



## Forthcoming hearings in March 2017

The European Court of Human Rights will be holding the following two hearings in March 2017:

**Merabishvili v. Georgia (application no. 72508/13)**, concerning the pre-trial detention of a former Prime Minister of Georgia;

**Ramos Nunes de Carvalho e Sá v. Portugal (nos. 55391/13, 57728/13 and 74041/13)**, concerning disciplinary proceedings brought against a judge.

*After these hearings the Court will begin its deliberations, which will be held in private. Its ruling in the cases will, however, be made at a later stage. A limited number of seats are reserved for the press. To be sure of having a place, you need to book in advance by contacting the Press Unit (+33 (0)3 90 21 42 08).*

On 8 March 2017 at 9.15 a.m.: Grand Chamber hearing in the case **Merabishvili v. Georgia (application no. 72508/13)**

The applicant, Ivane Merabishvili, is a Georgian national who was born in 1968 and is currently serving a prison sentence for a number of offences including vote-buying and misappropriation of property.

Prior to the parliamentary elections of October 2012, which resulted in a change of power, Mr Merabishvili, one of the leaders of the then ruling party, the United National Movement (UNM), exercised, for several months in 2012, the function of Prime Minister of Georgia. After the political coalition Georgian Dream had won the parliamentary election of October 2012 and formed a new government, Mr Merabishvili was elected Secretary General of the UNM, which became the major opposition force in the country.

Mr Merabishvili was arrested on 21 May 2013 following the institution against him of criminal proceedings for embezzlement and abuse of authority. On 22 May 2013 an initial court decision, based on Article 205 of the Code of Criminal Procedure, was taken remanding Mr Merabishvili in custody on the grounds that there was a risk that he might abscond or interfere with the investigation. This decision was confirmed on appeal on 25 May 2013.

Subsequently, during a pre-trial session on 25 September 2013, he asked for his pre-trial detention to be replaced by a non-custodial measure of restraint. This request was examined and rejected on the same day, without explanation, in a brief oral statement of one sentence given by the trial court judge.

Mr Merabishvili was convicted in February 2014 of the majority of the charges against him, including vote-buying, misappropriation of property and breach of the inviolability of another person's home and sentenced to five years' imprisonment. The charge of abuse of authority was dismissed. Mr Merabishvili's appeal on points of law was rejected as inadmissible by the Supreme Court in June 2015.

Four additional sets of criminal proceedings for various offences involving abuse of official authority when he was Minister of the Interior between 2005 and 2012, were also launched against Mr Merabishvili between May 2013 and July 2014.

Relying on Article 5 §§ 1, 3 and 4 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial / right to have lawfulness of detention decided speedily by a court) of the European Convention on Human Rights, Mr Merabishvili alleges that his arrest and pre-trial detention were unlawful and unjustified, and that the courts failed to carry out a proper judicial review of his request for release in its decision of 25 September 2013.

Further relying on Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5 § 1, he alleges that the initiation of criminal proceedings against him and his arrest were used by the authorities to exclude him from the political life of the country, resulting in the weakening of his party, UNM, and preventing him from standing as a candidate in the presidential election of October 2013. He further alleges that that persecution continued during his pre-trial detention when, on 14 December 2013, he was removed from his cell and taken for a late-night meeting with the Chief Public Prosecutor and the head of the prison authority who had threatened him in order to obtain information about the death of the former Prime Minister, Zurab Zhvania, and about secret offshore bank accounts of the former President of Georgia. He further claims that, despite having informed the authorities of that incident at the first opportunity at a hearing on his case on 17 December 2013, calling upon them to examine video footage from the prison surveillance cameras, no objective or thorough criminal investigation was ever launched into his allegations. Lastly, he emphasises that the international community expressed concerns over the initiation of criminal proceedings against the leaders of the opposition party, including himself.

The application was lodged with the European Court of Human Rights on 20 November 2013.

In its Chamber [judgment](#) of 14 June 2016, the European Court of Human Rights concluded in particular that Mr Merabishvili's pre-trial detention was lawful and based on reasonable grounds but was also used as a means to exert pressure on him. In particular, it held, unanimously, that there had been: no violation of Article 5 §§ 1 and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) of the European Convention on Human Rights as concerned the lawfulness of and grounds for the court decisions of 22 and 25 May 2013 ordering Mr Merabishvili's pre-trial detention; a violation of Article 5 § 3 as concerned the court decision of 25 September 2013 reviewing Mr Merabishvili's pre-trial detention; and, lastly, a violation of Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5 § 1 on account of the fact that Mr Merabishvili's pre-trial detention had also been used by the prosecuting authorities as an opportunity to obtain leverage in another unrelated investigation, namely into the death of the former Prime Minister, Zurab Zhvania, and to conduct an enquiry into the financial activities of the former President of Georgia.

On 17 October 2016 the Grand Chamber Panel accepted the Georgian Government's request that the case be referred to the Grand Chamber<sup>1</sup>.

