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

Press Release
issued by the Registrar of the Court

ECHR 263 (2020)
01.10.2020

# Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 24 judgments on Tuesday 6 October 2020 and 77 judgments and / or decisions on Thursday 8 October 2020.

*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 6 October 2020

### Stoyan Krastev v. Bulgaria (application no. 1009/12)

The applicant, Stoyan Trayanov Krastev, is a Bulgarian national who was born in 1966 and lives in Pernik (Bulgaria).

The case concerns his complaint that he was not able to obtain compensation for his unlawful detention in an isolation cell.

In August 2009, while serving a three-year prison sentence, Mr Krastev was involved in a brawl with another prisoner, amid a general rise in tensions in the prison. To avoid further unrest and ensure the general security of detainees, the prison authorities ordered his transfer to another prison and placement in an isolation cell for 14 days.

He challenged the disciplinary order against him in court, which found in his favour because of breaches of the relevant legal provisions.

However, his subsequent claims to obtain compensation were dismissed by the administrative courts, ultimately in a final decision of June 2011. They essentially found that there was no evidence to prove the applicant's claims of profound disturbance and distress.

Relying on Article 5 § 5 (right to liberty and security/enforceable right to compensation) of the European Convention on Human Rights, Mr Krastev alleges that he was not able to obtain compensation for his unlawful isolation, submitting that it amounted to a further deprivation of liberty in addition to his sentence of imprisonment.

### Agapov v. Russia (no. 52464/15)

The applicant, Anatoliy Agapov, is a Russian national who was born in 1967 and lives in Krasnodar (Russia).

The case concerns his complaint that he was made to pay tax arrears owed by the company, Argo-RusCom Ltd, for which he was the managing director.

In 2013 the tax inspection authorities audited Argo-RusCom Ltd and found that the company had evaded payment of value-added tax. They ordered payment of tax arrears. The case was then examined by the commercial courts, which confirmed the lawfulness of the authorities' claims in a final decision in 2015.

The applicant's company, not being able to pay the sum owed, was liquidated and deregistered in 2015.

In the meantime, in 2014 the investigating authorities refused to institute criminal proceedings against the applicant on the charge of tax evasion as prosecution was time-barred.

The tax authorities then sued the applicant for damages. The civil courts, referring to the audit report and investigator's decision of 2014, found him liable for his company's debt, stating in particular that he had committed "illegal acts with a criminal intent to evade the payment of taxes". All his appeals were unsuccessful, ultimately in November 2015.

Relying on Article 6 § 2 (presumption of innocence) of the European Convention, the applicant complains that the civil courts' decision pronounced him guilty of tax evasion, despite the fact that he had never been convicted of such a crime. Also relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, he complains that the decision finding him liable for his company's tax arrears constituted an unlawful interference with his property rights.

## Karastelev and Others v. Russia (no. 16435/10)

The applicants are Vadim Karastelev, Tamara Karasteleva, now deceased, and the non-governmental organisation, the Novorossiysk Committee for Human Rights ("the NCHR").

The case concerns the applicants' complaint about anti-extremist legislation in Russia.

In April 2009 the first two applicants, deputy chief officer and chief officer of the NCHR, staged public protests in Novorossiysk against a recently adopted law requiring, among other things, minors to be accompanied by an adult in public places at night.

Complaints were subsequently lodged with the Novorossiysk prosecutor's office by the parents of two adolescents who had interacted with the applicants during one of the protests. They alleged in particular that the applicants had been spreading propaganda among minors, during the protests and at their school, encouraging them to participate in future demonstrations against the new law. The applicants submitted that they had simply explained the reason for their protest when the two adolescents had approached them with questions. They had had no further interaction with them. The two adolescents stated that they had talked to the applicants, who had told them to bring their friends along to the next demonstration, but considered that this could lead to disorder.

In May 2009 the prosecutor's office cautioned the applicants, finding that their conduct amounted to a risk of "extremist activity" under the relevant domestic law, namely "obstruction of the lawful activities of State authorities, combined with violence or a threat of it". In particular, a poster displayed during one of the demonstrations with the slogan "Freedom is not granted, it has to be taken" and the applicants' calls to minors to attend protests had encouraged disobedience to the law and the public authorities.

