



## Forthcoming judgments

The European Court of Human Rights will be notifying in writing 12 judgments on Tuesday 17 December 2013 and 20 on Thursday 19 December 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](http://www.echr.coe.int))*

Tuesday 17 December 2013

### [Nikolova and Vandova v. Bulgaria \(application no. 20688/04\)](#)

The applicants, Stela Yordanova Nikolova and her lawyer, Yordanka Chankova Vandova, are Bulgarian nationals who were born in 1962 and 1952, respectively, and live in Sofia. The case concerns the dismissal of Ms Nikolova following criminal proceedings that were brought against her, but were ultimately discontinued. In 2003, while working as an official at the Regional Directorate of Regional Affairs in Sofia, Ms Nikolova was sentenced to 5 years' imprisonment for bribery and obstruction of justice. She had the judgment set aside on appeal, on account of procedural defects. The case was remitted for additional investigation on numerous occasions until 2005, when the discontinuance of the proceedings was ordered. In the meantime, as a result of the pending criminal proceedings, disciplinary action was initiated against Ms Nikolova, leading to her dismissal in 2002. She appealed against her dismissal to the Supreme Administrative Court. At the request of the Ministry of the Interior, the documents concerning her dismissal were classified as "secret" and her lawyer was not allowed access to them without undergoing a security investigation, to which she refused to submit. In June 2003, the Supreme Administrative Court dismissed Ms Nikolova's ordinary appeal and she appealed on points of law. The Supreme Administrative Court rejected that appeal in December 2003. Ms Nikolova argues that the judicial proceedings concerning her dismissal breached the requirements of Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights. Under Article 6 § 2 (presumption of innocence), she further contends that the confirmation of her dismissal by the domestic courts was tantamount to a declaration that she was guilty of the bribery offence, even though no guilt was established in the criminal proceedings. Lastly, Ms Vandova submits that the obligation for her to undergo a security investigation in order to defend her client constituted a violation of Article 8 (right to respect for private and family life).

### [Santilli v. Italy \(no. 51930/10\)](#)

The applicant, Nicolò Santilli, is an Italian national who was born in 1975 and lives in Urbino (Italy). The case mainly concerns his inability to exercise access rights to his son. At an unknown date, Mr Santilli left A.B., with whom he had a son, Y. His ex-partner was awarded custody in 2006 and Mr Santilli obtained a right of access. However, the social services established that the visits ordered by the courts had been made impossible by the opposition of A.B. Between 2006 and 2009, Mr Santilli thus applied on several occasions to the courts, which ordered A.B. to allow him to exercise his access rights. In October 2011, faced with A.B.'s constant opposition and the child's worsening psychological situation, the Italian courts ordered the social services to draw up a timetable of visits. Visits then took place until December 2011, when Mr Santilli decided to suspend them in the interest of Y, who was refusing to see his father. In March 2012 the Italian courts ordered both parents to comply with their directions and authorised Mr Santilli to see his son once a week. In August 2012, the social services informed the courts that they had lost contact with Mr Santilli. Relying on Article 8 (right to respect for private and family life), Mr Santilli complains

that, in spite of a number of court decisions providing for his right of access, he has not been able to exercise that right fully since 2006. He further alleges a violation of Articles 13 (right to an effective remedy) and 6 § 1 (right to a fair hearing within a reasonable time).