On 22 March 2017 at 9.15 a.m.: Grand Chamber hearing in the case *Ramos Nunes De Carvalho e Sá v. Portugal* (no. 55391/13 and two other applications)

The applicant, Paula Cristina Ramos Nunes de Carvalho, is a Portuguese national who was born in 1972 and lives in Barcelos (Portugal).

Three sets of disciplinary proceedings were instituted against Ms Ramos Nunes de Carvalho e Sá, who was a judge at the Vila Nova de Famalicão Court of First Instance at the relevant time. In

<sup>1</sup> Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects".

November 2010 the High Council of the Judiciary (HCJ) decided to institute an initial set of proceedings against her in the context of which the judicial inspector F.M.J. proposed that she be ordered to pay 20 day-fines for having called another judicial inspector, who was responsible for her performance appraisal, a “liar” during a telephone conversation, thereby acting in breach of her duty of propriety. F.M.J. also found that she had accused the inspector of “inertia and lack of diligence”.

In March 2011 the applicant submitted a request to the HCJ for F.M.J. to be withdrawn from her case on the grounds that he had breached her right to be presumed innocent and had close ties to the judicial inspector whom she had allegedly insulted. F.M.J. requested leave to withdraw from the case, saying that he was the applicant’s “sworn enemy” following the accusations she had made against him. In a decision of 10 January 2012 the HCJ, sitting in a plenary composed of six judges and nine non-judges, ordered Ms Ramos Nunes de Carvalho e Sá to pay 20 day-fines, corresponding to 20 days’ salary, for acting in breach of her duty of propriety. The applicant appealed on points of law, requesting among other things a review of the establishment of the facts. On 21 March 2013 the Judicial Division of the Supreme Court unanimously upheld the ruling of the HCJ, finding among other things that its task was not to review the facts but only to examine whether the establishment of the facts had been reasonable.

A second set of disciplinary proceedings was opened against the applicant for the use of false testimony in the earlier proceedings. On 11 October 2011 the HCJ, sitting in plenary, ordered that the applicant be suspended from her duties for 100 days for acting in breach of her duty of honesty. It found that the applicant had agreed to a witness making false statements concerning the allegations against her. The applicant lodged an appeal with the Judicial Division of the Supreme Court disputing the facts. The Supreme Court upheld the HCJ’s decision on 26 June 2013, finding among other things that its powers were limited with regard to reviewing the facts.

A third set of disciplinary proceedings was brought against the applicant for allegedly asking the judicial inspector F.M.J., in the course of a private conversation, not to take disciplinary action against the witness on her behalf who had been called during the first set of proceedings. In a decision of 10 April 2012 the HCJ, sitting in plenary, ordered that the applicant be suspended from her duties for 180 days for acting in breach of her duties of loyalty and propriety. The Judicial Division of the Supreme Court unanimously upheld that decision.

On 30 September 2014 the HCJ, sitting in plenary, after grouping together the penalties imposed in the three sets of disciplinary proceedings, imposed on Ms Ramos Nunes de Carvalho e Sá a single penalty of 240 days’ suspension from her duties.

Relying on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights, Ms Ramos Nunes de Carvalho e Sá alleges a breach of her right to an independent and impartial tribunal, her right to obtain a review of the facts established by the HCJ and her right to a public hearing. She further complains that, in view of the reclassification of the facts by the HCJ, she was not informed in detail of the nature of the accusations against her and accordingly did not have adequate time and facilities for the preparation of her defence.

The applications were lodged with the European Court of Human Rights on 16 August and 8 November 2013.

In its Chamber [judgment](#) of 21 June 2016 the European Court of Human Rights held, unanimously, that there had been a violation of Article 6 § 1 (right to a fair trial) of the European Convention on Human Rights. The Chamber noted in particular that the general domestic provisions governing the composition of the HCJ had enabled a situation to arise in which the judges of the formation that examined Ms Ramos Nunes de Carvalho e Sá’s case during the HCJ’s deliberations of 10 January 2012 had been in a minority, and found this situation to be problematic with regard to Article 6 § 1. The Chamber also held that the review carried out by the Supreme Court of the disciplinary decisions of the HCJ had been insufficient, as the Supreme Court had not reviewed the facts

disputed by the applicant even though her arguments had been important for the outcome of the proceedings. The Chamber held, lastly, that in the case of Ms Ramos Nunes de Carvalho E Sá, the domestic authorities had failed to secure the guarantees of a public hearing, thus hindering her ability to defend her case and call a witness and failing to afford the safeguards of a fair hearing.

On 17 October 2016 the Grand Chamber Panel accepted the Portuguese Government's request that the case be referred to the Grand Chamber<sup>2</sup>.

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

**Press contacts**

[echrpress@echr.coe.int](mailto:echrpress@echr.coe.int) | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Denis Lambert (tel: + 33 3 90 21 41 09)

Inci Ertekin (tel: + 33 3 90 21 55 30)

George Stafford (tel: + 33 3 90 21 41 71)

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.

<sup>2</sup> Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects".