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

Press Release
issued by the Registrar of the Court

ECHR 106 (2014)
16.04.2014

Forthcoming judgments

The European Court of Human Rights will be notifying in writing 17 judgments on Tuesday 22 April 2014 and 13 on Thursday 24 April 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 22 April 2014

G.C. v. Italy (application no. 73869/10)

The applicant, G.C., is an Italian national who was born in 1972 and is currently an inmate of the prison of Bellizzi Irpino (Italy). The case concerns his imprisonment in conditions that he considers degrading in view of his state of health. Mr G.C. was arrested in February 2009. Since 8 October 2009 he has been held in Bellizzi Irpino prison, where he is serving a ten-year prison sentence. On his arrival in the prison, he informed the prison staff that he had been operated on for haemorrhoids in 2007 and since then has suffered from incontinence. In his opinion, that condition justified his placement in an individual cell fitted with a toilet and the possibility of showering every day. He was, however, placed in a cell with other inmates and only one toilet between them. At unknown dates, Mr G.C. filed two requests, one to be granted the benefit of home detention and the other to obtain the suspension of his sentence for reasons of health. Those requests were rejected in October and December 2011 respectively. Having attempted suicide for the first time in 2009, Mr G.C. was placed in solitary confinement for health reasons under the surveillance of a psychiatrist, until his transfer to the infirmary in July 2010. In March 2012 he made a second suicide attempt and was transferred to an individual cell. During those periods, he claims, he was unable to take part in social activities or follow classes in the prison. From August to November 2012 Mr G.C. was given physiotherapy treatment, after which he claimed to have been cured. Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, Mr G.C. complains about the conditions of his detention and the fact that he was not given treatment adapted to his state of health.

Gavriliță v. the Republic of Moldova (no. 22741/06)

The applicants, Vasile and Victor Gavriliță, are brothers who were born in 1978 and 1984 respectively. They are both Moldovan nationals and live in Chișinău. The case concerns the applicants' complaint that they were subjected to police violence and illegally detained. Vasile Gavriliță was arrested on 8 April 2003 on suspicion of rape. The police allegedly shot him in the leg and took him to their station where he was bound and electrocuted. The police then assaulted him on several occasions during his custody on remand. He subsequently filed a criminal complaint for ill-treatment but it was dismissed. In 2009 he was given a final conviction by the Supreme Court of Justice and sentenced to 12 years' imprisonment. In the meantime, when granted release between 2004 and 2006, Vasile Gavriliță committed a burglary with his brother. Victor Gavriliță, who was arrested in 2005, also alleges that he was ill-treated by the police – in particular, that he was attached to a car and dragged along the ground. During his detention on remand, he too filed a complaint for ill-treatment. That complaint was also dismissed in August 2006. In a judgment of July 2009 the brothers were both convicted on appeal to about seven years' imprisonment. In the meantime, in September 2006, they had brought a civil action for compensation against the State on account of the ill-treatment that they claimed to have sustained. In a final decision of May 2012 the

Supreme Court of Justice awarded each of them 900 euros (EUR) in respect of non-pecuniary damage. Under Article 3 (prohibition of inhuman or degrading treatment) and Article 5 § 1 (right to liberty and security), the Gavriliță brothers complain that they were ill-treated by the police and that there was no investigation into their complaints. They also complain that their detention when first taken into custody was illegal.

Tripăduș v. the Republic of Moldova (no. 34382/07)

