



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 22 judgments on Tuesday 23 October 2012 and two on Thursday 25 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 23 October 2012

Ceka v. Albania (application no. 26872/05)

The applicant, Gjyste Ceka, is an Albanian national who was born in 1963 and lives in Mirditë (Albania). The case concerns the death of Ms Ceka's son in police custody in July 2004 following his arrest on suspicion of robbery. Relying on Article 2 (right to life) and Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, she alleges in particular that her son died as a result of ill-treatment by two police officers and that the ensuing investigation into her allegation was ineffective.

Hadzhiev v. Bulgaria (no. 22373/04)

The applicant, Rumen Hadzhiev, is a Bulgarian national who was born in 1948 and lives in Shumen (Bulgaria). The case concerns Mr Hadzhiev's complaint about legislation in Bulgaria which authorises secret surveillance measures. He notably complains that this legislation barred the authorities from giving him any information as to whether he had been kept under secret surveillance and that he therefore could not claim damages. He relies in particular on Article 6 § 1 (right to a fair hearing), Article 8 (right to respect for private and family life and the home) and Article 13 (right to an effective remedy) of the Convention.

Yotova v. Bulgaria (no. 43606/04)

The applicant, Yolanda Kirilova Yotova, is a Bulgarian national who was born in 1972 and lives in a village called Aglen, in the municipality of Lukovit. She is of Roma origin. She was giving a party at her house in Aglen on the evening of 13 July 1999, two days after serious altercations had occurred between some youths of Roma origin from Aglen and some youths of Bulgarian origin from a nearby village. At about midnight some shots were fired from a car towards the front gate of her house and the applicant was hit in the chest, shoulder and arm. Following the attack she was declared over 75% disabled. Relying on Articles 2 (right to life), 3 (prohibition of torture and inhuman and degrading treatment), 13 (right to an effective remedy) and 14 (prohibition of discrimination) Mrs Yotova alleges that the State authorities failed to comply with their obligation to conduct an effective investigation into her attempted murder. She also complains that the authorities did not attempt to establish whether or not it was a racially and ethnically motivated crime.

Čamovski v. Croatia (no. 38280/10)

The applicant, Tomislav Čamovski, is a Croatian national who was born in 1936 and lives in Varaždin (Croatia). The case concerns Mr Čamovski's complaint that his constitutional complaint with regard to a civil dispute about the possession of a house and a plot of

land was dismissed for being lodged out of time. Relying on Article 6 § 1 (access to court) and Article 13 (right to an effective remedy), he notably alleges that the Constitutional Court miscalculated the time-limit when dismissing his case.

[Al-Tayyar Abdelhakim v. Hungary \(no. 13058/11\)](#)
[Hendrin Ali Said and Aras Ali Said v. Hungary \(no. 13457/11\)](#)

Both cases concern complaints under Article 5 § 1 (right to liberty and security) by asylum-seekers currently staying at the Debrecen Reception Centre for Refugees (Hungary) about the unlawfulness of their detention – without effective judicial review – pending the outcome of their asylum claims.

The applicant in the first case, Alaa Al-Tayyar Abdelhakim, is a Palestinian national who was born in 1985. Stopped by the Hungarian border control at Záhony (Hungary) in July 2010 for using a forged passport, he claimed asylum, explaining that he came from a refugee camp in Tripoli, Lebanon, where he faced security problems.

The applicants in the second case, Hendrin Ali Said and Aras Ali Said, are Iraqi nationals who were born in 1992 and 1989 respectively. They left Iraq in August 2009 and illegally entered Hungary, where they made a first asylum attempt before travelling illegally to the Netherlands with the help of traffickers. Intercepted in the Netherlands, they were then transferred back to Hungary in September 2010 under the Dublin II procedure¹. They claimed asylum, alleging that they had been persecuted in Iraq because of their father's former service in Saddam Hussein's army and their Kurdish ethnicity.

