



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 22 judgments on Tuesday 13 November 2012 and 21 judgments on Thursday 15 November 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 13 November 2012

Hristozov and Others v. Bulgaria (application no. 47039/11 and 358/12)

The applicants, ten Bulgarian nationals, are/were terminally-ill cancer patients. Four of them have died since lodging their case and the proceedings have been pursued by their relatives in their stead. All applicants had unsuccessfully exhausted the conventional treatments available for their condition and wished to be given permission to try a medicine developed by a Canadian company, which is at this stage not authorised in any country. They complain/ed that the Bulgarian authority regulating the sale and use of medicines refused to give such permission. The applicants rely/relied on Article 2 (right to life), Article 3 (prohibition of torture and of inhuman or degrading treatment), and Article 8 (right to respect for private and family life) of the European Convention on Human Rights.

Bajić v. Croatia (no. 41108/10)

The applicant, Pero Bajić, is a Dutch national who was born in 1950. Relying on Article 2 (right to life) and Article 13 (right to an effective remedy), he complains that the death of his sister in September 1994, following surgery for an abdominal tumour and allegedly caused by medical negligence, was not properly investigated in the criminal proceedings against the surgeon.

Marguš v. Croatia (no. 4455/10)

The applicant, Fred Marguš, is a Croatian national who was born in 1961 and is currently serving a prison term in Lepoglava State Prison (Croatia). A first set of criminal proceedings against him on charges of a number of offences including murder had been terminated in 1997 under the General Amnesty Act, which amnestied criminal offences committed during the war in Croatia between 1990 and 1996. After the Supreme Court had found that decision to be in violation of the Amnesty Act, he was tried in a second set of criminal proceedings, in which he was convicted of war crimes against the civilian population and sentenced to 15 years' imprisonment by a judgment which became final in September 2009. Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial), Mr Marguš complains that the same judge participated in the proceedings terminated in 1997 and those in which he was later found guilty, and that he was deprived of the right to give closing arguments. Relying on Article 4 of Protocol No. 7 (right not to be tried or punished twice), he complains that the criminal offences which were the subject of the proceedings terminated in 1997 and those of which he was later convicted were the same.

[J.M. v. Denmark \(no. 34421/09\)](#)

The applicant, J.M., is a Danish national who was born in 1991. In September 2007, at the age of 15, he was arrested and detained on remand on charges of raping and killing an 85 year-old lady. One week later, he was transferred to a closed youth institution. His pre-trial detention there was extended several times until January 2009, when he was convicted by a judgment which was upheld on appeal on 4 July 2009. Relying in particular on Article 5 § 3 (right to liberty and security / right of a detainee to be brought promptly before a judge) and Article 6 § 1 (right to a fair trial within a reasonable time), he complains that the length of his pre-trial detention and the length of the criminal proceedings against him were unreasonable.

[Hämäläinen v. Finland \(no. 37359/09\)](#)

The applicant, Heli Hämäläinen, is a Finnish national who was born in 1963 and lives in Helsinki. Having undergone male-to-female gender reassignment surgery in 2009 and having previously changed her first names, the applicant wished to obtain a new identity number that would indicate her female gender in her official documents. However, in order to do so her marriage to a woman would have had to be turned into a civil partnership, which she refused to accept. She complains that making the full recognition of her new gender conditional on the transformation of her marriage into a civil partnership violates her rights under Article 8 (right to respect for private and family life), Article 12 (right to marry) and Article 14 (prohibition of discrimination).

[Constantin Modarca v. the Republic of Moldova \(no. 37829/08\)](#)

The applicant, Constantin Modarca, is a Moldovan national who was born in 1988 and lives in Taraclia (Republic of Moldova). Convicted of murder and sentenced to 15 years' imprisonment in August 2008, he alleges that the conditions of his detention, both pending trial and subsequent to his conviction, amounted to a violation of Article 3 (prohibition of torture and of inhuman or degrading treatment). In particular, he complains of overcrowding, insufficient ventilation and poor quality of the food. He further alleges that his conviction violated Article 6 §§ 1, 2, and 3 (right to a fair trial).

