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

Press Release
issued by the Registrar of the Court

ECHR 287 (2017)
29.09.2017

Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 21 judgments on Tuesday 3 October 2017 and 54 judgments and / or decisions on Thursday 5 October 2017.

*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 3 October 2017

Čović v. Bosnia and Herzegovina (application no. 61287/12)

The applicant, Fadil Čović, is a national of Bosnia and Herzegovina who was born in 1953 and lives in Hadžići (Bosnia and Herzegovina). The case concerns his detention for almost one year on suspicion of war crimes.

Mr Čović was arrested and detained in November 2011 on suspicion of war crimes during the 1992-95 war. Over the following year his detention was regularly reviewed and extended on the ground that there was a risk of his obstructing the course of justice by exerting pressure on witnesses and his co-accused or by destroying evidence. He repeatedly appealed against each decision, without success. He ultimately lodged a constitutional appeal challenging the lawfulness and length of his detention, but it was rejected as the Constitutional Court could not reach a majority. He was eventually released in November 2012. The criminal proceedings against him are apparently still pending.

Relying on Article 5 §§ 1 and 3 (entitlement to trial within a reasonable time or to release pending trial) of the European Convention on Human Rights, Mr Čović alleges that his pre-trial detention was excessively long and arbitrary. Further relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), he also complains that the Constitutional Court's rejection of his appeal simply because they could not reach a majority – and thus without deciding on the admissibility or merits – denied him an effective procedure by which to challenge the lawfulness of his detention.

Körtvélyessy v. Hungary (no. 3) (no. 58274/15)

The applicant, Zoltán Körtvélyessy, is a Hungarian national who was born in 1965 and lives in Budapest. The case concerns his complaint about the authorities banning a demonstration he had planned.

On 16 April 2010 the police authorities banned a demonstration Mr Körtvélyessy intended to organise the next day in Budapest in front of the Venyige Street prison to draw attention to "the situation of political prisoners". They notably found that there was no alternative route for the traffic in the neighbourhood, meaning that a demonstration would cause great disruption. Because of the ban, the demonstration did not take place.

Mr Körtvélyessy requested judicial review of the police decision. His complaint was, however, rejected on 22 April 2010 on the ground that the demonstration would have seriously hampered the flow of traffic in the vicinity.

Relying in particular on Article 11 (freedom of assembly and association) of the European Convention, Mr Körtvélyessy alleges that the reasons underlying the ban were political, arguing that

Venyige Street was wide enough to accommodate the expected 200 participants without major incident.

Silva and Mondim Correia v. Portugal (nos. 72105/14 and 20415/15)

The applicants, Tomás Silva and Mário Alberto Mondim Ferreira, are Portuguese nationals who were born in 1944 and 1970 respectively and live in Oliveira de Azeméis and Vila Real (Portugal). Both born out of wedlock, they complain about the dismissal of paternity proceedings they had brought before the Portuguese courts.

The applicants brought proceedings for the judicial recognition of paternity in 2012 and 2014, when they were 68 and 44 years old, respectively. They both claimed before the courts that they had always been aware of their respective father's identity. However, the courts ultimately dismissed their claims because they had not complied with the time-limit provided for under the Portuguese Civil Code, namely ten years from the date on which they had reached the age of majority. The Portuguese Supreme Court of Justice based their decision on a ruling of 2011 by the Constitutional Court which had found that the ten-year time-limit was not incompatible with the Constitution. That ruling had found in particular that the time-limit was reasonable: it allowed an individual to have sufficient time, having reached the age of majority, to decide whether or not to start paternity proceedings, but at the same time safeguarded legal certainty for the putative father and his family.

Relying on Article 8 (right to respect for private and family life), they complain about the dismissal of their paternity proceedings as time-barred, alleging that it was not reasonable to impose a time-limit on the right to know one's biological identity.

Alexandru Enache v. Romania (no. 16986/12)

The applicant, Alexandru Enache, is a Romanian national who was born in 1973 and lives in Bucharest.

The case concerns Mr Enache's conditions of detention and his complaint alleging gender-based discrimination, stemming from the fact that under Romanian legislation, only convicted mothers of children younger than one year can obtain a stay of execution of their prison sentences until their child's first birthday.

Having been sentenced to seven years' imprisonment for embezzlement, Mr Enache was committed to prison in December 2011. He lodged an application for a stay of execution of his sentence on the basis of Article 453 § 1 of the former Code of Criminal Procedure. The article in question (whose provisions were subsequently incorporated into Article 589 § 1 of the new Code of Criminal Procedure) permitted mothers sentenced to prison to apply for a stay of execution of their sentence until their child had reached the age of one. The application lodged by Mr Enache, whose child was a few months' old at the relevant time, was dismissed on the grounds that the provision in question had to be interpreted restrictively and that he did not satisfy the statutory requirements to do so.

Furthermore, between December 2011 and September 2013 Mr Enache was held in the Bucharest police station and in the Bucarest-Rahova, Mărgineni and Giurgiu Prisons, and he complains of his conditions of detention in them. He complains especially about prison overcrowding, damp cells and the lack of hygiene and daylight.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Enache complains about his conditions of detention. Relying on Article 14 (prohibition of discrimination), combined in substance with Article 8 (right to respect for private and family life) and Article 1 of Protocol No. 12 to the Convention (general prohibition of discrimination), he complains that he suffered discrimination on grounds of sex as compared to female prisoners who had children under one year of age, in that he had been unable to obtain a stay of execution of his prison sentence.