Both applicants brought judicial review proceedings. In June 2009 the courts dismissed the complaint brought by the second applicant, basing its decision on evidence provided by the prosecution, namely expert reports concluding that the poster and the applicants' actions could be perceived by adolescents as a call to actively resist the authorities. All her subsequent appeals were unsuccessful. The proceedings brought by the first applicant were discontinued because the matter had already been decided in the second applicant's case.

Relying on Article 10 (freedom of expression), the applicants allege that the anti-extremist legislation as applied in their case was unlawful; it was formulated in vague terms and they could not have reasonably foreseen that their criticism of the law on minors would be classified under such legislation as an "extremist activity". They make several other complaints under Article 6 (right to a fair trial), Article 13 (right to an effective remedy) and Article 2 of Protocol No. 7 (right of appeal in criminal matters).

The first applicant also complains under Article 6 § 1 that the proceedings in his case being discontinued deprived him of any judicial assessment of the warning issued to him personally.

### Mikhail Mironov v. Russia (no. 58138/09)

The applicant, Mikhail Nikolayevich Mironov, is a Russian national who was born in 1981 and lives in Pskov.

The case concerns his complaint of a judge's lack of impartiality.

In 2005 the applicant agreed to buy land from the Municipality of the Gdovskiy District of the Pskov Region and concluded a sale contract with his father, who was the head of the Municipality.

In June 2007 the prosecutor of the Pskov Region brought civil proceedings against the applicant to have the sale of the land declared invalid. He also began criminal proceedings against the applicant's father for selling land to his relatives below market price and charged him with abuse of power.

In December 2007 a Justice of the Peace dismissed the prosecutor's civil claim, but in June 2008 the Gdovskiy District Court, with Judge A. as single judge, quashed that judgment and declared the sale null and void. Neither the applicant nor his legal representative were present in court.

The criminal proceedings against the applicant's father also came before Gdovskiy District Court and in July 2008 Judge A. withdrew from the case owing to his previous involvement in the civil matter. Among other reasons for his recusal, he stated that he had already expressed his view that the sale of the plot of land to the accused's relatives had been unlawful.

In October 2008 Pskov Regional Court quashed the civil case decision of June 2008 given the absence of the applicant and his lawyer from the hearing. The case again came before Judge A., whom the applicant challenged for bias, referring to his statement of withdrawal from the criminal case.

Judge A. rejected the challenge, holding that the withdrawal of a judge in a criminal trial could not be a ground for a challenge against him in a civil case. In January 2009 Judge A. again allowed the prosecutor's claim in the civil action.

Relying on Article 6 § 1 (right to a fair trial), the applicant complains that Judge A. was biased when he considered his case in the appellate proceedings.

Revision

### Nadtoka v. Russia (no. 2) (no. 29097/08)

In a judgment delivered on 8 October 2019 the Court found a violation of Article 10 (freedom of expression) in respect of the applicant, Yelena Nadtoka. It awarded her 3,000 euros in respect of non-pecuniary damage and 850 euros in respect of costs and expenses.

On 28 November 2019 the applicant's representative informed the Court that she had learned that Ms Nadtoka had died on 4 January 2019 and requested a revision of the Court's judgment within the meaning of Rule 80 of the Rules of Court.

The Court will deal with the revision request in its judgment of 6 October 2020.

### Udaltsov v. Russia (no. 76695/11)

The applicant, Sergey Udaltsov, was born in 1977 and lives in Moscow.

The case concerns his allegations that his rights were breached through recourse to the administrative escorting and arrest procedures and sentencing him for administrative offences and that he was not given appropriate care while he was on hunger strike.

The applicant's legal representatives submit that he has been subjected to harassment by the authorities as an opposition activist and coordinator of the Moscow Council of the Left Front movement and member of another movement, the National Assembly of the Russian Federation.

Specifically, the applicant was arrested on 12 October 2011 and convicted under the Code of Administrative Offences, being sentenced to ten days' detention. He began a hunger strike in the

detention facility and was transferred to a hospital outside prison, whence he was discharged after three days. He was then arrested at his home and taken back to the detention facility. It appears that he was released on 22 October 2011. The head of the facility brought proceedings against him for leaving the detention centre without authorisation based on the fact that he had left the hospital.

In December 2011 he was convicted in three sets of proceedings of administrative offences which led to consecutive sentences of five days (crossing the road at an unauthorised location and refusal to comply with lawful police orders); 15 days (leaving the detention centre in October 2011 without authorisation); and ten days (disobeying a lawful order by a public official when he attended a stationary demonstration in October 2011 at the Central Electoral Committee (CEC) in Moscow to protest against alleged violations of electoral rights). He was released on 4 January 2012.

