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

Press Release
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ECHR 210 (2015)
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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing eight judgments on Tuesday 30 June 2015 and 23 judgments and / or decisions on Thursday 2 July 2015.

*Press releases and texts of the judgments and decisions will be available at **10 a.m.** (local time) on the Court's Internet site (www.echr.coe.int)*

Tuesday 30 June 2016

Peruzzi v. Italy (application no. 39294/09)

The applicant, Piero Antonio Peruzzi, was born in 1946 and lives in Sant'Angelo In Campo (Lucca, Italy). He was a lawyer at the time of the events.

The case concerns his criminal conviction for having defamed an investigating judge (X) in the context of proceedings regarding the division of an estate in which he was acting for two clients.

In September 2001 Mr Peruzzi wrote to the Supreme Council of the Judiciary complaining of the conduct of Judge X of the Lucca District Court. He subsequently sent a "circular" to several judges of the same court reproducing the content of the letter, but without referring to X by name. The first part of the circular gave details of the rulings given by the judge in question in the context of the inheritance proceedings, while the second part dealt with what the applicant deemed to be unacceptable conduct on the part of judges, including "wilfully committing mistakes through malice or gross negligence or owing to a lack of commitment".

X lodged a complaint against Mr Peruzzi for defamation. The applicant was further accused of insult, since X had also received a copy of the circular. In a judgment of 3 February 2005 the Genoa District Court sentenced the applicant to four months' imprisonment for defamation and insult. It considered that Mr Peruzzi had overstepped the limits of his right to criticise by alleging that X had committed mistakes "wilfully"; this constituted a serious affront to the honour of the judge in question. In the view of the Genoa District Court, there was no doubt that X had been the subject of the accusations contained in the circular.

Mr Peruzzi appealed. In a judgment of 12 March 2007 the Genoa Court of Appeal stated that, in the absence of a criminal complaint, no prosecution could be brought for the offence of insult. The custodial sentence imposed on the applicant at first instance was therefore replaced by a fine of 400 euros (EUR). The applicant was also ordered to pay EUR 15,000 to X by way of non-pecuniary damage. In November 2008 the Court of Cassation dismissed an appeal on points of law lodged by the applicant.

Relying on Article 10 (freedom of expression) of the European Convention on Human Rights, Mr Peruzzi complains of his conviction for defamation.

Grabowski v. Poland (no. 57722/12)

The applicant, Maksymilian Grabowski, is a Polish national who was born in 1995 and lives in Cracow (Poland).

The case concerns Mr Grabowski's complaint that his placement in a shelter for juveniles was extended for a period of five months without a specific court order.

Mr Grabowski, a minor at the time, was arrested on 7 May 2012 on suspicion of committing a number of armed robberies. He was initially detained in a police establishment for children and then, by way of a court order, was placed in a shelter for juveniles for a period of three months. In July 2012 the Cracow-Krowodrze District Court ordered that his case be examined in correctional proceedings. Once such an order is issued, the family courts' common practice in Poland is not to issue a separate decision extending the placement in a shelter for juveniles. Thus, despite numerous requests for Mr Grabowski to be released on expiry of the three-month period (that is, on 7 August 2012), Mr Grabowski remained in the shelter until the judgment in his case was delivered in January 2013 in the correctional proceedings. In that judgment the district court found that Mr Grabowski had committed the offences of which he stood accused and ordered his placement in a correctional facility, suspended for a two-year probationary period. That judgment was not appealed against and became final.

Relying on Article 5 §§ 1 and 4 (right to liberty and security – right to have lawfulness of detention decided speedily by a court) of the European Convention, Mr Grabowski alleges that his continued detention in the juvenile shelter after 7 August 2012 was unlawful and that he did not have access to any procedure to contest the lawfulness of his detention.

Serce v. Romania (no. 35049/08)

The applicant, Ali Serce, is a Turkish national who was born in 1966 and is currently being detained in Giurgiu Prison (Romania).

