



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 35 judgments on Tuesday 2 October 2012 and two on Thursday 4 October 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 2 October 2012

[Antonyan v. Armenia \(no. 3946/05\)](#)

The applicant, Venera Antonyan, is an Armenian national who was born in 1937 and lives in Yerevan. The case concerns a flat in Yerevan which was allocated to her during the Soviet period under a tenancy agreement and which she acquired ownership of in 1993 when it was privatised. In 1981 she agreed to register her niece (now deceased) at her flat and subsequently her two children. Relying on Article 1 of Protocol No. 1 (protection of property), she complains that in 2004 the Armenian authorities refused to cancel the registration at her flat of her late niece's children and required her to pay them compensation in order to terminate their right to live in the flat.

[Sefilyan v. Armenia \(no. 22491/08\)](#)

The applicant, Zhirayr Sefilyan, is a Lebanese national who was born in 1967 and lives in Yerevan. He holds leading positions in several non governmental organisations, including the Unity of Armenian Volunteers, and is an active critic of the Armenian authorities. In December 2006 he was arrested and charged with making calls for a violent overthrow of the government during a speech he had given at a meeting organised by the Unity of Armenian Volunteers. He was also accused of keeping a weapon without a permit after his demobilisation in 1998. In August 2007 he was acquitted of the first charge and found guilty of the second and sentenced to one year and six months' imprisonment. Relying on Article 5 §§ 1, 3 and 4 (right to liberty and security), he makes a number of complaints about his detention and its extension. Notably, he alleges that his detention between 10 and 22 June 2007 was unlawful as it had not been authorised by a court, that the courts refused to grant bail without providing reasons, that proceedings in February 2007 concerning his continued detention were not adversarial and that there was no oral hearing in May 2007 in the appeal against that decision. Further relying on Article 8 (right to respect for correspondence), Mr Sefilyan also complains that his telephone conversations were tapped for six months in 2006 and that at that time Armenian law, lacking clear and detailed rules on secret surveillance, did not provide sufficient safeguards against possible abuse.

[Virabyan v. Armenia \(no. 40094/05\)](#)

The applicant, Grisha Virabyan, is an Armenian national who was born in 1958 and lives in Shahumyan Village (Armenia). He was a member of the main opposition party in Armenia, the People's Party of Armenia. The case concerns his allegation that he was tortured in police custody in April 2004 following his arrest on suspicion of carrying a firearm at a rally organised by the opposition parties in Yerevan. In particular, he alleges that he was repeatedly kicked and punched in the groin during his custody and, as a result, his left testicle had to be removed. He further complains that the investigation into his allegations of torture was ineffective and that his ill-treatment was politically

motivated. He relies on Article 3 (prohibition of torture and inhuman and degrading treatment) and Article 14 (prohibition of discrimination). Further relying on Article 6 § 2 (presumption of innocence), he also complains that criminal proceedings brought against him for attacking a public official during his police custody were terminated in August 2004 notably on the ground that he had also suffered during the incident and that this had “atoned for his guilt”.

[Najafli v. Azerbaijan \(no. 2594/07\)](#)

The applicant, Ramiz Huseyn oglu Najafli, is an Azerbaijani national who was born in 1967 and lives in Baku. He was a journalist and the editor-in-chief of the newspaper, *Boz Qurd*. The case concerns his allegation that he was severely beaten on 9 October 2005 by the police when they dispersed a demonstration he was reporting on in Baku. Relying on Article 3 (prohibition of inhuman and degrading treatment), he complains that the police used excessive force against him and that the ensuing investigation into his allegations was ineffective, leaving those police officers responsible unpunished. Further relying on Article 10 (freedom of expression), he also alleges that the police officers’ intention was to prevent him from reporting as they carried on beating him, despite the fact that he told them that he was a journalist. He alleges that he was then even hit over the head and passed out. He was subsequently diagnosed with cranio-cerebral trauma and concussion.

[L.B. v. Belgium \(no. 22831/08\)](#)

The applicant, L.B., is a Belgian national who was born in 1963 and is currently interned in the psychiatric wing of the prison in Ghent (Belgium). He was given a number of prison sentences between 1986 and 1995 for theft and possession of weapons. A psychiatrist’s report found on 28 May 1997 that L.B. was suffering from a severe personality disorder and that he represented a constant danger for society, with a risk of re-offending. After he was sentenced in November 2007, by the Ghent Court of Appeal, to five years’ imprisonment for raping an under-age girl, the Parole Board authorised him to serve his sentence outside the prison. In January 2004 the decision was taken by the Minister of Justice to intern the applicant. He was interned in the psychiatric wing of Ghent prison, then transferred to the psychiatric wing of Merksplas prison, while another solution was found (hospital treatment as an inpatient or outpatient). L.B. complains about being deprived of liberty in an establishment that is inappropriate for the detention of persons of unsound mind, in breach of Article 5 § 1 (e) (right to liberty and security).