[Joanna Szulc v. Poland \(no. 43932/08\)](#)

The applicant, Joanna Szulc, is a Polish national who was born in 1953 and lives in Warsaw. She claims that during the communist era the security services attempted to recruit her as a collaborator on a number of occasions, without success. In 2001, she applied to the Institute of National Remembrance, which stored documents of the communist security services, for leave to consult all documents collected on her. Relying on Article 8 (right to respect for private and family life), she complains that she was unable to access all relevant documents in her file.

[Z v. Poland \(no. 46132/08\)](#)

The applicant, Z, is a Polish national who was born in 1951 and lives in Piła (Poland). In September 2004, her daughter, who was pregnant and suffered from ulcerative colitis, died in hospital of septic shock after a number of operations. Relying on Article 2 (right to life), Z complains in particular that the doctors treating her daughter failed to provide her with adequate treatment and that no effective investigation was conducted which would have allowed to establish the responsibility for her daughter's death. Relying on Article 8 (right to respect for private and family life), she complains that she could not have prompt access to her daughter's medical records and that the doctors did not provide her and her daughter with reliable and appropriate information about her daughter's health and the treatment options available, having regard in particular to the fact that she was pregnant. Finally, relying on Article 14 (prohibition of discrimination) in

conjunction with, in particular, Articles 2 and 8, she complains that her daughter was discriminated against on the basis of her pregnancy.

[Anca Mocanu and Others v. Romania \(nos. 10865/09, 45886/07 and 32431/08\)](#)

The applicants are three Romanian nationals who live in Bucharest: Anca Mocanu, Marin Stoica and Teodor Mărieş, who were born in 1970, 1948 and 1962 respectively. The case concerns the major anti-government demonstrations which took place on 13 and 14 June 1990 in the streets of Bucharest. In this context, Anca Mocanu's husband was shot dead in the course of intervention by the security forces. Teodor Mărieş is president of the applicant association "21 December 1989" (*Asociația 21 Decembrie 1989*) which promotes the interests of the victims of the violent crackdown against the anti-communist demonstrations which took place in Romania in December 1989. On 14 June 1990 the association's headquarters were ransacked by groups of miners who had been called on by the President of the Republic to restore order in the city. When walking to his office on 13 June 1990 Marin Stoica was arrested and forcibly taken to the local premises of the public television station; once there, he was taken to the basement with several dozen other individuals and beaten unconscious. The applicants complain of the lack of an effective, impartial and thorough investigation capable of leading to the identification and punishment of those responsible for the violent repression of the demonstrations of 13 and 14 June 1990. In this respect, Anca Mocanu relies on Article 2 (right to life) and Marin Stoica and Teodor Mărieş on Article 3 (prohibition of inhuman and degrading treatment). Relying on Article 6 (right to a fair hearing within a reasonable time), the applicant association complains about the length of the criminal proceedings in which it is participating as a civil party and seeks compensation for the damage caused by the ransacking of its headquarters and the assaults on its members. Under Article 8 (protection of private life), its president, Teodor Mărieş, also complains that he was subjected to secret surveillance measures, particularly telephone tapping. Further relying on Article 34 (right of individual petition), the applicants allege that the authorities exerted pressure on them to abandon their applications to the Court and that they have not been given access to the investigation documents. Finally, under Article 5 (right to liberty and security), Teodor Mărieş alleges that he was unlawfully arrested on 13 June 1990, deprived of his liberty from 18 June to 30 October 1990 and subjected to ill-treatment.

