

# EUROPEAN COURT OF HUMAN RIGHTS

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## FORTHCOMING CHAMBER JUDGMENTS

20 and 22 January 2009

The European Court of Human Rights will be notifying in writing 35 Chamber judgments on Tuesday 20 January 2009 and 11 on Thursday 22 January 2009.

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>).

Tuesday 20 January 2009

***Borsódy and Others v. Hungary*** (application no. 16054/06)

The applicants, Sándor Borsódy, Tibor Tóth and Károly Fodor are Hungarian nationals who were born in 1951, 1961 and 1956 respectively and live in Kiskunhalas (Hungary). The case concerns the applicants' complaints about the excessive length of criminal proceedings against them for soliciting prostitution. They rely on Article 6 § 1 (right to a fair trial within a reasonable time) of the European Convention on Human Rights.

***Csánics v. Hungary*** (no. 12188/06)

The applicant, Sándor Csánics, is a Hungarian national who was born in 1955 and lives in Érd (Hungary). The applicant is the chairman of the Trade Union of Value Transporters and Security Workers (*Értékszállítási és Őrzésvédelmi Dolgozók Szakszervezete*). Relying on Articles 10 (freedom of expression), 6 (right to a fair hearing) and 11 (freedom of assembly and association), the applicant complains about domestic court decisions ordering him to rectify assertions he had made in an interview concerning a demonstration organised by his trade union.

***Sud Fondi Srl and Others v. Italy*** (no. 75909/01)

The applicants, Sud Fondi srl, Mabar srl and Iema srl, are companies which have their registered offices in Bari (Italy), where they own land and buildings. Relying on Article 7 of the Convention (no punishment without law) and Article 1 of Protocol No.1 (protection of property), the applicant companies complain that their property was confiscated unlawfully.

***Zara v. Italy*** (no. 24424/03)

The applicant, Alfredo Zara, is an Italian national who was born in 1960. He is currently in Parma Prison (Italy), where he is serving a 30-year sentence for murder. He is subject to a special detention regime in prison, being considered by the authorities to be very dangerous. Relying in particular on Article 8 (right to respect for private and family life), Mr Zara complains of the continuous restriction of his right to respect for his family life on account of the limitations placed on family visits and the arrangements for such visits. He also complains of a breach of his right to respect for his correspondence.

***Norkūnas v. Lithuania*** (no. 302/05)

The applicant, Viktoras Norkūnas, is a Lithuanian national who was born in 1966 and lives in Vilnius. The case concerns the applicant's complaint about the excessive length of criminal proceedings against him for embezzlement. He relies on Article 6 § 1 (right to a fair trial within a reasonable time).

***Czarnowski v. Poland*** (no. 28586/03)

The applicant, Edward Czarnowski, is a Polish national who was born in 1963 and lives in Siemirówice (Poland). In July 2003, while the applicant was serving a prison sentence for ill-treating his girlfriend, his father died. The case concerns the applicant's complaint that he was refused compassionate leave from prison to attend his father's funeral. He relies on Article 8 (right to respect for private and family life).

***Pakos v. Poland*** (no. 3252/04)

The applicant, Andrzej Pakos, is a Polish national who was born in 1962. He is currently detained in Katowice Remand Centre on suspicion of drug trafficking as a member of an organised criminal group. Relying on Article 5 § 3 (right to liberty and security), he complains about the excessive length of his detention.

***Palewski v. Poland*** (no. 32971/03)

The applicant, Mirosław Palewski, is a Polish national who was born in 1957 and lives in Koszalin (Poland). The case concerns the refusal to exempt the applicant – an insolvent businessman - from court fees in proceedings in which he sued an insurance company. He relies on Article 6 § 1 (right of access to a court).

***Sławomir Musiał v. Poland*** (no. 28300/06)

The applicant, Sławomir Musiał, is a Polish national who was born in 1978 and is currently detained in Herby Stare Prison (Poland). He has been suffering from epilepsy since his early childhood and has been diagnosed with schizophrenia and other serious mental disorders. Relying on Articles 3 (prohibition of inhuman and degrading treatment) and 8 (right to respect for private and family life), the applicant complains about the conditions in all detention facilities where he was detained for robbery and battery and that his health has deteriorated as a result of the inadequate health care provided to him there.

***Wenerski v. Poland*** (no. 44369/02)

The applicant, Ernest Wenerski, is a Polish national who was born in 1970. He is currently serving prison sentences after conviction for various offences. Having lost his right-eye in 1996, the applicant suffers from severe ophthalmological problems. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains that he has not received proper ophthalmological care during his detention. He further complains about censorship of his correspondence with the European Court of Human Rights, in breach of Article 8 (right to respect for correspondence).

