



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 19 judgments on Tuesday 22 October 2013 and 16 on Thursday 24 October 2013.

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 22 October 2013

[Marinković v. Serbia \(application no. 5353/11\)](#)

The applicant, Radoljub Marinković, is a Serbian national who was born in 1955 and lives in Užice (Serbia). The case concerns the enforcement of his civil claim against the company that employed him, Raketa-Putnički Saobraćaj. Though the company was privatised in 2002, in July 2007 its sale was annulled, and the Serbian state owned a majority of the shares until these were sold in December 2008. Between March and September 2007, Mr Marinković successfully pursued three separate sets of civil claims against the company, seeking payment of salary arrears and social security contributions. He secured enforcement orders in all three cases, but the company entered insolvency in July 2010 and Mr Marinković did not receive all the money that was owed. Relying on Article 6 § 1 (right to a fair trial), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property), he complains that the Serbian state failed to enforce the judgments given in his favour, and that he was denied an effective remedy.

[Soltész v. Slovakia \(no. 11867/09\)](#)

The applicant, Arpád Soltész, is a Slovak national who was born in 1969 and lives in Košice (Slovakia). He is a journalist. The case concerns an article published by Mr Soltész in the newspaper *Národná obroda* in June 2003. The article was about the disappearance of A. (a head of a municipal office and an entrepreneur), which occurred in May 1997. In May 2001 Mr Soltész obtained a declaration written by a former police officer, who had been in charge of the search for A. at the time of his disappearance. The declaration contained a number of statements which implied that D., a practicing lawyer and an entrepreneur, had been involved in A's disappearance. In his article, Mr Soltész stated that the newspaper was in possession of the statement and outlined what it said about D.'s involvement. D then successfully sued Mr Soltész for libel. Mr Soltész appealed the decision, but this was dismissed by the Slovak Constitutional Court in June 2008. Relying on Article 10 (freedom of expression) and Article 13 (right to an effective remedy) in conjunction with Article 10, Mr Soltész complains of the proceedings against him, and the finding of liability that was made.

[Wyssenbach v. Switzerland \(no. 4\) \(no. 50478/06\)](#)

The applicants, Andreas Wyssenbach and Pia Wyssenbach-Illi, are Swiss nationals who were born in 1946 and 1935 respectively. Mr Wyssenbach died on 13 April 2009. Mrs Wyssenbach-Illi lives in Berne (Switzerland). The case concerns their allegations that the proceedings concerning them before the Federal Court were unlawful. The applicants were renting immovable property in Berne and brought proceedings against the landlord after he terminated their lease in 2003. When their action was dismissed in 2004 they lodged an appeal on grounds of nullity with the Court of Appeal, which was dismissed in 2005. Arguing that the first-instance and appeal proceedings had been beset by irregularities, they lodged a public-law appeal with the Federal Court; this too was dismissed in

2006. Mr Wyssenbach, who was an experienced lawyer, informed the Federal Court that he had not been sent the observations submitted by the Court of Appeal and by the opposing party, and requested that he be provided with a copy. After receiving it he wrote to the President of the Federal Court reiterating his complaints. The latter replied that there was sufficient evidence that the observations had in fact been sent. Relying on Article 6 (right to a fair hearing), the applicants complain that the Federal Court did not send them a copy of the observations made by the Court of Appeal and by the opposing party.

[Bülent Kaya v. Turkey \(no. 52056/08\)](#)

The applicant, Bülent Kaya, is a Turkish national who was born in 1955 and lives in Ankara. The case concerns the fine he was ordered to pay after giving a speech at a rally organised in 2003 by a political party, in the course of which slogans were chanted in support of Abdullah Öcalan. Mr Kaya was charged following the events and, in a final judgment of the Assize Court of March 2008, was found guilty of “glorifying crime and a criminal”. His sentence of three months’ imprisonment was commuted to a fine of 2,000 Turkish liras, which he paid in July 2008. Mr Kaya relies mainly on Article 10 (freedom of expression).