[Immobiliare Podere Trieste S.R.L. v. Italy \(no. 19041/04\)](#) **Just satisfaction**

The applicant, Immobiliare Podere Trieste, is an Italian company which owned land which was occupied by the public administrative authorities with a view to its expropriation and on which building work was begun. In the absence of formal expropriation and compensation, Immobiliare Podere Trieste brought proceedings seeking damages for the unlawful occupation of their land. In a [judgment of 16 November 2006](#), the Court held that there had been a *de facto* expropriation of the applicant company's land that was incompatible with their right to the peaceful enjoyment of their possessions and that, accordingly, there had been a violation of Article 1 of Protocol No. 1 (protection of property). The Court found that the question of the application of Article 41 (just satisfaction) was not ready for decision and reserved it. It will rule on this point in a forthcoming judgment of Tuesday 23 October 2012.

[Jucha and Żak v. Poland \(no. 19127/06\)](#)

The applicants, Dorota Jucha and Tomasz Żak, are Polish nationals who were born in 1975 and 1955 and live in Tarnów and Lisia Góra (Poland) respectively. The case concerns a complaint by the applicants, a journalist and editor-in-chief of TEMI, a local weekly newspaper in Tarnów, about their conviction in June 2005 for defamation of a local councillor. They had notably published a series of articles in 2004 criticising the councillor and alleging that he had broken the law (he had been found guilty of defamation of a local radio journalist, had disclosed confidential information from those proceedings and had been accused of financial irregularities in his campaign for President). The applicants rely on Article 10 (freedom of expression).

¹ A European Union regulation under which member States are required to determine, based on a hierarchy of objective criteria, which member State is responsible for examining an asylum application lodged on their territory.

Ghiță v. Romania (no. 54247/07)

The applicant, Radu Sorin Ghiță, is a Romanian and Canadian national who was born in 1961 and lives in Bucharest. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complains of police brutality when arrested in May 2006 by two police officers who suspected him of having sexual intercourse with a prostitute in his car. He also complains that the ensuing investigation into his allegation was ineffective.

Dmitriy Rozhin v. Russia (no. 4265/06)

The applicant, Dmitriy Rozhin, is a Russian national who was born in 1980 and lives in Yekaterinburg (Russia). He was an investigator with the prosecutor's office and, in February 2004, was charged with forging a court decision ordering the release of a rape suspect as well as concealing the related criminal case-file. In March 2005 he was found guilty and sentenced to one year's detention in a correctional facility. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complains about the conditions of his detention both on remand in Yekaterinburg and then, once sentenced, in a correctional facility in Nizhniy Tagil. Further relying on Article 5 § 1 (right to liberty and security), he also alleges that his detention from 4 to 15 August 2005 was unlawful because he had been placed in a prison-type cell on arriving at the correctional colony, in breach of domestic regulations.

Grigoryev v. Russia (no. 22663/06)

The applicant, Vyacheslav Grigoryev, is a Russian national who was born in 1939 and lives in Moscow. In January 2000 he had criminal proceedings brought against him on suspicion of fraud. He was accused of setting up a scheme whereby plots of land around Moscow intended exclusively for agricultural use had been bought and transferred to the members of an organisation "The National Land Use Association" on the understanding that the land could be used for building purposes. In November 2007 the charges against Mr Grigoryev were changed to "taking the law into his own hands" and he was sentenced to compulsory work for 200 hours. His conviction was upheld on appeal in February 2008 and the sentence replaced with a fine. Pending these criminal proceedings against him, he was arrested and taken into pre-trial detention on two occasions in 2001 and 2002; the rest of the time, he was assigned to his residence. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he alleges that on one of the occasions when he was arrested, in February 2002, an armed police squad broke into his flat, kicked and beat him and dragged him into a waiting police car before taking him to the local police station. He alleges that the force used against him was excessive and had resulted in two of his ribs being broken and that the ensuing investigation into his allegation was inadequate. Lastly, he also complains about the excessive length – over eight years – of the criminal proceedings brought against him, in breach of Article 6 § 1 (right to a fair trial within a reasonable time).

