



## Forthcoming judgments

The European Court of Human Rights will be notifying in writing 31 judgments on Tuesday 25 September 2012 and four on Thursday 27 September 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](http://www.echr.coe.int))*

Tuesday 25 September 2012

### Rapo v. Albania (no. 58555/10)

The applicant, Almir Rapo, is an Albanian and American national who was born in 1983 and is currently in detention in the United States of America. His case concerns his extradition in November 2010 from Albania to the USA, where he faced charges of a number of serious offences, including membership of an organised racketeering enterprise engaged in murder, kidnapping, drug distribution, arson, robbery and extortion. He was subsequently convicted of those offences and sentenced to 80 months' imprisonment. Mr Rapo complains that his extradition, and the risk of being subjected to the death penalty, violated Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights as well as Article 1 of Protocol No. 13 (abolition of the death penalty) to the Convention. He further complains that he was extradited in breach of the European Court of Human Rights' indication under Rule 39 of its Rules of Court to the Albanian Government not to extradite him, in breach of Article 34 of the Convention (right to individual applications).

### Jehovas Zeugen in Österreich v. Austria (no. 27540/05)

The applicant, Jehovas Zeugen, was a religious community established in Austria under the Religious Communities Act until May 2009 when it was granted the status of a religious society. The case concerns its complaint that it was discriminated against before May 2009 when it was a religious community, as it had been subject to laws concerning employees and tax from which it would have been exempt had it been a recognised religious society. In particular, it would have been able to employ two ministers from the Philippines in 2002 for the benefit of its Tagalog speaking members in Austria and it could have been exempt from inheritance and gift tax for a donation made to it in 1999. It relies on Article 9 (freedom of religion), Article 14 (prohibition of discrimination) and Article 1 of Protocol No. 1 (protection of property).

### El Haski v. Belgium (no. 649/08)

The applicant, Lahoucine El Haski, is a Moroccan national who was born in 1975 and is held in Andenne Prison (Belgium). He arrived in Belgium in early 2004 with false identity papers. He was arrested on 1 July 2004 and charged, among other offences, with involvement, as a leader, in the activities of a terrorist group, and with forgery and using forged documents and membership of a criminal association. On 3 October 2003 Morocco issued an international arrest warrant against him. In February 2006 the applicant was sentenced to seven years' imprisonment and fined 2,500 euros (EUR). Relying in particular on Article 6 § 1 (right to a fair trial) and 6 § 3 (d) (right to examine witnesses), the applicant alleges in particular that there was a violation of his right to a fair trial, in that the domestic courts based his conviction on evidence obtained in

circumstances that were incompatible with the requirements of the European Convention.

#### [Petkova v. Bulgaria \(nos. 19130/04, 17694/05 and 27777/06\)](#)

The applicants were five Bulgarian nationals, two of whom died after their application had been lodged and whose application was continued by their heirs including one of the other applicants. All of the applicants lived in Bulgaria. As heirs to titles to agricultural land formerly owned by their ancestors and collectivised after 1945, they requested the restitution of their land under the Agricultural Land Act in 1991 and 1992 and obtained decisions recognising their right to restitution or compensation in lieu thereof. However, the restitution procedures have not been completed and the applicants complain of the continued failure of the authorities to take the relevant steps to that end. They rely in particular on Article 1 of Protocol No. 1 (protection of property).

#### [Dervishi v. Croatia \(no. 67341/10\)](#)

The applicant, Januz Dervishi, is a Croatian national who was born in 1966 and lives in Rijeka. He was arrested in May 2008 on suspicion of trafficking in heroin and placed in pre-trial detention, which was extended several times by the courts on the grounds that he might tamper with evidence and reoffend, and on account of the gravity of the charges. He was released in February 2012. The criminal proceedings against Mr Dervishi on charges of conspiracy to supply heroin remain pending. Relying on Article 5 § 3 (right to liberty and security), he complains that the reasons put forward by the courts for extending his pre-trial detention were not relevant and sufficient to justify his continued detention and that the length of his detention was excessive.

