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

Press Release
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ECHR 313 (2014)
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Forthcoming judgments

The European Court of Human Rights will be notifying in writing 12 judgments on Tuesday 4 November 2014 and eight on Thursday 6 November 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 November 2014

Revision

Manushaqe Puto and Others v. Albania (applications nos. 604/07, 43628/07, 46684/07, and 34770/09)

The case concerns a request for revision of a judgment by the European Court of Human Rights with regard to complaints about non-enforcement of decisions awarding compensation.

The applicants are 20 Albanian nationals who live in Albania. They all complained that, despite their inherited title to plots of land having been recognised by the authorities, final administrative decisions awarding them compensation *in lieu* of restitution had never been enforced. They relied 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) to the European Convention on Human Rights.

In its judgment of 31 July 2012 the Court found violations of Article 13, Article 6 § 1, and Article 1 of Protocol no. 1 to the Convention on account of the lack of an effective remedy with which to enforce a final decision that had awarded the applicants compensation *in lieu* of the restitution of their property. The Court made just satisfaction awards in respect of each application.

On 21 March 2013 the Government informed the Court that they had learned that the applicant's brother in application no. 34770/09 had died on 12 July 2009. They accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court in so far as the award of pecuniary and non-pecuniary damage in the sum of EUR 1,360,000 was concerned.

The Court will examine the Government's request in its judgment of 4 November 2014.

Manolov v. Bulgaria (no. 23810/05)

The applicant, Biser Manolov, is a Bulgarian national who was born in 1970. The case concerns Mr Manolov's complaint about his sentence of life imprisonment, which he is currently serving in Bobov Dol Prison (Bulgaria), and about the conditions of his detention, in particular the strict detention regime, involving isolation, in which he is held.

Having been convicted of a number of violent offences and initially sentenced to death in 1996, his sentence was replaced with life imprisonment without commutation in February 1999 following the abolition of the death penalty in Bulgaria. Mr Manolov submits that his detention conditions were inadequate during various periods, in particular the food was poor and insufficient, outdoor activity was limited, the temperature in his cell was below 12 degrees in winter, and his cell was infested with rats. He complains that those conditions, as well as his isolation and his being routinely handcuffed when taken out of his cell, were in violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights. He also maintains that his

sentence of life imprisonment without commutation amounted to inhuman and degrading punishment in breach of Article 3.

Tocarenco v. the Republic of Moldova (no. 769/13)

The applicant, Iulia Tocarenco, is a Moldovan national who was born in 1992 and lives in Chişinău.

The case concerns the fact that she was not allowed to see her child and had no legal remedy at national level to assert her rights.

Ms Tocarenco alleges that on 30 June 2012 she was ejected from her father-in-law's home, where she had been living with her husband and child. She maintains that since then her husband and parents-in-law have not allowed her to see her child.

Relying on Article 8 (right to respect for private and family life), Ms Tocarenco alleges a violation of her right to respect for her family life and complains that the State took no appropriate steps for her to re-establish her relationship with her child. Relying on Article 13 (right to an effective remedy) in conjunction with Article 8, she complains of the lack of an effective remedy to redress her situation.

Braun v. Poland (no. 30162/10)

The applicant, Grzegorz Michal Braun, is a Polish national who was born in 1967 and lives in Wrocław (Poland). He is a film director, historian and author of press articles on current issues. The case concerns his complaint about being ordered to pay a fine and to publish an apology for damaging the reputation of a well-known professor.

In a radio debate about lustration in April 2007, Mr Braun referred to the professor as an informant for the secret political police during the communist era. In allowing a civil action brought by the professor for the protection of his personal rights, a regional court, in a judgment in July 2008, noted that the professor had been examined by a special commission set up by his university to examine the problem of covert surveillance of academics, but that the commission had been unable to reach any unequivocal conclusions. Mr Braun's appeal was eventually dismissed by the Supreme Court, but the obligation to publish an apology, initially ordered for several media, was limited to one national daily newspaper and one radio station. The Supreme Court noted in particular that while a journalist reporting on an issue of public interest could not be obliged – under its case-law – to prove the veracity of each statement, Mr Braun could not be considered a journalist and his statement had been of a private nature.

