



Forthcoming judgments

The European Court of Human Rights will be notifying in writing 12 judgments on Tuesday 8 January 2013 and 11 on Thursday 10 January 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)*

Tuesday 8 January 2013

Qama v. Albania and Italy (application no. 4604/09)

The applicant, Flamur Qama, is an Albanian national who was born in 1960 and lives in Durrës (Albania). His late wife moved to Italy in 1999 with their son, born in 1994. Mr Qama joined them at a later point. After his wife's death, an Italian court granted Mr Qama's sister-in-law custody for the child in 2003, Mr Qama having been expelled from Italy in 2002 for lack of a residence permit. Relying on Article 8 (right to respect for private and family life) and Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights, he complains that the Albanian and Italian authorities did not ensure his right of contact with his son, granted by an Albanian court in two decisions in 2006 and 2009.

Efe v. Austria (no. 9134/06)

The applicant, Mehmet Efe, is an Austrian and Turkish national who was born in 1955. He has lived and worked in Vienna since 1989, while his children, born in 1978 and 1980 respectively, remained in Turkey. His case concerns the Austrian courts' refusal, in a decision which became final in August 2005, to grant him family allowance for the period after 1996 – when a Social Security Agreement between Austria and Turkey was terminated – and the refusal to grant him tax credits for maintenance payments, because his children were not resident in Austria. He alleges that this decision breached Article 14 (prohibition of discrimination) of the Convention in conjunction with Article 1 of Protocol No. 1 (protection of property) to the Convention and Article 14 read in conjunction with Article 8 (right to respect for private and family life).

A.K. and L. v. Croatia (no. 37956/11)

The applicants, A.K. and her son L., are Croatian nationals who were born in 1987 and 2008 respectively. After his birth, L. was placed in a foster family – with Ms K.'s consent – on the ground in particular that she was unemployed and attended a special needs programme in school. Relying on Article 8 (right to respect for private and family life), she complains that she was not represented in subsequent court proceedings which resulted in a decision divesting her of her parental rights, on the ground that she had a mild mental disability, and that her son was put up for adoption without her knowledge, consent or participation in the adoption proceedings. She further relies on Article 6 § 1 (right to a fair trial) and Article 14 (prohibition of discrimination).

Jashi v. Georgia (no. 10799/06)

The applicant, Davit Jashi, is a Georgian national who was born in 1973 and is currently serving a prison sentence for a drug-related offence. Relying on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment), he alleges that while in

pre-trial detention he was not provided with appropriate medical care for his mental health, cardiac and hepatic problems. In particular, he complains that a court decision during a preparatory hearing in January 2006 ordering his admission to a psychiatric hospital for examination was not enforced. Instead he remained in prison, where he made repeated suicide attempts.

[Dimitras and Others v. Greece \(no. 3\) \(nos. 44077/09, 15369/10 and 41345/10\)](#)

The applicants, Panayote Dimitras, Andrea Gilbert, Nikolaos Mylonas, Grigoris Vallianatos, Evangelia Vlami, Antonia Papadopoulou, Nafsika Papanikolatou and Dimitris Tsabrounis, are Greek nationals who were born respectively in 1953, 1947, 1958, 1956, 1961, 1977, 1955 and 1966 and live in Glyka Nera Attikis (Greece). As members of Greek Helsinki Monitor, a non-governmental organisation active in the field of human rights protection, they took part in 48 sets of criminal proceedings concerning human rights issues in 2009 and 2010. They complain about being obliged in the context of those proceedings to reveal their (non-Orthodox) religious convictions when taking the oath in court. They rely on Articles 8 (right to respect for private and family life), 9 (right to freedom of thought, conscience and religion), 13 (right to an effective remedy) and 14 (prohibition of discrimination). They also allege, under Article 6 § 1 (right to a fair trial), that the presence of religious symbols in courtrooms and the fact that Greek judges are Orthodox Christians give cause to doubt their impartiality.

