



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 23 judgments on Tuesday 10 April 2012 and six on Thursday 12 April 2012.

*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)*

Tuesday 10 April 2012

Gabrielyan v. Armenia (application no. 8088/05)

The applicant, Artak Gabrielyan, is an Armenian national who was born in 1938 and lives in Yerevan. A campaigner for the main opposition party in Armenia, Mr Gabrielyan was arrested on 8 April 2004 in Yerevan where he was handing out leaflets to encourage participation the next day in a protest rally. He was subsequently charged and convicted in June 2004 of calling for a violent overthrow of the government. He was given a one-year suspended sentence and released. Mr Gabrielyan's case notably concerns his complaint that the State-appointed lawyer in the proceedings against him failed to provide adequate legal assistance, and notably didn't even meet or speak with him in private. He also complains that he was not given the opportunity to cross-examine witnesses on whose statements his conviction was based. He relies on Article 6 §§ 1 and 3 (c) and (d) (right to legal assistance of own choosing and right to obtain attendance and examination of witnesses) of the European Convention on Human Rights. Further relying on Article 10 (freedom of expression), he also alleges that the charges against him were designed to prevent him from expressing his political opinions.

Hakobyan and Others v. Armenia (no. 34320/04)

The applicants, Hakob Hakobyan, Gor Martirosyan and Hamlet Petrosyan, are Armenian nationals who were born in 1967, 1969 and 1956, respectively. They live, respectively, in the town of Armavir and the villages of Nairi and of Nalbandyan (Armenia). Members of the main opposition parties, they allege that they were all arrested in March/April 2004, and placed in administrative detention for periods of between four and seven days both as punishment for their political allegiance and to prevent them from attending imminent opposition protest rallies in Yerevan. They rely on Articles 10 (freedom of expression) and 11 (freedom of assembly and association) of the Convention. Further relying on Article 5 §§ 1, 2 and 4 (right to liberty and security), they also allege that their detention was unlawful and arbitrary, the offences they had supposedly committed having been fabricated. They further complain about the unfairness of the administrative proceedings against them, notably that their cases were examined in an expedited procedure, therefore not giving them adequate time and facilities for the preparation of their defence, in breach of Article 6 §§ 1 and 3 (b) (right to a fair trial). Lastly, under Article 2 of Protocol No. 7 (right of appeal in criminal matters), they complain that they had no right to appeal against their convictions.

Bekauri v. Georgia (no. 14102/02)

The applicant, Pridon Bekauri, is a Georgian national who was born in 1977 and is currently detained in Ksani prison no. 7 (Georgia) for the murder of a police officer. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains that his imprisonment for life amounted to inhuman and degrading treatment.

[Lorenzetti v. Italy \(no. 32075/09\)](#)

The applicant, Pietro Lorenzetti, was born in 1963 and lives in Syracuse. He is a doctor. He was arrested on 19 December 2000 in connection with allegations of having defrauded the hospital where he worked. He was placed in pre-trial detention on grounds that there was substantial evidence against him, in particular in connection with suspicions that he had received his doctor's salary without being at work. Having been acquitted on appeal, Mr Lorenzetti complains about the rejection of his application for compensation for "unfair" detention. Under Article 6 § 1 (right to a fair trial), he complains that the hearings were not public and that the decisions of the Court of Appeal and the Court of Cassation were not delivered publicly during the proceedings. He alleges, under Article 6 § 2 (presumption of innocence), that the rejection of his application can be explained by the persistence of suspicions against him despite his acquittal on the merits.