[Singh and Others v. Belgium \(no. 33210/11\)](#)

The applicants, Nam Singh, Meena Kaur and their three children Priyanka, Sonam and Rounak Singh, are Afghan nationals who were born respectively in 1970, 1980, 2003, 2005 and 2008 and reside in Sint-Gillis (Belgium). The applicants arrived in Belgium in March 2011 on a flight from Moscow. As they did not have the legally required documents, they were refused entry into Belgium and the Aliens Office issued directions for their removal. The applicants, at the same time, applied for asylum. They told the Belgian authorities that they were Afghan nationals, members of the Sikh minority and had fled Afghanistan for India in 1992 because of the attacks and kidnappings endured by the Sikh and Hindu communities at that time. They had later taken refuge in Moscow. In 2009 the applicants had apparently returned to Kabul, but had not felt safe there and had fled to Belgium. On 13 April 2011 the Officer of the Commissioner General for refugees and stateless persons rejected their applications on the ground that they had not proved their Afghan nationality. The European Court of Human Rights having indicated an interim measure (Rule 39), preventing their removal to Russia for the duration of the proceedings before it, the applicants were given leave to remain in Belgium. The applicants allege that their removal to Moscow entails a real risk of *refoulement* to Afghanistan, where they would face treatment in violation of Article 3

(prohibition of inhuman or degrading treatment), and that they did not have an effective remedy before the Belgian authorities in respect of that complaint (Article 13).

[Yordanova and Toshev v. Bulgaria \(no. 5126/05\)](#)

The applicants, Svetlana Yordanova and Toshko Toshev, are Bulgarian nationals who were born in 1970 and 1942 respectively. At the time of the events, Ms Yordanova was employed as a journalist at the national daily newspaper *Trud* and Mr Toshev was the paper's editor in chief. Relying on Article 10 (freedom of expression), they complain of being found liable for defamation and ordered to pay damages in January 2005 in respect of two articles published in *Trud* in May and August 1996 about a former employee of the Ministry of Internal Affairs, who was investigated for abuse of public office.

[Kakabadze and Others v. Georgia \(no. 1484/07\)](#)

The applicants, Irakli Kakabadze, Lasha Chkhartishvili, Jaba Jishkariani, Zurab Rtvelashvili and Davit Dalakishvili are Georgian nationals who were born in 1969, 1980, 1985, 1967 and 1984 respectively and live in Tbilisi. They are members of the Equality Institute, a Georgian non-governmental organisation. The case concerns their arrest and punishment by detention, imposed as an administrative sanction by a court on the day of their arrest, for their participation in a demonstration on 29 June 2006 to express their support for two owners of a TV channel, who were on trial that day. The applicants complain that their arrest, conviction for breach of public order and contempt of court, and subsequent punishment by deprivation of liberty, were unlawful and unfair, in breach of Article 5 § 1 (right to liberty and security) and Article 6 §§ 1 and 3 (c) (right to a fair trial). They further complain that their arrest and detention violated their rights under Articles 10 (freedom of expression) and 11 (freedom of assembly and association). Finally, relying on Article 2 of Protocol No. 7 (right of appeal in criminal matters), they complain that they had no right of appeal against their conviction.

[Plesó v. Hungary \(no. 41242/08\)](#)

The applicant, Tamás Plesó, is a Hungarian national who was born in 1975 and lives in Dunakeszi (Hungary). The case concerns his involuntary hospitalisation and psychiatric treatment between late March and late April 2008 following a court decision, which held that he suffered from schizophrenia and posed a danger to his own health by failing to have psychiatric treatment. Relying on Article 5 § 1 (right to liberty and security), he complains that his compulsory confinement amounted to an unjustified deprivation of liberty. In particular, he maintains that it was not convincingly shown that he suffered from a condition which would seriously endanger his health if not treated.