[Sace Elektrik Ticaret ve Sanayi A.Ş. v. Turkey \(no. 20577/05\)](#)

The applicant, Sace Elektrik Ticaret ve Sanayi A.Ş., is a Turkish company. The case concerns the enforced sale of land owned by the company. The company owned a plot of land in Istanbul, which was mortgaged to a bank. Following a delay in monthly repayments, the bank started enforcement proceedings and the land was sold at auction in March 2001. The land was sold, and the company applied to have the sale annulled on the grounds that there had been flaws in the organisation of the auction. In September 2004, following a number of appeals, the Turkish courts dismissed the company’s case and ordered the payment of a fine amounting to 10% of the object of the dispute, totaling 262,307,000,000 Turkish lira (approximately 140,000 EUR). In January 2005 the Court of Cassation rejected the request of the company for an appeal. Relying on Article 6 § 1 (access to court), the company complains that the fine imposed on it constituted a breach of its right of access to a court, as the payment should be seen as a penalty for bringing its case.

[M.H. v. the United Kingdom \(no. 11577/06\)](#)

The applicant, M.H., is a British national who was born in 1970 and lives in Shropshire (England, UK). She is severely disabled as a result of Down’s syndrome. The case concerns her detention on mental health grounds. In January 2003 M.H. was detained in a hospital for twenty-eight days for assessment. Although she was entitled to challenge her detention during the first fourteen days, she lacked legal capacity to do so. M.H.’s mother made an order for her discharge, but a barring order was issued preventing her mother from making any further order for the next six months. During the twenty-eight day assessment period, the local authority applied to the court to discharge M.H.’s mother as her nearest relative, an action which had the effect of extending her detention indefinitely. Once these proceedings had been issued, M.H. had no means to challenge her continued detention. She was eventually discharged in July 2003. Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), Ms M.H. complains that her right to challenge the lawfulness of her detention was violated, firstly because there was no provision under UK law for the automatic review of the detention of persons without legal capacity, and secondly because there was no provision for a patient, whether incapacitated or not, to take proceedings before a court or tribunal when the detention had been extended indefinitely following the issue of proceedings to displace the nearest relative.

Repetitive cases

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

Strugaru v. the Republic of Moldova (no. 44721/08)

This case concerns the setting-aside of an irrevocable decision given in the applicant's favour in the context of proceedings for the division of property following her divorce. The applicant relies on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property).

Lolić v. Serbia (no. 44095/06)

This case concerns the applicant's complaint about the non-enforcement of a judgment given in his favour. The applicant relies on Article 6 § 1 (right to a fair trial/access to court) and Article 1 of Protocol No. 1 (protection of property).

Naranjo Acevedo v. Spain (no. 35348/09)

The applicant in this case, relying on Article 6 § 1 (right to a fair trial), complains of the fact that he was unable to give evidence in person during the hearing of his case before the High Court of Justice.

Cihan Yeşil v. Turkey (no. 24592/08)**Sabahattin Alkan v. Turkey (no. 44324/09)**

In these cases, the applicants contend that the length of their pre-trial detention was in breach of Article 5 § 3 (right to liberty and security). The applicant in Cihan Yeşil v. Turkey also alleges a violation of Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy).

Nihat Ateş v. Turkey (no. 2694/06)

The applicant in this case, relying on Article 5 § 4 (right to have the lawfulness of detention speedily decided by a court), complains about a lack of effective remedies with which to challenge the lawfulness of his detention. He also alleges a violation of Article 6 § 1 (right to a fair trial within a reasonable time).

Length-of-proceedings cases

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

Börzsönyi v. Hungary (no. 48150/11)**Dömötör v. Hungary (no. 25065/09)****Faragó and Others v. Hungary (no. 63153/10)****István Kocsis v. Hungary (no. 35000/07)****Valvola Kft. v. Hungary (no. 32744/10)****Mercuri v. Italy (no. 14055/04)**

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

Máté v. Hungary (no. 9429/10)

Thursday 24 October 2013

[Damjanac v. Croatia \(no. 52943/10\)](#)