[Torreggiani and Others v. Italy \(nos. 43517/09, 46882/09, 55400/09, 57875/09, 61535/09, 35315/10 and 37818/10\)](#)

The applicants, Fermo-Mino Torreggiani, an Italian national, Bazoumana Bamba, an Ivorian national, Raoul Riccardo Biondi, an Italian national, Afrim Sela, an Albanian national, Tarcisio Ghisoni, an Italian national, and Mohamed el Haili and Radouane Hajjoubi, Moroccan nationals, were born respectively in 1948, 1972, 1967, 1979, 1952, 1977 and 1975. When they lodged their applications the applicants were serving prison sentences in Busto Arsizio or Piacenza. Their applications concern their conditions of detention. Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complain in particular about having had to share a 9 m² cell with two other prisoners. Mr Ghisoni complained about this to the judge responsible for the application of sentences, who, referring to the [Sulejmanovic v. Italy judgment](#) (no. 22635/03, 16 July 2009), found that he had been exposed to inhuman treatment and to discrimination compared with detainees sharing the same type of cell with only one other person.

[Baltiņš v. Latvia \(no. 25282/07\)](#)

The applicant, G. Baltiņš, is a Latvian national who was born in 1970 and lives in Rīga. He was convicted in October 2005 of aggravated unauthorised acquisition and possession of narcotic substances with intent to sell and sentenced to ten years' imprisonment. His case concerns his complaint that he was incited by an undercover police agent to commit this offence. He further alleges that his conviction was based solely on the evidence obtained as a result of the undercover operations and the pre-trial testimonies of the undercover police agent. Mr Baltiņš relies in particular on Article 6 § 1 (right to a fair trial).

[Bucur and Toma v. Romania \(no. 40238/02\)](#)

The applicants, Constantin Bucur and Mircea Toma, both born in 1952, and Sorana Toma, born in 1985, are Romanian nationals who live in Bucharest. In 1996 Mr Bucur worked in the telephone communication monitoring department in a military unit of the SRI (the Romanian intelligence service) based in Bucharest. Relying on Article 10 (freedom of expression), Mr Bucur complains about his criminal conviction for divulging information classified "top secret". He had released audio cassettes at a press conference containing recordings of the telephone calls of several journalists and politicians,

together with incriminating elements he had noted down in the register of conversations. Mr Bucur had first reported the incriminating remarks to his head of department, who advised him to drop the allegations. Furthermore, under Article 6 (right to a fair trial), Mr Bucur alleges in particular that the principle of equality of arms was breached at his trial and that the military courts lacked independence and impartiality. The other two applicants, Mircea Toma, who worked on the editorial staff at the A.C. newspaper, and his daughter Sorana Toma, relying on Article 8 (right to respect for private and family life and correspondence), complain about the illegal interception of their telephone calls and the keeping of the recordings by the SRI. One of the cassettes Mr Bucur made available to the press contained a conversation between Mircea Toma's wife and daughter, recorded at his home. The three applicants also complain under Article 13 (right to an effective remedy) that they had no effective remedy for their complaints in Romania.

[Retunscaia v. Romania \(no. 25251/04\)](#)

The applicant, Alisa Retunscaia, is a Moldovan national who was born in 1979 and lives in Chişinău (Moldova). In 2003, she was convicted in Romania of a number of drug-related offences and sentenced to six years' imprisonment. In a second set of criminal proceedings on suspicion of related offences, the charges against her were eventually dismissed in 2005. Relying on Article 3 (prohibition of inhuman or degrading treatment), she complains that she was ill-treated during her pre-trial detention and that the conditions of that detention were inadequate. In particular, she maintains that she was transported to and from the court a number of times in an overcrowded van and that the courthouse cells were dirty and lacked ventilation. Further relying in particular on Article 6 (right to a fair trial), she alleges that she was convicted on the basis of self-incriminating evidence obtained under pressure, that she did not have enough time to prepare her defence and that she did not have adequate legal assistance during the pre-trial investigation.

[S.C. Raisa M. Shipping S.R.L. v. Romania \(no. 37576/05\)](#)

The applicant company, S.C. Raisa M. Shipping S.R.L., is a shipping agent. It is represented before the Court by its sole shareholder and manager, Mrs Raisa Mocanu, a Romanian national. The case concerns proceedings brought by the applicant company against the River Administration of the Lower Danube Galati concerning the payment of river taxes. The applicant company alleges that the Court of Cassation's decision in those proceedings violated its rights under Article 1 of Protocol No. 1 (protection of property). Under Article 6 § 1 (right to a fair hearing) it also complains of a breach of its right of access to court in the appeal proceedings, and in particular the way in which notice of the hearing before the Court of Cassation was served.

