post with a lower grade and lower pay. He appealed unsuccessfully.

The applicant complains about the lack of a public oral hearing before a tribunal. He relies on Article 6 § 1 (access to a court)

Leempoel & S.A. ED. Ciné Revue v. Belgium (no. 64772/01)

The applicants are the publishing house S.A. Editions Ciné Revue, a company incorporated under Belgian law, based in Brussels, and its publisher, Marcel Leempoel, a Belgian national who was born in 1924 and lives in Brussels.

The case concerns the withdrawal from sale and prohibition of distribution of the issue of the magazine *Ciné Télé Revue* which printed the notes an investigating judge had made in preparation for his appearance before the parliamentary committee set up to inquire into the Dutroux case¹.

The applicants submit that their conviction breached Article 10 (freedom of expression). In addition, they contend that Article 25 of the Belgian Constitution, which prohibits censorship

¹ In the 1990s the “Dutroux case” gave rise in Belgium to criminal proceedings against a number of people suspected of paedophilia. In 2004 the principal defendant, Marc Dutroux, was found guilty of kidnapping, unlawfully imprisoning, raping and murdering a number of girls and was sentenced to life imprisonment.

of the press, affords more protection than Article 10 of the Convention, and that accordingly its application should be guaranteed by Article 53 of the Convention (safeguard for existing human rights).

Tanko Todorov v. Bulgaria (no. 51562/99)

The applicant, Tanko Zaprianov Todorov, is a Bulgarian national who was born in 1976 and lives in Chalakovi (Bulgaria).

On 11 December 1997 the applicant was arrested and the next day he was charged with murder and detained on remand. He made various appeals for release but they were dismissed. He was eventually acquitted on 3 December 2001 and released. He was ultimately found guilty of the murder and sentenced to 17 years' imprisonment.

The applicant complains about the length and lawfulness of his detention. He relies on Article 5 §§ 3 (right to liberty and security).

Tengerakis v. Cyprus (no. 35698/03)

The applicant, Byron Tengerakis, is a Cypriot national who was born in 1930 and lives in Cuxhaven (Germany).

The applicant is a shareholder of M.T.V Cosmetics Ltd, a company registered under Cypriot law. From 29 January 1992 onwards he was involved in a number of civil proceedings concerning that company.

The applicant complains about the length and the fairness of those proceedings. He relies on Article 6 § 1 (right to a fair hearing within a reasonable time).

Sacilor-Lormines v. France (no. 65411/01)

The applicant, the Société des Mines de Sacilor-Lormines, is a joint stock company which has been in voluntary liquidation since March 2000.

The company is a subsidiary of Usinor set up in 1978 to take over the concessions and mining leases of the Sacilor iron ore mines in Lorraine. It later took over other concessions with the result that on the date when it announced that it was to cease mining operations, it held 63 iron ore mining concessions in Lorraine. As demand for the applicant company's phosphoric pig iron had slowly dwindled away, it decided in 1991 to halt production.

With a view to the complete cessation of its activity, the applicant company brought administrative proceedings to surrender the concessions which it held, and as part of the surrender process numerous regulatory measures, all contested in the French courts, were imposed on it. The applicant company also lodged numerous applications seeking annulment of the refusal by the Minister responsible for mining to accept its surrender of several concessions.

The applicant company alleges that the proceedings in the *Conseil d'Etat* were unfair because it is not an independent and impartial tribunal and because the Government commissioner (*commissaire du gouvernement*) participates, or at least is present, at the deliberations. It further complains of the length of the proceedings. It relies on Article 6 § 1 of the Convention (right to a fair trial).

Kaste and Mathisen v. Norway (nos. 18885/04 and 21166/04)

The applicants, Bård Kaste and Per Stian Tveten Mathisen, are Norwegian nationals who were born in 1970 and 1973 respectively and live in Oslo.

In March 2002 the applicants and three of their accomplices were convicted of possessing over 48 kg of amphetamines which they attempted to import from Germany into Norway. Mr Kaste was also convicted of illegally possessing a firearm. One of the accomplices was convicted in Germany. The four others appealed against their prison sentences before the High Court. At the appeal hearing one of the accomplice's depositions to the police were read out. Having invoked his right to remain silent the accomplice could not be cross-examined.