D.M.D. v. Romania (no. 23022/13)

The applicant, D.M.D., is a Romanian national who was born in 2001 and lives in Bucharest (Romania). The case concerns the proceedings brought against his father for domestic abuse and the courts' failure to award him compensation.

In February 2004 the applicant's mother called a child protection hotline to report that her husband was abusing their son. Between March and July 2004 she also complained to the police on five occasions. After the fifth complaint, the authorities launched a criminal investigation. The prosecuting authorities heard evidence from six witnesses and examined psychological reports, which led to the indictment of the applicant's father in December 2007. The proceedings – spanning three levels of jurisdiction – ended in November 2012 with the father's conviction of physical and mental abuse of his child. He was given a three-year suspended prison sentence; the length of the sentence was reduced in order to take into account the excessive length of the proceedings. D.M.D was not awarded any compensation.

The applicant's parents divorced in September 2004 and he has remained with his mother since.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicant complains that the police, prosecutor's office and courts failed to investigate promptly and effectively his allegations of abuse. Further relying on Article 6 § 1 (right to a fair trial within a reasonable time), he also complains about the excessive length of the criminal proceedings against his father and the courts' failure to award him compensation.

Dmitriyevskiy v. Russia (no. 42168/06)

The applicant, Stanislav Dmitriyevskiy, is a Russian national who was born in 1966 and lives in Nizhniy Novgorod (Russia). The case concerns his criminal conviction following the publication of statements by two Chechen leaders in a regional newspaper of which he was the editor-in-chief.

In early 2004, Mr Dmitriyevskiy, who at the time was also the director of a non-governmental organisation monitoring human rights violations in the Chechen Republic, obtained two articles from the website Chechenpress. They were published in the issues of March 2004 and April/May 2004, respectively, of the monthly newspaper edited by him. The newspaper had a circulation of 5,000 and was mainly distributed in the Nizhniy Novgorod Region.

The articles presented statements by two separatist Chechen leaders, Aslan Maskhadov and Akhmed Zakayev, who blamed the Russian authorities for the conflict in the Chechen Republic and harshly criticised the authorities. The first article stated, in particular, that as long as the current Government remained in the Kremlin "blood will continue to flow in Chechnya and in Russia". The second article referred to a European Parliament resolution adopted in February 2004 which recognised Stalin's deportation of the Chechen people in 1944 as an act of genocide. After an account of the history of Russian-Chechen relations and the recent conflict in the Chechen Republic the article stated, in particular, that there was "no doubt" that the Kremlin was "today the centre of international terrorism".

Following an investigation into the articles, Mr Dmitriyevskiy was charged, in September 2005, under a provision of the Criminal Code which made punishable, in particular, "incitement to hatred or enmity". In February 2006 he was convicted under that provision and given a suspended prison sentence of two years and four years' probation. The judgment relied to a large extent on two expert reports by a linguist, Ms T., who had analysed the two articles and concluded that they contained statements "aimed at inciting racial, ethnic or social discord, associated with violence". The trial court rejected a report by another linguistic expert, obtained by Mr Dmitriyevskiy's defence, which found that the articles could not be regarded as inciting racial or national hatred and discord.

Mr Dmitriyevskiy subsequently applied to the trial court, complaining that Ms T.'s testimony had been distorted in the trial record and asking the record to be amended. The request was rejected by the court. His conviction was upheld on appeal in April 2006.

Relying on Article 10 (freedom of expression), Mr Dmitriyevskiy complains that his conviction constituted an unjustified interference with his right to freedom of expression. He further relies on Article 6 § 1 (right to a fair trial) and Article 13 (right to an effective remedy).

Mishina v. Russia (no. 30204/08)

The applicant, Rimma Grigoryevna Mishina, is a Russian national who was born in 1949 and lives in Kazan (Russia). The case concerns the investigation into the circumstances of the death of her son (V.) and its duration.

On 17 November 2005 V. was found dead in his flat. The forensic medical report found that death had resulted from acute morphine poisoning by parenteral administration. It established that V. had two injection marks on the right arm and a scratch in the lumbar region; it also identified the presence of ethyl alcohol and morphine in V.'s blood, in quantities corresponding to a state of acute intoxication.

On 19 November 2005 the prosecutor's department refused to open a criminal investigation, taking the view that V.'s death had not been violent. Ms Mishina lodged an appeal against that decision, arguing that the preliminary investigation had been superficial. She submitted, in particular, that her son had not been a drug addict and that, not being left-handed, he would have been unable to inject himself in the right arm. She submitted that his death had been caused by the intentional act of a third party. The investigation was subsequently reopened, then discontinued, on numerous occasions.

On 28 February 2011 a criminal investigation for manslaughter was opened. In August 2011 it was decided to discontinue those proceedings, but Ms Mishina was not informed of this. A new order discontinuing the proceedings was subsequently issued in December 2011, and Ms Mishina claims that she was unable to have access to the case file until 10 May 2012.

Relying on Article 2 (right to life), Ms Mishina alleges that the investigation into the circumstances of her son's death was ineffective; she also complains about its excessive length.