During periods of his detention the applicant went on hunger strike. In May 2012 the Supreme Court quashed the conviction of December 2011 for leaving the detention centre unlawfully, finding that the hospital had not been covered by the relevant provision.

Under Article 3 (prohibition of torture and degrading or inhuman treatment) he complains that he was not provided with adequate medical assistance after his decision to go on hunger strike.

Relying on Article 5 (right to liberty and security), the applicant complains that he was deprived of his liberty and sentenced to administrative detention in an arbitrary manner and on spurious grounds in October and December 2011, in particular with the aim of preventing him from taking part in protest rallies. He also raises specific complaints about various pre-trial and post-trial measures imposed on him between October 2011 and January 2012.

He also makes complaints under Article 6 (right to a fair trial), Article 7 (no punishment without law), Article 10 (freedom of expression), Article 11 (freedom of assembly), and Article 18 (limitation on use of restriction on rights).

### Gracia Gonzalez v. Spain (no. 65107/16)

The applicant, Rosa Gracia Gonzalez, is a Spanish national who was born in 1979 and lives in Teruel (Spain).

The case concerns criminal proceedings to investigate a helicopter accident which killed her husband and five other firefighters when being transported to a forest fire in Teruel.

On the day of the accident, 19 March 2011, the Spanish authorities initiated proceedings to determine criminal liability, while at the same time the civil aviation authorities opened a technical investigation.

The aviation authorities issued their final report in March 2014, concluding that there was a direct link between the accident and the failure to inspect one of the helicopter's components, the servo actuator.

The investigating judge ordered the final discontinuation of the criminal proceedings in August 2014, because the case did not point to any criminal offence.

However, the judge revoked this decision in December 2014 after the Association of Civil Aviation Commercial Pilots, who had joined the proceedings to defend their interests, filed an appeal. The judge ruled that the case should be reopened and proceedings brought against the manufacturing company and/or the supplier of the component which had failed.

The Pilots' Association appealed against this decision twice, requesting that the proceedings also investigate whether the owner and operator of the aircraft could be held criminally liable. The file was transferred to the *Audiencia Provincial* which dismissed the appeal, upholding the Public Prosecutor's request to discontinue the proceedings and her submissions that the aviation

authorities had failed to provide evidence of any new essential facts, the requirement by law for reopening the proceedings.

All the applicant's subsequent appeals, complaining that she had not been given the opportunity to challenge the Public Prosecutor's request and that the aviation authorities' report had not been considered new evidence, were unsuccessful.

Relying on Article 6 § 1 (right to a fair trial), the applicant alleges that she was put at a disadvantage vis-à-vis the Public Prosecutor in the appeal proceedings in her case because she had not been given the opportunity to contest her submissions or put forward her arguments for a reopening.

### Laguna Guzman v. Spain (no. 41462/17)

The applicant, Laguna Guzman, was born in 1967 and lives in Santovenia de Pisuerga (Spain).

The case concerns Ms Guzman's complaint that she was left permanently injured after the police forcefully dispersed a spontaneous gathering that took place after an official demonstration.

On 2 February 2014, the applicant took part in a demonstration in Valladolid against budgetary cuts and high unemployment rates. The authorities had been notified in advance of the demonstration as required by Spanish legislation and the necessary measures had been requested by the organisers to regulate road traffic.

However, after the demonstration officially ended, a group of 50 to 60 protesters continued marching. They stopped at a square in front of a restaurant where some politicians were having lunch, and displayed a placard reading "stop the criminalisation of social protest".

Ms Guzman, who was holding the placard, was injured when the police intervened to disperse the protest. She was struck with a truncheon, and taken to hospital to be treated for injuries to her mouth, hand and head. In 2016, the Institute of Legal Medicine of Valladolid concluded that she was "permanently incapacitated" as a consequence of her injuries.

The courts subsequently dismissed criminal proceedings brought against the policemen for causing bodily harm, finding that they had had to use force in the face of a situation of violence and disorder. The applicant's *amparo* appeal against this decision was declared inadmissible by the Constitutional Court in 2017.

Criminal proceedings were also brought against three of the protesters, but they were acquitted in 2018. The judge ruling on the case concluded that the protesters had been violently repressed without any prior warning, despite the fact that they had not blocked traffic or provoked the confrontation with the police.

