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

Press Release
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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 16 judgments on Tuesday 2 February 2016 and 32 judgments and / or decisions on Thursday 4 February 2016.

*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 2 February 2016

Van Zandbergen v. Belgium (application no. 4258/11)

The applicant, Maurice Van Zandbergen, is a Belgian national who was born in 1952. He is currently detained in the psychiatric wing of Turnhout Prison (Belgium).

The case concerns the extension of Mr Van Zandbergen's detention despite his claim that no detailed expert assessment of his state of mental health was carried out for over ten years.

In February 1990 Mr Van Zandbergen was arrested and remanded in custody on a charge of murder. He was detained in the social protection unit of Merksplas Prison and was subsequently transferred to the psychiatric wing of Turnhout Prison, as the authorities considered that he could not be held criminally responsible. Between 1993 and 1999 the Mental Health Board upheld his continuing detention at regular intervals. From 1994 onwards a doctor recommended that Mr Van Zandbergen's applications for prison leave be granted, but noted that he continued to suffer from a narcissistic personality disorder. In November 1999 a different doctor found that the risk of a repeat offence was not high and proposed that the applicant be reassigned to an open institution. Between 1999 and 2009 the Mental Health Board ordered the applicant's continuing detention on a regular basis. Subsequently, on different dates, three doctors issued opinions recommending Mr Van Zandbergen's continued detention. The most recent report, dated 8 March 2010, referred in particular to a very high risk of recidivism and stated that treatment was not really possible.

Mr Van Zandbergen's first application for release was rejected on 18 March 2010 on the grounds that his state of mental health had not improved sufficiently and that the available rehabilitation measures did not afford sufficient safeguards to society. Mr Van Zandbergen appealed against that decision, requesting a detailed expert assessment, but the Mental Health Appeals Board dismissed the appeal, finding the part concerning the detailed expert assessment to be inadmissible on the ground that an expert report had been drawn up on 11 February 2010. The Court of Cassation dismissed an appeal on points of law lodged by Mr Van Zandbergen against that decision, on the grounds that his appeal against the decision not to carry out a detailed psychiatric assessment was inadmissible and that an appeal on points of law could only be lodged against the decision refusing his application for release.

Relying on Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights, Mr Van Zandbergen complains of the extension of his detention despite the fact that no detailed psychiatric expert assessment was carried out for over ten years.

N.Ts. and Others v. Georgia (no. 71776/12)

The applicants are four Georgian nationals who live in Tbilisi: Ms Ts., who was born in 1976, and her three nephews, who are minors.

The case concerns proceedings for the return of the three boys to their father. Following their mother's – Ms Ts.'s sister's – death in November 2009 the boys started living with their aunts and their maternal grandparents. At that time, their father, G.B., was undergoing treatment for drug addiction; he had previously been convicted of drug abuse.

In early 2010 G.B. brought court proceedings for the return of his sons to him. The Tbilisi City Court issued an interim order allowing him to see the children in the presence of two family friends. After a few meetings, contact stopped, as the family friends refused to participate in further meetings. In May 2010 the court ordered the boys' return to their father. Taking into account G.B.'s latest medical record, which found that his addiction had gone into remission and that he was not suffering from any psychiatric pathology, the court concluded that he was fit to resume his parental responsibilities. At the same time, the competent judge dismissed a report on the children's mental state as unreliable, which – having found that they suffered from separation anxiety disorder and showed a negative attitude towards their father – had recommended that no change be made in their living environment.

The appeal court quashed the decision in February 2011 and ordered that the children stay with their maternal family, but the Supreme Court, in October 2011, remitted the case for re-examination. In February 2012 the appeal court reversed its decision and concluded that the children should live with their father. An appeal against that decision by the aunts and maternal grandparents was rejected by the Supreme Court in May 2012. However, the decision has so far remained unenforced, as the boys have refused to move in with their father and two attempts to hand them over to him have been unsuccessful.

Ms Ts. complains of a violation of Article 8 (right to respect for private and family life) in respect of her nephews, maintaining in particular that the national authorities have failed to thoroughly assess the best interests of the boys and that the proceedings were procedurally flawed..

Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt v. Hungary (no. 22947/13)

The case concerns the liability of a self-regulatory body of Internet content providers and an Internet news portal for vulgar and offensive online comments posted on their websites.