***Żywicki v. Poland*** (no. 27992/06)

The applicant, Krystian Żywicki, is a Polish national who was born in 1976 and lives in Szczecin (Poland). In January 2004 the applicant was arrested and remanded in custody on suspicion of drug trafficking. Relying in particular on Article 5 §§ 3 and 4 (right to liberty and security), the applicant complains about the excessive length of his detention and that the Polish courts failed to examine "speedily" the lawfulness of his detention.

***Katz v. Romania*** (no. 29739/03)

The applicant, Yesiahu Jonatan Katz, is a Romanian national who was born in 1947 and lives in Rehovot (Israel). A piece of real property belonging to his parents was nationalised in 1966 and sold by the State in 1973. Mr Katz brought an action to establish title to the property, which was dismissed. He relies on Article 1 of Protocol No. 1 (protection of property), complaining that his inability to recover ownership infringed his right to the peaceful enjoyment of his possessions.

***F.H. v. Sweden*** (no. 32621/06)

The applicant, F.H., is an Iraqi national who was born in 1956 and currently lives in Sweden. He arrived in Sweden in 1993 and applied to the Immigration Board (*Invandrarverket*) for asylum and a residence permit, claiming that he had left Iraq due to his fear of Saddam Hussein and his regime. In 1995 the applicant was convicted of murdering his wife and sentenced to psychiatric care. Local courts ultimately decided that he should be expelled from Sweden for life. Relying on Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment), the applicant alleges that, if deported from Sweden to Iraq, he would face a real risk of being killed or subjected to inhuman treatment and torture on account of his Christian faith and background as a member of the Republican Guard and the Ba'ath Party, and, of being convicted a second time for the murder of his wife.

***Çelik v. Turkey (No. 1)*** (no. 39324/02)

The applicant, Murat Çelik, is a Turkish national who was born in 1966 and lives in Istanbul. He is a lawyer and at the relevant time was also a member of the Istanbul Bar Association. The applicant alleges that in February 1999, he was ill-treated by police officers at the Istanbul Security Headquarters, after he went to pick up the corpse of one of his clients at the morgue. He relies on Articles 3 (prohibition of inhuman or degrading treatment), 6 (right to a fair hearing), 8 (right to respect for private and family life), 13 (right to an effective remedy) and 14 (prohibition of discrimination).

***Elğay v. Turkey*** (no. 18992/03)

The applicant, Turgay Elğay, is a Turkish national who was born in 1983 and lives in Istanbul. In July 2002 he was arrested and detained on remand on suspicion of membership of an illegal organisation, the PKK (the Kurdistan Workers' Party). Relying on Article 5 §§ 4 and 5 (right to liberty and security), the applicant complains about the unlawfulness of his detention.

***Güveç v. Turkey*** (no. 70337/01)

The applicant, Oktay Güveç, is a Turkish national who was born in 1980 and lives in Belgium. In September 1995, the applicant, aged 15, was arrested and detained on remand on suspicion of membership of an illegal organisation, the PKK (the Kurdistan Workers' Party). He was ultimately convicted of that charge. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complains, in particular, that his trial before the State Security Court instead of a juvenile court, coupled with his detention in prison with adults, had caused him mental suffering. He further relies on Article 5 §§ 3 and 4 (right to liberty and security), Article 6 §§ 1 and 3 (c) (right to a fair trial), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination).

***İmza v. Turkey*** (no. 24748/03)

The applicant, Sedat İmza, is a Turkish national who was born in 1977 and lives in Istanbul (Turkey). He is the owner and editor-in-chief of the magazine *Özgürlük Dünyası* ("World of

Freedom”). Relying on Article 10 (freedom of expression), he complains of his criminal conviction for publishing statements by the organisation the PKK (Workers’ Party of Kurdistan) and of the penalty imposed in the form of suspension of the magazine’s publication.

***Mahmut Yaman v. Turkey*** (no. 33631/04)

The applicant, Mahmut Yaman, is a Turkish national who was born in 1974 and lives in Tekirdağ (Turkey). In 1999 he was taken into police custody as part of a police anti-terrorist operation. He was subsequently placed in pre-trial detention and charged with undermining the territorial integrity of the State. The criminal proceedings against him are still pending. The applicant relies on Article 5 § 3 (right to liberty and security) and Article 6 § 1 (right to a fair trial within a reasonable time), complaining of the excessive length of his pre-trial detention and of the proceedings against him.