The applicant, Borisav Damjanac, is a Croatian and Serbian national who was born in 1926 and lives in Belgrade. The case concerns the payment of his pension. Mr Damjanac served as a military officer in the Yugoslav People's Army (YPA) between 1941 and 1979, and between 1992 and 2003 he received his pension from the Croatian pension authorities in Dubrovnik. However, after Mr Damjanac informed the Croatian authorities that he intended to move to Belgrade, his pension

payments were halted in October 2003. Croatia and Serbia were signatories to an international treaty stating that the right to payment of a pension abroad existed regardless of whether the pension recipient lived in one of the signatory states. However, the Croatian authorities explained that this treaty did not apply to YPA pensions. Mr Damjanac appealed the decision in December 2003 and lodged a constitutional complaint, but these were unsuccessful. He changed his place of residence to Dubrovnik in October 2004, and once again started to receive his pension. Relying on Article 1 of Protocol No. 1 (protection of property) taken alone and in conjunction with Article 14 (prohibition of discrimination), Mr Damjanac complains that the stopping of payment of his pension was arbitrary and discriminatory.

[Housein v. Greece \(no. 71825/11\)](#)

The applicant, Ali Housein, is an Afghan national who was born in 1994 and has no fixed address. The case concerns the conditions in which Mr Housein was held in a detention centre. While he was still a minor, Mr Housein was arrested in 2011 for entering Greece illegally and was placed in detention in a detention centre for adults pending his deportation. His lawyer applied for the detention order to be lifted and for the applicant to be placed in a special centre for unaccompanied minors. Shortly afterwards, Mr Housein lodged an objection against his detention with the Greek courts, complaining of being detained together with adults in unacceptable conditions. His objection was dismissed and an order was made for his continued detention. In July 2011 he was transferred to a youth hostel. The decision ordering his detention and deportation was subsequently set aside and Mr Housein later left the youth hostel. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Housein complains of the conditions in which he was held in the detention centre on a temporary basis. Under Article 5 §§ 1 and 4 (right to liberty and security and right to have the lawfulness of detention decided speedily by a court), he also complains that his arrest and placement in detention infringed his status as an unaccompanied minor. Lastly, as a Muslim, he complains of a violation of Article 9 (right to freedom of thought, conscience and religion) for having been obliged to choose on several occasions between eating pork and going without food.

[Ioannis Papageorgiou v. Greece \(no. 45847/09\)](#)

The applicant, Ioannis Papageorgiou, is a Greek national who was born in 1962 and lives in Athens. Mr Papageorgiou was convicted in his absence under the procedure applicable to persons of unknown address, although he claims that the Greek judicial authorities had been informed of his address. The applicant was charged with several offences, including forgery and using forged documents, and supplied his address to the investigating authorities. He was summoned to appear in 1995. After failing to find him at the address given, the authorities responsible for serving summonses initiated the procedure applicable to persons of unknown address. In 1996 Mr Papageorgiou was sentenced in his absence to a prison term, which was commuted to a fine. The applicant appealed in 2007, submitting that he had found out about the judgment simply by chance in 2006. After his appeal was dismissed as being out of time, he lodged an appeal on points of law. In a 2009 judgment the Court of Cassation dismissed the appeal. The applicant complains of a violation of Article 6 §§ 1 and 3 (a), (c) and (d) (right to a fair trial/right of access to a court).

[Navone and Others v. Monaco \(nos. 62880/11, 62892/11 and 62899/11\)](#)

The applicants, Davide Navone, Guglielmo Lafleur and Danilo Re, are Italian nationals who were born in 1981, 1980 and 1979 respectively. Mr Navone lives in Canale and Mr Lafleur and Mr Re live in Savona (Italy). The case concerns the details of their time in police custody. The three applicants were arrested in Monaco in December 2010. On 5 December 2010, at the end of their respective periods in police custody, they were made the subject of a judicial investigation concerning several offences, including theft and handling stolen goods. All three applicants were charged and taken into detention on the same day. Arguing that their police custody should be declared null and void, they lodged pleas of nullity and applications for release with the Court of Appeal, without success. In

January 2011 they lodged a notice of appeal on points of law with the general registry. The Court of Revision rejected the first two applicants' appeals; in the case of Mr Re, it set aside the record of his first interview in police custody. The applicants were subsequently sentenced by the Criminal Court to 18 months' imprisonment and the sentence was upheld by the Court of Appeal in June 2011. Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to be assisted by a lawyer), Mr Navone and Mr Lafleur allege that they were not informed of their right to remain silent and that they were deprived of their right to be assisted by a lawyer while in police custody. Mr Re complains that he did not have the assistance of a lawyer from the beginning of his police custody, despite his request to that effect, and of the fact that this circumstance did not result in the proceedings as a whole being declared null and void.