Mr Serce was convicted in June 2005 by Bucharest County Court of aggravated murder and sentenced to 18 years' imprisonment. The case concerns the conditions of detention in which he was then held for more than six years in Rahova and Giurgiu prisons and the Romanian authorities' refusal, despite his requests, to transfer him to Turkey, closer to his family, to serve his prison sentence.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Serce complains of the inhuman conditions of his detention, alleging in particular poor hygiene, aggravated by lack of activities or work and inadequate food for his diabetes. Further relying on Article 8 (right to respect for private and family life), he also complains that he has been unable to maintain contact with his wife and four children, who did not have the means to travel to Romania to visit him.

Stan v. Romania (nos. 24362/11 and 52339/12)

The applicant, Rozalia Stan, is a Romanian national who was born in 1958 and lives in Cluj-Napoca (Romania).

The case concerns the expropriation of land belonging to Ms Stan.

Beginning in 1995, Ms Stan was involved in several sets of civil proceedings with Cluj-Napoca local council, which had occupied 767 square metres of land belonging to her without paying prior compensation, in order to carry out public improvement works on a junction. In a judgment of 28 April 1999 the Court of First Instance ordered the local council to pay Ms Stan 30,000,000 old Romanian lei (ROL) (approximately EUR 1,840) in compensation for the loss of use of the land. On appeal, Ms Stan was awarded the sum of ROL 268,002,000 (approximately EUR 10,300). The Court of Appeal considered that the damage sustained by Ms Stan had been only partially covered by the judgment of 28 April 1999, as the land could no longer be restored to its original state and Ms Stan, while theoretically continuing to own the property, was unable to exercise her ownership rights.

In a judgment of 28 June 2005, upheld by the High Court of Cassation and Justice, the Cluj-Napoca local and county councils were ordered to adopt the measures provided for by law in the case of expropriation of immovable property belonging to individuals, and in particular to issue a declaration that expropriation was in the public interest. The judgment has never been enforced.

Ms Stan subsequently lodged a civil claim for compensation against the local council. However, the County Court ruled that Ms Stan had already been compensated.

Relying on Article 6 § 1 (right of access to a court), Ms Stan complains of the failure to enforce the judgment of 28 June 2005. Under Article 1 of Protocol No. 1 (protection of property) to the Convention, she complains of the de facto expropriation of her land.

A.S. v. Switzerland (no. 39350/13)

The applicant, A.S., is a Syrian national of Kurdish origin who was born in 1988 and currently lives in Geneva (Switzerland).

The case concerns his impending removal to Italy.

Having entered Switzerland from Italy, A.S. sought asylum in Switzerland in February 2013. The Swiss Federal Office of Migration rejected his request in May 2013 based on the fact that his fingerprints had already been registered in Greece and Italy before he had entered Switzerland. Furthermore, the Italian authorities had already accepted a request by the Swiss authorities under the EU Dublin Regulation that A.S. be taken back to Italy. A.S. appealed against the decision, arguing in particular that he had been diagnosed with severe post-traumatic stress disorder, after having been persecuted and tortured in Syria, and was receiving treatment in Switzerland. Furthermore, his two sisters lived in Switzerland, whose presence gave him a certain emotional stability. In June 2013, the Federal Administrative Court dismissed his appeal, holding in particular that under the Dublin Regulation he had to return to Italy.

A.S. complains that, if returned to Italy, he would face treatment in breach of Article 3 (prohibition of inhuman or degrading treatment). In particular he argues that due to systemic deficiencies in the reception system for asylum seekers in Italy, he would not be provided with proper housing and adequate medical treatment. He further alleges that his removal to Italy would severe his relationship with his sisters in Switzerland and violate his rights under Article 8 (right to respect for private and family life). Finally, he maintains that the Swiss Federal Administrative Court failed to grant him interim relief pending the outcome of the proceedings before it, thus making his appeal an ineffective remedy, in breach of Article 13 (right to an effective remedy) in conjunction with Article 3.