#### [Raudevs v. Latvia \(no. 24086/03\)](#)

The applicant, Mārtiņš Raudevs, is a Latvian national who was born in 1941 and lives in Riga. The case concerns Mr Raudevs' compulsory confinement for almost two months for psychiatric treatment. In November 2000 he sent letters to Latvian institutions and the World Bank, in which he accused Latvian judges of corruption and fraud. At the time defamation of State officials was a criminal offence, and Mr Raudevs soon became the subject of criminal proceedings. In September 2002 a Latvian court found him guilty of defamation, but exempted him from criminal liability because it held that he suffered from mental illness. The court ordered that he should undergo compulsory medical treatment in a secure psychiatric hospital, and the judgment was upheld on appeal in December 2002 and January 2003 – though Mr Raudevs was not confined for treatment at this time. In October 2003 the Latvian Constitutional Court found the imposition of criminal liability for the defamation of State officials to be unconstitutional, and the legal provision establishing this crime was repealed with effect from 1 February 2004. Yet on 30 July 2004 an order was issued for Mr Raudevs' confinement, and police took him to a psychiatric hospital later that day. He immediately complained that the law which had led to his confinement order was no longer in force. At first the prosecutor upheld his detention as lawful, but on 24 September 2004 the Latvian courts revoked the decision ordering Mr Raudevs' confinement, and he was released the same day. Relying on Article 5 § 1 (right to liberty and security), Mr Raudev complains that the decision ordering him to undergo compulsory medical treatment was unlawful, because he had never suffered from a mental illness and because the order had lost its force after changes to the law of criminal defamation. He also relies on Article 5 §§ 4 and 5 to complain that his confinement was not subjected to judicial review within a reasonable time and that he could not obtain compensation for the allegedly unlawful detention. Finally, he also complains under Article 6 § 1 (right of access to court) that all the court proceedings he had brought were stayed pending the outcome of proceedings for his legal incapacitation.

#### [Ion Tudor v. Romania \(no. 14364/06\)](#)

The applicant, Ion Gheorghe Tudor, is a Romanian national who was born in 1973 and lives in Târgu Jiu (Romania). The case concerns the fairness of an appeal in which a Romanian court upheld his conviction for murder. In July 2004, Mr Tudor was convicted after trial and sentenced to 23 years in prison. His co-defendant had originally stated to police that he committed the act together with Mr Tudor, but at the trial the co-defendant told the court that Mr Tudor had not been involved. Mr Tudor appealed the conviction, and in September 2005 a Court of Appeal quashed it after finding that the evidence in the file did not convincingly link him to the crime. However, in February 2006 the High Court of Cassation and Justice quashed the appeal judgment and upheld the original conviction, after re-examining the evidence in the case. Relying on Article 6 § 1 (right to a fair trial), Mr Tudor complains that the criminal proceedings against him had not been fair; in particular because, though the High Court of Cassation had effectively re-tried the case, it did not hear evidence from him.

#### [Jenița Mocanu v. Romania \(no. 11770/08\)](#)

The applicant, Jenița Mocanu, is a Romanian national who was born in 1929 and lives in Sfântu-Gheorghe (Romania). The case concerns the fairness of an appeal hearing during civil proceedings started by Ms Mocanu. In December 2005, she successfully obtained a judgment in her favour against a third party, which annulled a will and acknowledged her inheritance rights. However, this judgment was quashed on appeal in April 2007. Ms Mocanu attempted to appeal this decision, but her application was held to be inadmissible in November 2007. Relying on Article 6 § 1

(right to a fair hearing), Ms Mocanu complains that the appeal which quashed the judgment in her favour was unfair, because the composition of the bench had been unlawful. She claims that, though appeals on points of law in Romania must be decided by a bench of three judges, her case was only heard by a bench of two.

#### [Potcoavă v. Romania \(no. 27945/07\)](#)

The applicant, Ioan Nicolet Potcoavă, is a Romanian national who was born in 1969 and lives in Ungheni (Romania). The case concerns the fairness of Mr Potcoavă's conviction of rape. He was arrested on 4 July 2002 and alleges that he was beaten on the way to the police station and all through the night in order to make him confess to several rapes. He was convicted in August 2003 on the basis of his confession but this decision was later overturned on appeal in October 2003 and the confession set aside as the applicant had not been assisted by a lawyer during his initial police questioning. Following a further criminal investigation, he was acquitted in October 2006 on the ground that Mr Potcoavă had had an alibi and the evidence against him was inconclusive. Ultimately, however, in September 2007 that judgment was reversed and the County Court, basing its decision on Mr Potcoavă's initial confession to the police, convicted him of three counts of rape and one of attempted rape and sentenced him to just over one year and six months' imprisonment. In the meantime, his criminal complaint for police ill-treatment was dismissed as unsubstantiated. Relying on Article 6 §§ 1 and 3 (b) and (c) (right to a fair trial / right to adequate time and facilities for preparation of defence / right to legal assistance of own choosing), Mr Potcoavă alleges that the criminal proceedings against him were unfair in particular because his confession, made during his police custody without the assistance of a lawyer, was used for his conviction.