Novaya Gazeta and Milashina v. Russia (no. 45083/06)

The applicants in this case are ANO "Redaktsionno-Izdatelskiy Dom 'Novaya Gazeta'", an editorial house in Moscow ("the publisher") which publishes the national newspaper Novaya Gazeta, and the journalist Yelena Milashina, a Russian national, born in 1977 and living in Moscow.

The case concerns defamation proceedings against the applicants following the publication in Novaya Gazeta of two articles by Ms Milashina concerning the sinking of the Russian Navy's nuclear cruise missile submarine "Kursk" in the Barents Sea on 12 August 2000 and the investigation into the accident. While most of the crew died within minutes of the explosions that had taken place on board of the submarine on that day, 23 crew members survived and wrote a note describing the events. All of these 23 men died, however, before the arrival of the rescue team. An investigation by the military prosecutor was terminated in 2002 for lack of evidence of a crime.

The two articles, published in January 2005, reported on the fact that the father of D.K., lieutenant-captain of the Kursk who had died on board of the submarine, had lodged an application before the European Court of Human Rights, alleging a violation of D.K.'s right to life.

The first article described D.K. as the person who had written the note stating that the crew members who had survived the explosions had been waiting for rescue. According to the article, the note, which had been found in October 2000, refuted the official version that all crew members had

died as a result of the explosions. The article stated that D.K.'s father and his counsel had tried to prove before the Russian courts that investigators of the military prosecutor's office and the chief forensic expert of the Ministry of Defence were guilty of abuse of public office, since they had failed to acknowledge that a series of knocks coming from inside the submarine on the day of the accident had been an SOS signal in Morse code.

The second article stated, in particular, that counsel representing the father of D.K. and 47 families of the deceased crew members considered the application before the European Court of Human Rights the last resort, given that the Prosecutor General and the Chief Military Prosecutor had apparently taken "a decision to help the officers in command of the Northern Fleet escape criminal responsibility and to terminate the investigation."

Defamation proceedings against the publisher and Ms Milashina were brought by the chief forensic expert of the Ministry of Defence, the head of an investigative group in the Chief Military Prosecutor's office, the Chief Military Prosecutor of Russia and the Chief Military Prosecutor's office as a legal entity. In December 2005 a district court of Moscow found in the claimants' favour. It held in particular that the expression "to help escape criminal responsibility" was defamatory, as it contained an allegation of criminal conduct. It ordered the publisher to publish a retraction of the statement concerning the claimants' involvement in abuse of public office. The publisher and Ms Milashina were ordered to pay to each claimant the equivalent of approximately 1,500 and 200 euros, respectively, in damages. The judgment was upheld on appeal.

The publisher and Ms Milashina complain that the Russian courts' judgments violated their rights under Article 10 (freedom of expression).

Shevtsova v. Russia (no. 36620/07)

The applicant, Lyubov Prokofyevna Shevtsova, is a Russian national who was born in 1961 and lives in Nizhniy Novgorod (Russia). The case concerns alleged ill-treatment sustained by Ms Shevtsova during a dispute with two police officers.

According to Ms Shevtsova, on 6 November 2001 two police officers in plain clothes came to her sister's house in search of the latter's son (O.), who was suspected of having committed an offence. As her sister was intoxicated, Ms Shevtsova informed the police officers that O. was absent. The police officers drew up a summons for O. to appear at the police station and handed it over to Ms Shevtsova. She alleges that, after having accepted the summons, she asked the police officers to leave the premises. They allegedly insulted her and grabbed her hand so that she would fall down the entry steps. F., the companion of Ms Shevtsova's sister, intervened with the police officers, who pushed him to the ground and struck him; they then handcuffed him and took him to the police station. They did not arrest Ms Shevtsova.

According to the Government, Ms Shevtsova behaved in an aggressive manner towards the police officers and insulted them; she allegedly tore up the summons and threw it in the face of one of the police officers, who asked her to accompany them to the police station in order to file a report for abusive behaviour towards a person exercising public authority.

After the incident, Ms Shevtsova went to the traumatology unit for the Avtozavodskiy district of Nizhniy Novgorod, where she was given a medical certificate recording bruising to the soft tissues of the right eyebrow. On 9 November 2001 the forensic doctor at the Nizhny Novgorod regional forensic medical office also noted the bruising in question, as well as other scratches and hematoma on various parts of the applicant's body.

Ms Shevtsova submitted a written complaint to the prosecutor on 8 November 2001, complaining of the ill-treatment inflicted on her by the two police officers. Between 2001 and 2009 the investigating authorities issued several decisions refusing to open a criminal investigation. Ms Shevtsova's appeals to the Avtozavodskiy district court of Nizhniy Novgorod and the Nizhniy Novgorod Regional Court

were dismissed in February and April 2010 respectively. Ms Shevtsova was not prosecuted for abusive behaviour towards a person exercising public authority.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy), Ms Shevtsova alleges that she was subjected to inhuman or degrading treatment by the police and that she had not had an effective remedy in respect of that complaint.

Tikhomirova v. Russia (no. 49626/07)

The applicant, Tatyana Vladimirovna Tikhomirova, is a Russian national who was born in 1954 and lives in Serpukhov (Russia). The case concerns the investigation into the circumstances surrounding the death of her son (T.).

On 4 December 2006 T. was seriously injured in a road- traffic accident in which his vehicle left the road and crashed into a tree. At the time of the accident there were three persons in the vehicle. T. was taken to hospital, where he died on 16 December 2006.