The 2018 criminal judgment was taken into account by the *Audiencia National* in 2019 when ruling on Ms Guzman's claim for compensation against the Ministry of the Interior for her injuries. She was awarded 10,000 euros.

No criminal proceedings were ever initiated against Ms Guzman.

Relying on Article 11 (freedom of assembly and association), the applicant alleges that the police's use of force against her and other protesters was grossly disproportionate.

### I.S. v. Switzerland (no. 60202/15)

The applicant, I.S., is a Turkish national who was born in 1973. He lives in Baden (Switzerland).

In this case, I.S. complains about the extension of his preventive detention (between April 2015 and December 2015) despite his acquittal at first instance.

On 4 August 2014 I.S.'s partner lodged a criminal complaint against him. I.S. was placed in pre-trial detention the same day on suspicion of offences including multiple counts of rape. Subsequently, in

December 2014 the public prosecutor filed an indictment and I.S. was placed in preventive detention.

On 16 April 2015 the District Court unanimously acquitted I.S. However, he was kept in preventive detention on the basis of Article 231 of the Code of Criminal Procedure. The following day, the Cantonal Court ordered the extension of his preventive detention pending the outcome of an appeal by the public prosecutor against the acquittal.

On 12 May 2015 I.S. submitted a first application for release, which was rejected. The Federal Supreme Court found, in particular, that I.S. risked a heavy custodial sentence, which constituted a significant incentive to abscond. It further noted that I.S. had taken precautions to be able to travel to Turkey, the country he had left at the age of 17, where he knew the language and still had a network of acquaintances.

On 19 October 2015 I.S. submitted a further application for release, which the Federal Supreme Court allowed in November 2015. He was released on 2 December 2015.

Relying on Article 5 § 1 (right to liberty and security), I.S. complains that he was kept in preventive detention between 16 April 2015 and 2 December 2015, despite having been acquitted at first instance on 16 April 2015.

### Jecker v. Switzerland (no. 35449/14)

The applicant, Nina Jecker, is a Swiss national who was born in 1981. She lives in Basle (Switzerland) and is a journalist.

In this case, Ms Jecker complains that she was compelled to give evidence during a criminal investigation into drug trafficking and that the authorities asked her to disclose her sources following the publication of a newspaper article.

In 2012 Ms Jecker published an article entitled “Zu Besuch bei einem Dealer” (“Visiting a dealer”) in the *Basler Zeitung* regional newspaper. In it she wrote about a drug dealer whose flat she had visited, noting that he had been dealing cannabis and hashish for ten years and made an annual profit of 12,000 Swiss francs.

Following the publication of the article, the public prosecutor opened an investigation. Ms Jecker was asked to give evidence but refused, relying on her right not to testify. The public prosecutor, however, maintained that she was unable to assert that right.

In 2013 the Cantonal Court allowed a request by Ms Jecker not to disclose her sources. The public prosecutor appealed against that decision.

In 2014 the Federal Supreme Court found that Ms Jecker could not rely on the right to refuse to testify, holding that trafficking in soft drugs was an aggravated offence and that her testimony was the only way of identifying the perpetrator of the offence. Referring to the balance struck in the legislation between the interests at stake, the Federal Supreme Court also found that the public interest in prosecuting an aggravated drug offence outweighed the applicant’s private interest in protecting her source.

Relying on Article 10 (freedom of expression), Ms Jecker complains of an unjustified interference with the exercise of her right as a journalist not to disclose her sources.

## Thursday 8 October 2020

### Jhangiryan v. Armenia (nos. 44841/08 and 63701/09)
### Smbat Ayvazyan v. Armenia (no. 49021/08)

These cases concern two well-known Armenian public figures' allegations of a politically motivated crackdown following a wide-scale protest against the 2008 presidential elections.

Nationwide rallies, alleging election irregularities, broke out after the February 2008 election. Daily demonstrations were held in the centre of Yerevan, where the protestors also set up a camp. On 1 March in the early hours, the police broke it up, triggering clashes.

The applicant in the first case, Gagik Jhangiryan, was at the time Deputy General Prosecutor, and the applicant in the second case, Smbat Ayvazyan, was a former member of the Armenian Parliament who had occupied different posts in the Government. Both applicants were involved in the protest movement. Mr Ayvazyan was an active participant in the rallies, while Mr Jhangiryan made a speech at Freedom Square on 22 February criticising the conduct of the election and expressing his support for the opposition candidate. He was dismissed from his post the next day.