[Silickienė v. Lithuania \(no. 20496/02\)](#)

The applicant, Jurgita Silickienė, is a Lithuanian national who was born in 1971 and lives in Vilnius. Her husband, a high ranking tax police officer, was arrested in August 2000 on charges of organising the smuggling of large quantities of cigarettes and alcohol. He committed suicide in prison while the criminal proceedings against him were still pending. The courts subsequently found that there was sufficient evidence to prove that he had committed those offences – and convicted three of his accomplices – but discontinued the proceedings against him on account of his death. The courts also confiscated, among other things, Ms Silickienė's flat in Vilnius, considered to have been obtained via unlawful proceeds. The case concerns Ms Silickienė's complaint about the confiscation of her property as well as the unfairness of the related proceedings. She notably alleges that she could not adequately defend her rights as she was not a party to the criminal proceedings against her late husband and that she had been forced to assume liability for crimes allegedly committed by her husband but who had not been convicted. She relies on Article 6 §§ 1 and 2 (right to a fair trial and presumption of innocence) and Article 1 of Protocol No. 1 (protection of property).

[Bar-Bau Sp. z o. o. v. Poland \(no. 11656/08\)](#)

The applicant, Bar-Bau Sp. z o. o., is a Polish company operating in the building sector whose registered office is in Warsaw. Relying on Article 6 § 1 (right of access to a court), the applicant company complains about the dismissal of its appeal on points of law in criminal proceedings brought against its director and sole shareholder. It alleges, mainly, that the statutory exhaustive list of conditions of admissibility of an appeal on points of law and the allegedly arbitrary examination of its appeal deprived it of its right of access to a court.

[Strzelecki v. Poland \(no. 26648/03\)](#)

The applicant, Adam Strzelecki, is a Polish national who was born in 1953 and lives in Warsaw. He was a municipal police officer at the relevant time and complains that he was debarred, as a civil servant, from joining a political party. He relies on Article 11 (freedom of assembly and association).

[Pontes v. Portugal \(no. 19554/09\)](#)

The applicants, Mr Eugénio Manuel Paulino Pontes and Mrs Francisca Alexandra Ganchinho Garcês Pontes, are two Portuguese nationals. They were born in 1974 and 1976 respectively and live in São Domingos de Rana (Portugal). They had four children who were all made the subject of a protection order on the ground that they lived in a high-risk family environment and their parents took drugs. At the relevant time the older children were aged 9, 7 and 4 respectively. The youngest, P., a four-month-old boy, was placed in a different foster home from his brother and sisters. A placement order was

made in respect of P., with a view to his adoption, on account of his particularly vulnerable situation. The Supreme Court found that the parents had failed to show that their situation had improved or that P.'s case could be distinguished from that of his brother and sisters, as he had lost all contact with his parents for over four years. By a judgment of 4 March 2009, an adoption order was made in respect of the child in favour of the couple who had previously been appointed his interim guardian. Relying on Article 6 § 1 (right to a fair hearing), the applicants complain that the child protection proceedings were unfair and, under Article 8 (right to respect for private and family life), that the decisions forfeiting their parental authority and ordering P.'s adoption were also unfair. They complain that the authorities dealt with their youngest child differently from his brother and sisters and challenge the restrictions placed on their right of contact and their son's visits home.

[Panaiteescu v. Romania \(no. 30909/06\)](#)

The applicant, Ștefan Panaiteescu, was a Romanian national, born in 1944, who lived in Alejd, Bihor County (Romania). Following his death in December 2006 his application was continued by his son, Alexandru Panaiteescu. In June 2002 the Romanian courts ruled that his father should be entitled to benefits under a law on damages for those who had been persecuted between 1940 and 1945 on ethnic grounds. Part of those entitlements was priority free medication and medical assistance. The case concerns Mr Panaiteescu's complaint about the authorities' ensuing failure to provide specific medication for free to his father, diagnosed with cancer in April 2005. Relying on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment), he notably alleges that the authorities cynically and abusively refused to enforce final court decisions acknowledging his father's right to appropriate free medical treatment; this not only put his life at risk but caused him deep psychological suffering.