#### [Ahmade v. Greece \(no. 50520/09\)](#)

The applicant is an Afghan national who lives in Athens. He alleges that he was a minor at the time of the events in question, but it has not been possible to ascertain his exact age. He was arrested on several occasions for entering Greek territory unlawfully, and released in August 2008 on condition that he leave the country within three months. In August 2009 the applicant was arrested following a fight between foreigners and Greeks. An expulsion order was issued against him and he was placed in detention on the ground that he posed a threat to public order and was likely to abscond. He was held for 83 days, first in the Aghios Panteleïmon police station, then in the Pagrati police station. Following the dismissal of his asylum application, he was given 60 days to leave the country; he appealed unsuccessfully against that decision. Relying on Article 3 (prohibition of inhuman and degrading treatment) and Article 13 (right to an effective remedy), the applicant complains about the conditions in which he was detained in the police stations, which led him to go on hunger strike. He also alleges that, were he to be expelled to Afghanistan, he would be exposed to inhuman treatment on account of the prevailing conditions in that country. He also alleges, relying on Article 14 (prohibition of discrimination), that he was subjected to ill-treatment in the police stations because of his status as a foreigner. Under Article 8 (right to respect for private and family life), he submits that he was unable to communicate confidentially with his lawyers in preparing his asylum request. Under Article 5 §§ 1, 2 and 4 (right to liberty and security), he submits several complaints concerning his deprivation of liberty, in particular that he was a minor and that there was no effective supervision of the lawfulness of his detention. Relying on Article 6 (right to a fair hearing), he complains of failings and shortcomings in the proceedings against him. Finally, under Article 18 (limitation of use of restrictions on rights), he complains that he was detained for a purpose other than his expulsion.

### [Bygylashvili v. Greece \(no. 58164/10\)](#)

The applicant, Gannet Bygylashvili, is a Georgian national who was born in 1972 and lives in Athens. In 2010 she was arrested for entering Greek territory illegally. Relying on Article 3 (prohibition of inhuman and degrading treatment), she complains about her detention pending deportation in the premises of the Attica sub-directorate with responsibility for foreigners (Petrou Ralli), particularly with regard to the conditions (over-crowding, lice infestation, drinking water, etc). Relying on Article 5 (right to liberty and security), she also complains about the unlawfulness of her placement in temporary detention pending deportation and the authorities' passivity in implementing the measures for her deportation as well as in examining her second asylum application.

### [Patsos v. Greece \(no. 10067/11\)](#)

The applicant, Stefanos Patsos, is a Greek national who was born in 1930. He is currently detained in Larissa Prison. The case concerns the conditions of detention in which the applicant, who was sentenced to 25 years and 5 months' imprisonment, has been held in the Korydallos and Larissa Prisons (for reasons related to the judicial proceedings against him, he has been transferred from Larissa Prison to Korydallos Prison on seven occasions). The applicant argues that, taken together, his advanced age, health and conditions of detention make his imprisonment incompatible with the requirements of Article 3 (prohibition of inhuman and degrading treatment). He also complains about having to be transferred from Larissa Prison to Korydallos Prison in trying conditions. The Court has decided to give priority to this application on account of the applicant's age (82) and health (he was declared 70% disabled in 2010).

### [Réti and Fizli v. Hungary \(no. 31373/11\)](#)

The applicants, Gergely Miklós Réti and Z. V. Fizli, are both Hungarian and American nationals. They were born in 1962 and 1976 respectively and live in Budapest. They allege that they were ill-treated by the police in the early morning of 1 October 2006 after having been stopped for an identity check while riding a motorbike in Budapest. In particular, they maintain that a police officer hit Mr Réti repeatedly, handcuffed him and forced him to the ground; that another officer later forced his truncheon against Mr Réti's neck, causing him to lose consciousness; and that an officer pushed Ms Fizli in the chest and banged her head against the ground. Relying on Article 3 (prohibition of inhuman or degrading treatment), they complain of that treatment and allege that the ensuing investigation was inadequate.