According to the applicants, they were stopped in their cars by a group of masked gunmen and taken into police custody on 23 and 24 February, respectively. The police suspected the applicants of being armed after receiving anonymous tip-offs.

The applicants were formally arrested the day after being taken into custody. They were both charged with assaulting police officers during their custody; Mr Jhangiryan was also charged with illegal possession of two pistols, charges which were later dropped because he was found to have a valid licence for the weapons.

On 27 February they were brought before a judge who ordered their detention for two months. All their appeals against their detention were dismissed.

Several months later a new charge, "conspiracy to usurp power", was brought against them and used as a ground for extending their detention after their cases were joined to the main criminal case instituted against the leaders and supporters of the opposition involved in the protest movement.

That charge was however dropped for lack of evidence, and they were ultimately found guilty in March 2009 and November 2008 of the assault charge. They were sentenced to between two and three years' imprisonment, each. Mr Ayvazyan was also found guilty of another new charge introduced in June 2008 for illegally possessing a spring baton found on him when he was arrested.

They appealed, arguing in particular that the courts' findings were based solely on police testimony and that the real reason for their prosecution and conviction was to punish them for their political views and their active support for the protest movement. Their appeals were dismissed as unsubstantiated, however, they were both released in June 2009 under an amnesty.

The applicants allege under Article 10 (freedom of expression), Article 11 (freedom of assembly and association) and 14 (prohibition of discrimination) that their prosecution and conviction were to prevent them from participating in demonstrations and to punish them for their political opinions.

They also bring varying complaints under Article 5 §§ 1, 3 and 4 (right to liberty and security). Mr Jhangiryan alleges that his arrest was unlawful and not based on a reasonable suspicion, while Mr Ayvazyan complains that his detention between 15 and 22 July 2008 without a court decision was unlawful and that the courts refused to examine one of his appeals against his detention. They both allege that the courts failed to properly justify their continued detention.

They also complain under Article 6 (right to a fair trial) about the unfairness of the criminal cases against them: Mr Jhangiryan alleges that the trial court judge adjudicating his case was not impartial because his son was a member of the investigative team dealing with the main criminal case concerning the protest movement; and Mr Ayvazyan complains that his conviction of assault was based on the statements of police officers without giving him the opportunity to question some of those officers or call witnesses in his defence.

### Bajčić v. Croatia (no. 67334/13)

The applicant, Sanjin Bajčić, is a Croatian national who was born in 1966.

The case concerns his complaint that he was tried twice for the same driving offence.

In October 2004 the applicant, who was driving over the speed limit, caused a road accident in which a person died.

In July 2006 the Rijeka Minor Offences Court fined him for exceeding the speed limit, driving a defective car and for leaving the scene without informing the police. He was also given a six-month driving ban and five points on his licence.

In June 2005 the Rijeka State Attorney's Office indicted the applicant on criminal charges of causing a fatal road accident. In March 2011 the Rijeka Municipal Court found him guilty and sentenced him to one year and six months' imprisonment. The judgment was upheld on appeal, with the appeal court rejecting his argument that he had already been punished by the Minor Offences Court.

The appeal court held that the crime in question, which had caused danger in traffic and ultimately death, was not classified as a minor offence, so he had not been charged in substance with the same facts. Further appeals to the Supreme Court and the Constitutional Court were unsuccessful.

Relying on Article 4 § 1 of Protocol No. 7 (right not to be tried or punished twice) to the Convention, the applicant complains that he was tried and punished twice for the same offence.

### C. v. Croatia (no. 80117/17)

The applicant was born in 2006 and lives in Rijeka.

The case concerns the protection of a child's rights in a parental custody dispute.

In January 2010 the applicant's parents' marriage was dissolved by court order. The applicant was to live with his mother and the father was given regular contact.

The mother accused the father of sexually abusing the applicant and applied for a suspension of contact, which was ultimately refused as the father was found not to have committed such acts.

The administrative and court proceedings after the mother's sexual abuse allegations included an expert report in October 2012 which stated, among other things, that she was emotionally abusing the applicant. On the basis of the report the father applied for and was eventually given custody of the child by a court order of June 2015, upheld on appeal ("the second set of custody proceedings").