[Dovletukayev and Others v. Russia \(nos. 7821/07, 10937/10, 14046/10 and 32782/10\)](#)

The applicants are seven Russian nationals who live in various districts of Chechnya (Russia). They are close relatives of five men – Aslan Dovletukayev, Khizir Gulmutov, Islam and Abubakar Tazurkayev and Supyan Khutsayeva, born between 1936 and 1982 – who disappeared, between 2001 and 2004, after having been taken away by armed men in uniforms whom the applicants took to be Russian servicemen. The bodies of four of the applicants' relatives were subsequently discovered. One of the men remains missing and his family has had no news of him since his disappearance in September 2003. The investigations into the circumstances of the disappearance and the death of the applicants' relatives remain pending. Relying on Article 2 (right to life), the applicants complain that their relatives were abducted and killed by Russian State officials, and that the authorities have failed to carry out effective investigations into their deaths. Further relying on Article 5 (right to liberty and security), they complain of their relatives' unacknowledged detention. They also complain, under Article 13 (right to an effective remedy), that no remedy was available to them in respect of these complaints. Finally, the family of Abubakar Tazurkayev relies on Article 3 (prohibition of torture and of inhuman or degrading treatment), complaining that the disappearance of Abubakar caused them mental suffering.

[Lapshov v. Russia \(no. 5288/08\)](#)

The applicant, Zakhar Lapshov, is a Russian national who was born in 1982 and is serving a prison sentence in Kaliningrad (Russia). The case concerns the conditions of his pre-trial detention, before his conviction for robbery. On numerous occasions between 26 July 2006 and 7 August 2007 Mr Lapshov was kept in a temporary detention centre in Bagrationovsk. He alleges that the conditions of this detention were inappropriate in a number of ways; in particular, that his cell had no window or bedding, and that he had no access to a private toilet or outdoor exercise. He therefore complains that his detention conditions at this time was incompatible with the standards established by Article 3 (prohibition of inhuman or degrading treatment).

[Pakhomova v. Russia \(no. 22935/11\)](#)

The applicant, Natalya Pakhomova (formerly Natalya Baranova), is a Russian national who was born in 1975 and lives in Novosibirsk (Russia). The case concerns the custody of her son. Ms Pakhomova married her former husband in 1997, and their son was born in 2001. She later applied for a divorce. On 24 February 2009, while the proceedings were still pending, her former husband picked up their son from school, and the child has not been seen since. The divorce was granted in March 2009, and Ms Pakhomova was granted custody of the couple's child. However, her former husband did not comply with the judgment, and Ms Pakhomova persistently sought to have the judgment enforced by making numerous applications and complaints. However, bailiffs have not succeeded in returning her son to her. Relying on Article 8 (right to respect for private and family life), Ms Pakhomova complains that the Russian authorities have failed to enforce the judgment granting her custody of her son.

[Shcherbakov v. Russia \(no. 2\) \(no. 34959/07\)](#)

The applicant, Igor Shcherbakov, is a Russian national who was born in 1955 and lives in Tula (Russia). Between his arrest on 16 November 2004 and his conviction for extortion and fraud on 28 February 2008, he was held in pre-trial detention. His appeals against this detention were dismissed. Mr Shcherbakov relies on Article 3 (prohibition of inhuman or degrading treatment), Article 5 §§ 3 and 4 (right to liberty and security), Article 6 § 1 (right to a fair trial within a reasonable time) and Article 13 (right to an effective remedy). He complains in particular that the conditions of his pre-trial detention were inappropriate, in particular because of overcrowded cells, that both this detention and the criminal proceedings lasted for an unreasonably long time, and that an appeal of November 2006 against his pre-trial detention was not heard in good time.