[Cucu v. Romania \(no. 22362/06\)](#)

The applicant, Viorel Cucu, is a Romanian national who was born in 1977 and lives in Bucharest. Convicted, among other things, of robbery and sentenced to 11 years' imprisonment in November 2001, he complains about the conditions of his detention in two prisons, in particular on account of overcrowding and poor hygiene, and about the fact that he was detained in solitary confinement between July 2003 and March 2004. He further alleges that in November 2005 he was beaten on three different occasions in prison by a special intervention squad and that the authorities did not carry out an effective investigation. He relies on Article 3 (prohibition of torture and of inhuman or degrading treatment). Further relying on Article 6 § 1 (right to a fair trial) and Article 8 (right to respect for private and family life), he complains that, contrary to a court decision, in one of the prisons he was not allowed to receive visits from his wife. Finally, relying on Article 3 of Protocol No. 1 (right to free elections), he complains about the automatic withdrawal of his voting rights.

[E.M.B. v. Romania \(no. 4488/03\)](#)

The applicant, E.M.B., is a Romanian national who was born in 1946 and lives in Toronto (Canada). A former director of a private oil refinery in Romania, she was charged in July 2002 with a number of offences of fraud related to trade in oil products. The criminal proceedings against her are still pending before the first-instance court. Relying on Article 6 § 1 (right to a fair trial within a reasonable time), E.M.B. complains of the

excessive length of those proceedings. Relying on Article 6 § 2 (presumption of innocence), she further complains that the wording of the Romanian courts' decisions concerning the validity of the arrest warrant issued in her name breached her presumption of innocence.

[Lăcătuș and Others v. Romania \(no. 12694/04\)](#)

The applicants, Voichița (Rostaș) Lăcătuș, Speranța-Lămâița Rostaș and Rada-Codruța Rostaș, are Romanian nationals who were born in 1970, 1990 and 1994, respectively, and live in Staden (Belgium). The case concerns an attack on Roma homes in the village of Hădăreni in September 1993 by a mob of non-Roma villagers and the local police, during which the applicants' common-law partner and father, Aurel Pardalian Lăcătuș, was beaten to death by the crowd. Mr Lăcătuș' brother was also beaten to death and another Roma man burnt to death when the house in which he was hiding was set fire to by the crowd. The incident occurred following a row in a bar in which a non-Roma man was killed. In total 13 Roma houses in the village were completely destroyed and many Roma, including Ms Lăcătuș who was pregnant at the time and Ms Speranța-Lămâița Rostaș, were hounded from their home and then obliged to live in crowded and unsuitable conditions. Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life and the home), the applicants complain about the destruction of their home in September 1993 by the mob and the poor and cramped conditions in which they were forced to live afterwards. Further relying on Article 6 § 1 (right to a fair trial), the applicants also complain in particular that, the ensuing civil proceedings against those involved in the attack were excessively lengthy, the courts failed to provide reasons for the difference in damages awarded to the three widows of the men killed during the attack and the authorities failed to enforce the final judgment awarding one of her daughters child allowance. The applicants also submit that the domestic courts and other official authorities had referred to them in disparaging and discriminatory terms in the course of the proceedings to which they were a party, in breach of Article 14 (prohibition of discrimination) in conjunction with Articles 6 and 8. Lastly, Ms Lăcătuș also complains under Article 1 of Protocol No. 1 (protection of property) about the authorities' failure to enforce the final judgment awarding her daughter's child allowance.

[Koroleva v. Russia \(no. 1600/09\)](#)

[Pyatkov v. Russia \(no. 61767/08\)](#)

The cases concern two Russian nationals who were arrested in November 2006 on charges of drug trafficking and spent more than three years in detention awaiting trial.

Both applicants, Yuliya Koroleva (born in 1980) and Yuriy Pyatkov (born in 1963), lived before their arrests in Ufa, Republic of Bashkortostan. In April 2011, they were convicted of attempted drug trafficking and sentenced to eight and nine years' imprisonment respectively. They are currently detained in Ufa IZ -3/1 remand prison pending examination of their appeal against the conviction.