***Şerife Yiğit v. Turkey*** (no. 3976/05)

The applicant, Şerife Yiğit, is a Turkish national who was born in 1954 and lives in Gaziantep (Turkey). Relying on Article 8 (right to respect for private and family life), she complains of the national courts’ refusal to transfer her deceased partner’s health insurance and retirement pension benefits to her, despite the fact that they had been married in a religious ceremony (*imam nikah*) and had six children together.

***Uslu v. Turkey (No. 2)*** (no. 23815/04)

The applicant, Abdülkadir Uslu, is a Turkish national who was born in 1968 and lives in Istanbul. At the relevant time he was detained at Inebolu Prison. Relying on Article 8 (right to respect for private and family life), the applicant complains about the Turkish authorities’ refusal to provide him with a copy of the results of a medical examination he underwent in prison.

***Al-Khawaja and Tahery v. the United Kingdom*** (nos. 26766/05 and 22228/06)

The first applicant, Imad Al-Khawaja, is a British national who was born in 1956 and lives in Lewes (United Kingdom). The second applicant, Ali Tahery, is an Iranian national who was born in Tehran in 1975 and lives in London. Imad Al-Khawaja, while working as a consultant physician, was charged on two counts of indecent assault on two female patients while they were allegedly under hypnosis. Ali Tahery allegedly stabbed S. three times in the back and was subsequently charged with wounding with intent and attempting to pervert the course of justice by telling the police that he had seen two black men stab S.. Both applicants complain under Article 6 §§ 1 and 3 (d) (right to a fair trial) that their convictions were based to a decisive degree on statements from witnesses who could not be cross-examined in court.

## **Repetitive cases**

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

***Pierotti v. Italy*** (no. 15581/05)

The applicants rely on Article 1 of Protocol No. 1 (protection of property).

***Dimitriu and Dumitrache v. Romania*** (no. 35823/03)

***Hîrgău and Arsinte v. Romania*** (no. 252/04)

***Nicolescu v. Romania*** (no. 31153/03)

In these three cases the applicants rely on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property).

*Alexandrou v. Turkey* (no. 16162/90)

*Gavriel v. Turkey* (no. 41355/98)

*Orphanides v. Turkey* (no. 36705/97)

*Solomonides v. Turkey* (no. 16161/90)

In these four cases all the applicants rely on Article 1 of Protocol No. 1 (protection of property) and Article 14 (prohibition of discrimination). In the cases of *Gavriel* and *Orphanides* the applicants further rely on Article 8 (right to respect for private and family life).

### **Length-of-proceedings cases**

In the following cases, the applicants complain in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of (non-criminal) proceedings.

*Četvertakas and Others v. Lithuania* (no. 16013/02)

*Romuald Kozłowski v. Poland* (no. 46601/06)

*Martikán v. Slovakia* (no. 30036/06)

*Hamiye Karaduman and Others v. Turkey* (no. 9437/04)

*Özoğuz v. Turkey* (no. 17533/04)

*Şerefli and Others v. Turkey* (no. 1533/03)

Thursday 22 January 2009

**“Bulves” AD v. Bulgaria** (application no. 3991/03)

The applicant, “Bulves” AD, is a Bulgarian joint-stock company set up in 1996 with its registered office in Plovdiv. Relying on Article 1 of Protocol No. 1 (protection of property) and Article 14 (prohibition of discrimination), the applicant company complains that the Bulgarian authorities deprived it of its right to deduct the VAT it had paid to its supplier and argues that VAT legislation in Bulgaria is discriminatory.

**Dinchev v. Bulgaria** (no. 23057/03)

The applicant, Krum Iliev Dinchev, is a Bulgarian national who was born in 1937 and lives in Vidin (Bulgaria). Relying on Article 6 (right of access to a court), he complains about the discontinuation of criminal proceedings against an individual who had caused him bodily harm.

**Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria** (nos. 412/03 and 35677/04)

The applicant in the first case is the Holy Synod of the Bulgarian Orthodox Church. The applicants in the second case are: Anatolii Balachev, a Bulgarian national, born in 1938, who lives in Sofia and is an orthodox priest and principal secretary of the applicant Church; and, six employees of the Holy Synod of the applicant Church, namely Petar Petrov, Assen Milushev, Stoyan Gruichev, Liubka Nikolova, Rositsa Grozdanova and Liliana Shtereva. Soon after the democratic changes of 1989, the applicant Church contested the existing leadership of the Bulgarian Orthodox Church. In 2003 the applicant Church was

refused registration of its local organisation in Sofia; eviction orders were subsequently issued against those who were therefore considered to be unlawfully occupying churches and religious institutions. As a result the police blocked more than 50 churches and monasteries in the country, evicted the religious ministers and staff who identified themselves with the applicant Church and formally transferred the possession of the buildings to representatives of the rival leadership. Relying on Articles 9 (freedom of thought, conscience and religion) and Article 1 of Protocol No. 1 (protection of property), the applicants complain that the State interfered in the internal dispute within the Bulgarian Orthodox Church. They allege in particular that their Church's believers were thrown out of their places of worship, deprived of their property and pressured to accept the rival Church's leadership. The applicants also submit that they do not have access to court and effective remedies with regard to their complaints, in breach of Articles 6 (right to a fair hearing) and 13 (right to effective remedy).

***Petyo Popov v. Bulgaria*** (no. 75022/01)

The applicant, Petyo Atanasov Popov, is a Bulgarian national who was born in 1963 and lives in Vratsa (Bulgaria). He relies on Article 3 (prohibition of inhuman or degrading treatment), alleging that he was beaten by police officers while in police custody in April 1996. He further relies on Article 6 § 1 (right to a fair trial).

***Kaemena and Thöneböhn v. Germany*** (nos. 45749/06 and 51115/06)

The applicants are two German nationals, Christiane Kaemena, who was born in 1967 and, Uwe-Karsten Thöneböhn, who was born in 1968. They are both currently detained in Germany, in Vechta and Celle, respectively. Relying on Article 6 § 1 (right to a fair trial within a reasonable time), they complain about the excessive length of criminal proceedings brought against them on suspicion of murdering the first applicant's husband. They further rely on Article 13 (right to an effective remedy).

***Borzhonov v. Russia*** (no. 1827/04)

The applicant, Yevgeniy Dmitriyevich Borzhonov, is a Russian national who was born in 1954 and lives in Ulan-Ude (Buryatiya Republic). Relying on Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 13 (right to an effective remedy), he complains about the excessive length of criminal proceedings brought against him for notably tax evasion, abuse of power and misappropriation of private property. He further relies on Article 1 of Protocol No. 1 (protection of property) and Article 13 concerning the seizure and retention of his bus.

***Dolsayev and Others v. Russia*** (no. 10700/04)

***Sambiyev and Pokayeva v. Russia*** (no. 38693/04)

***Zaurbekova and Zaurbekova v. Russia*** (no. 27183/03)

The applicants in the first case are five Russian nationals who live in Martan-Chu (Chechen Republic). They are the parents, sister and brothers of Beslan, Rizvan, Rizavdi and Shuddi Dolsayev, born in 1974, 1977, 1978 and 1980, respectively. The four brothers have not been seen since 21 October 2002 when they were abducted from the family home by a group of armed men in camouflage uniform and masks.

The applicants in the second case are two Russian nationals who live in Stariye Atagi (Chechen Republic). They are the parents of Anzor Sambiyev, born in 1980, who was abducted from the family home on 10 April 2004 by a group of armed men in

camouflage uniform and masks. His body was found the next day with signs of a violent death.

The applicants in the third case are two Russian nationals who live in Urus-Martan (Chechen Republic). They are the mother and sister of Isa Zaurbekov, born in 1967, who has not been seen since 11 February 2003 when he was abducted from the family home by a group of armed men in camouflage uniforms.

In the cases of *Dolsayev and Others* and *Zaurbekova and Zaurbekova*, the applicants allege that their relatives disappeared after being detained by Russian servicemen. In the case of *Sambiyev and Pokayeva*, the applicants allege that their son was abducted and killed by Russian servicemen. They also all complain that the domestic authorities failed to carry out an effective investigation into their allegations. They rely, in particular, on Articles 2 (right to life), Articles 3 (prohibition of inhuman or degrading treatment), 5 (right to liberty and security) and 13 (right to an effective remedy).

### **Repetitive case**

The following case raises issues which have already been submitted to the Court.

#### ***Lotorevich v. Russia*** (no. 16048/06)

The applicant relies on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property).

### **Length-of-proceedings case**

In the following case, the applicant complains in particular under Article 6 § 1 (right to a fair hearing within a reasonable time) about the excessive length of (non-criminal) proceedings. She also relies on Article 13 (right to an effective remedy).

#### ***Christensen v. Denmark*** (no. 247/07)

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