On 14 December 2006 investigator R. refused to open a criminal investigation into the circumstances of the accident, holding that T. was driving the vehicle and had lost control of it, and that he had been responsible for the accident. On 16 January 2007 the prosecutor set aside that decision, ordering an additional investigation.

On 4 June 2007 Ms Tikhomirova asked the investigating authorities to carry out additional investigative measures in order to establish whether, at the time of the accident, her son was indeed driving the vehicle. On 3 July 2007, not having received a reply to her request, she complained to the Prosecutor about the investigator's inactivity. On 13 July 2007 the deputy prosecutor noted that the investigation had not been conducted with the requisite diligence and that it had not enabled all the circumstances of the accident to be elucidated. He ordered additional investigative measures.

On 27 August 2007 the Serpukhov municipal court, on an application by Ms Tikhomirova, noted that the investigating authorities had not carried out the measures identified by the deputy prosecutor in his decisions of 16 January and 13 July 2007, and concluded that their inactivity was unlawful. It ordered that the measures in question be carried out. On 21 April 2008 the Moscow Regional Court issued a decision criticising the investigating authorities' failings and passivity in conducting the investigation. It further instructed the authorities concerned to inform it within one month of the measures that had been taken.

On 5 March 2009 the investigating authorities issued a decision refusing to open a criminal investigation. This decision was set aside on 23 March 2009 by the deputy head of the investigative committee at the Serpukhov Office of the Ministry of the Interior, who requested an additional investigation. The case file available to the Court does not contain information on the implementation of the requested measures.

Relying on Article 2 (right to life), Ms Tikhomirova alleges that the investigation into the circumstances of her son's death was ineffective; she also complains about its excessive length.

N.D. and N.T. v. Spain (nos. 8675/15 and 8697/15)

The applicants, N.D. and N.T., are, respectively, Malian and Ivorian nationals who were born in 1986 and 1985.

The case concerns the immediate return to Morocco of sub-Saharan migrants who had attempted to enter Spain illegally through the Melilla enclave on the North-African coast.

After having left their countries of origin, the two applicants arrived in Morocco in March 2013 and at the end of 2012 respectively. They stayed for some time in a makeshift camp on the Gurugu Mountain, near the border crossing into Melilla, a Spanish enclave situated beside Morocco. On 13 August 2014 N.D. and N.T. left the camp and attempted to enter Spain with a group of other sub-

Saharan migrants via the Melilla border crossing, which is surrounded by three barriers, the first two of which are 6 metres in height and the third 3 metres in height. They claim that the Moroccan authorities threw stones at them as they were scaling the barriers. Both arrived at the bottom of the third barrier in the afternoon, and were helped to climb down by members of the Spanish security forces. As soon as they set foot on the ground, they were arrested by members of *Guardia Civil*, handcuffed and returned to Morocco. Videos of that day were filmed by witnesses and journalists, and those videos have been submitted to the Court by the applicants. Non-governmental organisations subsequently complained and requested the opening of an investigation. Later, on 9 December 2014 and 23 October 2014 respectively, N.D. and N.T. succeeded in entering Spanish territory by the Melilla border crossing. Orders for deportation were issued against both of them. N.D. was returned to Mali on 31 March 2015. An order for N.T.'s deportation was issued on 7 November 2014 and his current situation is unknown.

Relying on Article 4 of Protocol No. 4 to the Convention (prohibition of collective expulsions of aliens), the applicants claim that they were subjected to a collective expulsion without an individual assessment of their situation, with no legal basis and without any legal advice. Relying on Article 13 of the Convention (right to an effective remedy) taken together with Article 4 of Protocol No. 4, they complain that it was impossible to have their identity established, to put forward their individual situations, to challenge before the Spanish authorities their return to Morocco and to have the risk of ill-treatment that they ran in that State taken into consideration.

Viktor Nazarenko v. Ukraine (no. 18656/13)

The applicant, Viktor Nazarenko, is a Ukrainian national who was born in 1939 and lives in Kryvyy Rig (Ukraine). The case concerns a dispute between Mr Nazarenko and the pension authorities.

In February 2011 the Ukrainian courts ruled at first instance that Mr Nazarenko's pension should be increased in line with the rise in national average wages. Mr Nazarenko was then informed, in November 2011, that the pension authorities had lodged an appeal. Three months later he wrote to the Court of Appeal to enquire about the date of the appeal hearing in his case. According to him, however, he subsequently received no information about the proceedings until February 2013 when he received the Court of Appeal's final decision – dated June 2012 – quashing the first-instance judgment in his favour. The Government disagree, alleging that a copy of both the appeal and the judge's ruling opening appeal proceedings in the case was served on Mr Nazarenko.

Relying on Article 6 § 1 (right to a fair hearing), Mr Nazarenko complains that the proceedings on his pension claim were unfair as he had not been sent a copy of the appeal lodged in his case and had therefore not been given the opportunity to comment on it.

Vilenchik v. Ukraine (no. 21267/14)

The applicant, Andrew Vilenchik, is a national of the United States of America who was born in 1978 and lives in Minneapolis, Minnesota (USA). The case concerns his complaint that the Ukrainian authorities refused to order his son's return to the USA.

