



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 14 judgments on Tuesday 17 July 2012 and 6 on Thursday 19 July.

*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 17 July 2012

Wallishauser v. Austria (application no. 156/04)

The applicant, Roswitha Wallishauser, is an Austrian national who was born in 1941 and lives in Vienna. A photographer for the United States of America embassy in Vienna, she complains about proceedings she brought before the Vienna Labour and Social Court against the United States claiming salary payments from September 1996 following her unlawful dismissal. In particular, she complains that she was denied access to court because the United States' authorities, relying on their immunity, refused to be served with the summons to a hearing on the case and the Austrian authorities accepted this refusal, finding that they were obliged to do so under the rule of customary international law to respect a State's sovereignty. She relies on Article 6 § 1 (right of access to court).

Lica v. Greece (no. 74279/10)

The applicant, Arben Lica, is an Albanian national who was born in 1980 and lives in Skala (Laconia, Greece). He had been a lawful resident of Greece since 2003. His last residence permit was valid from 29 February 2008 to 27 February 2010. On 20 April 2010 he applied for the renewal of his residence permit, belatedly as he had been in hospital. On presenting his expired permit he was arrested by the Greek authorities, then held at the police station, before his removal was ordered. Relying on Article 3 (prohibition of inhuman or degrading treatment), Article 5 §§ 1 and 4 (right to liberty and security) and Article 13 (right to an effective remedy), Mr Lica complains about the conditions of his detention in the police station and the absence of an effective remedy by which to complain about those conditions.

Matthias and Others v. Italy (no. 35174/03)

Just satisfaction

The applicants, Maurizio Matthias, Germana Matthias, Fabrizio Matthias, Maria Serena Buongiorno, Maria Nelly Buongiorno and Renato De Cesare, are Italian nationals. The case concerned a plot of building land owned by the applicants in Terracina and in respect of which an urgent measure of occupation was decided for the purpose of building social housing. In a judgment of 2 November 2006 the Court held that the loss of availability of the land, together with the inability to have that situation remedied, had entailed consequences that were serious enough to regard it as *de facto* expropriation, incompatible with the applicants' right to respect for their property (Article 1 of Protocol No. 1). The Court reserved the question of just satisfaction for a future decision; it will rule on this question in its judgment of 17 July 2012.

Scoppola v. Italy (no. 4) (no. 65050/09)

The applicant, Franco Scoppola, is an Italian national who was born in 1940. Aged 72, he has a number of health problems including heart conditions, diabetes, muscular

weakening and depression. He has been confined to a wheelchair since 1987. He was sentenced to life imprisonment by the Assize Court in 2002 for killing his wife and wounding one of his sons, a sentence subsequently reduced to 30 years. The conditions of his detention in Rome prison, before his transfer to Parma prison on 23 September 2007, were dealt with in a judgment of the European Court of Human Rights (*Scoppola v. Italy*, no. 50550/06, [judgment of 10 June 2008](#)). The present application concerns the conditions of his detention after that date. Following the indication to the Italian Government by the Court (under Rule 39 of its Rules of Court – interim measures) that he should be transferred urgently to a facility that was adapted to his state of health, in order to exclude any risk of inhuman or degrading treatment, the enforcement of Mr Scoppola's sentence was suspended and he was placed under house arrest, as no appropriate facility could be found. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complains about his detention in Parma prison up to 9 January 2011.

[M.D. and Others v. Malta \(no. 64791/10\)](#)

The applicants, M.D., born in 1969, and her two children, R.D. and A.D., born in 2000 and 2002, are Maltese nationals and live in Hamrun (Malta). In July 2005 the children were removed from the care of their mother and placed in an institution run by nuns. M.D. was subsequently found guilty in 2006 of cruelty towards her children and sentenced to one year's imprisonment, suspended for two years. As a result of her conviction, she automatically lost all her parental rights in perpetuity. The case concerns the applicants' complaints that, under the Maltese legal system, they could not contest the initial care order and the subsequent loss of M.D.'s parental rights following her conviction. They rely on Article 6 § 1 (access to court) and Article 13 (right to an effective remedy). The case will also be examined under Article 8 (right to respect for private and family life).

[Muscat v. Malta \(no. 24197/10\)](#)

The applicant, Paul Muscat, is a Maltese national who was born in 1970 and lives in Malta. Relying on Article 6 (access to court) and Article 13 (right to an effective remedy), Mr Muscat complains that he was denied access to a court concerning a property dispute over a hotel. In particular, he complains that it was excessively formalistic for the courts to declare his case deserted in November 2003 on the ground that no notification of his appeal could be served due to an incorrect address (with the result that the written procedure was not concluded within the legal time-limit).