### [Godelli v. Italy \(no. 33783/09\)](#)

The applicant is an Italian national who was born in 1943 and lives in Trieste (Italy). She was abandoned at birth by her biological mother, who refused to allow her name to be recorded. Relying on Article 8 (right to respect for private and family life), the applicant complains that it is impossible for her to discover her origins, since the protection of the biological mother's anonymity makes it impossible in Italy to request either non-identifying information on one's origins or a reversal of the secrecy surrounding her birth.

### [Vikulov and Others v. Latvia \(no. 16870/03\)](#)

The applicants, Sergey Vikulov, Galina Vikulova and Anton Vikulov, a married couple and their son, are Russian nationals who were born in 1955, 1957 and 1986 respectively and live in Kaliningrad. Mr Vikulov is a former Soviet army officer and he and his family were based from 1985 in the then Latvian Soviet Socialist Republic and, following independence in 1991, in Latvia. Refused a residence permit in Latvia after Mr Vikulov's demobilisation from the army in 1998, the applicants were informed by the authorities

that they had to leave the country by June 2000. After the appeals against the deportation orders were dismissed, the applicants had to leave the territory by mid-June 2003. Following their failure to do so, they were arrested on 3 September 2003 and placed in the State Border Guard Service detention unit for illegal immigrants in Rīga, and deported to Russia two weeks later. Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life), they complain about the conditions of their deportation. In particular, they allege that during their detention pending deportation they were held in a small, dirty cell, which they occasionally had to share with other inmates and where they received poor food. Relying on Article 5 § 1 (right to liberty and security), they further allege that their arrest was unlawful since the related decision was only adopted five days after their arrest.

#### [Sfinx-Impex S.A. v. the Republic of Moldova \(no. 28439/05\)](#)

The applicant company, Sfinx-Impex S.A., is a limited company registered under Moldovan law and based in Chisinau. In June 2002 the Chisinau financial court ordered public company A. to pay the applicant company the sum of 1,014,968.25 Moldovan lei (EUR 78,998.15) in respect of a debt and legal costs. The judgment was final but was not implemented. An application for review of the judgment was lodged by a company which had acquired title to the debt but not until after the three-month deadline provided for by law. In December 2005 the financial court of appeal quashed the first judgment, which had been favourable to the applicant company. Relying on Article 6 § 1 (right to a fair hearing), the company alleges that re-examining the final judgment in its favour infringed the principle of legal certainty.

#### [Spyra and Kranczkowski v. Poland \(no. 19764/07\)](#)

The applicants, Anna Spyra and Oskar Kranczkowski, a mother and her son, are two Polish nationals who were born in 1964 and 1999 respectively and live in Velbert in Germany. After his birth the second applicant received medical treatment for, among other things, respiratory problems, and underwent several operations. He is now severely disabled, and requires permanent assistance, constant physical rehabilitation and a special diet. In 2002 he was declared 100% disabled from birth. Relying on Articles 2 (right to life) and 8 (right to respect for private and family life), the applicants allege that the second applicant's disability was caused by a lack of appropriate medical treatment during the first applicant's hospitalisation at the time of his birth, and especially by the medical staff's failure to comply with the medical norms for newborns. The applicants also allege a lack of effectiveness in the procedures conducted by the Polish courts to ascertain the origin of the second applicant's disability.

#### [Novo and Silva v. Portugal \(no. 53615/08\)](#)

The applicants, Ms Maria Margarida Novo and Mr Leandro Silva, were born in 1961 and 1966 respectively and live in Cruz Quebrada (Portugal). Having obtained authorisation to adopt a child from the social services in July 2004, they were informed on 17 May 2007 that there was a tangible possibility of adoption. In July 2007, however, the social services decided that they did not have the necessary profile to adopt the child in question. The applicants challenged that decision, and in August 2007 the case file was sent to the Lisbon Family Affairs Court. The child was subsequently given to another family for adoption. Relying on Article 6 § 1, the applicants complain that they did not have a fair hearing, on account of the length of the proceedings (2 years and 2 months) and the fact that they had been unable to familiarise themselves with all of the evidence submitted to the court.