Mr Vilenchik had a son with his wife, a Ukrainian national, in 2009. They lived together in Minneapolis until June 2011 when, following a family holiday in Ukraine, his wife and son stayed on and Mr Vilenchik returned to the USA alone. In September 2012 the courts in the USA dissolved the marriage at his request.

In the meantime, in August 2012, Mr Vilenchik had brought proceedings in Ukraine for the return of his son to the USA under the Hague Convention (on the Civil Aspects of International Child Abduction). In those proceedings the domestic courts ultimately found – in December 2014 – that the child had lived in Ukraine for more than a year before his father submitted a request for his return; that, given the circumstances, the child's retention in Ukraine could not be regarded as wrongful within the meaning of the Hague Convention and that there were no grounds to make the

return order. They considered that the child was entirely settled in Ukraine and his return to the USA would not be in his best interests.

Relying on Article 8 (right to respect for family life), Mr Vilenchik complains about the domestic courts' decision refusing to return his son to the USA. He alleges in particular that the domestic courts failed to properly examine all the circumstances of his case and that the overall length of the proceedings was excessive.

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.

Eilders and Others v. Russia (no. 475/08)
Ganeyeva v. Russia (no. 7839/15)
Kramarenko v. Russia (no. 26107/13)
Medvedev v. Russia (no. 10932/06)
Postnova v. Russia (no. 50113/07)
Semenova v. Russia (no. 11788/16)
Vorobyeva and Others v. Russia (no. 65969/11)
Radulović v. Serbia (no. 24465/11)

Thursday 5 October 2017

Kormev v. Bulgaria (no. 39014/12)

The applicant, Todor Slavov Kormev, is a Bulgarian national who was born in 1981. He is being held in Stara Zagora Prison (Bulgaria). The case concerns his detention conditions and his complaint concerning the fairness of the criminal proceedings that led to his conviction.

In February 2009 an investigation was opened by the Stara Zagora prosecutor's office into the theft of a large sum of money and jewellery from the coffers of a local company. On 26 February 2009 the police arrested three suspects, including Mr Kormev and Mr Stoykov. The events surrounding Mr Stoykov's arrest gave rise to a judgment by the Court, in which it found that the ill-treatment inflicted on Mr Stoykov during his arrest amounted to a violation of Article 3 of the Convention (*Stoykov v. Bulgaria*, no. 38152/11, 6 October 2011).

In August 2009 the three suspects were charged with aggravated theft and illegal possession of a firearm. In the meantime, the stolen money and jewellery were recovered on the basis of Mr Stoykov's instructions and were returned to the victims. The three defendants were found guilty by the regional court, which sentenced Mr Kormev to 18 years and six months' imprisonment. His conviction was upheld by the Plovdiv Court of Appeal in April 2011.

In November 2011 the Supreme Court of Cassation dismissed Mr Kormev's appeal on points of law, in which he formally challenged the admissibility of the evidence against him and the reasoning of his conviction, which was allegedly based only on the confession that had, in his view, been extorted from his co-defendant (Mr Stoykov). The Supreme Court considered that Mr Kormev's conviction had not been based solely on his accomplice's statement, but that it had been corroborated by other evidence.

Mr Kormev also complains about the conditions in which he was detained, criticising, in particular, the size of the cells, the lack of hygiene (presence of cockroaches) and the absence of sanitary facilities (during the night he was obliged to relieve himself in a bucket).

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Kormev alleges that his conditions of detention in the detention facility and in Stara Zagora Prison were inhuman and degrading.

Relying on Article 6 § 1 (right to a fair trial), Mr Kormev alleges that his conviction was based on a confession that was allegedly extracted from one of his co-defendants (Mr Stoykov).

Varadinov v. Bulgaria (no. 15347/08)

The applicant, Pavel Georgiev Varadinov, is a Bulgarian national who was born in 1981 and lives in Brestovitsa (Bulgaria). The case concerns the fact that it was impossible for him to challenge a penalty for a road-traffic offence and his complaint concerning the right of access to a court.

On 16 September 2007 Mr Varadinov was given a parking ticket by the road-traffic police for having committed an administrative offence, in that he had parked his car in an unauthorised area. On 21 September 2007 the regional police director imposed a fine of about 25 euros (EUR) – 50 Bulgarian levs (BGN) – and the loss of five points from his driving licence.

On 15 October 2007 Mr Varadinov lodged an appeal with the Plovdiv District Court, arguing that his car had not been parked and that he had not created a dangerous situation for others; however, the court ended the proceedings on the grounds that decisions imposing a fine of less than BGN 20 could not be submitted for judicial examination.

Relying on Articles 6 (right to a fair hearing and right to access to a tribunal), 8 (right to respect for private and family life) and 13 (right to an effective remedy), Mr Varadinov alleges that he was unable to have his case heard by an independent and impartial tribunal established by law.

Mazzeo v. Italy (no. 32269/09)

The applicants, Saverio Cosimo Mazzeo, Cosimo Damiano Mazzeo and Elmerindo Mazzeo, are Italian nationals who were born in 1957, 1961 and 1961 respectively and live in Ceppaloni, Arpaise and Parma (Italy). The case concerns the non-execution of a judicial decision in their favour.