The applicant, Anatolie Tripăduș, is a Moldovan national who was born in 1957 and lives in Bălți (Republic of Moldova). The case concerns Mr Tripăduș' complaints about his arrest and ensuing detention for misappropriation and uttering forgeries. Mr Tripăduș was involved in a series of business transactions concerning major construction work by a building company in which S.F. and L.B were the two partners. In March 2006 the Moldovan courts upheld a suit brought against S.F. to deprive him of his status as partner. His appeal having been dismissed, S.F. then won his case before the Supreme Court of Justice in October 2006. In the meantime he had filed a criminal complaint in which he submitted that his exclusion as one of the company's partners had been illegal. Following that complaint, Mr Tripăduș was arrested and on 22 June 2007 was remanded in custody. The anti-corruption prosecutor was of the view, in particular, that the exclusion of S.F. as partner had been carried out on the orders of Mr Tripăduș. On 28 June 2007 the latter was charged with misappropriation and uttering forgeries. Between June 2007 and August 2007 his detention on remand was extended four times until November 2007, when his second request for release was granted. The outcome of the proceedings have not been established. In the meantime, another set of proceedings had been opened on account of Mr Tripăduș' allegations that he had been beaten during his arrest in June 2007. Those proceedings were discontinued by an order of December 2007. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Tripăduș complains of ill-treatment during his arrest and the lack of an effective investigation in that connection. Under Article 5 §§ 1 and 3 (right to liberty and security), he further complains that his arrest was not based on plausible suspicions and that his custody was not justified by any pertinent ground. Under Article 5 § 4 (right to a speedy decision about the lawfulness of detention), he further complains that the hearings concerning the extension of his detention on remand were held in his absence, and that he was unable to gain access to the documents in the investigation file on which the public prosecutor had based his requests for the extension of his custody.

Axinte v. Romania (no. 24044/12)

The applicant, Relu Axinte, is a Romanian national who was born in 1964 and is currently an inmate of Bistriţa prison (Romania). The case concerns his imprisonment in conditions that he considers degrading, particularly in view of his state of health. After his final conviction, in 2010, to six years' imprisonment for theft, Mr Axinte was held in a number of prisons. In his submission, contrary to the version presented by the Government, most of the cells in which he was held were overcrowded, cramped, unhealthy, and had defective ventilation systems. Moreover, on account of dental problems, he asked the prison authorities for a dental prosthesis. He submits that in spite of his repeated requests he was not given that treatment. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Axinte complains about the poor conditions of his detention – in particular the problems relating to overcrowding – and about the authorities' refusal to give him the dental treatment necessary for his state of health.

A.C. v. Spain (no. 6528/11 and 29 other applications)

The applicants are thirty international protection seekers of Sahrawi origin. The case concerns their possible removal from Spain to Western Sahara, which, they claim, would expose them to inhuman and degrading treatment. Having fled a camp located on the territory of Western Sahara, after its brutal closure by Moroccan police following a demonstration, the applicants arrived on makeshift boats on the coast of the Canary Islands between January 2011 and August 2012. They then lodged

applications for international protection, which were rejected by the Spanish Minister of the Interior. On various dates the applicants lodged administrative appeals against the Minister's decisions. At the same time they made requests for the purpose of suspending the enforcement of their removal, but those requests were systematically rejected. Between 28 January 2011 and 1 October 2012, the applicants made thirty requests to the European Court of Human Rights for interim measures under Rule 39 of its Rules of Court. They explained that in the past, when arrested or during the dismantling of their camp, they had sustained ill-treatment on the part of the Moroccan authorities in connection with their Sahrawi origin, and they felt threatened and feared reprisals in that country. The Court decided to indicate to the Government not to remove the applicants for the duration of the proceedings before it. When their administrative appeals were dismissed, the applicants appealed on points of law to the Supreme Court. The outcome of those appeals are unknown. Relying on Article 13 (right to an effective remedy), taken together with Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment), the applicants complain that they were unable to obtain vindication in the domestic courts of their complaints about the risks incurred in the event of their removal to Western Sahara.

R.E. v. Switzerland (no. 28334/08)

The applicant is a Moroccan national who was born in 1972 and lives in Lenzbourg (Switzerland). In this case the applicant complains that he was convicted of drug trafficking without having had access to all the evidence in the file. In June 1997 he was granted a Swiss residence permit after marrying a national of that State. In February 2006, following an investigation opened in 2003 for a drugs-related offence in which he was implicated, the applicant was committed to stand trial in the criminal court. At one of the hearings, after testimony had been given by witness X, a record of a statement by the same witness, dating from February 2005, was admitted in evidence. On the next day, the representative of one of the co-defendants asked for the hearing to be adjourned so that the court and the defendants could apprise themselves of the documents that had not yet been added to the file. The criminal court denied that request. In a judgment of 2 August 2006, the applicant was convicted of handling illegal goods and a serious drugs-related offence, and sentenced to seven years' imprisonment with deportation from Switzerland for 15 years. After his appeal was dismissed by the Criminal Court of Cassation in 2006, R.E. lodged a public-law appeal and an application for nullity on grounds of arbitrariness and a breach of the right to be presumed innocent, actions that were also dismissed in 2007. Relying on Article 6 §§ 1 (right to a fair hearing) and 3 (b) (right to have the necessary time and facilities for one's defence), the applicant submits that his discovery at the trial of the statement of February 2005 shows that it is likely he was not given access to other evidence against him in the course of the criminal proceedings that led to his conviction for trafficking in cocaine.