#### [Catholic Archdiocese of Alba Iulia v. Romania \(no. 33003/03\)](#)

The applicant association, the Catholic Archdiocese of Alba Iulia, is a religious organisation which operates in Romania and is based in Alba Iulia (Romania). For the

past 14 years it has been seeking to recuperate, in application of an emergency order adopted in 1998, ownership of property confiscated by the Romanian authorities during the communist period, namely an Astronomical Observatory and a library containing a rich collection of antique and valuable works (the "Batthyaneum Library"). Relying on Article 1 of Protocol No. 1 (protection of property), the Catholic Archdiocese of Alba Iulia complains that it has been impossible for it to enjoy its property. It also relies on Articles 6 (right to a fair hearing within a reasonable time) and 13 (right to an effective remedy).

### [Sergey Solovyev v. Russia \(no. 22152/05\)](#)

The applicant, Sergey Solovyev, is a Russian national who was born in 1982 and lives in Volgograd. Arrested in March 2003 on suspicion of manslaughter, he was detained on remand until March 2006, when he was released following his acquittal of all charges. Relying in particular on Article 5 § 1 (right to liberty and security), he complains that his detention for two days in March 2005 was unlawful, because there was a gap between detention orders. Further relying in particular on Article 5 § 4, he complains that the court examined the prosecution's request for the extension of his detention in the absence of his lawyer and that it did not consider appointing a legal-aid counsel for him or adjourning the hearing.

### [Stepanov v. Russia \(no. 33872/05\)](#)

The applicant, Ruslan Stepanov, is a Russian national who was born in 1979 and lived, prior to his arrest, in Petrozavodsk. Convicted in 2004 and 2008 of a number of serious offences, including causing grievous bodily harm, assault on a police officer and manslaughter, and sentenced to nine and a half years' and nine years' imprisonment respectively, he complains that he was ill-treated by the police while in pre-trial detention in March 2004 and that the ensuing investigation was not effective. He relies on Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 5 § 1 (right to liberty and security), he complains that his pre-trial detention from 27 March to 10 May 2006, after the appeal court had quashed his conviction and had remitted the case for a new trial, was unlawful. Finally, under Article 6 (right to a fair trial), he maintains that the criminal proceedings against him were unfair.

### [Ferenčíková v. Slovakia \(no. 39912/09\)](#)

The applicants, Natália and Jessica Júlia Ferenčíková, a mother and her daughter, are Slovak nationals who were born in 1976 and 1997, respectively, and live in Bratislava. The case concerns maintenance proceedings in Slovakia against Natália Ferenčíková's former husband and the father of her daughter, an American national living in the United States of America. The Slovak courts declared the applicants' maintenance claim for the period between February 2001 and February 2004 inadmissible on the ground that they had failed to indicate where Ms Ferenčíková's former husband lived. Although his address was accepted in another set of proceedings, the courts refused to re-examine the claim. Relying on Article 6 § 1 (right to a fair trial), the applicants complain that the outcome of the proceedings was arbitrary and contrary to their right of access to court.

### [Trade Union of the Police in the Slovak Republic and Others v. Slovakia \(no. 11828/08\)](#)

The applicants are the Trade Union of the Police in the Slovak Republic and three of its members, including its vice-president and former vice-president. In October 2005, the trade union organised a public meeting in Bratislava to protest against prospective legislative changes to the social security of policemen and their low pay, during which a slogan was chanted calling for the Government to step down. The Minister of the Interior subsequently made a number of statements in the media criticising the meeting, warning in particular that any officers acting against the ethical code of the police again "would be dismissed". The Minister further removed the trade union's president from



managerial position in the police, and one of the applicants was removed from the supervisory board of the police health insurance company. The applicants complain that the Minister's statements and actions following the protest meeting violated their rights under Articles 10 (freedom of expression) and 11 (freedom of assembly and association).

#### [Vojtěchová v. Slovakia \(no. 59102/08\)](#)

The applicant, Alena Vojtěchová, is a Slovak national who was born in 1964 and lives in Košice. Relying on Article 6 § 1 (right to a fair trial), she complains about the alleged unfairness of court proceedings in which her mother was sued for the termination of a tenancy agreement in respect of a flat in which they both lived. The applicant replaced her mother in the proceedings following her death in 2006, and they ended with an order for the residents to move out, which became final in 2008. The applicant complains in particular that the first-instance court proceeded with the case in the absence of her mother and without having duly summoned her; that in the course of the first-instance proceedings her mother was not advised of the possibility of having a lawyer appointed to represent her; and, that the courts did not consider the argument that she and her mother were in a difficult financial situation.

#### [Ateş Mimarlık Mühendislik A.Ş. v. Turkey \(no. 33275/05\)](#)

The applicant, Ateş Mimarlık Mühendislik A.Ş., is an architecture company based in Istanbul. In 1983, it concluded an agreement with the German Government for the restoration of the German Consulate in Istanbul, which was unilaterally terminated by the German Government in 1986. Following the German State's refusal to pay outstanding costs, the applicant company brought proceedings before the Turkish courts in 1997, seeking payment of the sum in question. Its case was eventually dismissed by the Turkish courts in a final decision in 2005, holding that the five-year statutory time-limit under Turkish law – starting from the termination of the agreement in 1986 – for the claims had expired. Relying on Article 6 § 1 (right to a fair trial), the applicant company complains that its right of access to court was violated, because the Turkish courts refused to take into consideration the judgment of a German court, which had decided in 1990 that the claim would only become due after issuance of the final statement of costs, thus delaying the running time of the time-limit. Further relying on Article 6 § 1, the applicant company also complains that the length of the proceedings was unreasonable.

#### [Eğitim ve Bilim Emekçileri Sendikası v. Turkey \(no. 20641/05\)](#)

The Trade Union of Education and Science Employees, the applicant association, was founded in Ankara on 13 January 1995. In September 2001, the trade union amended Article 2 of its Articles of Association in such a way as to defend the right of all individuals in society to receive education "in their mother tongue". Two actions to have the trade union dissolved were brought before the courts, one by the Governor of Ankara in February 2002, the other by the directorate of the Army Chief of Staff, on the ground that the reference to (individuals') right to education "in their mother tongue" was contrary to the Constitution. Relying on Articles 10 (freedom of expression) and 11 (freedom of assembly and association), the applicant trade union complains about the obligation imposed on it to amend its Articles of Association in order to prevent its dissolution. It also complains under Article 6 § 1 (right to a fair trial within a reasonable time) about the length of the proceedings before the Court of Cassation.

#### [Ferhat Kaya v. Turkey \(no. 12673/05\)](#)

The applicant, Ferhat Kaya, is a Turkish national who was born in 1974 and lives in Ardahan. At the time of the events, he was the chairman of the local branch of the Democratic People's Party (DEHAP). Taken to a police station on 5 May 2004 by an

officer in connection with a warrant for his appearance at a court hearing the following day, Mr Kaya complains that he was ill-treated by the police. In particular, he alleges that he was pushed and fell on the pieces of a broken glass door, and that he was beaten and kicked by five or six police officers while lying on the floor, leaving him unfit to work for three days. He relies in particular on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy).

#### [Kırlangıç v. Turkey \(no. 30689/05\)](#)

The applicant, Mr Hüseyin Kırlangıç, was born in 1965 and lives in Istanbul. Suspected of belonging to the illegal armed organisation THKP/C, he was arrested and placed in police custody. During questioning by the police he admitted to certain of the offences with which he was charged. Relying on Article 3 (prohibition of torture and inhuman and degrading treatment), the applicant alleges that he was subjected to ill-treatment while in police custody and argues that he had no effective remedy in domestic law in respect of that complaint. Relying on Article 5 § 3 (right to liberty and security), and 5 § 4 (right to have the lawfulness of one's detention decided speedily), he complains about the length of his detention pending trial and that he had no effective remedy to challenge the orders placing and maintaining him in detention. Finally, relying on Article 6 § 1 (right to a fair trial), he complains about the length of the criminal proceedings brought against him.

### Repetitive cases

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

**Gatti et Nalbone v. Italy** (no. 41264/02)

**Parenti (heir) and Deidda v. Italy** (nos. 39567/02 and 40281/02)

**Pedicini and others v. Italy** (no. 48117/99)

**Birzescu and Others v. Romania** (no. 9304/05)

**Fundatia Bucovina Mission Inc. and Fundatia Bucovina Bucuresti v. Romania** (no. 1231/04)

**Mihalache v. Romania** (no. 15859/07)

### Length-of-proceedings case

In the following case, the applicants complain in particular about the excessive length of (non-criminal) proceedings:

**Potocka v. Poland** (no. 1415/11)

Thursday 27 September 2012

#### [Althoff and Others v. Germany \(no. 5631/05\) – just satisfaction](#)

The case was brought by a group of heirs to an owner of property, which was expropriated at the time of the socialist German Democratic Republic (GDR) and which had previously belonged to Jewish owners who were forced to sell it under the Nazi regime.

The applicants complained that the Property Act, whose purpose was to settle property conflicts on the territory of the former GDR, was amended with retrospective effect in 1998. Following the amendment, the time-limit originally set for filing restitution claims did not apply to claims by the German State, which became the legal successor to the heir of the original Jewish owners of the property under an agreement between Germany

and the United States of America. As a result, the applicants were not entitled to either restitution of the property or to payment of the proceeds from the sale that took place after German reunification.

In its Chamber judgment of 8 December 2011, the Court found a violation of Article 1 of Protocol No. 1. It further held that the question of the application of Article 41 (just satisfaction) was not ready for decision and reserved it. It will be the subject of the Court's judgment of 27 September 2012.

#### [Chadzitaskos and Franta v. the Czech Republic \(nos. 7398/07, 31244/07, 11993/08 and 3957/09\)](#)

The applicants, Maxim Chadzitaskos and Vilém Franta, are two Czech nationals who were born in 1955 and 1948 and live in Prague and Třebíč, respectively. They were minority shareholders of six forestry companies (Mr Chadzitaskos) and two other companies (both applicants). Their cases concern proceedings in which they claimed financial compensation for expropriated shares, which were terminated by the Czech courts due to an arbitration clause in the respective asset-transfer agreements. The applicants complain that they were denied access to a court regarding their claims, relying on Article 6 § 1 (right to a fair trial). Further relying on Article 1 of Protocol No. 1 (protection of property), they also complain that they were deprived of their shares without any public interest being served and without adequate compensation.

#### [Peruš v. Slovenia \(no. 35016/05\)](#)

The applicant, Norbert Peruš, is a Slovenian national who was born in 1940 and lives in Slovenska Bistrica. The case concerns proceedings he brought before the labour courts, requesting in particular the annulment of a decision to transfer him to a different post in the electro-installation company where he was employed. The Slovenian courts dismissed his claims in a decision which became final in March 2005. Relying on Article 6 § 1 (right to a fair trial), he complains that one of the judges involved in the appeal proceedings was not impartial because of his prior involvement in the case as a judge at a lower-instance court.

#### [Pečnik v. Slovenia \(no. 44901/05\)](#)

The applicant, Alenka Pečnik, is a Slovenian national who was born in 1956 and lives in Celje. A lawyer, she was fined for contempt of court in January 2002 for criticising in an appeal statement the judge who had rejected her client's claim for injuries sustained during an attack. Relying on Article 6 § 1 (right to a fair trial), she complains that her right to an impartial tribunal was violated since the judge she had criticised also convicted her of contempt of court.

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