[Jurijs Dmitrijevs v. Latvia \(no. 37467/04\)](#)

The applicant, Jurijs Dmitrijevs, is a former national of the USSR, "a non-citizen, permanent resident" of Latvia, who was born in 1974 and, according to the information available to the Court, is currently serving a sentence in Brasa Prison in Riga. From 1995 onwards he was placed under psychiatric monitoring for "schizophrenic psychosis" and already had two convictions. On 7 October 1999 he was apprehended by a private company's security guards during a hold-up. He was immediately taken to the police station as a suspect. According to the report of the doctor who examined him in hospital that very evening, the applicant had two injuries, one behind the ear, the other in the occipital region. The applicant alleges that he was interrogated again and beaten up by the same security guards at the police station the next day. When he was taken to the neurology unit of the prison hospital that same day, the doctor identified a new series of injuries. On 13 October the applicant began to show signs of expressive aphasia. He was treated in hospital until 1 November 1999, when he was transferred to the central prison in Riga, then on the same day he was beaten up in a basement by prison officers. In

June 2002 he was sentenced to eight years' imprisonment. On 26 October 2004 he was once again subjected to the use of force by a special unit of the prison administration. The applicant complains that he was the victim of ill-treatment prohibited by Article 3 (prohibition of inhuman or degrading treatment), inflicted on him by officers of the central prison of Riga on 1 November 1999, and by officers of the special disciplinary unit of the prison administration on 26 October 2004.

[Mitkus v. Latvia \(no. 7259/03\)](#)

The applicant, Andris Mitkus, is a Latvian national who was born in 1959. Convicted of extortion in April 2001 and of robbery in July 2002, and sentenced to two and a half years' and eight years' imprisonment respectively, he alleges that he was infected with HIV and hepatitis C while in prison, when medical staff used a multiple-use syringe to take a sample of his blood, and complains that no adequate investigation was conducted by the authorities into his allegation. He relies on Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 6 § 1 (right to a fair trial within reasonable time), he complains about the excessive length of the criminal proceedings against him. Relying on Article 6 § 3 (d) (right to examine or have examined witnesses against oneself), he also complains that the criminal courts had not heard witnesses on his behalf. He further complains, under Article 6 § 1, that he was not transported to an appeal court hearing concerning two civil claims he brought for damages. Finally, he complains that a newspaper article which disclosed information about his HIV infection, and published his photo, violated his rights under Article 8 (right to respect for private life).

[Velimirović v. Montenegro \(no. 20979/07\)](#)

The applicant, Milutin Velimirović, is a Montenegrin national who was born in 1940 and lives in Danilovgrad (Montenegro). The case concerns his complaint about the non-enforcement of a final domestic judgment of 1992 concerning flat-allocation by his employer. He relies on Article 6 § 1 (right to a fair trial).

[Czaja v. Poland \(no. 5744/05\)](#)
[Kapel v. Poland \(no. 16519/05\)](#)
[Kluska v. Poland \(no. 33384/04\)](#)
[Kowal v. Poland \(no. 21913/05\)](#)
[Kura v. Poland \(no. 17318/04\)](#)
[Lasota v. Poland \(no. 6762/04\)](#)
[Antoni Lewandowski v. Poland \(no. 38459/03\)](#)
[Płaczowska v. Poland \(no. 15435/04\)](#)
[Rusin v. Poland \(no. 25360/04\)](#)
[Trznadel v. Poland \(no. 5970/05\)](#)

The ten applicants, all from the same region of Poland, Rzeszów, are parents of children who require constant care due to serious health conditions such as epilepsy, asthma, bronchitis and chronic allergies. Their cases concern their complaint about the revocation in 2002 of their early-retirement pensions (the so-called "EWK" pension) which they were awarded to care for their children. They all rely in particular on Article 1 of Protocol No. 1 (protection of property). There are currently some 130 similar applications pending before the European Court of Human Rights.

[Hulea v. Romania \(no. 33411/05\)](#)

The applicant, Gabriel Hulea, is a Romanian national who was born in 1969 and lives in Bacău (Romania). He was an electrician in the Romanian army. His second son was born on 17 December 2001 and, for the first ten months his wife, a teacher, enjoyed parental leave. On 9 September 2002 the applicant lodged a request for parental leave with his

superior, arguing that his wife had to go back to work so as not to lose the benefit of her permanent teacher status. This request was made on several occasions. The Defence Ministry refused to grant him parental leave on the ground that by law such leave was granted only to female personnel. Mr Hulea brought proceedings before a court, which dismissed his claim. The Constitutional Court, which also heard the case, found that the law in question infringed the principle of equality before the law and that of discrimination on grounds of sex, both enshrined in the Constitution. However, on 16 March 2005 the Court of Appeal dismissed the applicant's appeal on points of law with final effect. Mr Hulea argues that the refusal to grant him parental leave constitutes discrimination on grounds of sex. He relies on Article 14 (prohibition of discrimination) taken together with Article 6 (right to a fair hearing) and Article 8 (right to respect for private and family life) in respect of the proceedings that led to the rejection of his claims in this connection.

