EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Press Release
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Forthcoming judgments

The European Court of Human Rights will be notifying in writing seven judgments on 4 March 2014 and three on 6 March 2014.

*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 4 March 2014

Duraliyski v. Bulgaria (application no. 45519/06)

The applicants are two brothers, Atanas Duraliyski and Nikolay Duraliyski, Bulgarian nationals who were born in 1973 and 1983 respectively and live in Plovdiv (Bulgaria). The case concerns civil proceedings in which they sought payment of an insurance policy. The applicants' father, who in 2003 had made them beneficiaries under his life insurance and accident insurance policies, died in June 2004 following an allergic reaction to a wasp sting. The insurance company subsequently informed the applicants that a wasp sting was not a risk covered by the accident insurance policy and thus refused to pay out on their claim. In civil proceedings brought by the applicants, the first-instance court found for them, but on appeal the Sofia City Court, in a final judgment of May 2006, dismissed their claim. It stated in particular that the parties had produced no copy of the insurance policy, without which it was unable to correctly establish the circumstances of the case. Relying in particular on Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, the applicants complain that they were unable to make submissions concerning the question of whether the insurance policy had been presented in court, as that argument was only introduced in the final judgment, and that the City Court was not impartial and did not reason its conclusion.

Microintelect OOD v. Bulgaria (no. 34129/03)

The applicant company, Microintelect OOD, is a Bulgarian limited liability company with a registered office in Sofia. The case concerns administrative-penal proceedings brought by the tax authorities against two of the applicant company's business partners, both of them sole traders, with whom it had entered into contracts to jointly operate a billiards club and an electronic games club, respectively. Under the contracts, Microintelect OOD was to supply the clubs with alcoholic beverages. In 2002 the tax authorities carried out inspections at the clubs and found that the sole traders were selling alcohol without the requisite licence. Subsequently the authorities imposed penalties on the sole traders, which included the forfeiture of alcohol belonging to Microintelect OOD. In judicial review proceedings brought by the sole traders, the courts – finding that Microintelect OOD had no standing to intervene in the proceedings – eventually upheld the penal orders in 2003 and 2004 respectively. Relying on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (access to court) of the Convention, the applicant company complains that the tax authorities unjustifiably deprived it of its property and that it was not allowed to take part in the judicial review proceedings.

Grande Stevens and Others v. Italy (nos. 18640/10, 18647/10, 18663/10, 18668/10 and 18698/10)

The applicants in this case are three Italian nationals, Franzo Grande Stevens, Gianluigi Gabetti and Virgilio Marrone, and two Italian companies, Exor S.p.a. and Giovanni Agnelli & C. S.a.s. At the

relevant time Mr Gianluigi Gabetti was the chairman of the two applicant companies and Mr Virgilio Marrone was the authorised representative (*procuratore*) of the company Giovanni Agnelli & C. s.a.a. The case concerns the heavy financial sanctions imposed on the applicants by the Italian Companies and Stock Exchange Commission (CONSOB) for having disseminated information likely to provide false or misleading information about financial instruments. In July 2002 the public limited company FIAT, in which Exor was the majority shareholder, signed a financing contract with eight banks. It was envisaged that, should FIAT fail to repay the loan on expiry of the contract in September 2005, the banks could set off their claim by subscribing to an increase in the company's share capital. The banks would thus acquire 28% of the capital and become the majority shareholder, while Exor s.p.a.'s holding would fall from 30.06% to about 22%. Mr Gabetti contacted a lawyer specialising in company law, Mr Grande Stevens, in an attempt to find a way of maintaining control of FIAT. Mr Grande Stevens suggested that one possible approach would be to renegotiate a contract which Exor had concluded with an English merchant bank, Merrill Lynch International Ltd. In view of such a step, Mr Grande Stevens sought advice in August 2005 from CONSOB (which is charged with protecting investors and ensuring the transparency of the stock markets). CONSOB requested publication of information concerning any initiatives taken in view of expiry of the financing contract with the banks, of any new fact concerning FIAT and of any information that could explain the fluctuation of FIAT shares on the market. In February 2007, the applicants were sanctioned for having issued a press release indicating that no initiatives had been examined or instituted in relation to expiry of the financing contract, although negotiations with Merrill Lynch International Ltd were at an advanced stage. In the meantime, in November 2008, criminal proceedings had been brought against the applicants. They were acquitted on appeal, with the exception of Mr Gabetti and Mr Grande Stevens, who appealed on points of law – the proceedings are currently still pending. Relying in particular on Article 6 § 1 (right to a fair hearing) and Article 4 of Protocol No. 7 (right not to be tried or punished twice), the applicants allege that the procedure before CONSOB was unfair and complain that criminal proceedings were brought against them in respect of events for which they had already received an administrative penalty.