[Reshetnyak v. Russia \(no. 56027/10\)](#)

The applicant, Vitaliy Reshetnyak, is a Russian national who was born in 1979. In March 2006, he was convicted of aggravated robbery and sentenced to six and a half years' imprisonment, to be served in a medical correctional facility given that he suffered from tuberculosis. Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains that he did not receive adequate medical care in the facility, as a result of which his condition deteriorated and he became disabled, and that his detention conditions were appalling, in particular because of overcrowding. Further relying on Article 13 (right to an effective remedy), he complains that he did not have an effective remedy for his complaints.

Repetitive case

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

Nikolay Dimitrov v. Bulgaria (no.2) (no. 30544/06)

The case concerns the court fees' system under the State and Municipalities Responsibility for Damage Act.

Thursday 10 January 2013

[Claes v. Belgium \(no. 43418/09\)](#)

[Dufoort v. Belgium \(no. 43653/09\)](#)

[Swennen v. Belgium \(no. 53448/10\)](#)

The applicants are André Claes, Michel Dufoort and Maurice Swennen, Belgian nationals who were born respectively in 1952, 1970 and 1948. Mr Claes is at present being held in the psychiatric wing of Leuven prison (Belgium), and Mr Dufoort and Mr Swennen in the psychiatric wing of Merksplas prison. The cases concern their committal by the courts following a history, respectively, of sexual assault, attempted murder and rape of minors. Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Claes complains about his detention for over 15 years in the psychiatric wing of a prison where he alleges he does not receive the care and assistance his state of health requires and has no real prospect of his situation being reviewed. Under Article 5 § 1 (right to liberty and security) the three applicants complain that they have been deprived of their liberty. Under Article 5 § 4 (right to have the lawfulness of detention decided speedily), Mr Claes and Mr Dufoort complain that the handling of their appeals to the mental health authorities was unfair and ineffective. Mr Swennen also complains, under Article 6 § 1 (right of access to court), that his application for legal aid was rejected by the Court of Cassation.

[Agnelet v. France \(no. 61198/08\)](#)

[Fraumens v. France \(no. 30010/10\)](#)

[Legillon v. France \(no. 53406/10\)](#)

[Oulahcene v. France \(no. 44446/10\)](#)

[Voica v. France \(no. 60995/09\)](#)

The applicants, Maurice Agnelet, David Fraumens, Olivier Legillon and Ali Oulahcene are French nationals who were born in 1938, 1975, 1955 and 1940 respectively. Mrs Voica is a Romanian national who was born in 1984. The applicants are currently serving prison sentences: Mr Agnelet was sentenced in 2007 to 20 years, for murder; Mr Fraumens in 2008 to 30 years, for attempted murder; Mr Legillon in 2007 to 15 years, for rape and sexual assault on minors; Mr Oulahcene in 2008 to 30 years, for murder; and Mrs Voica in 2007 to 18 years, for murder. Relying on Article 6 § 1 (right to a fair trial) they complain of the unfairness of the criminal proceedings against them, because of the lack of reasoning in the decisions of the Assize Courts.

[Ashby Donald and Others v. France \(no. 36769/08\)](#)

The applicants, Robert Ashby Donald, Marcio Madeira Moraes and Olivier Claisse, are respectively American, Brazilian and French nationals who were born in 1958, 1952 and 1958 and live in New-York, Paris and Le Perreux-sur-Marne. They are fashion photographers. The case concerns their conviction for copyright infringement following the publication on the Internet site of a fashion company run by Mr Donald and Mr Moraes, without the authorisation of the fashion houses concerned, of photos taken by Mr Claisse at fashion shows in 2003. Relying on Article 7 (no punishment without law), the applicants allege that, in refusing to apply an exception to copyright law provided for

under an Article of the Intellectual Property Code, the Court of Cassation failed to apply the principle that the criminal law must be strictly interpreted. They also complain of a breach of their rights under Article 10 (freedom of expression).

[Zarochentsev v. Ukraine \(no. 39327/06\)](#)

The applicant, Aleksey Zarochentsev, is a Ukrainian national who was born in 1974 and lives in Bakhchysaray. Relying on Article 6 § 1 (right to a fair trial within a reasonable time), he complains about the length of the criminal proceedings instituted against him on suspicion of embezzlement while he was a shop manager. Further relying on Article 2 of Protocol No. 4 (freedom of movement), he complains that the restriction imposed on him from leaving his place of residence during the proceedings has lasted more than nine years.

Length-of-proceedings case

In the following case, the applicant complained in particular about the excessive length of non-criminal proceedings.

Kravets v. Ukraine (no. 45379/10)

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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.