[Popa and Tănăsescu v. Romania \(no. 19946/04\)](#)

The applicants, Ioan Popa and Aurelian Tănăsescu, are Romanian nationals who were born in 1971 and 1974, respectively. They were both sentenced in October 2003 to seven years' imprisonment for their involvement in the kidnapping of a friend of theirs who had allegedly stolen money from the boot of a businessman's car – what was known in Romania as "The Car Boot Affair" (*Afacerea Portbagajul*). The victim was then held captive for the next five weeks and repeatedly ill-treated. The applicants were notably found guilty of luring their friend to the businessman's headquarters from where he was then kidnapped. Mr Popa's sentence was suspended on probation in January 2012 and Mr Tănăsescu is currently serving his sentence in Ploiești Prison (Romania). Relying on Article 6 §§ 1 and 3 (c) and (d) (right to a fair trial), the applicants complain that their trial and therefore conviction were not fair. They notably allege that, acquitted at first-instance, the High Court of Cassation and Justice then went on to re-examine their case and find them guilty without even hearing them or allowing them to give evidence in their defence.

[Andreyeva v. Russia \(no. 73659/10\)](#)

The applicant, Mariya Andreyeva, is a Russian national who was born in 1918 and lives in St Petersburg. She holds a number of USSR premium bonds issued in 1982 and deposited in 1986 with Sberbank. Relying on Article 1 of Protocol No. 1 (protection of property), she complains that, despite a court judgment of 2003 acknowledging her right to 84 promissory notes worth 3,185 "promissory roubles", she had been unable to receive any money from the State.

[Shchebetov v. Russia \(no. 21731/02\)](#)

The applicant, Anatoliy Shchebetov, is a Russian national who was born in 1972 and lived until his arrest in the town of Yakutsk. After spending a few years in prison for theft

and robbery, in April 2005 he was sentenced anew to nine years' imprisonment for aggravated robbery. He was found to have tuberculosis and HIV when tested in prison in 1998 and 2002 respectively, while his earlier medical tests of 1997, when he had been in a temporary detention facility, had been negative. Relying on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment or punishment) and 13 (right to an effective remedy), he complains that he has been infected with HIV and tuberculosis in detention, that he has not had adequate medical treatment, that he has not had an effective remedy in respect of his health-related complaints and that his correspondence with the Court has been censored and delayed.

[Juhas Đurić v. Serbia \(no. 48155/06\)](#)

The applicant, Viktor Juhas Đurić, is a Serbian national who was born in 1966. He is a practising lawyer and lives in Subotica, Serbia. Following a complaint against Serbia which he had brought in 2006 to the Court, the Court found, in a judgment of June 2011, that his right of access to a court under Article 6 § 1 had not been breached. Mr Đurić claims that the Serbian Government omitted jurisprudence from this judgment which would have been decisive for the outcome of his case and he therefore requests under Rule 80 of the Rules of Court for this judgment to be revised.

[K.A.B. v. Spain \(no. 59819/08\)](#)

The applicant, K.A.B., is a Nigerian national who was born in 1976 and lives in Barcelona. He immigrated into Spain (in Murcia) in 2001 with his partner C., a Nigerian national, and their son O., born in 2000. In October 2001 C. was deported from Spain and made the subject of an order excluding her from Spanish territory for ten years. O. was cared for by some friends of the couple – the applicant being in Barcelona for professional reasons – and later placed in a centre and finally with a foster family in 2003. In 2004 the child protection services proposed that the family adopt the child, and an adoption order was made in 2007 despite opposition from the applicant. Relying on Articles 6 (right to a fair hearing) and 8 (right to respect for private and family life), the applicant complains that he was deprived of all contact with his son and that neither he nor the child's mother was informed of the proposal to adopt him. He also complains that the authorities remained passive regarding C.'s deportation and his attempts to prove his paternity.

[İlbeyi Kemaloğlu and Meriye Kemaloğlu v. Turkey \(no. 19986/06\)](#)

The applicants, Mr İlbeyi Kemaloğlu and Mrs Meriye Kemaloğlu, are Turkish nationals who were born in 1965 and 1974, respectively, and live in İstanbul. In 2004, on a day when school classes ended earlier due to stormy weather, their seven-year old son froze to death while trying to walk back home, while the municipality shuttle - not notified of the change - did not come on time. Relying on Article 2 (right to life), the applicants complain that the State failed in its obligation to protect their son's life and to carry out an effective investigation into the circumstances of his death.