[Knecht v. Romania \(no. 10048/10\)](#)

The applicant, Daniela Knecht, is a German and American national who was born in 1967. The case concerns her complaint that she was prevented from becoming a mother by means of *in vitro* fertilisation due to the State's refusal to transfer embryos she had deposited with a private clinic and which, when the clinic came under criminal investigation, were seized and deposited at the Institute of Forensic Medicine, which was not authorised to function as a genetic bank. She relies on Article 8 (right to respect for private and family life).

[Abdulkhakov v. Russia \(no. 14743/11\)](#)

The case concerns the Russian authorities' alleged secret transfer of an Uzbek national, detained in Russia with a view to his extradition to his country of origin, despite the European Court of Human Rights's indication (under Rule 39 - interim measures) to the Russian Government that no extradition should take place until further notice. The applicant, Murodzhon Abdulkhakov, is an Uzbek national who was born in 1979 and is currently in hiding in Tajikistan. He arrived in Moscow in December 2009 and was immediately arrested with a view to his extradition to Uzbekistan where he was on a wanted list for involvement in extremist activities. He was released in June 2011 when the maximum detention period allowed under Russian law expired. He then alleges that he was abducted by a group of men in plain clothes in the centre of Moscow and, handcuffed and forced into a van, was taken to the airport and flown to Tajikistan where he was handed over to the Tajik police. He was then detained with a view to his extradition to Uzbekistan until his release in November 2011. He has been in hiding ever since. Relying on Articles 3 (prohibition of inhuman and degrading treatment), 13 (right to an effective remedy) and 34 (right of individual petition), he complains that his secret transfer to Tajikistan has put him at real risk of extradition to Uzbekistan where he would be exposed to the threat of torture and religious persecution and was in breach of the interim measure indicated by the Court not to extradite him. He also makes a number of complaints under Article 5 §§ 1 and 4 (right to liberty and security) about the unlawfulness and excessive length of his detention pending extradition in Russia, without effective judicial review.

[Bortkevich v. Russia \(no. 27359/05\)](#)

The applicant, Vladimir Bortkevich, is a Russian national who was born in 1969 and until his conviction lived in Vologda (Russia). In November 2001 he was convicted of assault causing grave bodily harm and sentenced to nine years' imprisonment. The case concerns his complaint about the conditions of his detention in a temporary detention facility in Sokol (Vologda Region) and the failure of the domestic courts to ensure his presence at hearings in the civil proceedings he brought claiming compensation for conditions of his post-conviction detention in Sokol correctional colony. He relies on

Article 3 (prohibition of inhuman and degrading treatment) and Article 6 § 1 (right to a fair trial).

[Khrabrova v. Russia \(no. 18498/04\)](#)

The applicant, Irina Khrabrova, is a Russian national who was born in 1963 and lives in Moscow. She was a secondary school teacher in Moscow until her dismissal in February 2002 following a dispute with a pupil during a lesson. The case concerns her complaint about the unfairness of the ensuing civil proceedings she brought against the school in which she sought compensation and to be reinstated. She notably complains about the domestic courts' refusal to call the pupils who had been eye-witnesses to the dispute during one of their lessons and the lack of a public hearing on the case. She relies on Article 6 § 1 (right to a fair trial).

[Pelipenko v. Russia \(no. 69037/10\)](#)

The applicants, Svetlana and Aleksandr Pelipenko, mother and son, are Russian nationals who were born in 1963 and 1985 respectively and live in the town of Anapa, Krasnodar Region (Russia). Ms Pelipenko has worked at a former State-owned seaside health resort in Anapa since 1989. The case concerns their eviction in 2010 from two rooms in a former administrative building for staff members of the resort – where they had resided for 20 years – following the transfer of the property into private hands. They complain in particular about the non-enforcement of a final judgment in their favour of November 2001 in which the courts had dismissed the action seeking their eviction, finding it established that the rooms were their permanent place of residence. They rely on Article 6 (right to a fair trial) and Article 8 (right to respect for private and family life and home).