Relying on Article 5 §§ 1, 3 and 4 (right to liberty and security), both applicants make a number of complaints about their pre-trial detention: namely that two periods of their pre-trial detention in 2008 and 2009 were unlawful; that it was excessively long; and, that there were shortcomings in the proceedings for review of the lawfulness of their continued detention (notably the applicants' absence from the appeal hearings to decide on their continued detention and, in Ms Koroleva's case, the courts' failure at two hearings to address any of the grounds of appeal against certain detention orders). Mr Pyatkov also alleges under Article 3 (prohibition of torture and of inhuman or degrading treatment) that he has contracted tuberculosis in prison.

[Koryak v. Russia \(no. 24677/10\)](#)

The applicant, Igor Koryak, now deceased, was a Russian national who was born in 1961 (and lived before his arrest in the city of Orsk, Orenburg Region, Russia). He died in December 2011 in a correctional colony where he was serving a ten-year prison sentence for murder. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complained – and his mother pursued this complaint on his death – that he did not receive adequate medical care for tuberculosis and HIV/AIDS while in detention and that the authorities' persistent refusals to release him on parole despite his extremely poor health amounted to inhuman and degrading treatment.

[Y.U. v. Russia \(no. 41354/10\)](#)

The applicant, Ms Y.U., is a Russian national who was born in 1980 and lives in the town of Khimki, the Moscow Region. The case concerns a child custody dispute. Relying on Article 8 (right to respect for private and family life and the home), Ms Y.U. complains about the State's failure to enforce a court judgment of April 2009 ordering that her son, then aged four years and eight months, should live with her following the breakdown of her marriage. In April 2008 Ms Y.U.'s husband had thrown her out of the family home, keeping their son with him. She has had limited contact with her son ever since as he continues to live with his father, despite the domestic courts' ruling.

[I.G. and Others v. Slovakia \(no. 15966/04\)](#)

The applicants, I.G., M.K. and R.H., are Slovakian nationals who were born in 1983, 1981, and 1972 respectively. R.H. died on 9 October 2010 and her three children have expressed the wish to pursue the application in her stead. The case concerns three women of Roma origin who complain that they were sterilised without their full and informed consent, that the authorities' ensuing investigation into their sterilisation was not thorough, fair or effective and that their ethnic origin played a decisive role in their sterilisation. They rely on Article 3 (prohibition of torture and of inhuman or degrading treatment), Article 8 (right to respect for private and family life), Article 12 (right to marry), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination).

[C.N. v. the United Kingdom \(no. 4239/08\)](#)

The applicant, Ms C.N., is a Ugandan national who was born in 1979 and lives in Leeds (England). Ms C.N. left Uganda for the United Kingdom in September 2002 with the help of a relative and alleges that, following her arrival, he forced her into working as a live-in carer for an elderly Iraqi couple for the next four years. During that time, her passport was retained, her wages withheld and she was under constant threat of being denounced to the authorities. In August 2006 she collapsed in a bank and spent a month in hospital, following which she claimed asylum and requested that the police investigate her case. Relying on Article 4 (prohibition of slavery and forced labour), Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy), she alleges that the treatment to which she was subjected amounted to domestic servitude and that the authorities were unable to investigate her case owing to the absence of legislation in the United Kingdom at the time specifically criminalising domestic servitude and forced or compulsory labour.

[M.M. v. the United Kingdom \(no. 24029/07\)](#)

The applicant, Ms M.M., is a British national who was born in 1951 and lives in County Tyrone, Northern Ireland. Following a family dispute in April 2000, Ms M.M. received a caution for child abduction which she was told would remain on record for 3 years. This was subsequently extended to 5 years. However, in line with current policy and legislation on retention and disclosure of criminal record data, the caution will now be

retained for life and can, in certain circumstances, be disclosed to prospective employers. Relying on Article 7 (no punishment without law), Article 8 (right to respect for private and family life), and Article 6 § 1 (right to a fair hearing), Ms M.M. complains about the indefinite retention and disclosure of her caution data and the impact of this on her employment prospects.