Aslaner v. Turkey (no. 36073/04)

The applicant, Fazlı Aslaner, is a Turkish national who was born in 1963 and lives in Ankara. The case concerns an alleged lack of impartiality on the part of the plenary assembly of the divisions of the Supreme Administrative Court. In 1995 Mr Aslaner, who was a court registrar, successfully sat a competition for a post of head registrar at the State Security Court. At the close of the competition he was put on the reserve list. In August 1997 he applied to be appointed to the post of head registrar at the Eskişehir Administrative Court. Given the authorities' refusal to appoint him, he applied to the administrative court for judicial review. The administrative court upheld his claim. The Fifth Division of the Supreme Administrative Council quashed the administrative court's judgment in December 2000. In view of the administrative court's decision to confirm its initial position, the case was referred to the plenary assembly of the divisions of the Supreme Administrative Court, of which several judges from the Fifth Division were members. It too quashed the judgment, in January 2003. Relying on Article 6 § 1 (right to a fair hearing), Mr Aslaner alleges that the judicial formations of the Supreme Administrative Council which examined his case were not impartial and that there was a breach of his right to a fair hearing.

Dilipak and Karakaya v. Turkey (nos. 7942/05 and 24838/05)

The applicants, Abdurrahman Dilipak and Hasan Karakaya, are Turkish nationals who were born in 1949 and 1953 respectively and live in Istanbul. The case concerns the sentencing, *in absentia*, of two journalists to pay high damages on account of articles which were held to be belittling to the memory to Admiral Güven Erkaya, a high-ranking military officer. In June 2000, on the occasion of the funeral of the admiral, a former commander-in-chief of the naval forces and member of the National Security Council, Mr Karakaya published an article in which he criticised the deceased man

on account of his political role at a meeting of the National Security Council on 28 February 1997, described by certain observers as a "post-modern coup d'état". The same month, Mr Dilipak also published a critical article in the same newspaper. The admiral's family brought court action against the two journalists. However, the postal services were unable to locate the two journalists at the addresses available to the court. In January 2003 the court delivered a judgment in the absence of the defendants, who had never attended the hearings. They were convicted jointly and severally. The judgment could not be served on Mr Karakaya, who remained untraceable, and the judgment in respect of Mr Dilipak was served through the medium of the press. In June 2003 the Erkaya family initiated enforcement proceedings. Payment orders were drawn up and posted in respect of Mr Dilipak and Mr Karakaya. They both received those orders at their homes. They lodged an appeal on points of law against the judgment of 21 January 2003, indicating that they had learned of the judgment on receipt of the payment orders. Their appeal on points of law was dismissed. Relying on Article 6 § 1 (right to access to a court) and Article 10 (freedom of expression), Mr Dilipak and Mr Karakaya allege that there has been a violation of their right to a court, and of their right to freedom of expression.

Filiz v. Turkey (no. 28074/08)

The applicant, Mehmet Şerif Filiz, is a Turkish national who was born in 1990 and lives in Mersin (Turkey). The case concerns the length of his pre-trial detention, the reasons for its extension and the lack of remedies against the decisions to prolong his detention. On 21 March 2007 the DTP, a pro-Kurdish left-leaning party, organised festivities in Mersin. During that celebration a group of demonstrators who were members of the PKK chanted slogans in favour of the PKK and Abdullah Öcalan, unrolled banners and attacked the security forces. On the same day Mr Filiz was arrested and placed in police custody. In April 2007 proceedings were brought against 20 persons, including Mr Filiz. After 11 hearings, the assize court upheld Mr Filiz's continued detention. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Filiz complains that he was subjected to ill-treatment during his arrest and while in police custody. Relying on Article 5 §§ 3 and 4 (right to liberty and security and right to speedy review of the lawfulness of detention), he alleges that the length of his pre-trial detention was excessive and that the extensions were based on stereotyped reasons.