[Sedminek v. Slovenia \(no. 9842/07\)](#)

The applicant, Milan Sedminek, is a Slovenian national who was born in 1955 and lives in Polzela (Slovenia). The case concerns a civil suit brought by Mr Sedminek and insolvency proceedings pending against the opposite party. In August 1996 Mr Sedminek bought some business premises from a company, but soon realised that they were smaller than had been agreed in the contract. Mr Sedminek sued the company in September 1998. He was successful in obtaining a judgment in his favour in April 2004. The judgment was not enforced, because the company subsequently entered insolvency proceedings, which are still pending. Relying on Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 13 (right to an effective remedy), Mr Sedminek complains that the proceedings he was involved in were unreasonably lengthy, that this meant that he was not able to recover his loss from the company, and that he had no access to an effective remedy in respect of this complaint.

[Baklanov v. Ukraine \(no. 44425/08\)](#)

The applicant, Mikhail Baklanov, is a Ukrainian national who was born in 1985 and lives in Gorlivka in the Donetsk region (Ukraine). The case concerns his allegations that he suffered ill-treatment during his military service, in particular beatings and bullying. Mr Baklanov was drafted into the army in May 2003, with no prior psychological concerns. He was discharged in April 2004 after it was found that psychological problems he had developed made him unfit for military service. Following Mr Baklanov's allegations of ill treatment, the authorities conducted investigations but found no grounds to launch criminal proceedings. Mr Baklanov's claims aiming to acquire compensation and an increase to his monthly disability allowance were unsuccessful. In July 2011, the Higher Administrative Court rejected his final appeal. Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy), Mr Baklanov complains that the treatment to which he was subjected during his military service caused a permanent psychological illness, and that he has had no access to an effective remedy in respect of these complaints.

[Sergey Savenko v. Ukraine \(no. 59731/09\)](#)

The applicant, Sergey Savenko, is a Ukrainian national who was born in 1975. When lodging his application, he was serving a prison sentence in the Kharviv region (Ukraine). The case concerns his allegations that he was ill-treated in prison. According to him, following his placement in a disciplinary cell he was taken to a storage room of the prison and asked for information about the activities of other inmates. Mr Savenko claims that he refused to answer, and that in reply he was ill-treated. He complains that this amounted to a violation of Article 3 (prohibition of inhuman or degrading treatment). Further relying on Article 3, he also complains that there was no effective investigation of the incident. Lastly, he relies on Article 13 (right to an effective remedy), complaining that no effective remedy was available to him in relation to this alleged violation.

Repetitive cases

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

Bousiou v. Greece (no. 21455/10)

The applicants in this case, relying on Article 6 § 1 (right to a fair hearing), complain of the Greek authorities' refusal to enforce a judgment in their favour concerning the expropriation of their land.

Zakharova v. Russia (no. 17030/04)

The applicant in this case complains of the lengthy non-enforcement of a judgment in her favour concerning repairs in her flat and of the domestic courts refusal to examine her claim. She relies on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property).

Dmitriyev v. Russia (no. 40044/12)

The applicant in this case complains of the conditions of his detention and also that he was denied a fair hearing when making a resulting claim for compensation in the Russian courts. He relies on Article 3 (prohibition of inhuman or degrading treatment) and Article 6 § 1 (right to a fair hearing).

Necheporenko and others v. Ukraine (no. 72631/10 and 249 other applications)

The applicants in this case complain mainly of the lengthy non-enforcement of decisions in their favour and of the lack of effective domestic remedies in respect of those complaints. They rely on Article 6 § 1 (right to a fair hearing within a reasonable time), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property).

Length-of-proceedings cases

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

Mavredaki v. Greece (no. 10966/10)

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Press contacts

echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Nina Salomon (tel: + 33 3 90 21 49 79)

Denis Lambert (tel: + 33 3 90 21 41 09)

Jean Conte (tel: + 33 3 90 21 58 77)

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.