[Van Colle v. the United Kingdom \(no. 7678/09\)](#)

The applicants, Irwin and Corinee Van Colle, husband and wife, are British nationals who were born in 1945 and 1946, respectively, and live in Middlesex (England). The case concerns the murder of their son in 2000 by his former employee, who was the accused in criminal proceedings for theft in which their son was a witness. Relying on Article 2 (right to life) and Article 8 (right to respect for private and family life), the applicants allege that the police failed in their duty to protect their son as they were aware that his former employee had been threatening him.

Repetitive cases

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

Kaneva v. Bulgaria (no. 33606/05)

The applicant in this case complains about being held against her will in a mental health institution on two occasions in 2000 and 2002. She relies in particular on Article 5 §§ 1, 4, and 5 (right to liberty and security).

Length-of-proceedings cases

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

Bańczyk and Sztuka v. Poland (no. 20920/09)

Thursday 15 November 2012

[Donati v. Italy \(no. 63242/00\) – Just satisfaction](#)

The applicants are three Italian nationals, Enrico Donati, Maurizio Donati and Angelo Donati. The case concerns the occupation of their land by the authorities without compensation. In a judgment of 15 July 2005, the Court found that there had been a violation of Article 1 of Protocol No. 1 (protection of property) and reserved the question of the application of Article 41 (just satisfaction). The Court will give its decision on this matter in the judgment to be delivered on 15 November 2012.

[Lombardi v. Italy \(no. 66394/01\)](#)

The applicants are two Italian nationals, Rosario Lombardi and Mauro Lombardi, who live in Lecce (Italy) and own a plot of land in Lizzanello. In 1987 the Lizzanello authorities issued an order, under an expedited procedure, for the possession of this plot of land, measuring 3,353 square metres, in order to construct barracks. By a subsequent judicial decision, the applicants were awarded damages as compensation for the expropriation and temporary possession and in respect of non-pecuniary damage at the close of a claim lodged under the Pinto Act to complain about the length of the proceedings. Relying on Article 1 of Protocol No. 1 (protection of property), the applicants complain that they have been deprived of their land. Under Article 6 § 1 (right to a fair hearing within a reasonable time), they complain about a lack of fairness in the proceedings,

arguing that they were unable to obtain compensation equivalent to the market value of the land on account of the retrospective application of a law; they also complain about the length of the civil proceedings and the inadequacy of the relief obtained in the context of the "Pinto" claim.

[Bargão and Domingos Correia v. Portugal \(nos. 53579/09 and 53582/09\)](#)

The applicants are two Portuguese nationals, José Moreira Bargão and Jacinto Domingos Correia, who were born in 1940 and 1941 respectively and live in Idanha-a-Nova (Portugal). The case concerns their conviction for aggravated defamation in respect of an administrative assistant in a health centre, whom they had accused, in a letter sent to the Ministry of Health, of failing to comply with his working hours and of taking advantage of users' vulnerability. Relying on Articles 10 (freedom of expression) and 9 (right to freedom of thought), the applicants complain about their conviction.

[Joos v. Switzerland \(no. 43245/07\)](#)

The applicant, Hans Joos, is a Swiss national who was born in 1945 and lives in Samedan (Switzerland). The owner of a house from the 16th century in the centre of Samedan, he objected to plans for the construction of a wellness centre with a swimming pool on the roof on the plot of land adjacent to his house. His objection was rejected by the Municipal Council and he subsequently brought administrative proceedings against the construction plans. His appeal was eventually rejected by the Federal Tribunal on 16 May 2007. Relying on Article 6 § 1 (right to a fair hearing), he complains that he did not have an opportunity to submit comments on the observations submitted by the Federal Department of the Interior in the proceedings, in particular since the Federal Tribunal failed to inform him that it had requested information from the Department and because the Federal Tribunal gave its judgment less than a month after he had received the Department's observations.