Pichugin v. Russia (no. 38623/03)

The applicant, Aleksey Pichugin, is a Russian national who was born in 1962 and is serving a prison sentence in the Orenburg region (Russia). He was head of the security service of the Yukos oil company. The case essentially concerns his complaint about irregularities in his arrest and detention in June 2003 on charges of murder and attempted murder as well as in the ensuing criminal proceedings. He was found guilty as charged in March 2005 and sentenced to 20 years' imprisonment, later upheld on appeal. He notably alleges under Article 5 §§ 1, 3, and 4 (right to liberty and security) that he was arrested without a reasonable suspicion making his ensuing detention unlawful, that this detention was extended for one year and nine months without sufficient reasons and that his appeals against the decisions to extend his decision were not held in public, were not reviewed speedily or at all. Under Article 6 §§ 1 and 3 (right

to a fair trial), he also complains about the unfairness of the criminal proceedings against him, notably on account of a lack of a public hearing in his case as well as the absence of an adequate and effective opportunity to challenge witness statements against him. He also complains under Article 6 that the jury was not composed in accordance with domestic law and that the presiding judge was biased. Lastly, he complains under Articles 3 (prohibition of torture and of inhuman or degrading treatment) and 13 (right to an effective remedy) about the conditions of his detention in Lefortovo detention centre in Moscow – where he was placed on being arrested and until his transfer to a correctional colony in September 2004 – alleging that he was injected with psychotropic drugs in July 2003 and that the general medical care he received there for his various chronic diseases was inadequate.

[Zentsov and Others v. Russia \(no. 35297/05\)](#)

The applicants, Aleksey Zentsov, Lira Guskova, and Ivan Drozdov, are Russian nationals who were born in 1982, 1982, and 1984 and live in Novosibirsk, Kazan, and Roshal, Moscow Region, respectively. They are members of the National Bolsheviks Party and on 14 December 2004 were involved in a sit-in in a government building in Moscow with other members of the party during which they called for the Russian President's resignation. The group, including the applicants, were arrested the same day and, convicted on 8 December 2005 of participating in mass disorder, were immediately released on probation. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complain about the appalling conditions of their detention on remand, notably on account of overcrowding. Further relying on Article 5 §§ 1 (c) and 3 (right to liberty and security), they also complain about the unlawfulness and excessive length of their pre-trial detention.

[Majchrák v. Slovakia \(no. 21463/08\)](#)

The applicant, Peter Majchrák, is a Slovak national who was born in 1958 and lives in Bratislava. Mr Majchrák is an architect. The case concerns his complaint that his constitutional complaint with regard to proceedings brought against him for failure to complete a contract on time was rejected in December 2007 as lodged out of time. Relying on Article 6 § 1 (right of access to court), he notably complains that the Constitutional Court – using information obtained on its own initiative – had miscalculated the start date of the time-limit to lodge his complaint and, even though there was a discrepancy with the applicant's calculation as to the date, did not give him an opportunity to comment.

[Zborovský v. Slovakia \(no. 14325/08\)](#)

The applicants, Imrich and František Zborovský, brothers, are Slovak nationals who were born in 1954 and 1956 and live in Neratovice (the Czech Republic) and Prešov (Slovakia) respectively. The case concerns proceedings brought by the brothers in 1992 against a State-owned enterprise which had built a garage on a piece of their real estate. Relying in particular on Article 6 § 1 (access to court) and Article 1 of Protocol No. 1 (protection of property), they complain that the domestic courts failed to hear and examine all the evidence concerning the property dispute and treated them unequally, and that their subsequent appeal on points of law as well as two constitutional complaints were rejected without an examination on the merits. In particular, they contend that their first constitutional complaint was rejected as premature since their appeal on points of law was still pending and that, upon the rejection of that appeal without an examination of the merits of the case, the second constitutional complaint was rejected as out of time equally without an examination of the case's merits.