[Veselov and Others v. Russia \(nos. 23200/10, 24009/07 and 556/10\)](#)

The case concerns the alleged involvement of "agents provocateurs" in undercover operations conducted by the police during the investigation of drug-related offences. About 150 similar cases against Russia, concerning the investigation of drug- and corruption-related offences, are currently pending before the Court. The applicants, Viktor Veselov, Maksim Zolotukhin and Igor Druzhinin, are Russian nationals who were born in 1989, 1982 and 1977 respectively. They were each targeted in undercover operations conducted by the police in the form of a test purchase of drugs, which led to their criminal conviction for drug dealing. All applicants are currently serving prison sentences. Relying on Article 6 § 1 (right to a fair trial), the applicants complain that they were unfairly convicted of drug offences incited by the police and that their plea of entrapment was not properly examined in the domestic proceedings.

[Adamović v. Serbia \(no. 41703/06\)](#)

The applicant, Predrag Adamović, is a Serbian national who died in August 2007. His wife continued the application before the European Court in his stead. The case concerns non-enforcement of a judgment of November 2002 awarding Mr Adamović unpaid allowances from his former employer. He relies on Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

[Jovanović v. Serbia \(no. 32299/08\)](#)

The applicant, Vladeta Jovanović, is a Serbian national who was born in 1944 and lives in Kruševac (Serbia). The case concerns a civil claim filed against Mr Jovanović by his brother concerning the validity of a maintenance contract concluded between Mr Jovanović and their late mother in respect of a house in which she had lived. The courts allowed the claim, declaring the contract partially void, and the Supreme Court rejected Mr Jovanović's appeal in September 2007, finding that the value of the dispute was

below the applicable threshold of 300,000 dinars (approximately 4,500 euros). Relying in particular on Article 6 § 1 (right to a fair trial), he complains that he was arbitrarily denied access to the Supreme Court, since he had challenged the value of the dispute and the first-instance court had affirmed that the value was 600,000 dinars.

[Önal v. Turkey \(nos. 41445/04 and 41453/04\)](#)

The applicant, Ahmet Önal, is a Turkish national who was born in 1956 and lives in Istanbul. Both his applications concern criminal proceedings brought against him for publishing works which allegedly incited hatred and hostility. According to the first application, of December 1999, the publishing house of which he is the proprietor published the biography (in 4,000 copies) of a businessman of Kurdish origin accused of drug trafficking and belonging to the illegal armed organisation PKK (Kurdistan Workers' Party). In a decision of 4 January 2000 the court ordered all copies of the work to be seized and in a bill of indictment of 7 January 2000 the public prosecutor brought criminal proceedings against the applicant for inciting hatred and hostility on the basis of a racial distinction. Following the judicial proceedings he was sentenced on 7 November 2002 to one year and eight months' imprisonment, and to payment of a fine; the sentence was later commuted to a "heavy fine"¹. According to the second application, of April 1999, Mr Öner's publishing house had published the second edition of a work that had initially been published in Sweden in 1995 on the subject of the Alevis of Dersim. On 25 July 1999 the court ordered the seizure of all copies, finding that the work divided the people between Turks and Kurds, Alevis and Sunnis, and thus incited hatred and hostility. Following the judicial proceedings, Mr Öner was sentenced on 31 December 2002 to a prison sentence of one year and eight months, later commuted to a "heavy fine". Mr Öner complains, among other things, that his right to freedom of expression was not taken into consideration by the courts, which gave him harsh sentences even though the two works contained neither an incitation to hatred, nor violations of the rights of others, nor any glorification of crime. He relies on Article 10 (freedom of expression).

Length-of-proceedings cases

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

Stakić v. Montenegro (no. 49320/07)

Laduna (n° 2) v. Slovakia (no. 13439/10)

Tresa v. Slovakia (no. 209/10)

Thursday 4 October 2012

[Harroudj v. France \(no. 43631/09\)](#)

The applicant, Katya Harroudj, is a French national who was born in 1962 and lives in Villeurbanne (France). The case concerns her inability to obtain the adoption of a child from Algeria on the basis of the "kafala" system. Islamic law prohibits adoption as such but provides for the specific institution of the "kafala" or "legal guardianship". The adoption application filed in France by the applicant was denied because the Civil Code excluded the adoption of a child whose State of origin prohibited adoption. Relying on Article 8 (right to respect for private and family life), the applicant alleges that this refusal constitutes a disproportionate breach of her right to respect for her family life. Under Article 14 (prohibition of discrimination), she alleges that French law, by the way

¹ Until the amendment of November 2004, the term "heavy fine" meant in Turkish criminal law that the convicted person could be imprisoned for non payment.

it treats the personal status of the child under Islamic law, creates an unjustified discrimination on grounds of national origin.

Length-of-proceedings case

In the following case, the applicant complains in particular about the excessive length of civil proceedings.

Bestiyanets v. Ukraine (no. 34545/05)

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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.