The Church of Jesus Christ of Latter-Day Saints v. the United Kingdom (no. 7552/09)

The applicant organisation, the Church of Jesus Christ of Latter-Day Saints, is a religious organisation, registered as a private unlimited company in the United Kingdom. It is part of the worldwide Mormon Church. The case concerns its complaint of being denied an exemption from local property taxes. In 2001 the church applied to have its temple in Preston, Lancashire, removed from a list of premises liable to pay business tax, on the grounds that it was a "place of public religious worship" which was entitled to exemption from that tax. While a first-instance court decision granted the church's claim, that decision was overturned in 2005. In a final decision of July 2008, the House of Lords dismissed the church's appeal, holding in particular that the temple was not to be qualified as a "place of public religious worship", since access to the temple was restricted to a select group of the most devout followers holding a special authorisation. The applicant organisation complains that the refusal to its temple of the exemption from business rates amounts to discrimination on religious grounds, in breach of Article 14 (prohibition of discrimination) taken in conjunction with Article 9 (freedom of thought, conscience, and religion). The organisation further maintains that the decision violates its rights under Article 9 taken alone, Article 1 of Protocol No. 1 (protection of property) taken alone and in conjunction with Article 14, and that it did not have an effective remedy in respect of its complaints, contrary to Article 13 (right to an effective remedy).

Thursday 6 March 2014

Allahverdiyev v. Azerbaijan (no. 49192/08)

The applicant, Amil Allahverdi oglu Allahverdiyev, is an Azerbaijani national who was born in 1985 and lives in Baku. The case concerns his pre-trial detention. Arrested and charged with kidnapping, Mr Allahverdi oglu Allahverdiyev was remanded in custody in March 2008 for a period of three months. His appeal against the detention order was dismissed and, in June 2008, the district court extended his detention by a month, until 19 July 2008. His subsequent appeal and request to be released were unsuccessful and, on 29 July 2008, the trial court held a preliminary hearing and decided that he was to remain in custody. In March 2009 he was convicted as charged and sentenced to two years' imprisonment. Relying on Article 5 §§ 1 and 3 (right to liberty and security), Mr Allahverdi oglu Allahverdiyev complains that his detention from 19 to 29 July 2008 was unlawful and that the courts failed to justify the need for his prolonged detention.

Gorbulya v. Russia (no. 31535/09)

The applicant, Vadim Gorbulya, is a Russian national who was born in 1973 and is currently serving a sentence of life imprisonment for murder and robbery of which he was convicted in December 2008. He alleges that both the conditions of his detention in the temporary detention facility IZ-47/1 in St. Petersburg, where he was kept from December 2002 to October 2010, and in the correctional facility IK-56 in the Sverdlovsk Region, where he has been detained since November 2010, were in violation of Article 3 (prohibition of inhuman or degrading treatment). In particular he complains of extremely overcrowded cells, degrading sanitary conditions and of the fact that he was kept in solitary confinement for almost two years although the authorities never argued that he was a danger to himself or others. He further complains that he did not have an effective remedy at his disposal in respect of these complaints, in breach of Article 13 (right to an effective remedy).

Gordiyenko v. Russia (no. 21462/06)

The applicant, Viktor Gordiyenko, is a Russian national who was born in 1966 and lives in the village of Verhnyaya Serebryakovka, the Rostov Region (Russia). He alleges that, following his arrest on suspicion of drug trafficking in June 2005, he was ill-treated while in police custody for several hours by two officers who attempted to make him confess. In particular, he submits that they repeatedly beat him, damaging his kidneys and causing other injuries. Mr Gordiyenko was eventually convicted of attempting to sell drugs and sentenced to four years and three months imprisonment in September 2006. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains of the alleged ill-treatment by the police officers and maintains that the authorities failed to carry out an adequate investigation into his complaints.

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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.