The applicants are two legal entities registered under Hungarian law, Magyar Tartalomszolgáltatók Egyesülete ("MTE") and Index.hu Zrt ("Index"), both based in Budapest. MTE, an association, is the self-regulatory body of Hungarian Internet content providers, and Index, a company, is the owner of one of the major Internet news portals in Hungary.

On 5 February 2010 MTE published an opinion on its webpage criticising the business practice of two real estate websites for misleading their clients into using a 30-day advertising service free of charge, which on expiry became subject to a fee without prior notification. Index subsequently wrote about the opinion, publishing the full text on its website. The opinion attracted offensive and vulgar comments both on the websites of MTE and Index.

On 17 February 2010 the company operating the real estate websites brought a civil action against the applicants, complaining that the opinion and subsequent comments had damaged its reputation. On learning of the court action, the applicants immediately removed the comments in question. In their counterclaims they argued that, as intermediary publishers, they were not liable for the user comments, and that, in any event, their criticism was justified given the numerous consumer complaints and proceedings which had been brought against the plaintiff's business practices.

The national courts subsequently found that the comments had been offensive, insulting and humiliating and went beyond the acceptable limits of freedom of expression, stressing that the applicants, by enabling readers to make comments on their websites, had assumed liability for readers' injurious or unlawful comments. The *Kúria* (the highest judicial body in Hungary) thus

imposed 75,000 Hungarian forints (approximately 250 euros) on each applicant in costs. The applicants' constitutional complaint was dismissed in May 2014.

Relying on Article 10 (freedom of expression), the applicants complain about the Hungarian courts' rulings against them, which effectively obliged them to moderate the contents of comments made by readers on their websites, arguing that this went against the essence of free expression on the Internet.

Meggi Cala v. Portugal (no. 24086/11)

The applicant, Rameh Manuel Meggi Cala, is a Portuguese national who was born in 1970. He is currently detained in Carregueira Prison in Belas (Portugal).

The case concerns a complaint regarding the dismissal of an appeal on points of law as being out of time.

After being sentenced by the Lisbon Court of First Instance to 15 years' imprisonment, Mr Meggi Cala appealed against the judgment on an unspecified date through his lawyer, Mr R. In a judgment dated 21 September 2010 the Court of Appeal allowed the appeal in part and reduced the sentence to 14 years' imprisonment.

On 25 November 2010 Mr Meggi Cala instructed another lawyer, Mr V. Carreto Ribeiro, to represent him. On 29 November 2010 the lawyer lodged an appeal on points of law with the Supreme Court on the applicant's behalf. In his pleadings Mr Meggi Cala alleged that he had not been notified of the Court of Appeal judgment until 9 November 2010 and claimed that he had not had any contact with his former counsel – Mr R. – since 21 September 2010, the date of the Court of Appeal judgment.

On 17 February 2011 the Supreme Court declared Mr Meggi Cala's appeal inadmissible as being out of time.

Relying on Article 6 § 1 (right to a fair trial), the applicant alleges that the decision to declare his appeal before the Supreme Court inadmissible infringed his right of access to a court.

Drăgan v. Romania (no. 65158/09)

The case essentially concerns a prisoner's complaint about his detention conditions and the lack of a suitable diet for his dental problems.

The applicant, Adrian Drăgan, is a stateless person who was born in 1956 and is currently detained in Giurgiu Prison (Romania).

Convicted several times over the last nine years, notably of robbery and theft in November 2007, Mr Drăgan has been detained in various prisons in Romania, including for a period of one year and three months in Galati, Rahova and Jilava prisons. During his detention in those prisons he lodged numerous complaints with the prison authorities or the post-sentencing judge to complain about overcrowding, the poor quality of the drinking water, poor and insufficient food and the failure to provide him with toiletries and clothes so as to maintain adequate personal hygiene. All his complaints were rejected as ill-founded. Diagnosed with periodontitis in July 2009 and prescribed a dental prosthesis, he subsequently also alerted the authorities on numerous occasions about his dental problems. He notably lodged complaints with the authorities on a number of occasions between 2009 and 2013 to complain that his dental problems were so severe that he could not eat the food served in prison and that he was not receiving the liquid and semi-liquid diet prescribed to him by a doctor. All these requests were rejected as ill-founded. He also complained on five other occasions in 2013 and 2014 of unbearable toothache, requesting appropriate treatment; but the authorities' response was that the doctor was on holiday and he would be scheduled for an appointment at a later date.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Drăgan complains about the inadequacy of the conditions of his detention and medical treatment, as well as the lack of a suitable diet for his dental problems. He notably alleges that, as a result of never having been given a dental prosthesis or an appropriate diet (despite the doctor's recommendation in 2009), he has had to endure constant pain and has lost almost 70% of his teeth.