Altuğ and Others v. Turkey (no. 32086/07)

The applicants are eleven Turkish nationals – Nilgün Altuğ, Gülgün Ertin, Mihriaver Kayakent, Bercis Girtine, Banu Altuğ, Ayşe Evrim Üzel, Tuğba Kayakent, Buğra Atalay, Hande Didem Bender, Erim Enver Ertin and Saruhan Altuğ – who were born between 1947 and 1980 and live in Bursa (Turkey). They are the children and grandchildren of Ruhsar Keşoğlu.

The case concerns the death of Ms Keşoğlu at the age of 74 following a violent allergic reaction to a penicillin derivative administered intravenously in a private hospital.

On 19 February 2002, complaining of stomach pains and tension, Ms Keşoğlu attended a private medical centre, where she was prescribed ampicillin, a penicillin-based drug. Immediately after the drug had been administered intravenously, she suffered a heart attack. After being resuscitated she was transferred on an emergency basis to the hospital attached to the medical faculty of Uludağ University, where, despite treatment, she died on 25 February 2002.

The deceased's relatives brought criminal proceedings in 2002. They lodged a complaint for manslaughter and negligence in the performance of their duties against the medical centre and the doctor and nurse who had treated Ms Keşoğlu. In particular, they claimed to have told the medical team that their relative was allergic to penicillin. The Institute of Forensic Medicine issued its report on 23 September 2002, basing its findings on medical documents and on the autopsy performed on the body after exhumation. The report concluded that the cause of death had been the penicillin

injection and that no liability could be attributed to the medical team, since fatal reactions to penicillin could result simply from the re-administration of a treatment already administered or even just from the injection of a test dose. These findings were endorsed by an expert report from the National Health Council ordered in the context of the criminal proceedings. The latter ended with a finding that the prosecution was time-barred (following two judgments acquitting the accused).

The applicants had also instituted civil proceedings in 2002 which ended with their compensation claims being dismissed on the basis of the expert reports used in the criminal proceedings.

Relying on Article 2 (right to life), the applicants complain of the death of their mother and grandmother, alleging in particular that the medical team did not comply with their legal obligations to conduct an anamnesis (questioning of patients or their relatives on their medical history and possible allergies), to inform the patient of the possibility of an allergic reaction and to obtain her consent to administration of the drug.

Abdulla Ali v. the United Kingdom (no. 30971/12)

The applicant, Abdulla Ahmed Ali, is a British national who was born in 1980 and is currently detained at HM Prison Frankland (County Durham, England).

The case concerns Mr Ali's complaint that the proceedings against him for conspiring in a terrorist plot were unfair due to extensive adverse media coverage.

In August 2006 Mr Ali was arrested, along with others, in the context of a large-scale counter-terrorism operation. It was alleged that he had conspired to cause explosions on board transatlantic flights using liquid bombs. On 8 September 2008 the jury found him guilty of conspiracy to murder but was unable to reach a verdict on the more specific charge of conspiracy to murder by way of detonation of explosive devices on aircraft mid-flight. Following the verdict, there was extensive media coverage of the case, including reporting on material which had never been put before the jury. Soon after, the Crown Prosecution Service announced its intention to seek a retrial and, around mid-September 2008, the reporting ceased. After the retrial had been announced Mr Ali sought a stay on proceedings, claiming that a fair trial was no longer possible due to the impact of adverse publicity which had occurred following the conclusion of the first trial. The request for a stay was refused in December 2008, the judge considering that sufficient time would have passed since the end of the prejudicial reporting and the commencement of the retrial and making the undertaking to give clear instructions to the jury to try the case only on evidence heard in court. The retrial started in March 2009 and Mr Ali was convicted in September 2009 of conspiracy to murder and sentenced to life imprisonment with a minimum term of 40 years. His appeal against conviction was dismissed in May 2011.

Relying on Article 6 § 1 (right to a fair trial), Mr Ali complains that he did not receive a fair trial by an impartial tribunal due to the extensive adverse media coverage between his first trial and his retrial.