The applicants complain about the proceedings before the High Court. They rely on Article 6 §§ 1 (right to a fair trial) and 3(d) (right to obtain attendance and examination of witnesses).

Melinte v. Romania (no. 43247/02)

The applicant, Ciprian-Petru Melinte, is a Romanian national who was born in 1977 and lives in Iași (Romania).

He was remanded in custody in December 1998 on suspicion of raping a minor. In September 1999 he complained that he had been subjected to ill-treatment by the governor of Iași Prison between 1 and 7 July 1999. The proceedings thus instituted were discontinued in 2001.

In the meantime, in February 2000, the applicant was sentenced to seven years' imprisonment for rape of a minor. His conviction was upheld on appeal.

The applicant complains in particular that he was subjected to ill-treatment while detained in Iași Prison and that there was no effective investigation of his complaint, contrary to Article 3 (prohibition of inhuman and degrading treatment).

Imakayeva v. Russia (no. 7615/02)

The applicant, Marzet Imakayeva, is a Russian national who was born in 1951 and lived in Novye Atagi (Chechnya). In early 2004 she left for the United States of America, where she sought asylum.

Both her husband, Said-Magomed Imakayev, and her son, Said-Khuseyn, who was born in 1977, have disappeared. According to the applicant, her son was last seen on 17 December 2000 by neighbours who saw him being detained by Russian servicemen at a roadblock between the villages of Starye Atagi and Novye Atagi. In February 2002 the applicant and her husband lodged a complaint with the European Court of Human Rights concerning the disappearance of their son.

On 2 June 2002 her husband was taken away after an early morning raid on their home by about 20 servicemen in military camouflage uniform. She has heard no news of him since.

The applicant alleges, in particular, that her son and her husband were unlawfully killed by State agents and that the circumstances of their disappearance were not adequately investigated. She complains about the suffering which the disappearances have caused her. She relies on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment) 5 (right to liberty and security), 8 (right to respect for private and family life) and 13 (right to

an effective remedy), 34 (right of individual petition) and 38 § 1 (a) (obligation to furnish necessary facilities for the examination of the case).

Luluyev v. Russia (no. 69480/01)

The application was brought by the late Nura Said-Alviyevna Luluyeva's son, Turko Saidalviyevich Luluyev (born in 1979), her husband, Saidalvi Saidalimovich Luluyev (born in 1954), three of her other children (born in 1983, 1989 and 1995) and five other close members of her family. They are all Russian nationals and live in Gudermes (Chechnya).

On 3 June 2000 a group of servicemen appeared at the market where Nura Luluyeva worked and detained her along with several other people including two of her cousins. Her body and the bodies of her cousins were found in a mass grave in February 2001.

The applicants allege that their relative, Nura Luluyeva, had been unlawfully arrested, tortured and killed by the domestic authorities and that there had been no effective investigation into those events. They rely, in particular, on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 5 (right to liberty and security) 6, (right to a fair hearing within a reasonable time, 8 (right to family life and correspondence), 13 (right to an effective remedy) and 14 (prohibition on discrimination).

Düzgören v. Turkey (no. 56827/00)

The applicant, Koray Düzgören, is a Turkish national who was born in 1947 and lives in London. He is a journalist.

In June 1998 he was indicted by the military public prosecutor at the General Staff Court in Ankara for inciting others to evade military service after he had been found distributing leaflets outside Ankara State Security Court. He had also handed the leaflet to the public prosecutor at the court together with a petition stating that he should be prosecuted for having committed a crime. He was subsequently sentenced to two month's imprisonment and fined.

The applicant complains, in particular, that the General Staff Court which tried him could not be regarded as an independent and impartial tribunal, given the presence of two military judges and an officer on the bench. He further complains that his criminal conviction had infringed his right to freedom of expression. He relies on Article 6 § 1 (right to a fair trial) and Article 10 (freedom of expression) and Article 13 (effective remedy).

Kavak v. Turkey (no. 69790/01)

The applicant, Mehmet Cemal Kavak, is a Turkish national who was born in 1966 and lives in Istanbul. At the material time he was the chairman of the local section of HADEP (the People's Democracy Party) in Bayrampaşa (Istanbul).

At an extraordinary general meeting called by HADEP in Istanbul in December 1997 the applicant made a speech at the end of which he is said to have shouted: "Long live the PKK!" (*Biji PKK*), while making the victory sign with his hand. On 19 October 1999 Istanbul State Security Court sentenced him to three years and nine months' imprisonment for lending aid and assistance to the PKK.