#### [Vartic v. Romania \(no. 2\) \(no. 14150/08\)](#)

The applicant, Ghennadii Vartic, is a Moldovan national who was born in 1973 and is currently serving a 25-year prison sentence in Jilava Prison (Romania). The case concerns Mr Vartic's complaint about not being provided with a vegetarian diet or adequate medical care in detention. He has served his sentence in various Romanian prisons: his complaint covers his detention in Rahova Prison during two periods from April to May 1998 and from 9 to 21 February 2009. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Vartic alleges that, having contracted hepatitis C in 2004 while in prison, his related treatment with Interferon had been interrupted on three occasions in Rahova Prison and another medicine, Silimarine, had not been provided at all. Further relying on Article 9 (freedom of thought, conscience, and religion), he also complains that the Rahova Prison authorities refused to provide him with a vegetarian diet as required by his Buddhist convictions.

#### [Černák v. Slovakia \(no. 36997/08\)](#)

The applicant, Mikuláš Černák, is a Slovak national who was born in 1966 and is currently serving a life sentence in Ilava prison (Slovakia). The case concerns the lawfulness of Mr Černák's pre-trial detention and the fairness of the related proceedings. While serving a prison sentence in Slovakia, Mr Černák was released on parole in November 2002. He then left for the Czech Republic, where he was arrested in 2003 following the issuing of an international arrest warrant in Slovakia. Mr Černák was then extradited back to Slovakia in order to serve the remainder of his sentence, which ended in October 2006. However, between December 2005 and February 2007, Mr Černák had new charges brought against him in Slovakia, namely seven counts of murder and conspiracy to murder, which were all alleged to have occurred prior to 2003. On the completion of his previous sentence, Mr Černák was remanded in detention pending trial on these charges, but the detention was cancelled on the ground that it was in breach of the rule of speciality. The Czech authorities then gave permission for the trial of these offences to be held in Slovakia, and the Slovakian authorities applied again for Mr Černák to be placed in pre-trial detention. Following an interlocutory hearing on 2 February 2007, a Slovakian court made a pre-trial detention order on the ground that Mr Černák

might abscond before his trial. On 10 July 2007, the court extended the detention. Mr Černák unsuccessfully made interlocutory appeals and a constitutional complaint against both orders arguing that his detention was in breach of the rule of specialty and that the procedure in respect of it was short of the applicable procedural requirements. He was found guilty in November 2009 and sentenced to life imprisonment. Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), Mr Černák complains that the proceedings establishing his pre-trial detention in February and July 2007 were unlawful; in particular, because he had not been served with the relevant documents prior to the proceedings, because a written version of the detention order had only been served on him after his interlocutory appeal against it had been dismissed, and his interlocutory appeals against the detention order and the extension order had not been heard by the court before it made its decision. He also relies on Article 5 § 1 (c) (right to liberty and security) to complain that his detention was unlawful, because it was in breach of the rule of specialty and because the courts had failed to give him any answer in respect of that argument. In particular, he claims that he had been extradited to Slovakia only for the purpose of completing the original prison sentence, which ended in October 2006, and that the Slovakian authorities were not permitted subsequently to detain him in relation to other proceedings.