[Kissiwa Koffi v. Switzerland \(no. 38005/07\)](#)

The applicant, Christine Kissiwa Koffi, is an Ivory Coast national who was born in 1980 and lives in the Ivory Coast. As the wife of a Swiss national of Ivory Coast origin, she travelled in 2001 to Switzerland, where she obtained a residence permit that was renewed on several occasions. In 2003 she was arrested by the police at the Zurich-Kloten airport with 2.5 kg of cocaine in her luggage. She served two-thirds of the sentence imposed for this offence and was released in 2005. On 25 October 2004, the Migrations Office of the Canton of Zurich refused to extend her residence permit. In 2006 she and her husband had a son (the second applicant). Her appeals against the authorities' decision not to extend her residence permit were unsuccessful and in 2007 she was sent back to the Ivory Coast with her son, who was subsequently returned to Switzerland by his father, ostensibly on health grounds. The Swiss courts upheld the exclusion order against Ms Kissiwa Koffi on the ground that she represented a danger to public order and safety. Relying in particular on Article 8 (right to respect for private and family life), she complains about her expulsion from Switzerland.

[Shala v. Switzerland \(no. 52873/09\)](#)

The applicant, Isak Shala, who states that he is a Kosovo national, was born in 1983 and lives in Prizren (Kosovo). He arrived in Switzerland in 1990 in the context of family reunion, received all his schooling there and served an apprenticeship as a locksmith. Having received several criminal convictions and been fined for attempted blackmail and death threats against his former girlfriend, he was deported from Switzerland in March 2008, a decision that was subsequently confirmed by the Federal Court. In 2007 the applicant had married, in Kosovo, a national of that country, with whom he had requested family reunion. Relying on Article 8 (right to respect for private and family

life), the applicant complains about his expulsion from Switzerland, where he had lived for 18 years.

[Çelik v. Turkey \(no 3\) \(no. 36487/07\)](#)

The applicant, Murat Çelik, is a Turkish national who was born in 1966 and lives in Istanbul (Turkey). A lawyer, he was president of the Istanbul branch of the Association of Contemporary Lawyers (Çağdaş Hukukçular Derneği) from 1997 to 2000. The case concerns his arrest in the context of an assembly of members of this association on 16 September 2000 for the purpose of reading a statement to the press about a protocol adopted in January 2000 to regulate management, protection and health services within prisons and detention facilities. Relying on Articles 3 (prohibition of inhuman or degrading treatment), 6 (right to a fair trial), 13 (right to an effective remedy) and 14 (prohibition of discrimination), the applicant alleges that the police used violence against him and complains of the ineffectiveness of the criminal proceedings brought against the police officers on duty on the day of the incident, on the ground that they were ended as time-barred. He also complains of an infringement of his rights as protected by Articles 10 (freedom of expression) and 11 (freedom of assembly and association). Finally, under Article 5 (right to liberty and security), he alleges that his placement in police custody on the day of the meeting was intended to prevent him from taking part in making a statement to the press.

[Gürceğiz v. Turkey \(no. 11045/07\)](#)

The applicant, İbrahim Gürceğiz, is a Turkish national who was born in 1973 and lives in Diyarbakır (Turkey). On 21 January 2002, he was arrested in the course of an operation against the illegal organisation Hizbullah, on suspicion of being a member of that organisation and of having committed crimes on its behalf. His pre-trial detention, which began on 24 January 2002, was extended until 24 April 2007, on which date he was convicted by a special assize court. Relying on Article 5 § 3 (right to liberty and security), he complains about the length of his pre-trial detention, and, under Article 6 (right to a fair trial within a reasonable time), about the length of the criminal proceedings brought against him. Finally, without relying on any specific Convention article, he alleges that he was ill-treated while in police custody.

[Mehmet Yolcu v. Turkey \(no. 33200/05\)](#)

The applicant, Mehmet Yolcu, is a Turkish national who was born in 1957 and lives in Malatya (Turkey). At the relevant time, he was a university research assistant. The case concerns an administrative procedure following the Vice-Chancellor's refusal to appoint him to the post of lecturer in Arab language and literature in the Theology Faculty at the Inonu Public University. Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicant complains about the length of that procedure and about the failure to communicate the opinion of the Chief Public Prosecutor at the Supreme Administrative Court in the context of his appeal against the administrative court's judgment, and his application for rectification of that judgment. He also relies on Article 1 of Protocol No. 1 (protection of property), claiming a loss of income in view of the difference in salary between a lecturer and a research assistant, and on Article 14 (prohibition of discrimination), alleging that candidates had been appointed on the strength of candidacies similar to his.

[Grinenko v. Ukraine \(no. 33627/06\)](#)

The applicant, Vladislav Grinenko, is a Ukrainian national who was born in 1983 and lives in Kharkiv (Ukraine). Convicted of attempting to arrange a murder and sentenced to four and a half years' imprisonment in June 2005, he complains, under Article 3 (prohibition of torture and of inhuman or degrading treatment), that following his arrest in November 2004 he was ill treated by police officers and that there was no effective investigation of

his allegations. Relying on Article 5 § 1 (c) (right to liberty and security), he complains in particular that for more than 24 hours following his arrest his detention was not recorded by the authorities and no formal decision was made, and that even after his detention as a suspect had been formalised, it was unlawful as it did not comply with the Code of Criminal Procedure. Relying further on Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance of own choosing), he complains that following his arrest he was denied access to a lawyer and that he was subsequently provided with a legal aid lawyer instead of being represented by a lawyer of his own choosing. Finally, under Article 6 §§ 1 and 3 (d) (right to examination of witnesses), he complains that in their decisions the courts had referred to statements by a witness who by the time of the trial had died and could not be challenged in court.

[Khayrov v. Ukraine \(no. 19157/06\)](#)

The applicant, Ramil Khayrov, is a Ukrainian national who was born in 1968 and is currently serving a prison sentence. Convicted of murder and sentenced to ten years' imprisonment in July 2004, he complains that he was ill-treated by the police following his arrest and that there was no effective investigation of his complaints, in breach of Article 3 (prohibition of torture and of inhuman or degrading treatment). He also complains, under Article 3, that the medical treatment for his tuberculosis he received in detention was insufficient. Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance), he complains that he was not provided with a lawyer at the initial stage of the proceedings. He finally complains, under Article 6 §§ 1 and 3 (d) (right to a fair trial / right to obtain attendance and examination of witnesses), that the courts failed to examine another suspect as a witness.

[Koval and Others v. Ukraine \(no. 22429/05\)](#)

The applicants, Mikhail and Anna Koval, born in 1944 and 1955 respectively, and their children Dmitriy Brik, and Yelena Dubova, born in 1977 and 1980 respectively, are Ukrainian nationals who live in Chernigiv (Ukraine). Their case originated in a dispute between Mr Brik and two of his acquaintances over the ownership of an electric drill. When the acquaintances arrived at the applicants' apartment in Mr Brik's absence in order to take the drill, they were threatened by Mr Koval with a gas gun. Following their complaint to the police, police officers accompanied by the acquaintances came to the applicants' apartment on 14 August 2001. They allegedly used force against three of the applicants and subsequently took Mr Koval and Mr Brik to the police station, where they were beaten. In the evening of the same day, the police returned to the applicants' apartment and seized the drill and the gas gun. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), Mr and Ms Koval and Mr Brik complain about having been beaten - Mr Koval and Mr Brik maintain that the treatment to which they were subjected at the police station amounted to torture - and that there was no effective investigation in respect of their complaints. Mr Koval and Mr Brik further complain, relying in particular on Article 5 § 1 (right to liberty and security), that their detention at the police station for several hours with the sole purpose of forcing them to return the electric drill, was unlawful. Relying further on Article 8 (right to respect for private and family life and the home), all the applicants complain that police officers unlawfully entered their apartment. Finally, under Article 1 of Protocol No. 1 (protection of property), Mr Koval and Mr Brik complain about the police having seized the electric drill and the gas gun.