Nusret Kaya and Others v. Turkey (nos. 43750/06, 43752/06, 32054/08, 37753/08, and 60915/08)

The applicants, Nusret Kaya, Ahmet Gerez, Mehmet Şirin Bozçalı, Mesut Yurtsever and Mehmet Nuri Özen, are Turkish nationals who were born in 1972, 1965, 1966, 1974, and 1976, respectively. When their application was lodged, the applicants were inmates of the E-type prison of Muş (Turkey). The case concerns the restrictions on the possibility for the applicants to conduct telephone conversations in Kurdish with their relatives. The applicants called upon the competent sentence-execution judges to have those restrictions lifted, but each of their requests was denied in decisions given between 29 May 2006 and 10 June 2008. The judges took the view that the practice of the prison authorities was compliant with procedure and with the law, basing their finding on the applicable regulations according to which inmates' telephone conversations had to be conducted in Turkish, with the exception of those cases in which the prisoner or the person on the other end of the line did not understand Turkish. Each of the applicants appealed against the decision of the sentence-execution judge that specifically concerned them, but the Assize Court dismissed their

appeals, finding that the decisions had not been in breach of procedure or of the law. Relying on Article 8 (right to respect for private and family life) of the Convention the applicants complain that they have sustained a breach of their right to respect for their telephone communications. Under Article 6 § 1 (right to a fair hearing within a reasonable time), they submit that they did not have a fair trial as some hearings were not held in public and the domestic courts did not give sufficient reasoning for their judgments.

Length-of-proceedings cases

In the following cases, the applicants complain in particular about the excessive length of civil proceedings.

Varjonen v. Finland (no. 63744/10)
Csabuda v. Hungary (no. 57525/12)
Grespik v. Hungary (no. 47018/10)
Kis and Boza v. Hungary (no. 7097/11)
Kvacskay v. Hungary (no. 60459/12)
Nagy v. Hungary (no. 16477/13)
Neckov v. Hungary (no. 41030/10)
Szabó v. Hungary (no. 34254/10)

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

Brunner v. Hungary (no. 60992/12)
Palásti v. Hungary (no. 54244/10)

Thursday 24 April 2014

Božić v. Croatia (no. 50636/09)

The applicant, Marija Božić, is a Croatian national who was born in 1940 and lives in Lipovača (Croatia). The case concerns Ms Božić's complaint that the authorities refused to grant her an old-age pension. Ms Božić was insured with the Croatian Pension Fund as an agricultural entrepreneur and in November 2000, when she reached the age of 60, she requested the Fund to grant her a pension. The pension was refused on the ground that, required by law to have worked for a minimum of 15 years as an agricultural entreprenuer, she had only worked for 12 years. Claiming that she had in fact paid supplementary pension contributions for missing years in 1998 and 2000, she brought an administrative action and a constitutional complaint, both subsequently dismissed. Ultimately, in December 2012 the authorities recognised the supplementary contributions she had paid and granted her a pension, backdated to 1 August 2011. Relying on Article 1 of Protocol No. 1 (protection of property), she complains about being deprived of her old-age pension for nearly eleven years, from November 2000 to July 2011.

Udovičić v. Croatia (no. 27310/09)

The applicant, Ljubica Udovičić, is a Croatian national who was born in 1950 and lives in Cubinec (Croatia). The case concerns Ms Udovičić's complaint about the authorities' inadequate response to excessive noise and other nuisances from a bar located below her flat. She has been living in the flat, part of a house which she owns jointly with a company, since 1991. She alleges that the problems started in August 2002 when the company began construction work to open a bar and a shop. Over the following years, she made a number of complaints about the construction work itself, about the company's licences to run the bar and shop, about the insufficient insulation from noise in the house and about the level of noise coming from the bar; those proceedings are all still pending before the

administrative courts. Ms Udovičić also brought civil proceedings concerning the level of noise in 2006, which were dismissed in 2007 on the ground that it did not exceed the permitted level. A constitutional complaint and criminal complaint she brought were also both dismissed in 2008. Relying on Article 8 (right to respect for private and family life and the home) and Article 1 of Protocol No. 1 (protection of property), she alleges that the authorities have failed to protect her from the bar's excessive noise and other nuisances – notably drunk and violent customers – to which she has been subjected for more than ten years and which have been the source of constant distress for her.

Herman and Serazadishvili v. Greece (nos. 26418/11 and 45884/11)

The first applicant, Aisayah Erliana Herman, is an Indonesian national who was born in 1982 and lives in Athens. The second applicant, Bardi Serazadishvili, is a Georgian national who was born in 1971. The case concerns the alleged illegality of their custody pending removal and the conditions, which they claim to have been degrading, in which they were held. On 9 and 26 August 2010, the applicants were arrested for being in Greece without a valid residence permit. While awaiting their removal they were both held in custody for a maximum period of six months. In their submission, the cells in which they were held were overcrowded, cramped and unhealthy. On different dates their appeals against their custody and their requests for asylum were respectively rejected. In December 2010 following fresh appeals by Mr Serazadishvili, the Greek courts ordered his release. In February 2011, Ms Herman was released on account of the expiry of the six-month time-limit. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complain about the poor conditions in which they were held in custody. Under Article 5 § 1 (right to liberty and security) and § 4 (right to a speedy decision on the lawfulness of detention), they also complained that their custody had been illegal and that there had been no effective domestic remedy in that connection.

Lagutin and Others v. Russia (nos. 6228/09, 19123/09, 19678/07, 52340/08 and 7451/09)

The applicants, Andrey Semenov, Yekaterina Shlyakhova, Ivan Lagutin, Aleksey Zveryan, and Viktor Lagutin, are Russian nationals who were born in 1979, 1986, 1980, 1986, and 1986 respectively and live in Novocheboksarsk (the Republic of Chuvashiya), Zelenchukskaya (the Krasnodar Region), Kochubeyevskoye (the Stavropol Region), Obninsk (the Kaluga Region), and Stavropol (all in Russia), respectively. The case concerns the applicants' allegations of police entrapment.

Each applicant was the target of undercover police operations, which led to their criminal convictions for drug dealing. Ivan and Viktor Lagutin, brothers, were convicted in October 2008 of possessing and selling large quantities of cannabis and were sentenced to six and five years' imprisonment respectively. Andrey Semenov, a heroin addict, was convicted in May 2006 of selling heroin and sentenced to six years' imprisonment. Yekaterina Shlyakhova, also a drug user, was convicted in March 2008 of selling cannabis and sentenced to five years and six months' imprisonment. Aleksey Zveryan, another drug user, was convicted in February 2008 of dealing in ecstasy and sentenced to five years and six months' imprisonment. All the applicants alleged during the proceedings against them that they had never procured drugs prior to the undercover operations in question and would never have become involved in drug dealing without being lured into it by the police and their informants.

Relying on Article 6 § 1 (right to a fair trial), the applicants allege that their convictions were unfair and that their plea of entrapment had not been properly examined in the proceedings before the national courts.

Perevedentsevy v. Russia (no. 39583/05)

The applicants, Vera Perevedentseva and Sergey Perevedentsev, husband and wife, are Russian nationals who were born in 1962 and 1963 respectively and live in Snovo-Zdorovo, a village in the

Ryazan Region (Russia). The case concerns the death of their 19-year old son during his military service. On 16 February 2004 the applicants' son, Mikhail Perevedentsev, who was serving his two years' mandatory military service, was found dead with a noose around his neck. The official conclusion was that he had committed suicide. The proceedings concerning his death were ultimately discontinued in October 2010 on the ground that there was no evidence of any crime having been committed. Relying on Article 2 (right to life) and Article 13 (right to an effective remedy), the applicants submit that they do not believe that their son committed suicide, alleging that harassment – under a system called *dedovshchina* – in the army from more senior conscripts, including extortion, beatings and sleep deprivation, must have played a part in his death. They also claim that the authorities failed to effectively investigate any of these allegations or any responsibility that the army could have had for their son's death.

Duško Ivanovski v. 'The former Yugoslav Republic of Macedonia' (no. 10718/05)

The applicant, Duško Ivanovski, is a Macedonian national who was born in 1971 and lives in Skopje. The case concerns Mr Ivanovski's complaint about the unfairness of criminal proceedings brought against him for drug trafficking. He was arrested in February 2003 and indicted on charges of possession and sale of heroin and other prohibited substances found during a search of the cellar of the building where he lived. He was convicted as charged in March 2003 and sentenced to two-and-a-half years' imprisonment. His conviction was upheld by the Supreme Court in November 2004. Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Mr Ivanovski alleges in particular that his conviction was unfair as it was based on unlawfully obtained evidence – notably the fingerprint on the packets of drugs found in the cellar had allegedly been obtained by police officers pushing him and forcing him to touch the packets – and as the courts refused to hear witnesses in his defence – such as the police officers who had taken the fingerprint in the cellar and neighbours who had witnessed the search – or admit alternative expert evidence.

Miladinov and Others v. 'The former Yugoslav Republic of Macedonia' (nos. 46398/09, 50570/09, and 50576/09)

The applicants, Dimitar Miladinov, Dimitrija Golaboski, and Georgi Miladinov, are Macedonian nationals who were born in 1966, 1953, and 1961 respectively. They live in Struga and Ohrid ('The former Yugoslav Republic of Macedonia'). The case concerns the applicants' complaints about their detention on remand on money laundering charges. In December 2008 Dimitar and Georgi Miladinov were remanded in custody and Mr Golaboski was placed under house arrest following the opening of an investigation into crimes allegedly committed by people involved in the bankruptcy proceedings of a company. The accused included the applicants, who were private entrepreneurs at the time, as well as trustees, trial judges, lawyers, notaries and civil servants. Their initial detention, based on the reasonable suspicion that they had committed a crime and the possibility of them interfering with the investigation, was ordered until March 2009. After that, Mr Golaboski's house arrest was extended another six times and the other two applicants' detention another ten times on the basis that there was a risk of their absconding and reoffending. Ultimately, in January 2010 all three applicants were found guilty, Dimitar and Georgi Miladinov being sentenced to six and a half years' imprisonment and Mr Golaboski to two years.

Relying on Article 5 §§ 3 and 4 (right to liberty and security / right to have lawfulness of detention decided speedily by a court), the applicants complain about the court orders extending their detention on remand and the proceedings for review of those orders. They allege in particular that the courts did not give concrete and sufficient reasons for their detention; that there was no oral hearing in the proceedings for review of their detention; and, that those proceedings were not adversarial because the public prosecutor's written observations in reply to their appeals against the orders to extend their detention were not communicated to them. The applicants also allege under

Article 6 § 2 (presumption of innocence) that the wording of those extension orders amounted to a declaration of their guilt.

Budchenko v. Ukraine (no. 38677/06)

The applicant, Vladimir Budchenko, is a Ukrainian national who was born in 1932 and lives in Gorlivka (Ukraine). The case concerns Mr Budchenko's entitlement to exemption from electricity and gas bills. As a retired miner, Mr Budchenko is entitled to receive free coal. As he lives, however, in a house with central heating, he has the right under section 43 of the Mining Act, adopted in 1999, to exemption from his gas and electricity bills, with such costs being borne by the mining companies. As his former employer, Lenin Mine, ignored his requests to cover the costs of his electricity and gas, he brought proceedings in April 2003, claiming that the mine should cover his bills by means of contributions paid into the local budget. In April 2004 the courts found against Mr Budchenko: they acknowledged that he was entitled to exemption from his electricity and gas bills, but found that there was no legal mechanism in place to implement the calculation and financing of such payments provided for by the Mining Act. Relying in particular on Article 1 of Protocol No. 1 (protection of property), he complains that the rejection of his claim was unlawful.

Repetitive case

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

Li v. Russia (no. 38388/07)

The applicant in this case complains that the authorities failed to enforce a judgment ordering that he be paid compensation for his unlawful conviction. He relies on Article 6 § 1 (right to a fair hearing) and Article 1 of Protocol No. 1 (protection of property).

Length-of-proceedings cases

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

Hauptmann v. Austria (no. 61708/12)
Carić v. Croatia (no. 58650/12)
Aggelakopoulos v. Greece (no. 13177/10)
Niaros v. Greece (no. 50759/10)

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