#### [Perinçek v. Switzerland \(no. 27510/08\)](#)

The applicant, Doğu Perinçek, is a Turkish national who was born in 1942 and lives in Ankara (Turkey). The case concerns his criminal conviction for publicly challenging the existence of the Armenian genocide. Being a doctor of laws and the Chairman of the Turkish Workers' Party, Mr Perinçek participated in various conferences held in different Swiss cantons in 2005. During those events he publicly denied the existence of the genocide perpetrated by the Ottoman Empire against the Armenian people in 1915 and thereafter. The association "Switzerland-Armenia" filed a criminal complaint against him on account of his comments. In a judgment of 2007, Mr Perinçek was found guilty of racial discrimination and sentenced to several fines. He appealed, seeking to have the judgment set aside, and calling for additional inquiries, in particular to ascertain the prevalent research and the position of historians on the Armenian question. The Court of Cassation, taking the view that the Armenian genocide was, like the Jewish genocide, a historical fact recognised as proven by the Swiss legislature, dismissed Mr Perinçek's appeal in June 2007. His appeal against that decision before the Federal Court was also dismissed in December 2007. Mr Perinçek argues that his conviction by the Swiss courts for publicly stating that there was no Armenian genocide constituted a violation of Article 10 (freedom of expression). Also contending that the provision under which he was convicted was very vague, he further complains of a violation of Article 7 (no punishment without law).

#### [Yavuz and Yaylalı v. Turkey \(no. 12606/11\)](#)

The applicants, Merve Yavuz and İbrahim Yaylalı, are Turkish nationals who were born in 1984 and 1974, respectively, and live in Samsun (Turkey). The case concerns their conviction and prison sentences for promoting a terrorist organisation. Following the deaths, during a clash with security forces in June 2005, of 17 individuals belonging to the Maoist Communist Party, an illegal armed organisation, the applicants took part in a demonstration during which various slogans were shouted to protest against the use of force by the security forces. Arrested on suspicion of promoting a terrorist organisation, they were taken into police custody and subsequently detained on remand. Shortly after her conditional release, Ms Yavuz again took part in a demonstration during which she read a statement to the press complaining of the detention measure imposed on her and on the other demonstrators. In February 2007 the public prosecutor called for the applicants to be convicted for promoting a terrorist organisation. In spite of their defence to the charges against them, Mr Yaylalı and Ms Yavuz were sentenced to 10 and 20 months' imprisonment, respectively. They appealed on points of law but, in a judgment of July 2010, the Court of Cassation upheld the judgment at first instance. Relying on Article 10 (freedom of expression), the applicants complain

that they were convicted and harshly sentenced for expressing their opinions. Also alleging that their case was not heard within a reasonable time, they complain of a violation of Article 6 § 1 (right to a fair trial within a reasonable time).

### Repetitive case

The following case raises issues which have already been submitted to the Court.

#### **Lipcan v. the Republic of Moldova** (no. 22820/09)

The applicant in this case complains of the quashing of a final judgment in his favour. He relies in particular on Article 6 § 1 (right to a fair hearing), Article 1 of Protocol No. 1 (protection of property), and Article 13 (right to an effective remedy).

### Length-of-proceedings case

In the following case, the applicants complain in particular about the excessive length of criminal proceedings brought against them for tax fraud.

#### **Barta and Drajkó v. Hungary** (no. 35729/12)

Thursday 19 December 2013

#### [Orban v. Croatia](#) (no. 56111/12)

The applicant, Igor Orban, is a Croatian national who was born in 1969 and lives in Osijek (Croatia). The case concerns his prolonged pre-trial detention from March 2011 to November 2012. Mr Orban was arrested in March 2011 on suspicion of, in particular, abuse of power, fraud and false accounting, and remanded in custody on the grounds of the risk that he might tamper with evidence and on account of the gravity of the charges. His detention was subsequently extended on a number of occasions only on the grounds of the gravity of charges and his appeals against those decisions were dismissed until he was finally released on 9 November 2012. His criminal trial is still pending. Relying in particular on Article 5 § 3 (right to liberty and security), Mr Orban complains that the authorities failed to provide relevant and sufficient reasons for his pre-trial detention and to display the necessary diligence in the conduct of the proceedings.