[Nikolayenko v. Ukraine \(no. 39994/06\)](#)

The applicant, Vyacheslav Nikolayenko, is a Ukrainian national who was born in 1968 and is currently serving a life sentence for murder, of which he was convicted in November 2005. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complains that he was tortured by the police following his arrest and

during his pre-trial detention. He further complains, under Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance of own choosing), that he was represented by a lawyer only on certain occasions during the investigation and trial. Relying on Article 6 § 1 (right to a fair trial), he also complains that his right not to incriminate himself was violated.

[Sergey Afanasyev v. Ukraine \(no. 48057/06\)](#)

The applicant, Sergey Afanasyev, is a Russian national who was born in 1963 and is currently serving a prison sentence. Convicted of murder and sentenced to ten years' imprisonment in July 2005, he complains that following his arrest in April 2005 he was ill-treated by police officers and that there was no effective investigation of his complaints, in breach of Article 3 (prohibition of torture and of inhuman or degrading treatment). Further relying on Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance), he also complains that he had no access to a lawyer at his first questioning by the police. He further complains, under Article 6 §§ 1 and 3 (d) (right to a fair trial / right to obtain attendance and examination of witnesses), that the courts ignored his requests to examine a witness for the defence. Finally, relying on Article 6 § 1 (right to a trial), he complains that the courts convicted him on the basis of a self-incriminatory statement obtained by ill-treatment.

[Yermolenko v. Ukraine \(no. 49218/10\)](#)

The applicant, Grygoriy Yermolenko, is a Ukrainian national who was born in 1958 and is currently detained in Sumy no. 116 Correctional Colony. He was the former deputy head of the Sumy District State Administration and was convicted of corruption and sentenced to seven years' imprisonment in December 2009. Suffering from chronic lymphocytic leukaemia since 2002 and subsequently diagnosed with a number of other serious diseases, he maintains that he was not provided with the necessary medical assistance in detention and that his state of health was not compatible with detention. He relies on Article 3 (prohibition of torture and of inhuman or degrading treatment).

[Yerokhina v. Ukraine \(no. 12167/04\)](#)

The applicant, Elena Yerokhina, is a Ukrainian national who was born in 1963 and lives in Chernihiv. Convicted of murdering a friend and sentenced to ten years' imprisonment in April 2003, she complains that, when questioned as a suspect in November 2001, she was threatened by law-enforcement officers and that there was no effective investigation of her complaints in that respect. She relies on Article 3 (prohibition of torture and of inhuman or degrading treatment). Further relying on Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance), she also complains that she was not given access to a lawyer at the initial stage of the criminal proceedings against her and that this affected the fairness and outcome of the proceedings.

[Zamferesko v. Ukraine \(no. 30075/06\)](#)

The applicant, Viktor Zamferesko, is a Ukrainian national who was born in 1982 and is currently serving a life sentence for murder, of which he was convicted in September 2005. Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), he complains that he was psychologically and physically ill-treated by the police following his arrest in April 2005 in order to obtain a confession and that, in November 2007, he was subjected to ill-treatment by a group of special prison officers. Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial / right to legal assistance), he complains that he was not provided with access to a lawyer when he was first questioned by the police. Finally, he complains that the courts convicted him on the basis of self-incriminating statements obtained as a result of ill-treatment, in breach of Article 6 § 1 (right to a trial).

Length-of-proceedings cases

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

Bodnár v. Hungary (no. 46206/07)

Cserjés and Others v. Hungary (no. 53834/07)

Cooperativa 'Sannio Verde' S.R.L. v. Italy (no. 43465/02)

Pacifico and Others v. Italy (nos. 34389/02, 34390/02, 34392/02 and 34458/02)

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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.