[Ali Güneş v. Turkey \(no. 9829/07\)](#)

The applicant, Ali Güneş, is a Turkish national who was born in 1968 and lives in Istanbul. Relying on Article 3 (prohibition of inhuman or degrading treatment or punishment), he complains that the police beat him up and sprayed him with harmful gases after arresting him during a June 2004 demonstration against a NATO summit, despite the fact that he and all the people who had accompanied him were unarmed and behaved peacefully. Further relying on Article 13 (right to an effective remedy), he also complains that the Turkish authorities failed to adequately examine his allegations against the police. Finally, relying on Article 5 (right to liberty and security), he complains that the police arrested him unlawfully.

[Babar Ahmad and Others v. the United Kingdom \(nos. 24027/07, 11949/08, 36742/08, 66911/09 and 67354/09\)](#)

The applicants, Babar Ahmad, Haroon Rashid Aswat, Syed Tahla Ahsan, Mustafa Kamal Mustafa (known more commonly as Abu Hamza), Adel Abdul Bary and Khaled Al-Fawwaz have been indicted on various charges of terrorism in the United States of America and are the subject of extradition requests made by the USA. They allege in particular that, if extradited and convicted in the USA, their conditions of detention at the US Penitentiary, Administrative Maximum, Florence, Colorado (a "supermax" prison) would amount to ill-treatment under Article 3 (prohibition of inhuman and degrading treatment). They further allege that the length of their possible sentences would also violate Article 3.

[Balogun v. the United Kingdom \(no. 60286/09\)](#)

The applicant, Moshood Abiola Balogun, is a Nigerian national who was born in 1986, and has been living in the United Kingdom since the age of three. Convicted of serious drug-related offences, he was sentenced to three years' imprisonment in 2007 and informed of the authorities' intention to deport him. Relying in particular on Article 8 (right to respect for private and family life), he alleges that he has no ties with Nigeria, having entered the United Kingdom at a very young age, and that his deportation to Nigeria would gravely interfere with his private and family life with his half-brother, aunt and girlfriend (a British citizen). He also alleges that he is a suicide risk and deporting him would therefore breach Article 3 (prohibition of inhuman and degrading treatment).

[Woolley v. the United Kingdom \(no. 28019/10\)](#)

The applicant, Raymond Woolley, is a British national who was born in 1953 and is currently detained at HMP Dovegate, Uttoxeter (the United Kingdom). Convicted for conspiracy to cheat the public revenue in December 2002, he was sentenced to nine years' imprisonment. A confiscation order of about nine million British pounds was also made in respect of his conviction, with four years' imprisonment to be served in default of payment. In February 2005 he walked out of an open prison and fled to Switzerland. He was arrested there in June 2008 at the request of the British authorities and diplomatic communication took place between the two authorities regarding the possibility of Mr Woolley serving the default term of imprisonment for failure to pay the compensation order. He was eventually extradited to the United Kingdom in March 2009 and was subsequently detained pursuant to the default term. Relying on Article 5 § 1 (right to liberty and security), he complains that, once returned to the United Kingdom, he was not only dealt with for the offences for which he was extradited, in breach of the rule of specialty. He therefore alleges that the subsequent enforcement of the default term of imprisonment and his ensuing detention were unlawful.

Repetitive cases

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

Dimitar Vasilev v. Bulgaria (no. 10302/05)

The applicant, Dimitar Vasilev, is a Bulgarian national who was born in 1982 and is currently serving a prison sentence in Plovdiv (Bulgaria). Relying on Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy), he complains about the excessive length of criminal proceedings brought against him between 2001 and 2007 on theft charges. Further relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), Mr Vasilev complains that, in another set of criminal proceedings brought against him in 2004 for robbery and fraud, it took the domestic courts 28 days to rule on a request he made in March 2005 to be released from pre-trial detention. He further alleges that domestic law did not provide

for compensation for any failure to review an accused's request for release in good time, in breach of Article 5 § 5 (enforceable right to compensation). He was sentenced to one and half years' imprisonment in the former case and six years in the latter case. Lastly, relying on Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy), he complains that the Plovdiv prison authorities had monitored correspondence between him and his lawyer.

Kochalidze v. Russia (no. 44038/05)

Pellya v. Russia (no. 16869/08)

Russkikh v. Russia (no. 44595/05)

The applicants in the above three cases all complain about the non-enforcement or delayed enforcement of judgments in their favour. They rely on Article 6 § 1 (right to fair trial) and Article 1 of Protocol No. 1 (protection of property).

Thursday 12 April 2012

[Lagardère v. France \(no. 18851/07\)](#)

The applicant, Arnaud Lagardère, is a French national who was born in 1961 and lives in Paris. He complains of an order made against him in civil proceedings, in his capacity as heir, to pay several million euros in damages on account of his father's criminal guilt which was not established until after his father's death, during the civil proceedings. He complains of a violation of Article 6 § 1 (right to a fair hearing) in respect of himself and of Article 6 § 2 (presumption of innocence) in respect of his late father.

[Lesquen du Plessis-Casso v. France \(no. 54216/09\)](#)

The applicant, Henry de Lesquen du Plessis-Casso, is a French national who was born in 1949 and lives in Versailles. He is a town councillor and runs a local political movement which is the main opposition force in the town. He alleges that his criminal conviction for defamation of a political opponent during a session of the municipal council amounted to a violation of Articles 6 (right to a fair trial) and 10 (freedom of expression).

[Martin and Others v. France \(no. 30002/08\)](#)

The applicants, François Martin, Jacky Vilaceque, Anthony Jones and Pierre Bruynooghe, are French nationals who were born in 1955, 1949, 1955 and 1961 respectively and live in Poulx, Assas, Poussan and Montpellier. They are journalists for the daily newspaper Midi Libre. In 2005 they wrote a number of articles on the administration of the Languedoc-Roussillon region, citing extracts from a report by the Regional Audit Office (Chambre régionale des comptes) calling into question the administration of the region. The president of the region, who was also a senator, lodged a criminal complaint, together with an application to join the proceedings as a civil party seeking damages, for breach of professional secrecy and handling the proceeds of a breach of professional secrecy. In order to determine the conditions and circumstances in which the journalists had obtained the information detailed in the articles, the investigating judge had decided to carry out a search of the newspaper's premises. The applicants allege that the investigations were in breach of Article 10 (freedom of expression).

[Stübing v. Germany \(no. 43547/08\)](#)

The applicant, Patrick Stübing, is a German national who was born in 1976 and lives in Leipzig. Relying on Article 8 (right to respect for private and family life), he complains about his criminal conviction and sentence of one year and two months' imprisonment for repeatedly having consensual sexual intercourse with his sister. The brother and sister were raised in separate families and only met when they were, respectively,

24 years and 16 years old. Between 2001 and 2005 the couple had four children together.

[Kralj v. Slovenia \(no. 21313/06\)](#)

The applicant, Alojz Kralj, is a Slovenian national. In 1993 he brought civil proceedings against his neighbour seeking the removal of her car as it blocked the passage to his outbuildings. Relying on Article 6 § 1 (right to a fair trial) and Article 13 (right to an effective remedy), he complains about the excessive length of those proceedings and about the absence of effective remedies in that respect.

[Eriksson v. Sweden \(no. 60437/08\)](#)

The applicant, Mats Eriksson, is a Swedish national who was born in 1942 and lives in Trosa (Sweden). He suffered a heart attack and a cerebral stroke at work in 2000 and was granted early retirement pension as from December 2001. However, in April 2003, he was refused life annuity by the Social Insurance Office, a decision upheld upon appeal by the administrative courts. Relying on Article 6 § 1 (right to a fair trial), he complains about the appellate courts' refusal, despite his request, to hold an oral hearing in the proceedings concerning his claim for life annuity.

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