Ţăvîrlău v. Romania (no. 43753/10)

The applicant, Maria Ţăvîrlău, is a Romanian national who was born in 1945 and lives in Bucharest.

The case concerns a mistake made during a surgical operation on Ms Ţăvîrlău's husband, and the ensuing proceedings.

In October 2001 Ms Ţăvîrlău's husband was taken to a hospital emergency department after breaking his right leg. The doctor who examined him mistakenly noted in the medical file that the left leg was broken. The applicant's husband was admitted to hospital and underwent surgery. The surgeon inserted a metal plate in his left leg before operating on the right leg and also inserting a plate.

In April 2002 Ms Ţăvîrlău lodged a criminal complaint against the surgeon who had operated on her husband. She alleged that the surgical error had left her husband permanently disabled. Her husband died in April 2005 and Ms Ţăvîrlău informed the authorities that she wished to continue with the proceedings. The examining doctor and the surgeon were committed for trial on charges of professional negligence and forgery. In December 2007 the District Court sentenced them to suspended prison terms for professional negligence and ordered them to pay compensation for non-pecuniary damage. Ms Ţăvîrlău and the doctors appealed against that judgment. Ms Ţăvîrlău criticised the numerous requests made by the two doctors, which in her view were aimed at drawing out the proceedings until such time as the prosecution became time-barred.

On 3 July 2009 the District Court found that the criminal prosecution of the two doctors had become time-barred, but upheld the order for them to pay compensation for non-pecuniary damage.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 6 § 1 (right to a fair hearing), Ms Ţăvîrlău complains that the Romanian public health system does not guarantee the protection of patients or their families owing to shortcomings in the procedures designed to protect individuals' physical and mental well-being. She alleges that the authorities did not carry out a prompt and effective investigation into the operation in question and complains of the amount of compensation awarded by the courts. Lastly, she complains of the length of the proceedings before the national authorities.

Di Trizio v. Switzerland (no. 7186/09)

The applicant, Vita Maria di Trizio, is an Italian national who was born in 1977 and lives in Rapperswil-Jona, in the Canton of St Gall (Switzerland).

The case concerns the refusal by the Swiss Disability Insurance Office ("the Office") to continue to pay Ms di Trizio a 50% disability allowance after the birth of her twins.

Ms di Trizio had to leave her full-time sales job in June 2002 because of back problems. In October 2003 she applied to the Office for a disability allowance. In February 2004 she gave birth to twins and suffered increased back pain as a result. A household assessment was carried out in the course of which Ms di Trizio explained, in particular, that she needed to continue working half-time for financial reasons. The assessment report concluded that Ms di Trizio's capacity to perform household tasks was reduced by 44.6%.

The Office considered that Ms di Trizio had been in full-time paid employment until the end of 2003, had been a housewife between January and May 2004 and from June 2004 onwards had felt able to

work only on a half-time basis since she wished to devote her time to caring for her children and her home. In a decision of 26 May 2006 the Office awarded Ms di Trizio an allowance for the period from 1 June 2003 to 31 August 2004 and decided that she did not qualify for any allowance after that date.

After lodging an unsuccessful complaint with the Office, Ms di Trizio appealed to the Insurance Court of the Canton of St Gall, which allowed her claims in part. The court considered that Ms di Trizio's degree of disability had been calculated on the basis of incomplete facts. The Office appealed against that decision. The Federal Court found in its favour, ruling that Ms di Trizio was not entitled to an allowance.

Relying on Article 8 (right to respect for private and family life), Ms di Trizio complains mainly of the fact that her degree of disability was calculated using the "combined method", which resulted in her allowance being stopped because of her part-time work. Relying also on Article 14 (prohibition of discrimination), taken in conjunction with Article 6 (right to a fair hearing) and with Article 8, she complains of discrimination. Under Article 6 § 1 (right to a fair hearing within a reasonable time), she further complains about certain aspects of the domestic proceedings.

Aydın Çetinkaya v. Turkey (no. 2082/05)

The applicant, Aydın Çetinkaya, is a Turkish national who was born in 1964.

The case concerns his allegation that he was ill-treated in police custody and that his subsequent conviction was based on statements obtained under duress.