[Fusu Arcadie and Others v. Republic of Moldova \(no. 22218/06\)](#)

The applicants, Arcadie Fusu, Petru Botezat, Tatiana Rusu, Svetlana Covalciuc, Galina Bujor, Vera Boțoc, Vladimir Jurcanu and Iacob Ciobanu, are eight Moldovan nationals who were born in 1964, 1949, 1965, 1959, 1952, 1937, 1951 and 1930, respectively, and live in Florești (the Republic of Moldova). Relying on Article 9 (freedom of thought, conscience and religion), Article 6 § 1 (right to an effective remedy) and Article 11 (freedom of assembly and association), the applicants complain about the authorities' failure to register their church, a religious denomination of the Christian Orthodox Church subordinate to the Metropolitan Church of Bessarabia. The applicant church's complaint is part of an ongoing conflict with another denomination of the Orthodox Church in Florești, subordinate to the Metropolitan Church of Moldova.

[Budaca v. Romania \(no. 57260/10\)](#)

The applicant, Gheorghe Budaca, is a Romanian national was born in 1960 and lives in Mozzano (Italy). He was arrested in Italy and extradited to Romania to serve a three-year prison sentence for fraud and forgery. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains about the conditions of his detention in Botoșani

prison (problems of overcrowding, hygiene and access to drinking water, in particular). Under Articles 5 (right to liberty and security) and 6 (right to a fair trial), he complains about the outcome of proceedings that led to his conviction and his extradition to Romania.

[Iorgoiu v. Romania \(no. 1831/02\)](#)

The applicant, Cristian Daniel Iorgoiu, is a Romanian national who was born in 1969 and lives in Bucharest. In 2001, he was sentenced to seven years' imprisonment for fraud. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains about the conditions of his detention (overcrowding, problems of hygiene, in particular), and about the lack of continuous medical treatment for his illnesses while he was in prison. Under Article 5 § 2 (right to liberty and security), Article 8 (right to respect for private and family life) and 9 (freedom of thought, conscience and religion), he complains that he was not informed immediately of the reasons for his arrest, that he was placed in a prison a long way from home and that he was not allowed to practise his Orthodox religion while in prison.

[Radu Pop v. Romania \(no. 14337/04\)](#)

The applicant, Radu Pop, is a Romanian national who was born in 1967 and is currently serving a nine-year prison sentence in Gherla Prison (Romania) for the assault and attempted murder of a police officer. The incident for which he was convicted occurred on 18 August 2003 when police officers went to his home to arrest him so that he could serve a sentence handed down in another set of criminal proceedings against him. During his arrest he hit one police officer over the head with a stone, bit another officer's fingers and tried to seize an axe. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Pop alleges that he was beaten by the police both during his arrest and questioning on 18 August 2003 and that the ensuing investigation into his allegations was inadequate. He also complains under Article 3 about the conditions of his detention in different prisons where he has been detained, notably on account of overcrowding, lack of hygiene and inadequate medical care for his chronic gastritis and mental health problems. He also alleges in particular under Article 6 §§ 1 and 3 (c) (right to a fair trial) that the criminal proceedings against him were unfair as he could not call and question all the witnesses against him and as the lawyer appointed to him by court did not provide effective assistance in the preparation and conduct of his case.

[Winkler v. Slovakia \(no. 25416/07\)](#)

The applicant, Róbert Winkler, is a Slovak national who was born in 1977 and lives in Žilina (Slovakia). Remanded in custody on 26 November 2004 for several criminal offences, he alleges that, as there had been no decision by a court to extend his detention from 26 May 2005, it was unlawful from that date until 15 November 2005 when he was convicted. He relies on Article 5 § 1 (right to liberty and security). In 2006 the Constitutional Court found that Mr Winkler's detention from 26 May to 15 November 2005 was unlawful and awarded him 1,970 euros.

[Ceviz v. Turkey \(no. 8140/08\)](#)

The applicant, Haydar Ceviz, is a Turkish national who was born in 1945 and lives in Istanbul. Suspected of drug trafficking, he was arrested and remanded in custody on 30 September 2007. After his arraignment before the Assize Court on 20 February 2008, and again on 21 July 2008, his detention on remand was extended, having regard to the offence in question and the risk that he might abscond and tamper with evidence. Relying on Article 5 §§ 3, 4 and 5 (right to liberty and security), Mr Ceviz complains about the length of his detention and the lack of remedies by which to challenge that measure and seek reparation.

[Tarhan v. Turkey \(no. 9078/06\)](#)

The applicant, Mehmet Tarhan, is a Turkish national who was born in 1977 and lives in Sivas (Turkey). The case concerns his refusal to do military service because of his pacifist beliefs. Having refused to wear a uniform, he was held in custody in the military prison, where he was subjected to disciplinary penalties for refusing to have his hair and beard cut, which was ultimately carried out forcefully by seven soldiers. Criminal proceedings were brought against him. Since his desertion in March 2006, the police have been looking for him; he faces fresh criminal proceedings and custody. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complains about the psychological violence that he underwent and, under Article 9 (freedom of thought, conscience and religion), about the non-recognition of the right to conscientious objection and the proceedings against him on that basis.

[Munjaz v. The United Kingdom \(no. 2913/06\)](#)

The applicant, C. Munjaz, is a British national who was born in 1947. Suffering from mental health problems, he has spent a number of periods in prison and hospital. The case concerns Mr Munjaz's complaint about his placement in seclusion in Ashworth Special hospital (a high security hospital) where he was transferred in March 1994 as a result of his increasingly psychotic, aggressive and violent behaviour. Relying on Article 3 (prohibition of degrading or inhuman treatment) and Article 8 (right to respect for private and family life), he alleges that Ashworth's in-hospital policy on seclusion, which does not comply with the Code of Practice under the Mental Health Act, not only placed him at risk of ill-treatment but also adversely affected his right to personal development and to establish and develop relationships with the outside world. Further relying on Article 5 §§ 1 and 4 (right to liberty and security), he also claims that his seclusion amounted to a further deprivation of his liberty lacking any basis in law and without possibility of bringing an external appeal. Lastly, Mr Munjaz alleges that the Government's policy of permitting each hospital to seclude its patients according to its own procedures led to patients being treated differently depending on the hospital in which they were detained, in breach of Article 14 (prohibition of discrimination) in conjunction with Articles 3, 5 and 8.

Thursday 19 July 2012

[Ketreb v. France \(no. 38447/09\)](#)

The applicants, Houria Serghine née Ketreb, and Noura Khiat née Ketreb, are French nationals born respectively in 1969 and 1975 and living respectively in Montigny-lès-Cormeilles and Sannois (France). They are the sisters of Kamel Ketreb. On 10 June 1998 he was committed to the Santé prison in Paris on a charge of armed assault against his partner, causing her serious injury, at a time when he had previous convictions that could be taken into account. He had been a drug addict for several years and received psychiatric treatment in prison. After being confined to a disciplinary cell for 15 days, he was found on 24 May 1999 hanging by a belt from a grating in the entrance to the cell. Relying on Article 2 (right to life), the applicants argue that the authorities did not take all appropriate steps to protect their brother's life. Relying also on Article 3 (prohibition of inhuman or degrading treatment) they complain that he was subjected to a disciplinary penalty that was not adapted to his psychological condition.

[Hümmer v. Germany \(no. 26171/07\)](#)

The applicant, Lars Hümmer, is a German national who was born in 1978 and lives in Bayreuth (Germany). Placed in a psychiatric hospital for two counts of assault occasioning grievous bodily harm by a court decision of February 2005, he complains that neither he nor his counsel were able to examine the main witnesses against him at

any stage of the proceedings. The witnesses, family members of the applicant, had made use of their right not to testify in court. Their pre-trial testimonies were, however, introduced at the trial by the testimony of an investigating judge who had heard the witnesses at the investigative stage in the absence of the applicant and counsel. Mr Hümmer relies on Article 6 §§ 1 and 3 (d) (right to a fair trial; right to obtain attendance and examination of witnesses).

[Koch v. Germany \(no. 497/09\)](#)

The applicant, Ulrich Koch, is a German national who was born in 1943 and lives in Braunschweig. His wife, almost completely paralysed and in need of artificial ventilation and constant care from nursing staff, committed suicide on 12 February 2005 in Switzerland, assisted by the organisation Dignitas. The case concerns the German authorities' refusal to grant Mr Koch's late wife authorisation to acquire a lethal dose of medication enabling her to commit suicide. He relies on Article 8 (right to respect to respect for private and family life) and Article 13 (right to an effective remedy).

[Sievert v. Germany \(no. 29881/07\)](#)

The applicant, Lars Sievert, is a German national who was born in 1974 and lives in Cologne (Germany). A police officer at the time, he was convicted in July 2003 of inflicting bodily harm causing death while exercising a public office and sentenced to a suspended prison term of one year and four months. Relying on Article 6 §§ 1 and 3 (b) and (d) (right to a fair trial; right to adequate time and facilities for preparation of defence; right to obtain attendance and examination of witnesses), he complains that neither he nor his counsel were able to examine the main witnesses against him at any stage of the proceedings. In the course of his trial, these witnesses had answered questions by the court and the prosecution in the presence of the applicant and counsel, but then made use of their right not to answer questions by the defence with a view not to incriminating themselves.

[Aleksakhin v. Ukraine \(no. 31939/06\)](#)

The applicant, Sergey Aleksakhin, is an Ukrainian national who was born in 1970 and lives in Kharkiv (Ukraine). Arrested on 14 April 1998 at a bus stop for allegedly fighting with other young men and taken to the local police station for questioning, he alleges that a police officer handcuffed him to a metal ring in the wall and, spraying tear gas in his face, kicked and beat him in the head, neck, chest and back. Released the next day, he was then hospitalised for about a month suffering from various injuries to his body as well as concussion and a fractured bone in the neck. Relying on Articles 3 (prohibition of torture and inhuman or degrading treatment) and 13 (right to an effective remedy), he alleges that he was subjected to an unjustified use of force which amounted to torture and that, in the ensuing criminal proceedings, it took the courts seven years to convict the police officer to what ended up being a lenient sentence and, in his civil compensation claim, he was only awarded 7,600 euros. Further relying on Article 6 § 1 (right to a fair trial), he also complains about the length of the proceedings.

Length-of-proceedings case

In the following case, the applicant complains in particular about the excessive length of (non-criminal) proceedings.

Jama (III) v. Slovenia (no. 48163/08)

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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.