Nihayet Arıcı and Others v. Turkey (nos. 24604/04 and 16855/05)

The applicants, Nihayet Arıcı, Hanefi Arıcı, Siman Töre, Mahsime Arıcı, Sidap Arıcı, Azade Arıcı and Gülendamar Arıcı, who are the wife and children respectively of the late Mehmet Arıcı, and Abdullah Güngör and Hila Güngör, who are the parents of the late Muhsin Güngör, are Turkish nationals who were born in 1951, 1978, 1974, 1980, 1980 1979, and 1979 respectively, and in 1946 and 1931. They all live in Hakkari. According to their account of events, on 28 September 1999 a group of soldiers entered the village of Bozyamaç (Şemdinli) and began searching a number of houses, including the one belonging to Mehmet Arıcı. After the soldiers had left, a series of gunshots were heard. The villagers went out looking for Mehmet Arıcı, who had left home early that morning to put his livestock out to graze, but were unable to find him. The same day Muhsin Güngör left his home village Anadağ (Şemdinli) to visit his brother who was doing his military service in Van. They were found dead. Relying on Articles 2 (right to life), 3 (prohibition of torture and inhuman and degrading treatment), 5 (right to liberty and security) and 13 (right to an effective remedy), the applicants submit that their relatives were arrested, and then tortured and killed by members of the armed forces. They also complain of the lack of a domestic remedy by which to obtain compensation.

Süzer and Eksen Holding A.Ş. v. Turkey (no. 6334/05)

The applicant, Mustafa Süzer, a Turkish national who was born in 1949 and lives in Istanbul is the majority shareholder and chairman of the Turkish limited company Eksen Holding S.A. (formerly Süzer Holding S.A.). At the relevant time the applicant and his company controlled more than 99% of the capital of Kentbank, a private bank set up in 1992. On 1 February 2001 the bank was audited by the Bank Regulation and Monitoring Agency ("the BRMA"), which concluded that the bank was running at a loss. The BRMA informed Kentbank of a series of measures that it considered should be taken to improve the bank's financial situation. On 16 April 2001 the ARSB asked the bank to submit a realistic and feasible recovery plan within ten days. On 9 July 2001 four auditors from the ARSB filed a report containing a draft decision transferring the bank to the Savings Deposit Insurance Fund (the "SDIF") and the same day, without waiting for the bank to complete the recovery plan that had been imposed on it, the BRMA declared that the enforced transfer to the SDIF had taken place. A number of court decisions subsequently found in favour of the applicants, who disputed the legitimacy of the transfer and other associated administrative measures. Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicants complain of the authorities' failure to enforce the series of judgments given by the Supreme Administrative Court in their favour. They submit that the transfer of Kentbank to the SDIF, for which there has been no legal basis since the measures taken to that end were set aside, constitutes a violation of Article 1 of Protocol No. 1 (protection of property).

Length-of-proceedings cases

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

Novović v. Montenegro (no. 13210/05)
Pinheiro Silvestre v. Portugal (no. 47031/10)
Pinho Lopes v. Portugal (no. 32020/10)
Todirică and Others v. Romania (no. 21504/03)

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

Pimentel Lourenço v. Portugal (no. 9223/10)

Thursday 25 October 2012

[Buishvili v. the Czech Republic \(no. 30241/11\)](#)

The applicant, Artur Buishvili, is a Georgian national who was born in 1975 and is currently an asylum seeker in the Czech Republic. He was transferred to the Czech Republic from the Netherlands under the Dublin II procedure² in March 2011 and claimed asylum. He was refused entry and remained in the reception centre at Prague airport. He was eventually granted entry in June 2011 so that he could have medical treatment for Hepatitis C. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains about being detained for three months in Prague airport reception centre without appropriate medical treatment. Further relying on Article 5 § 1 (right to liberty and security) and Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), he also complains that his detention was unlawful on account of his illness and that he had no access to judicial proceedings in which his release could be ordered.

[Štefančič v. Slovenia \(no. 18027/05\)](#)

The applicant, Branimir Štefančič, is a Slovenian national who was born in 1966 and lives in Škofja Loka (Slovenia). In May 2000 he was convicted and sentenced to nine years' imprisonment for international drug trafficking. The case concerns his allegation that his criminal trial was unfair as he had been convicted on the basis of a statement made by a witness in London whom he had not had the opportunity to have cross-examined in court. He further complains that his request to call his mother and brother, as well as the lawyer of his co-accused, as defence witnesses in court was rejected. He relies on Article 6 § 1 (right to a fair trial) and Article 6 § 3 (d) (right to obtain attendance and examination of witnesses).

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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.

² A European Union regulation under which member States are required to determine, based on a hierarchy of objective criteria, which member State is responsible for examining an asylum application lodged on their territory.