On 15 July 1981 the president of the Campania Region decided to close the nursery school in which the applicants' mother (Ms Scocca) taught and to have the staff on indefinite contracts re-employed by the municipality of Ceppaloni within 60 days starting from 30 July 1981. On expiry of that deadline, the individuals concerned would be remunerated on the basis of the national collective agreement on the service of local-government employees. On 27 June 1988, by decision no. 364, the municipality reemployed the staff members in question, including Ms Scocca, on the basis of indefinite contracts starting on that date. Ms Scocca received a higher salary than she had been paid between 1981 and 1988.

On 25 June 1990 the municipality made Ms Scocca redundant; she brought proceedings before the Naples Administrative Tribunal (TAR) in order to have her redundancy set aside. She also claimed the payment of sums in back pay, corresponding to the difference between the remuneration paid between 1981 and 1988 and the salary paid from the date of her re-employment (27 June 1988). The TAR dismissed her appeal and Ms Scocca lodged an appeal on points of law, but she died while it was pending. The three applicants pursued the proceedings before the *Consiglio di Stato* as her heirs.

On 27 June 2006 the *Consiglio di Stato* allowed Ms Scocca's appeal, ordering the municipality to pay her a difference in salary amounting to 222,931.69 euros (EUR). However, it dismissed Ms Scocca's appeal in so far as it concerned the legitimacy of her dismissal.

On 30 January 2008, as the municipality had not complied with the order, the applicants brought enforcement proceedings before the *Consiglio di Stato*. On 20 November 2008, during the employment proceedings, the municipality set aside, of its own motion, its decision no. 364,

replacing it by decision no. 284, which indicated that Ms Scocca ought to have been reemployed on a temporary rather than an indefinite contract. On the following day it requested that the applicants' application for enforcement be set aside. The *Consiglio di Stato* granted the municipality's request and dismissed the application for enforcement on the grounds that the legal basis for the claim had been automatically quashed. On 22 January 2009 the applicants unsuccessfully applied to have decision no. 284 set aside. Their appeal before the *Consiglio di Stato* is currently pending.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 1 of Protocol No. 1 to the Convention (protection of property), the applicants complain of a violation of the principle of legal certainty and of the right of access to a court, and about the failure to execute the *Consiglio di Stato*'s judgment of 27 June 2006.

Ābele v. Latvia (nos. 60429/12 and 72760/12)

The applicant, Valters Ābele, is a Latvian national who was born in 1968 and is currently detained in Jēkabpils Prison (Latvia). He has been deaf and mute since birth and his knowledge of sign language is poor. The case concerns his complaint about the conditions of his detention in Brasa Prison.

Mr Ābele was convicted of aggravated murder in 2009 and transferred to Brasa Prison from another facility in December 2011. His complaint concerns a period where he was held in three multi-occupancy cells in Brasa Prison, between 1 January 2012 and 16 February 2015. He was placed in three cells in that period, which he had to share with other inmates and where he felt vulnerable and isolated. He maintains that the cells were not warm enough and he had too little living space. He also had difficulties communicating with the prison authorities. Moreover, according to him, the prison was not able to provide him with appropriate recreational and exercise possibilities.

Mr Ābele complained to the prison authorities and the courts, requesting transfers to cells with fewer inmates or to another prison. His requests were rejected, with the prison authorities and the courts finding variously that there was no threat to his life or health in the prison where he was held or refusing them on procedural or other grounds. He was eventually moved to a prison with a lighter security regime in September 2016, where he was placed in a cell with just two other inmates.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Ābele complains about the conditions of his detention in Brasa Prison. He also relies on Article 13 (right to an effective remedy).

Kalēja v. Latvia (no. 22059/08)

The applicant, Ineta Kalēja, is a Latvian national who was born in 1961 and lives in Rīga. The case essentially concerns her complaint about criminal proceedings in which she was questioned as a witness without a lawyer, long before official charges were brought against her.

An accountant for a building management company, she had criminal proceedings instituted against her in January 1998 for manipulating data in order to conceal illicit cash withdrawals. She was not informed of this decision. From the start of the criminal investigation she was however questioned about her involvement in the alleged misappropriation of the company's funds and then on five more occasions in the following years. Throughout this time she was told that she had the status of a witness, which meant that she had certain rights, including the right not to testify against herself, but that she was not entitled to legal assistance. The pre-trial investigation took seven years and nine months to complete, during which time many witnesses were questioned and a number of audits carried out. Ms Kalēja was eventually officially charged in January 2005 with 19 episodes of misappropriation of funds. She thus became an accused person in the criminal proceedings and was prohibited from changing her place of residence. She was also informed of her right to have a lawyer, although in subsequent interviews she did not request that a lawyer be present.

Ms Kalēja did not confess to the crime at any stage of the proceedings. She made the same statements throughout the pre-trial investigation and trial. In particular, she admitted to three instances of taking cash and annulling the relevant cash transactions but denied that she had misappropriated those funds.

Those statements were not cited as evidence when Ms Kalēja was ultimately convicted at first instance in November 2006. The first instance court based its decision on witness testimony, the results of the audits, the electronic cash register records and relevant bills and receipts. She was given a three-year suspended prison sentence, which was subsequently reduced to two years on appeal. The appeal court also quashed five out of the 19 episodes of misappropriation for lack of evidence.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial within a reasonable time and right to legal assistance of own choosing), Ms Kalēja complains that the criminal proceedings against her lasted nine years and that, prior to January 2005, she had been interviewed as a witness and, as such, had not been allowed to be assisted by a lawyer.