Relying on Article 10 (freedom of expression), Mr Braun complains that the Polish courts' decisions violated his right to freedom of expression, arguing in particular that he had been active as a journalist for many years and that radio debate in which he participated concerned an important matter relating to a public figure.

Just Satisfaction

Potomska and Potomski v. Poland (no. 33949/05)

The applicants, Zygmunt Potomski, and his wife, Zofia Potomska, are two Polish nationals who were born in 1937 and 1939 respectively and live in Darłowo (Poland). The case concerns their complaint that they were prevented from developing land in Rusko which they had bought from the State in 1974 because the authorities subsequently decided to list the property, formerly a Jewish cemetery, in the register of historic monuments. In particular, they complained that the authorities had failed to expropriate their land or provide them with an alternative plot on which they could construct a house as originally intended. They relied on Article 1 of Protocol No. 1 (protection of property).

In its principal judgment of 29 March 2011 the Court held that there was a violation of Article 1 of Protocol No. 1 and further held that the question of the application of Article 41 (just satisfaction)

was not ready for decision and reserved it for a later date. The Court will decide on this question in its judgment of 4 November 2014.

Bosnigeanu and Others v. Romania (no. 56861/08 and 33 other applications)

The applicants are 34 Romanian nationals who were born between 1924 and 1971 and live in Bucharest, Piteşti, Argeş, Domneşti, Prunaru and Teleorman (Romania). They all took part in the demonstrations against the communist regime from 21 to 23 December 1989 in Bucharest and other towns and cities, which led to the fall of that regime.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time), they complain of the length of the criminal proceedings which they joined as civil parties, alleging ill-treatment at the hands of the law enforcement agencies. Furthermore, relying on Articles 2 (right to life) and 3 (prohibition of torture and inhuman or degrading treatment), they complain of the lack of an effective, impartial and thorough investigation which might have led to the identification and punishment of the individuals responsible for the violent suppression of the demonstrations in December 1989.

Enășoaie v. Romania (no. 36513/12)

The applicant, Gheorghe Enășoaie, is a Romanian national who was born in 1960 and lives in Roman (Romania). The case concerns the conditions of his detention on remand between September 2011 and June 2012, when he was released, the criminal proceedings against him, on charges of bribe taking, being still pending.

Mr Enășoaie submits in particular that, both at the police department detention facility where he was initially kept and at the prison where he was transferred in November 2011, he had to share a cell with smokers, although he was a non-smoker and was suffering from a heart condition. He also maintains, in particular, that the food was poor and insufficient, that the cells were overcrowded and the sanitary conditions inappropriate. Finally, he complains of the conditions of his transport between the detention facilities and the courthouse, stating in particular that vehicles were unheated and had a broken roof. He alleges a violation of Article 3 (prohibition of inhuman or degrading treatment).

Flămînzeanu v. Romania (no. 12717/09)

The applicant, Marian Flămînzeanu, is a Romanian national who was born in 1981 and lives in the village of Milcovatu, a municipality in Letca Nouă. The case concerns alleged ill-treatment by the police during two arrests.

In 2003 Mr Flămînzeanu had undergone a surgical operation necessitating the installation of metal plates on several vertebrae. On 16 January 2006 he was arrested following a search of his house by the police, on suspicion of having committed robbery, together with five accomplices. The report prepared when he was taken into custody did not mention any sign of physical violence against Mr Flămînzeanu. The physician who examined him on the same day considered that his state of health was compatible with detention. On 14 September 2006, he was arrested once again by the police, on suspicion of having committed a robbery, subjected to a body search and taken to the police station in the third district of Bucharest, where he was taken into custody. On the morning of 15 September 2006 Mr Flămînzeanu was examined at the medical service of the Central Police Directorate; the medical record mentioned that Mr Flămînzeanu had complained of pain in his left leg but that he displayed no signs of violence.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Flămînzeanu complains of ill-treatment allegedly inflicted by police officers during these two arrests on 16 January 2006 and 14 September 2006. He also submits that the investigation conducted by the authorities into the alleged ill-treatment was ineffective.

Sociedad Anónima del Ucieza v. Spain (no. 38963/08)

The applicant company, Sociedad Anónima del Ucieza, is a limited company founded in 1978 under Spanish law, based in Ribas de Campos (Palencia).

The case concerns the company's ownership claim over religious buildings on a plot of land which had formerly belonged to the Catholic Church and which the company purchased at a public auction.

In July 1978 the company purchased land at Ribas de Campos. The entry in the land register mentioned that a church, a house, a number of norias, a poultry yard and a mill formed an enclave within the plot of land. The land had belonged to the former Premonstratensian monastery of Santa Cruz de la Zarza, which had been part of the Santa Cruz Priory, founded in the 12th century.

In December 1994, the Diocese of Palencia entered in the land register, in its own name, a plot of land comprising a Cistercian-style church, a sacristy and a capitular chamber which had once formed part of the old Premonstratensian monastery of Santa Cruz, and which were located on the land owned, according to the land register, by the applicant company. Even though its name appeared in the register as the owner of the land in question, the applicant company was neither informed of nor asked about this new entry in the register. Having been informed after the event, it submitted complaints to the Diocese, which replied that the property in question had always belonged *de facto* to the Diocese of Palencia under the Law on the dismantling of church property of 2 September 1841, which excluded churches and cathedrals and their annexes from the dismantling process. The applicant company brought an action against the Diocese of Palencia to declare void the entry concerning the church and its annexes in the land register as effected by the Diocese in 1994. The company's action was dismissed, as was its subsequent appeal. On 14 June 2005 the Supreme Court declared inadmissible an appeal on points of law by the company. The company then lodged an *amparo* appeal with the Constitutional Court, which on 26 February 2008 declared this appeal inadmissible as lacking any constitutional basis.

Relying on Article 6 § 1 (right to a fair hearing), the applicant company submits that it was deprived on unduly formalistic grounds of its right of access to an appeal on points of law before the Supreme Court. Relying on Article 1 of Protocol No. 1 (protection of property), it complains that it was deprived of part of its property for no reason of public interest and without any compensation on the basis of a law predating the Constitution.

Dillon v. the United Kingdom (no. 32621/11)
Thomas v. the United Kingdom (no. 55863/11)

Both cases concern allegations of delay in access to prison rehabilitative courses.

The applicants are, John Dillon and David Thomas, two British nationals who were born in 1955 and 1968 respectively. Mr Dillon is currently detained in HMP Whatton and Mr Thomas in HMP North Sea Camp (England). Both men were given indeterminate sentences for the public protection following their convictions in 2007 (Mr Dillon) and 2008 (Mr Thomas). They were given tariff periods of four years and one year and 19 days respectively. Their release after the expiry of their tariff periods was subject to the approval of the Parole Board.

Relying in particular on Article 5 § 1 (right to liberty and security), both applicants complain about the authorities' failure to put in place the necessary resources to ensure their access to appropriate courses in prison to address their offending behaviour and the impact of this failure on their ability to show the Parole Board that they were rehabilitated and could safely be released.

Repetitive cases

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

Mierzejewski v. Poland (no. 9916/13)

The applicant in this case complains that the length of his detention on remand was excessive and that the courts did not give relevant and sufficient reasons for keeping him in custody. He relies on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial).

Thursday 6 November 2014

Dvořáček v. the Czech Republic (no. 12927/13)

The applicant, Karel Dvořáček, is a Czech national who was born in 1971 and lives in Lipová-lázně.

The case concerns the conditions of confinement imposed on Mr Dvořáček who was prescribed protective sexological treatment in a psychiatric hospital.

In 1999 Mr Dvořáček was diagnosed with Wilson's disease, a genetic disorder linked to the accumulation of copper in the tissues, with symptoms such as liver disease and neurological and psychological problems. When the disease was diagnosed, Mr Dvořáček began to suffer speech and motor problems and was afflicted with hebephilia, a form of paedophilia. Owing to his hebephilia, Mr Dvořáček was prosecuted on several occasions for offences against minors, including sexual offences, soliciting for sexual favours, and sexual abuse. In 2002 he was given a suspended prison sentence and ordered to undergo protective treatment. He was also confined to psychiatric hospital on a number of occasions. On 30 August 2007 the Olomouc District Court ordered him to undergo protective sexological treatment in a hospital instead of the outpatient treatment which the Prague District Court had previously ordered on 16 August 2006. Mr Dvořáček was confined to the Šternberk psychiatric hospital from 13 November 2007 to 4 September 2008.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), the applicant alleges that the conditions of the protective treatment which he underwent at the Šternberk psychiatric hospital, the failure to provide him with reasonable accommodation for his disability and his subjection to forcible medical treatment amounted to torture and inhuman and degrading treatment. He also submits that no effective investigation was ever conducted into his allegations of ill-treatment during his confinement. Relying on Article 13 (right to an effective remedy), he complains that he had no access to an effective remedy.

Ereren v. Germany (no. 67522/09)

The applicant, Faruk Ereren, is a stateless person who was born in 1955 and lives in Hagen (Germany). The case concerns his complaint about the length of his pre-trial detention, which lasted for more than five years, on suspicion of having ordered terrorist attacks.

Mr Ereren was arrested in Germany in April 2007 for possession of forged documents. His detention was subsequently ordered on the basis of a strong suspicion, in particular, that he had played a leading role in the activities of a foreign terrorist organisation and of having committed two counts of murder; it was extended on several occasions and his appeals against the arrest warrant were rejected. The German courts held in particular that there was a risk of collusion and of absconding, observing that Mr Ereren did not have a fixed residence in Germany. In September 2011, an appeal court convicted him of two counts of murder and sentenced him to life imprisonment, but the judgment was subsequently quashed and the case was remitted for a fresh trial by another chamber of the same court. After his detention had again been extended, Mr Ereren was eventually released in February 2014, the criminal proceedings against him still pending.

Relying on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), Mr Ereren complains that the length of his pre-trial detention was excessive.

Azzopardi v. Malta (no. 28177/12)

The applicant, Peter Azzopardi, is a Maltese national who was born in 1950 and lives in Naxxar (Malta). He is the director of the company Canadian Brothers Limited on whose behalf he lodged the application.

The case concerns compensation proceedings in respect of the expropriation, in 1974, of a plot of land of which the company had been the holder. The land was expropriated in order to construct a reservoir. Mr Azzopardi contested the sum offered by the authorities for the acquisition and repeatedly requested them to bring proceedings to determine the compensation due for the expropriation. Compensation proceedings were eventually initiated in 2004, and they remain pending. In the meantime, Mr Azzopardi was awarded compensation in respect of non-pecuniary damage in constitutional redress proceedings he had brought, complaining about the authorities' inactivity.

Relying on Article 1 of Protocol No. 1 (protection of property) and Article 6 § 1 (right to access to court and a fair trial within a reasonable time), Mr Azzopardi complains that he was not compensated for the expropriation within a reasonable time.

Repetitive cases

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

Brlek v. Slovenia (no. 6000/10)
Faganel v. Slovenia (no. 6687/10)
Maselj v. Slovenia (no. 5773/10)
Petrovic v. Slovenia (no. 5998/10)
Puzin v. Slovenia (no. 29998/10)

These cases concern, in particular, the applicants' complaints of the allegedly poor conditions of their detention in Ljubljana prison, notably on account of severe overcrowding, unreasonable restrictions on out-of-cell time, inadequate health care, and exposure to violence from other inmates due to insufficient security. They rely on Article 3 (prohibition of inhuman or degrading treatment), Article 8 (right to respect for private and family life, home and correspondence) and Article 13 (right to an effective remedy).

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