#### [Rosin v. Estonia](#) (no. 26540/08)

The applicant, Jüri Rosin, is an Estonian national who was born in 1953. He is currently detained in prison. The case concerns his conviction of a sexual offence. Mr Rosin was convicted of rape for having engaged in oral sex in December 2005 with two boys, aged 11 and 17 at the time, after having plied them with alcohol. The trial court, in a judgment eventually upheld by the Supreme Court in May 2008, relied on the video recording of an interview with the younger boy, carried out by a police investigator on the day after the events. The court also heard the older boy, who had no recollection of the events as he had been drunk, and relatives of the younger boy. Relying in particular on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Mr Rosin complains that his trial was unfair because he was not given the opportunity to question the younger rape victim on whose testimony his conviction was mainly based.

#### [Tunis v. Estonia](#) (no. 429/12)

The applicant, Terki Tunis, is an Estonian national who was born in 1972. He is currently serving a prison sentence. The case concerns his complaint about the conditions of his detention pending trial in Tallinn prison, where he was kept between July 2006 and June 2009. Mr Tunis alleges in particular

that the cells were overcrowded, that detainees were locked in the cell day and night except for one hour of daily exercise, and that he developed back problems during his detention, for which he did not receive appropriate treatment. He relies on Article 3 (prohibition of inhuman or degrading treatment).

#### [N.K. v. France \(no. 7974/11\)](#)

The applicant, N.K., is a Pakistani national who was born in 1989 and lives in Créteil (France). The case concerns his potential removal from France to Pakistan, where he says that he would sustain inhuman or degrading treatment. Following his conversion to the Ahmadiyya religion, according to whose rites he was married in 2009, Mr N.K.'s cousin filed a complaint against him for proselytising. Shortly afterwards he was allegedly abducted, confined then tortured for several days before managing to escape from his kidnappers. After learning that an arrest warrant had been issued against him for preaching the Ahmadiyya religion, Mr N.K. left Pakistan. He arrived in France in August 2009 and applied for asylum. Finding that his statements were not sufficiently substantiated, the French Office for asylum-seekers (the OFPRA) rejected his application in October 2009. For identical reasons the appeal by Mr N.K. against that decision was dismissed by the National Asylum-Law Court (the CNDA) in July 2010. Further to a decision refusing him leave to remain and ordering his departure from France, Mr N.K. was arrested and placed in a detention centre. His request for the re-examination of his asylum application was rejected by the OFPRA on 4 February 2011, at which point he requested the Court to indicate an interim measure under Rule 39 of its Rules of Court. The Court accepted his request and indicated to the Government not to proceed with N.K.'s removal. On 13 July 2011 the CNDA dismissed Mr N.K.'s appeal against the OFPRA's decision of 4 February 2011. Mr N.K. alleges that, if the removal order against him is executed, he risks sustaining treatment in breach of Article 3 (prohibition of inhuman or degrading treatment).

#### [B.M. v. Greece \(no. 53608/11\)](#)

The applicant, B.M., is an Iranian national who was born in 1985 and is currently of no fixed abode. The case mainly concerns the conditions of his detention pending his removal from Greece to Turkey. As a militant journalist, Mr B.M. fled Iran in 2010 after being arrested and then tortured on account of his protests against the regime then in power. After passing through Turkey, he arrived in Greece to seek political asylum. Shortly after his arrival, the decision was taken to remove him to Turkey. Pending his deportation he was taken into custody, being held first at a police station and later in various detention centres. In October 2010 he lodged an application for asylum but it was dismissed. Complaining mainly about the overcrowding and unhygienic conditions of the places where he was held, he lodged objections against his detention but they were also rejected. After appealing against the dismissal of his asylum application in December 2010, he was released in 2011 as his detention could no longer legally be extended. As he failed to appear before the competent authority examining his appeal against the denial of asylum, that authority concluded that he was no longer interested in pursuing the matter. When he lodged the present application before the Court, on 1 July 2011, Mr B.M. was living in the United Kingdom as a student, according to him. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr B.M. complains about the conditions of his detention in the various places where he was held, together with the lack of an effective remedy by which to complain about those conditions. He further complains of a violation of Article 3 taken separately and together with Article 13 (right to an effective remedy), as regards the risk of his removal to Turkey. He lastly complains of a violation of Article 5 § 1 (right to liberty and security) on account of the allegedly arbitrary nature of his arrest.

#### [C.D. and Others v. Greece \(nos. 33441/10, 33468/10 and 33476/10\)](#)

The applicants are 12 asylum seekers who left their countries at unknown dates, mainly on account of the political situations there. The case concerns the conditions of their detention pending their removal from Greece to their countries of origin. After fleeing their respective countries, they

arrived in Greece in 2009 seeking political asylum. On different dates they were transferred to the Venna detention centre for several months while awaiting deportation. During that period they lodged objections about the conditions of their detention, submitting that those conditions were unacceptable, in particular because of a lack of hygiene in their cells and the confined space in which they were held without any possibility of outdoor exercise. Except for one of them, who obtained political refugee status in December 2009, the applicants were either deported to their countries of origin or to Turkey, or released, in 2010. They allege that the conditions of their detention in the Venna centre entailed a violation of Article 3 (prohibition of inhuman or degrading treatment). Relying on Article 5 (right to liberty and security), they further complain that their detention in that centre was unlawful. Lastly, under Article 9 (freedom of thought, conscience and religion), they complain that, as Muslims, they often had to choose between eating pork or nothing at all, as the Greek authorities did not offer them any alternative meals.

#### [Galanopoulos v. Greece \(no. 11949/09\)](#)

The applicant, Nikolaos Galanopoulos, is a Greek national who was born in 1946 and lives in Athens. The case concerns the non-enforcement for 10 years of a number of court decisions annulling administrative acts on the basis of which he had not been promoted. Between 2002 and 2007, Mr Galanopoulos lodged six applications with the Supreme Administrative Court for the annulment of administrative decisions on the basis of which his promotion, as a diplomatic official, to the grade of Minister plenipotentiary, had not been endorsed by the administrative authority. Systematically – except in respect of his last appeal, which is still pending – the Supreme Administrative Court annulled the administrative acts in question and remitted the matter to the administrative authority for a fresh examination. Nevertheless, Mr Galanopoulos was still not promoted. Arguing that the administrative authority had failed to comply with the decisions of the Supreme Administrative Court, he applied to that court several times seeking to have the decisions enforced. In a judgment of 2011 the Supreme Administrative Court referred the matter back to the competent authority with a view to the retroactive promotion of Mr Galanopoulos to the post in question. He was then promoted by a presidential decree of May 2011. In the meantime, in 2006, Mr Galanopoulos had brought proceedings seeking compensation for the pecuniary and non-pecuniary damage he had sustained on account of the administrative authority's refusal to promote him and various sums had been awarded to him on that basis. Relying on Article 6 § 1 (right to a fair hearing), Mr Galanopoulos alleges that the administrative authority failed to comply with a number of judgments of the Supreme Administrative Court annulling administrative acts on the basis of which he had been refused promotion, and argues that the Greek legal system has no remedies by which to oblige the administrative authority to comply with such judgments.

#### [Mika v. Greece \(no. 10347/10\)](#)

The applicant, Aggeliki Mika, is a Greek national who was born in 1968 and lives in Nigrita (Greece). The case concerns her conviction for publishing in the press an article accusing certain elected representatives of using their office for personal gain. In 2006 an article by Ms Mika appeared in the press in which she criticised the Mayor of Nigrita mainly for showing favouritism in the recruitment of certain officials. Further to a complaint by the Mayor, the Greek courts declared Ms Mika guilty of criminal libel through the medium of the press and gave her a suspended eight-month prison sentence with a fine of 50 euros to be paid to the civil party. The judgment was upheld on appeal and the suspended sentence reduced to seven months. Ms Mika's appeal on points of law was dismissed in 2009. Relying on Article 10 (freedom of expression), Ms Mika complains that the Greek courts sentenced her on the basis that they had "detected in her article defamatory allusions, hints and allegations", whereas she denies this.