Ostroveņecs v. Latvia (no. 36043/13)

The applicant, Nikita Ostroveņecs, is a Latvian national who was born in 1993 and is detained in Jēkabpils (Latvia). The case concerns his complaint of having been ill-treated by detainee escort officers.

A minor at the time of the criminal trial against him, Mr Ostroveņecs, was charged, together with three co-accused, with aggravated murder and the intentional destruction of property. After several hearings in May 2010, having pleaded “partially guilty”, he was convicted as charged on 29 May 2010 and sentenced to ten years’ imprisonment. The Supreme Court upheld the conviction on appeal but reduced the sentence to nine and a half years’ imprisonment in December 2013.

Mr Ostroveņecs submits that on the trial days he was insulted and physically assaulted in the holding area in the basement of the Riga Regional Court by detainee escort officers to make him confess to the crimes. In particular, he was made to perform exercises such as walking slowly in a squatted position; he was beaten on his back and other body parts, including with a rubber truncheon; the officers belittled him and threatened to kill or mutilate him if he did not plead guilty. During a hearing on 25 May 2010, without having consulted his lawyer, he eventually admitted his guilt and refused to testify. At a later hearing, on 28 May 2010, after consultation with his lawyer, and after his mother and his lawyer had lodged complaints with the prosecution service about his ill-treatment, he maintained his earlier plea of “partially guilty”, stating that he had admitted to being guilty only as a result of having been assaulted.

In June 2010 the Internal Security Office opened an internal inquiry into the complaints of ill-treatment. Having obtained both Mr Ostroveņecs’ medical records from the prison where he was held and as well as explanations from 16 officers, the Office refused to open criminal proceedings in August 2010, finding that there was no information indicating that a disciplinary offence had been committed. After that decision and further refusals by the Office to open proceedings had been quashed by the prosecution service, a criminal investigation was eventually opened in February 2012. It was terminated in July 2012, on the grounds that there were no elements of an offence. Subsequent appeals by Mr Ostroveņecs’ mother and himself against that decision were dismissed by the prosecutors.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Ostroveņecs complains that he was ill-treated by the detainee escort officers and that there was no effective investigation into his allegations. He also relies on Article 13 (right to an effective remedy).

Becker v. Norway (no. 21272/12)

The case concerns a journalist for a daily newspaper who was ordered to give evidence in a criminal case brought against one of her sources for market manipulation. The applicant, Cecilie Langum Becker, is a Norwegian national who was born in 1980 and lives in Oslo (Norway). She is a journalist for *DN.no*, the internet version of the newspaper *Dagens Nœringsliv*.

In August 2007 Ms Becker wrote an article about the Norwegian Oil Company, and fears that it might collapse. Her article was based on a telephone conversation with a certain Mr X and a letter he had faxed her which had been written by an attorney, apparently on behalf of bond holders in the oil company, expressing serious concerns about the company's financial situation. It later transpired that the attorney had in fact drafted the letter only on behalf of Mr X, who owned one bond in the company. After publication of the article, the price of the company's stock decreased.

Ms Becker was subsequently questioned in June 2008 by the police and told that Mr X had confirmed that he had been her source. She stated that she was willing to say that she had based her article on the faxed letter, but refused to give additional information, referring to journalistic principles on protection of sources.

In June 2010 Ms Becker's source was indicted for market manipulation and insider trading. During the ensuing criminal case, Ms Becker was summoned as a witness. She refused to testify at all stages of the proceedings, relying on the relevant domestic law on the protection of journalistic sources and Article 10 (freedom of expression) of the European Convention on Human rights. The courts held at first instance that she had a duty to give evidence about her contacts with X. Her appeals were all subsequently rejected, ultimately by the Supreme Court in September 2011. It concluded that, in ~~such~~ a situation where the source had come forward, there was no source to protect and the disclosure of his or her identity would therefore have no consequences for the free flow of information. Furthermore, it was a serious criminal case, involving the accusation that Mr X had used Ms Becker to manipulate the bonds market, and her evidence might significantly assist the courts to elucidate the case.

In the meantime, in March 2011, Mr X was convicted at first instance and sentenced to one and a half years' imprisonment. The conviction was upheld in January 2012. In a judgment on the same date, Ms Becker was also ordered to pay a fine of 30,000 Norwegian Kroner (approximately 3,700 euros) for refusing to reply to questions about her contacts with Mr X.

Relying on Article 10 (freedom of expression), Ms Becker complains about the decision ordering her to give evidence on her contacts with her source, alleging that this would have most likely lead to other sources being identified too. She also argues that, in any case, there was no real need for her testimony in the case against her source.

Zamoyski-Brisson and Others v. Poland (nos. 19875/13, 19906/13, 19921/13, and 19935/13)

The four applicants are legal heirs to an estate in Kozłówka, Poland, which includes a large area of forest land. It belonged to their father and grandfather, respectively, until the property was taken over by the State in 1946 under land reform measures.

The case concerns the proceedings the applicants brought in 2010 in which they sought to determine the principle of compensation for nationalised forest. They relied on a law which entered into force in 2001 (Section 7 of the Act of 6 July 2001) which provided that natural persons, former owners or their successors could claim indemnities for loss of ownership of certain resources, including State forests. In their claim they sought: indemnity for the nationalisation of the forest owned by their predecessor; and, in the alternative, compensation for legislative omission, namely the failure to enact the provisions referred to in the 2001 Act.