On conditional release following a conviction for murder, Mr Çetinkaya was arrested on 23 March 2002 at his home and placed in police custody on suspicion of leading a criminal organisation and being involved in an attempted abduction. Criminal proceedings were subsequently brought against him for those offences. During his trial Mr Çetinkaya, denying the statements he had made to the police, alleged that he had been tortured while in their custody, claiming to have been given electric shocks, stretched by his arms and legs and handcuffed to an iron bar for five days. He was convicted in July 2003 by the Istanbul State Security Court and sentenced to nine years and five months' imprisonment. The State Security Court notably found, on the basis of the case file as a whole (including transcripts of tapped telephone conversations held by Mr Çetinkaya and statements both he and his co-accused had made to the police), that Mr Çetinkaya had planned and given instructions to carry out an abduction via telephone calls he had made using a mobile telephone while in prison. The Court of Cassation upheld this judgment in May 2004 and rejected his appeal in February 2007, the assize court having in the meantime amended his sentence to four years and three months.

In the meantime, Mr Çetinkaya lodged a complaint in April 2002 about ill-treatment in police custody. An investigation was initiated and criminal proceedings were brought against six police officers. The Istanbul Assize Court acquitted the accused officers in December 2005, finding that Mr Çetinkaya's injuries had been the result of his agitated state during custody, which had obliged the police officers to handcuff him to a camp bed. An appeal against this judgment was subsequently dismissed as out-of-time by the assize court and the Court of Cassation upheld that decision in May 2013.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), Mr Çetinkaya complains that he was ill-treated while in police custody and that the investigation into his allegations was ineffective. Further relying on Article 6 § 1 (right to a fair trial), he also complains that the State Security Court convicted him on the basis of statements obtained under duress as well as transcripts of telephone conversations he alleges he had not held.

Erdener v. Turkey (no. 23497/05)

The applicant, Yücel Erdener, is a Turkish national who was born in 1941 and lives in Ankara (Turkey).

The case concerns a civil judgment given against Ms Erdener – a Member of Parliament at the time – for defamation, following remarks made by her and reported in the press criticising the manner in which the Prime Minister, Bülent Ecevit, had been treated in a private university hospital.

On 13 August 2002 an article reporting on rumours in the National Assembly concerning the health problems of the then Turkish Prime Minister appeared in the daily newspaper *Milliyet*. The article was based on a discussion between the journalist and two MPs, one of them Ms Erdener, who was an MP with the Party of the Democratic Left at the time. According to the article, the Turkish Prime Minister had discontinued his treatment at Başkent University Hospital and decided not to attend his last check-up after being warned in advance that the doctors in that hospital were preparing a report finding him unfit to work.

The Başkent University Rector's Office initially lodged a complaint against Ms Erdener and the other MP for defamation, but on 29 August 2002 the Ankara public prosecutor issued a decision not to prosecute, taking the view that the mere fact of reporting on rumours in the National Assembly concerning the Prime Minister's health did not constitute an offence. However, the Assize Court overturned that decision and Ms Erdener and the other MP were committed for trial before the Criminal Court. They were acquitted on 29 April 2003.

In parallel proceedings the Başkent University Rector's Office brought a civil action against Ms Erdener and the other MP seeking compensation for damage to its reputation. The District Court ordered Ms Erdener alone to pay compensation and to repay the court costs and the defendant's lawyer's fees, taking the view that, unlike the other MP, she had also expressed a personal view that was damaging to the hospital's reputation by stating: "They nearly drove him to his death".

Relying on Articles 9 (right to freedom of thought, conscience and religion) and 10 (freedom of expression), Ms Erdener complains of being ordered to pay damages on account of her remarks concerning the Prime Minister's health. Under Article 6 (right to a fair hearing), she complains of being ordered to pay damages to the claimant although the domestic courts had dismissed the action brought against another MP for similar remarks.

Muhacır Çiçek v. Turkey (no. 41465/09)

The applicants, Muhacir, Halit, Neşat, Sadık, Nurdan, Hatice, Cemile, Şehriban and Türkan Çiçek, are Turkish nationals who were born in 1957, 1964, 1982, 1986, 1987, 1991, 1993, 1995 and 1989 respectively and live in Hakkari.

The case concerns the death of a close relative of the applicants who was in the company of PKK activists during an armed confrontation with a gendarmerie commando unit.

On 3 September 2008 at around 10.15 p.m. Reşat Çiçek, the applicants' son and brother, was killed during a military operation launched by the special operations unit of Yüksekova gendarmerie. A criminal investigation was opened the next day. According to the gendarmerie reports, the commando unit had been warned that members of the PKK (the Kurdistan Workers' Party, an illegal armed organisation) were planning to carry out an attack during the night of 3 September 2008. The gendarmes took up ambush positions along the road running between the villages of Suüstü and Büyükçiftlik. The gendarmes at the scene reportedly spotted the silhouettes of three people crossing the bridge on foot and first ordered them to stop. When the individuals in question opened fire, the security forces immediately returned fire, killing Mr Çiçek and injuring the other two people, who managed to flee. Later, a former PKK activist by the name of M.A. gave testimony and stated that on the night in question Mr Çiçek had accompanied two PKK activists who had been instructed to kill a villager from Suüstü. However, they had failed and had gone to a PKK camp some distance away after being injured by the security forces, who had trapped them.

On 2 December 2008 Mr Çiçek's relatives lodged a criminal complaint against the gendarmes involved in the operation, alleging that they had killed their relative arbitrarily. On 13 February 2009 the public prosecutor discontinued the proceedings, taking the view that the security forces had acted in self-defence. Mr Çiçek's relatives appealed, arguing that there was no evidence that Mr Çiçek had aided and abetted the PKK. On 31 March 2009 the President of the Van Assize Court dismissed the appeal on the grounds that the investigation had been satisfactory and its conclusions well-founded.

Relying on Article 2 (right to life), Article 3 (prohibition of inhuman and degrading treatment), Article 6 (fair hearing), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination), Mr Çiçek's relatives complain of his death during a military operation and of the lack of an effective investigation.

Sodan v. Turkey (no. 18650/05)

The applicant, Ramazan Sodan, is a Turkish national who was born in 1952 and lives in Ankara. He was deputy governor of Ankara at the relevant time.

The case concerns Mr Sodan's transfer from his senior post with the governor's office following a report on his conduct, and his complaints regarding his freedom of thought, conscience and religion and respect for his private life.

On 16 June 1998 an inspector with the governor's office was instructed to carry out an investigation into Mr Sodan's general conduct, in particular on the basis of two circulars, one concerning separatism and the other concerning fundamentalism among senior officials in the governor's office. In his analysis the inspector conducting the investigation stated that Mr Sodan's wife wore an Islamic veil and that Mr Sodan himself had an introverted personality which had a negative impact on the performance of his duties with the governor's office, since senior members of the office had to be "model citizens with a modern appearance and outlook". In conclusion, the inspector's report proposed that Mr Sodan be moved to a different department or to a post in central administration not entailing any public role. Mr Sodan was not questioned at any stage of the investigation.

On 23 July Mr Sodan was transferred to the post of deputy governor in Gaziantep. On 31 July he lodged an application with the Supreme Administrative Court to have that decision set aside. After his application was rejected he lodged an appeal on points of law with the Supreme Administrative Court, without success.

Relying on Article 8 (right to respect for private and family life) and Article 9 (right to freedom of thought, conscience and religion), Mr Sodan alleges that his transfer infringed his right to respect for his private life and his right to freedom of thought, conscience and religion. Under Article 6 § 1 (right to a fair hearing within a reasonable time), he alleges a violation of his right to a fair hearing on account of the length of the judicial proceedings. Relying on Article 7 (no punishment without law), he maintains that his transfer was in breach of domestic law.

Tınarlıoğlu v. Turkey (no. 3648/04)

The applicant, Cavit Tınarlıoğlu, is a Turkish national who was born in 1968 and lives in Istanbul (Turkey).

The case concerns an accident at sea in which Mr Tınarlıoğlu was injured while on holiday at an activity centre, and the ensuing proceedings.

On 28 July 1998 Mr Tınarlıoğlu arrived at Club M. On 4 August 1998 at around 7 p.m., while he was swimming, he was struck by a boat piloted by Y.C., who was responsible for running the Club M holiday centre. The applicant was immediately rescued by Y.C. and a holidaymaker and was taken to the emergency department of Bodrum Hospital. Mr Tınarlıoğlu suffered after-effects from the

accident and his degree of disability was assessed at 45%. The authorities revoked Club M's licence to organise water sports for tourists.

The day after the events Mr Tınarlıoğlu's representative submitted a request for evidence to the Bodrum Court of First Instance. On 10 August 1998 the expert concluded that Y.C. had been responsible for the accident. On 18 August 1998 the Muğla public prosecutor's office committed Y.C. for trial before the Assize Court on a charge of endangering the lives of others through negligence and inattention. That court subsequently relinquished jurisdiction in favour of the Bodrum Criminal Court and Mr Tınarlıoğlu applied to join the proceedings as a third party. At the court's request an expert report was drawn up, which found that Club M and Y.C. each bore three-eighths of the responsibility and Mr Tınarlıoğlu two-eighths. In a judgment which became final on 2 October 2001 in the absence of an appeal, the court sentenced Y.C. to six months' imprisonment and payment of a criminal fine. His sentence was subsequently commuted to a fine in view of his efforts to rescue the victim at the time of the accident. The judges also found that Club M had been partly responsible for the accident; however there is no indication in the case file that the prosecuting authorities brought proceedings in that regard.

In parallel, Mr Tınarlıoğlu submitted a prior compensation claim to the Prime Minister's Office and alleged that the State was liable as it had failed in its duty to regulate and supervise water sports being practised in unregulated fashion on the coast. When his claim was dismissed Mr Tınarlıoğlu brought an unsuccessful action in the Ankara Administrative Court. In a judgment of 12 May 2003 the Supreme Administrative Court upheld that judgment.

Relying on Article 2 (right to life), Mr Tınarlıoğlu alleges that the State did not take the necessary measures to ensure individual safety on the coast and the effective supervision of water sports, and that it was liable for his accident, which occurred in circumstances that posed a real danger to individuals and were known to the authorities. Under Article 8 (right to respect for private and family life), Mr Tınarlıoğlu complains of the tragic impact of the accident on his private and family life. Lastly, he relies on Article 1 (obligation to respect human rights), Article 6 § 1 (right to a fair hearing) and Article 13 right to an effective remedy).

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.

Binder v. Austria (no. 50627/09)
Grossmann Air Service Bedarfsluftfahrtunternehmen GmbH & Co Kg v. Austria (no. 47199/10)
Gürbüz and Özçelik v. Turkey (no. 11/05)
Kan v. Turkey (no. 54898/11)

Thursday 4 February 2016

Kirakosyan v. Armenia (no. 2) (no. 24723/05)

The applicant, Lavrenti Kirakosyan, is an Armenian national who was born in 1960 and lives in the village of Karakert, Armenia. The case essentially concerns his complaint about an allegedly unlawful search of his home by the police and the subsequent use of the evidence obtained thereby in criminal proceedings against him.

Mr Kirakosyan, who was an opposition activist, was arrested in April 2004 in the wake of several protest rallies in which he had participated. An administrative case was brought against him for disobeying the lawful orders of police officers, and he was sentenced to ten days' administrative

detention. After serving that sentence he was taken by the police to his home, where a search was conducted. The search warrant stated that Mr Kirakosyan was suspected of illegally hiding a weapon in his house, which he denied. As a result of the search, police found a plastic bag containing 59 grams of cannabis. Mr Kirakosyan stated that he did not know what the substance was and to whom it belonged. According to his submissions, he was then taken to the police station again, where the chief of police promised that, if Mr Kirakosyan renounced his political convictions and resigned from the opposition party whose local office he headed, no further action would be taken in relation to the drugs found on him. He refused to agree to the deal. A few days later he was charged with illegal drug possession and detained by a court order. In June 2004 he was convicted as charged and sentenced to one and a half years' imprisonment. The judgment was eventually upheld in December 2004. In September 2004 he was released on parole.

Mr Kirakosyan complains that the search warrant and the manner in which the search was conducted were in violation of Article 8 (right to respect for private and family life, the home and the correspondence). He further relies on Article 6 § 1 (right to a fair trial), complaining that he was convicted on the basis of evidence obtained as a result of the unlawful search.

Hilal Mammadov v. Azerbaijan (no. 81553/12)

The applicant, Hilal Alif oglu Mammadov, is an Azerbaijani national who was born in 1959 and lives in Baku. The case principally concerns his complaint of having been ill-treated by the police during his arrest and his allegedly unlawful pre-trial detention.

Mr Mammadov, who at the time was the editor-in-chief of a newspaper published bilingually in Azerbaijani and the minority Talysh language, was assaulted by plain-clothes police officers in June 2012. According to his submissions, they hit and kicked him and planted a bag containing drugs on him. Then they dragged him into their car and insulted him, making comments about his ethnic origin and threatening him on account of a video he had uploaded on YouTube. He only realised that he had been arrested by the police when they took him to the narcotics department of the Ministry of Internal Affairs, where an arrest record was drawn up which noted that drugs had been found on him. He made a written statement that the substance did not belong to him.

Mr Mammadov was charged with a number of offences, in particular illegal possession of a large quantity of narcotic substances. Later new charges were added, namely incitement to ethnic, racial, social or religious hatred or hostility. He was placed in pre-trial detention and his appeals against the detention orders were dismissed. In September 2013 he was convicted of all charges and sentenced to five years' imprisonment, the judgment eventually being upheld in June 2014.

Following his arrest, Mr Mammadov complained to the investigating authorities of having been ill-treated by the police. In August 2012 the Deputy Prosecutor General refused to open criminal proceedings in connection with that complaint. That decision was eventually upheld in November 2012.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Mammadov complains of having been ill-treated by the police and of the lack of an effective investigation into his allegation of ill-treatment. He further maintains that he was arrested and detained without a reasonable suspicion that he had committed a criminal offence and that the national courts failed to provide relevant and sufficient reasons to justify the necessity of his detention pending trial, in violation of Article 5 §§ 1 (c) and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial). Finally, he complains of a breach of his rights under Article 34 (right of individual petition), on account of the fact that his lawyer's license to practice law was suspended and it was impossible to meet with him in prison.

Isenc v. France (no. 58828/13)

The applicant, Bedrettin Isenc, is a Turkish national who was born in 1961 and lives in Bordeaux. He is the father of M., who was born in 1984 and committed suicide in prison.

The case concerns the suicide of Mr Isenc's son in prison and the subsequent proceedings seeking compensation for pecuniary and non-pecuniary damage.

In November 2008 M. was remanded in custody in Bordeaux-Gradignan Prison. In ordering his detention, the investigating judge stated in the individual note to the prison governor concerning the accused that M.'s behaviour gave reason to fear that he might seek to harm himself, and that he should be monitored.

On 25 November 2008, the day after he was taken into custody, M. was placed in the new arrivals wing. On 5 December 2008, at the end of the reception stage, he was placed in a cell with two other inmates. On the afternoon of 6 December 2008, after he had been left alone while both his cellmates were taking a shower, M. hanged himself using a sheet which he tied to the bars of the cell window.

On 9 July 2009 Mr Isenc lodged a claim for compensation with the Ministry of Justice, seeking EUR 60,000 in compensation for the pecuniary and non-pecuniary damage sustained as a result of his son's death. He also applied to the Bordeaux Administrative Court for an order against the State requiring the latter to pay him the compensation claimed. The court dismissed his application on the grounds that there was no indication of any negligence in the provision of emergency assistance to M.

Mr Isenc appealed. In a judgment of 29 November 2011 the Administrative Court of Appeal upheld the judgment and found that no specific recommendation had been made to the prison authorities by the regional medical and psychological service that had examined M. the day after his arrival in the prison. Mr Isenc lodged an appeal on points of law, which the *Conseil d'État* (Supreme Administrative Court) declined to examine.

Relying on Article 2 (right to life), and on the Court's judgment of 19 July 2012 in the case of Ketreb v. France, Mr Isenc alleges a violation of M.'s right to life.

Amadou v. Greece (no. 37991/11)

The applicant, Khan Amadou, is a Gambian national who was born in 1974.

The case concerns Mr Amadou's conditions of detention in Greece, where he lodged an unsuccessful application for asylum.

In July 2010 Mr Amadou entered Greece and was arrested by the border police on the same day. The Orestiada chief of police ordered his temporary detention for a maximum of three days pending the order for his expulsion.

On 3 August 2010 the chief of police ordered Mr Amadou's expulsion and his continuing detention for a period not exceeding six months. Mr Amadou was placed in detention on the premises of the Fylakio border police. On 1 September 2010 he applied to have the decision ordering his expulsion and detention set aside. Mr Amadou maintained on that occasion that the conditions of detention in Fylakio were unacceptable and contrary to Article 3 of the Convention. He complained in particular of overcrowding, poor hygiene conditions and a lack of natural light and exercise.

On 10 September 2010 the District Court sentenced Mr Amadou to three months' imprisonment and to a fine of EUR 1,500 for entering the country unlawfully. The following day he was transferred to the Aliens Directorate for the Attica region and subsequently to the Aspropyrgos detention centre. He lodged an asylum application in September 2010. On 12 November 2010 he was released. Later that month the authorities issued him with an asylum seeker's card. On 24 November he declared

that he was homeless and requested the Ministry of Social Solidarity to find a reception facility for him or provide him with material and financial assistance. On 13 March 2012 his asylum application was rejected. He appealed against that decision on 24 May 2012.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Amadou complains about his conditions of detention in the Fylakio and Aspropyrgos detention centres. He also complains that he was left in a state of complete destitution following his release. Relying on Article 5 § 4 (right to a speedy decision on the lawfulness of detention), he alleges that the courts' review of his detention was ineffective and that, owing to a lack of information and assistance, he was unable whilst in detention to apply to a court for a ruling on the lawfulness of his detention.

Revision

Dzhabrailovy v. Russia (no. 68860/10)

The applicants, Kisa Dzhabrailova, Adlan Dzhabrailov, and Suleyman Dzhabrailov (now deceased) are Russian nationals who were born in 1951, 1987, and 1974 respectively and lived in Achkhoy-Martan, Chechnya (Russia). The case concerns a request for revision of an ECtHR judgment with regard to the disappearance of the applicants' son and brother, Ibragim Dzhabrailov,.

The applicants alleged in particular that their relative had been unlawfully detained by Russian servicemen during a special operation in Achkhoy-Martan. On 5 November 2002 Ibragim Dzhabrailov was abducted by a group of armed men, most of them wearing camouflage uniforms, from the applicants' house. The applicants have had no news of him since then. They complained of the abduction to law-enforcement bodies, and an official investigation was opened. Subsequently the proceedings were repeatedly suspended and resumed, and have remained pending for several years without having established who was responsible for the abduction. The Russian Government, in their submissions to the Court, did not challenge the account of the events as presented by the applicants, but they stated that there was no evidence to prove that Russian State officials had been involved in the incident.

In its judgment of 15 January 2015 (*Malika Yusupova and Others v. Russia (nos. 14705/09, 4386/10, 67305/10, 68860/10 and 70695/10)*) the Court found violations of Articles 2 (right to life), 5 (right to liberty and security) and 13 (right to an effective remedy) on account of the disappearance of the applicants' relative and the authorities' failure to carry out an effective investigation into the matter, and of Article 3 (prohibition of inhuman or degrading treatment) on account of the applicants' mental distress and the authorities' response to it. The Court awarded 60,000 euros (EUR) in respect of non-pecuniary damage and EUR 1,000 for costs and expenses to the three applicants (in application no. 68860/10), jointly.

The applicants' representatives have now requested revision of the judgment of 15 January 2015, which has not yet been enforced (as concerns application no. 68860/10) because Suleyman Dzhabrailov died before the judgment had been adopted.

The applicants' request for revision will be examined by the Court in its judgment of 4 February 2016.

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.

Moschitz v. Austria (no. 24714/12)
E.D. v. Belgium (no. 74814/13)
'S.O.S. Racisme – Touche pas à mon pote' v. Belgium (no. 26341/11)
Filev and Zlatanova v. Bulgaria (no. 8905/09)

Marashliev and Gyorcheva v. Bulgaria (no. 27999/10)
Orov v. Bulgaria (no. 46290/11)
Peltekov and Others v. Bulgaria (no. 40464/08)
Lovric and Others v. Croatia (no. 57849/13)
Ribic v. Croatia (no. 21610/13)
Savic v. Croatia (no. 32023/13)
Stojakovic v. Croatia (no. 6504/13)
Lazaridis v. Greece (no. 61838/14)
Halilovic v. Italy (no. 7498/11)
Kondakovs v. Latvia (no. 22677/11)
Burghelea v. the Republic of Moldova (no. 36084/07)
Duminica v. the Republic of Moldova (no. 77029/12)
Marianov v. the Republic of Moldova (no. 18068/05)
Parfeni v. Romania (no. 63585/14)
Acil v. Turkey (no. 24640/06)
Atay v. Turkey (no. 66505/09)
Catal v. Turkey (no. 40623/11)
Eyibil v. Turkey (no. 5429/12)
Gercek and Others v. Turkey (no. 4122/07)
Kubus v. Turkey (no. 74881/11)
Tilaver v. Turkey (no. 16012/12)
Nagorskiy v. Ukraine (no. 37794/14)
Kaiyam and Others v. the United Kingdom (nos. 28160/15, 28103/15, and 28443/15)

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