The Court will give its rulings in writing on the following cases, some of which concern issues which have already been submitted to the Court, including excessive length of proceedings.

These rulings can be consulted from the day of their delivery on the Court's online database HUDOC.

They will not appear in the press release issued on that day.

Alexander v. the United Kingdom (no. 54119/10)

Thursday 2 July 2015

Tagayeva and Others v. Russia (nos. 26562/07, 14755/08, 49339/08, 49380/08, 51313/08, 21294/11, and 37096/11)

The case originates in seven applications, brought by 447 Russian nationals.

It concerns the terrorist attack on a school in Beslan, North Ossetia (Russia), in September 2004, and the ensuing hostage-taking, siege and storming of the school, which resulted in the deaths of over 330 civilians, including over 180 children, and injuries to over 750 persons. Some of the applicants were taken hostage and/or injured; others are family members of those taken hostage, killed or injured.

Relying on Article 2 (right to life), the applicants maintain, in particular: that the State has failed in its obligation to protect the victims from the known risk to their lives; that there was no effective investigation into the events; and that many aspects of the planning and control of the negotiations and rescue operation were deficient. Some applicants maintain that the deaths were the result of a disproportionate use of force by the authorities. Some applicants further allege violations of Articles 3 (prohibition of inhuman or degrading treatment), 6 (right to a fair trial), 8 (right to respect for private and family life), 10 (freedom of expression) and 13 (right to an effective remedy).

The seven applications were lodged with the European Court of Human Rights between June 2007 and May 2011. The case was communicated to the Russian Government for observations on 10 April 2012. A Chamber hearing was heard on the case in Strasbourg on 14 October 2014.

Eftimov v. "The former Yugoslav Republic of Macedonia" (no. 59974/08)

The applicant, Epaminonda Eftimov, is a Macedonian national who was born in 1950 and lives in Strumica ('the former Yugoslav Republic of Macedonia').

A doctor, Mr Eftimov complains about criminal proceedings brought against him for aggravated medical malpractice.

In September 1997 an investigation against Mr Eftimov was opened into his treatment of a child who, having been cared for at his hospital for a broken and injured arm, subsequently had to have his right hand amputated on account of a serious bacterial infection. Ultimately, the Supreme Court, deciding at a session held in March 2008 in the presence of the public prosecutor, found Mr Eftimov guilty of intentional aggravated medical malpractice and sentenced him to one year's imprisonment. This judgment was served on Mr Eftimov's lawyer in June 2008.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time), Mr Eftimov alleges that the criminal proceedings against him were unfair, as he had not been able to attend the Supreme Court's session which resulted in his conviction and sentencing, and had lasted an excessive length of time, namely more than ten years at three levels of jurisdiction.

The Court will give its rulings in writing on the following cases, some of which concern issues which have already been submitted to the Court, including excessive length of proceedings.

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Grubic v. Croatia (no. 56094/12)
Zarkovic and Others v. Croatia (no. 75187/12)
H.T. v. France (no. 77481/13)
"M. Schneider Schaltgerätebau und Elektroinstallationen GmbH" v. France (no. 41499/11)
U.B. v. France (no. 9138/13)
Gogia v. Georgia (no. 2274/10)

Tchitava v. Georgia (no. 7130/11)
G.H. v. Hungary (no. 54041/14)
Glendza v. Montenegro (no. 7321/12)
Bojar v. Poland (no. 2173/13)
Cieslak v. Poland (no. 62572/14)
Dawidowski v. Poland (no. 9937/13)
Hamryszak v. Poland (no. 16008/13)
Kaminski v. Poland (no. 17460/13)
Kierzkiewicz v. Poland (no. 68662/11)
Majewicz v. Poland (no. 48803/12)
Roguski v. Poland (no. 68730/12)
Stachowicz v. Poland (no. 37560/13)
Warzocha v. Poland (no. 37529/12)
Ramzi v. Romania (no. 16558/07)
Makaruk v. Ukraine (no. 68049/13)

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