The domestic courts – at three levels of jurisdiction – found that the applicants' claims for indemnity were unfounded in terms of domestic law. In particular in 2012 the Supreme Court found that the

2001 Act did not entitle former owners or their legal successors to claim indemnities for loss of ownership of the resources listed – including forests – in the 2001 Act as it lacked such essential elements as the conditions to be fulfilled by persons eligible or the manner of determining the indemnity. The Supreme Court further found, as concerned the claim for compensation due to legislative omission, that the 2001 Act was only declaratory and did not explicitly oblige the legislature to enact another statute on indemnities. The applicants' constitutional complaint was subsequently rejected on formal grounds.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicants – taking issue with the interpretation and application of domestic law in their case – complain about the dismissal of their claims with regard to the nationalised forest.

Aviakompaniya A.T.I., ZAT v. Ukraine (no. 1006/07)

The case concerns a dispute between a commercial air carrier business and the aviation authorities.

The applicant, Aviakompaniya A.T.I., ZAT, was a Ukrainian company based in Kyiv which operated a commercial air carrier business. It was liquidated in 2015. In March 2003 the applicant company brought a claim for damages against the State Aviation Safety Department, complaining about loss of profit which had been caused by the latter's delay in issuing it with a safety certificate ordered by a court judgment of 2001. The first-instance commercial court allowed the claim in part, but this judgment was then quashed on appeal and the applicant company's claim was rejected. However, the Higher Commercial Court ("the HCC") subsequently reversed the appellate court's ruling, finding in the applicant company's favour. Ultimately, in June 2006, the Supreme Court quashed the ruling of the HCC, holding that the applicant company had failed to prove that it had realised a profit prior to 2001.

Relying on Article 6 § 1 (right to a fair trial within a reasonable time), the applicant company alleges in particular that the Supreme Court had overstepped the limits of its jurisdiction in their case. In particular, under the domestic legislation in force at the time, the Supreme Court was not allowed to quash the higher court's decision and directly uphold the appellate court's decision; rather it had to quash this decision and then remit the case for fresh consideration by a lower court.

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.

Mitev v. Bulgaria (no. 34197/15)
Glavak v. Croatia (no. 73692/12)
Grobenski v. Croatia (no. 36867/14)
Kresović v. Croatia (no. 5864/12)
Matas v. Croatia (no. 23559/12)
Molnar v. Croatia (no. 33438/16)
Reić v. Croatia (no. 77664/14)
Sadiković v. Croatia (no. 75045/12)
Beránek v. the Czech Republic (no. 45758/14)
Azizy v. Greece (no. 50854/15)
Bakopoulos v. Greece (no. 20474/12)
Dastamani and Others v. Greece (nos. 36420/10, 3957/11, 35230/11, 21469/12, 2385/13, and 75140/13)
Grigoriou and Others v. Greece (nos. 47612/13 and 73908/14)
Manoli and Others v. Greece (nos. 21947/14, 37393/14, 37472/14, and 60918/14)
Minas v. Greece (no. 42524/14)

Papailia and Others v. Greece (nos. 78727/12, 1193/13, 1602/13, 8697/13, 8705/13, 12445/13, 12457/13, 12462/13, 15809/13, 16310/13, 18748/13, 19513/13, 24549/13, 35849/13, 36091/13, 44912/13, 64635/13, and 64990/13)
Radoglou and Milos A.E. v. Greece (no. 70166/14)
Skandalakis v. Greece (no. 30984/14)
Mancino and Nadah Spreafico v. Italy (no. 26658/14)
Madiani v. the Netherlands (no. 29381/11)
Artur Pawlak v. Poland (no. 41436/11)
Owczarek v. Poland (no. 42074/15)
Wilczyński v. Poland (no. 35110/10)
Aglushevich v. Russia (no. 20858/16)
Bakhayev v. Russia (no. 14890/11)
Khaziyev and Others v. Russia (nos. 39099/05, 28654/07, 30017/09, and 14445/12)
Leonov v. Russia (no. 67183/13)
Tukhbatova v. Russia (no. 35231/14)
Vakhrushev v. Russia (no. 1151/06)
Budimirović v. Serbia (no. 57744/15)
Kozomara and Đalović v. Serbia (nos. 4183/16 and 29577/16)
Simon v. Serbia (no. 55135/15)
C.A. and P.A. v. Sweden (no. 75348/16)
S.T. v. Sweden (no. 10984/16)
Clavien v. Switzerland (no. 16730/15)
Koçer v. Turkey (no. 47722/08)
Vural v. Turkey (no. 38218/04)
Marchenko v. Ukraine (no. 42322/13)
Staszuk v. Ukraine (no. 70840/10)
Sukhanov v. Ukraine (no. 32598/07)
Voskoboynikov v. Ukraine (no. 33015/06)
Austin v. the United Kingdom (no. 39714/15)
Duggan v. the United Kingdom (no. 31165/16)
Murphy v. the United Kingdom (no. 51594/10)
R.B. v. the United Kingdom (no. 6406/15)

Press contacts
echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Nina Salomon (tel: + 33 3 90 21 49 79)
Denis Lambert (tel: + 33 3 90 21 41 09)
Inci Ertekin (tel: + 33 3 90 21 55 30)