Relying on Article 6 (right to a fair trial), the applicant complains that the proceedings against him were unfair. He further alleges the violation of Articles 9 (right to freedom of conscience) and 10 (freedom of expression).

Tavli v. Turkey (no. 11449/02)

The applicant, Kazım Tavlı, is a Turkish national who was born in 1962 and lives in Dortmund (Germany).

In September 1981, soon after his wife gave birth, the applicant filed an action for rejection of paternity. His claim however was dismissed, the court relying in particular on the results of a blood test which concluded that he was the child's father. In March 1999 he undertook a DNA test which proved that he was not the father. He was, nevertheless unable to have the previous decision rectified.

The applicant complains that although he had the scientific evidence to the effect that he is not the father of the child born to his former wife, he could not have the issue determined by a court. He relies on Article 8 (right to respect for private and family life).

Belukha v. Ukraine (no. 33949/02)

The applicant, Zoya Nikolayevna Belukha, is a Ukrainian national who was born in 1957 and lives in Artemivsk (Ukraine).

In August 1997 she was transferred from her position of deputy director of the Joint Stock Company to the position of economist. On 17 September 1997 she instituted proceedings seeking reinstatement to her former post. During the proceedings she challenged the judge and the court, claiming that they lacked impartiality as the company had carried out work on the court's new building free of charge. The case was closed on 21 April 2003 when the Supreme Court rejected her request to appeal in cassation.

The applicant complains, about the length and the fairness of the proceedings. She relied, in particular, on Article 6 § 1 (right to a fair hearing within a reasonable time).

Repetitive cases

Suciu Arama v. Romania (no. 25603/02)

Ungureanu v. Romania (no. 23354/02)

Marilena ***Suciu Arama*** is a Romanian national who was born in 1942 and lives in Bucharest. In 1996 the applicant brought proceedings to establish her title to a block of flats in Bucharest which had been nationalised in 1950. The Romanian courts gave judgment in her favour, but in the meantime the State had sold one of the flats to the occupier. The applicant sought annulment of the contract of sale, but without success.

Andrei ***Ungureanu*** and Cornelia Mariana Ungureanu are Romanian nationals who were born in 1942 and 1945 respectively and live in New York. In 1993 the applicants brought proceedings to establish their title to a flat in Bucharest which had been confiscated in 1986. Their action was initially dismissed. When they brought a second action to recover the property the Romanian courts ordered the relevant administrative authority to return it. The applicants unsuccessfully sought annulment of the contract of sale by which the State had sold the flat to third parties.

In the above two cases the applicants allege that the sale of their property to third parties by the State, which had been validated by the Romanian courts, breached Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to a fair trial).

Volokitin v. Russia (no. 374/03)

The applicant, Konstantin Vladimirovich Volokitin, is a Russian national who was born in 1970 and lives in Novoaltaysk (Russia).

The applicant complains about the prolonged non-enforcement of a judgment given in his favour and that his right to the peaceful enjoyment of his possessions as guaranteed by Article 1 of Protocol No. 1 (protection of property) had been violated.

Bagriy and Krivanich v. Ukraine (no. 12023/04)

Fyodorov v. Ukraine (no. 43121/04)

Negrich v. Ukraine (no. 22252/02)

Vorona v. Ukraine (no. 44372/02)

The applicants are five Ukrainian nationals who complain about the lengthy non-enforcement of judgments in their favour. They rely on Article 6 § 1 (access to a court) and Article 1 of Protocol No. 1 (protection of property). In the case of ***Negrich v. Ukraine*** the applicant also relies on Article 8 (right to respect for private and family life), and the applicant in ***Vorona v. Ukraine*** also relies on Articles 2 (right to life) and 4 (prohibition of forced labour).

Length-of-proceedings cases

In the following cases the applicants complain under Article 6 § 1 (right to a fair hearing within a reasonable time) of the excessive length of civil proceedings. Relying on Article 13, the applicant in the case of ***Varacha v. Slovenia*** also claims that she had no effective remedy concerning her length-of-proceedings complaint.

Petan v. Slovenia (no. 66819/01)

Varacha v. Slovenia (no. 9303/02)

Vehbi Ünal v. Turkey (no. 48264/99)

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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.