### [Dobriyeva and Others v. Russia \(no. 18407/10\)](#)

The applicants, Tanzila Dobriyeva, Milana Adzhiyeva, Yelizaveta Dobriyeva, and Fatima Dzhanliyeva, are Russian nationals who were born between 1969 and 1984 respectively. The first three applicants, who live in St Petersburg and Arkhangelsk, respectively, are distant relatives of a well-known Ingushetia businessman and politician who was killed in October 2009 in the Russian North-Caucasus region by unidentified gunmen. The fourth applicant, Ms Dzhanliyeva, whose current whereabouts are unknown, is his widow. The applicants' case concerns the alleged abduction and disappearance on 26 December 2009 in St Petersburg of four of their male relatives following their arrival the previous day from Ingushetia, together with Ms Dzhanliyeva. The latter, who was in the last month of her pregnancy, was to seek treatment in St Petersburg after having survived a car explosion in Ingushetia. The applicants last saw their male relatives late in the evening of 25 December 2009 when the men drove away to one of the family's homes. According to the applicants' submissions, one of the men called his wife and told her that the car was being followed by a suspicious vehicle, after which telephone contact was cut off. Following the applicants' complaints to various authorities, a criminal investigation was opened on 25 January 2010. Relying on Article 2 (right to life), the applicants complain that their four relatives disappeared after having been detained by State officials and that the investigation into the circumstances – which in December 2011 remained pending without having established who was responsible – was ineffective. The applicants also complain of violations of Article 3 (prohibition of inhuman or degrading treatment) and Article 5 (right to liberty and security) as a result of their mental suffering caused by the disappearance of their close relatives, who they claimed had been unlawfully detained. Finally, they complain that they did not have any effective remedy at national level in respect of those complaints, in breach of Article 13 (right to an effective remedy).

### [Marina Alekseyeva v. Russia \(no. 22490/05\)](#)

The applicant, Marina Yuryevna Alekseyeva, is a Russian national who was born in 1960 and lives in Norilsk (Russia). The case concerns the death of her son on 2 March 2004 while serving his military service as a student at the Irkutsk Military College of Aviation Engineering. A bayonet with traces of blood on it was found near his body and he left a note stating his intention to end his life. Relying in particular on Article 2 (right to life), Ms Alekseyeva complains that the criminal investigation into her son's death, which was discontinued in November 2004, was not effective, in particular as she was excluded from it at the initial stages.

### [Pastukhov and Yelagin v. Russia \(no. 55299/07\)](#)

#### [Segeda v. Russia \(no. 41545/06\)](#)

Both cases concern the applicants' complaints about the excessive length of their pre-trial detention. The applicants in the first case, Viktor Pastukhov and Denis Yelagin, are Russian nationals who were born in 1958 and 1980 respectively and live in Kemerovo (Russia). They were remanded in custody in June 2005 and March 2005, respectively, on suspicion of being involved in an organised criminal gang. There were two trials against them and, ultimately, in July 2008 they were both found guilty of robbery and each sentenced to just over three years' imprisonment. Both men were released shortly after that judgment.

The applicant in the second case, Igor Segeda, is a Russian national who was born in 1955 and lives in Khimki in the Moscow region. He is the managing director of a construction company, Print Capital, and was arrested in December 2005 on suspicion of fraud, notably as concerned the sale of flats in buildings his company had allegedly constructed without authorisation in the Moscow region. He was released in April 2007 subject to a written undertaking following the Supreme Court's quashing of the first-instance court's detention order against him.

Relying on Article 5 § 3 (right to liberty and security), all three applicants allege that the authorities, essentially relying on the gravity of the charges against them without considering any alternative

measures, failed to justify the continued deprivation of their liberty for almost three years in the first case and more than one year and four months in the second case.

#### [Siyrak v. Russia \(no. 38094/05\)](#)

The applicant, Sergey Siyrak, is a Russian national who was born in 1978 and lives in Segezha, in the Republic of Karelia. The case concerns Mr Siyrak's complaint that criminal proceedings brought against him for rape were unfair. He was arrested in September 2004 on charges of raping a woman during a party at flat. He was convicted as charged in March 2005 and sentenced to eight years' imprisonment. His conviction was upheld on appeal in April 2005. Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr Siyrak alleges that he was not effectively defended before the trial and appeal courts by the lawyer who was appointed by the State to represent him. In particular, the lawyer had neither appealed against the verdict of March 2005 nor attended the appeal hearing in April 2005.

#### [B.K.A. v. Sweden \(no. 11161/11\)](#)

#### [T.A. v. Sweden \(no. 48866/10\)](#)

#### [T.K.H. v. Sweden \(no. 1231/11\)](#)

All three cases concern the deportation of failed asylum seekers from Sweden to Iraq.

The applicants, B.K.A., T.A. and T.K.H., are three Iraqi nationals who are all Sunni Muslims from either Baghdad or Mosul (Iraq). They were born in 1984, 1979 and 1985, respectively. They have been living in Sweden since 2007/2008 when they claimed asylum. Their asylum requests were examined by the Migration Board and Migration Court and were all rejected in 2010.

B.K.A. alleges that, if returned to Iraq, he would be at risk of persecution and ill-treatment because: he worked as a professional soldier from January 2002 to March 2003 during Saddam Hussein's regime; he was a member of the Ba'ath party; and, he was involved in a blood feud in Iraq after accidentally shooting and killing a relative.

T.A. alleges that, due to his previous work in Baghdad in 2007 for security companies who cooperated with the U.S. military, he would be at risk if returned to Iraq of being apprehended and tortured by the militia and possibly even killed.

T.K.H. alleges that, if returned to Iraq, he would be at risk of ill-treatment and his life would be put in danger because, following the fall of the Saddam Hussein regime, he served from 2003 to 2006 in the new Iraqi army which involved working with the U.S. troops. In particular, he alleges that he was seriously injured in March 2006 in a suicide bomb explosion – killing 25 Iraqi soldiers and five Americans – as well as in June 2007 when a car went past his front yard and opened fire, hitting him once. Following the latter incident and a letter containing death threats, he went into hiding and then left the country.

All three applicants rely in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment). The applicants in the second two cases also rely on Article 2 (right to life).

#### [Yuriy Volkov v. Ukraine \(no. 45872/06\)](#)

The applicant, Yuriy Volkov, is a Ukrainian national who was born in 1978 and is currently serving a 12-year prison sentence in Voznesensk (Ukraine) for robbery, murder and drugs offences. He alleges that following his arrest on 6 December 2003 he was beaten and subjected to psychological pressure by the police all through the night until he confessed. He complains that his subsequent conviction in February 2006 – upheld on appeal in May 2006 – was based on this confession made under duress and in the absence of a lawyer. He relies on Article 3 (prohibition of inhuman or degrading treatment) and Article 6 §§ 1 and 3 (c) (right to a fair trial /to legal assistance of own choosing). He also complains that, in the course of the forensic investigation into the murder, a blood sample was taken from him by an investigator instead of a medical specialist. This complaint will be examined under Article 8 (right to respect for private and family life).

## Repetitive cases

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

**Lošťák v. the Czech Republic** (no. 380/11)

**Vaculík v. the Czech Republic** (no. 40280/12)

These two cases raise the question of the right of access to the Constitutional Court following criminal proceedings (in the *Lošťák* case) and civil proceedings (in the *Vaculík* case). Relying on Article 6 § 1 (right to a fair hearing), the applicants complain that the Constitutional Court rejected all or part of their constitutional appeals on procedural grounds.

## Length-of-proceedings case

In the following case, the applicants complain in particular about the excessive length of land consolidation proceedings.

**Seidl and Others v. Austria** (no. 45322/08)

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@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.