The mother began a third set of custody proceedings when the applicant returned to her in June 2016 after running away from his father following enforcement of the court order. Those proceedings are still ongoing. In 2019 the social centre in charge of the case applied to have the applicant placed temporarily outside the family, but the courts rejected that request.

The applicant complains that in the second set of custody proceedings and their subsequent enforcement a special guardian *ad litem* was not appointed to represent and protect his interests, that he was not given an opportunity to be heard in those proceedings, and that the decision to grant custody to his father without any preparation or adaptation period was not in his best interests, as provided for in Article 8 (right to respect for private and family life) of the Convention.

## Gogić v. Croatia (no. 1605/14)

The applicant, Ivan Gogić, is a Croatian national who was born in 1985 and lives in Zagreb. In 2003, he signed a contract as a professional basketball player with a basketball club.

The case concerns Mr Gogić's complaint about a lack of access to a court to complain about not being paid by the club what he was owed for playing.

In 2005 Mr Gogić asked the basketball federation's regulatory body to cancel his contract and that he be paid what he was owed. The federation allowed the applicant's request and ordered the club to pay him 14,500 euros.

The club lodged an appeal against the federation's decision with the Court of Arbitration of the Croatian Basketball Federation, without success.

When the club failed to comply with the arbitration decision Mr Gogić brought a civil action in 2008 for payment of the sum owed. The lower courts ruled in 2012 that the action was inadmissible. They found in particular that he should have instituted enforcement proceedings rather than ordinary civil proceedings.

Mr Gogić went on to institute enforcement proceedings, but the Supreme Court eventually found this to be an inappropriate procedural avenue. His constitutional complaint was ruled inadmissible in 2013 as manifestly ill-founded.

Relying on Article 6 § 1 of the Convention (right to a fair hearing) and Article 1 of Protocol No. 1 to the Convention (protection of property), Mr Gogić complains that he was prevented from obtaining an examination of his case on the merits.

## Ayoub and Others v. France (nos. 77400/14, 34532/15, and 34550/15)

The applicants are: Mr Serge Ayoub (application no. 77400/14), a French national who was born in 1964, lives in Soissons (France) and was the leader of the association Troisième Voie (Third Way) and its security squad, the Jeunesses nationalistes révolutionnaires (JNR – Revolutionary Nationalist Youth), prior to their dissolution; the association L'Oeuvre française (The French Work) and its president, Mr Yvan Benedetti (application no. 34532/15), a French national who was born in 1965 and lives in Paris; and the association Jeunesses nationalistes (Nationalist Youth) and its president, Mr Alexandre Gabriac (application no. 34550/15), a French national who was born in 1990 and lives in Meylan.

The cases concern the administrative dissolution of three extreme right-wing entities: a *de facto* group (the Troisième Voie association and its security squad) and two associations (L'Oeuvre française and Jeunesses nationalistes).

The associations were dissolved in July 2013 following the death, on 5 June 2013, of C.M., a student at Sciences Po (Paris Institute of Political Studies) and a member of the anti-fascist movement, in a fight with skinheads. Several individuals were placed under formal investigation. The investigation established that after the fight, the individuals concerned had met at Le Local, a bar run by Mr Ayoub, with whom they were in contact by telephone before and after the fight and throughout that night. On 14 September 2018 the Paris Assize Court sentenced two former members and/or supporters of Troisième Voie to eleven and seven years' imprisonment for the manslaughter of C.M. by wilful armed assault, committed as part of a group. The criminal proceedings are still ongoing.

*Application no. 77400/14*

Mr Serge Ayoub was the president of the Troisième Voie association, the aim of which was "to promote nationalist and revolutionary ideology", and the leader of its security squad, the JNR, a *de facto* group. On 11 June 2013 Mr Ayoub was informed of the government's intention to dissolve his association and the JNR. On 18 June 2013 Mr Ayoub informed the Minister of the Interior of the

voluntary dissolution of the JNR and Troisième Voie. The government then informed him of its intention to proceed with the dissolution, noting that the association had continued to operate, thus prompting the conclusion that there was still a *de facto* group carrying out the same activities. In a decree of 12 July 2013 the President of France ordered the dissolution of the JNR and Troisième Voie. On 18 July and 15 October 2013 Mr Ayoub applied to the *Conseil d'Etat* to have the decree set aside, arguing that the decision had been political in nature. The *Conseil d'Etat* rejected the application.

*Application no. 34532/15*

In 2012 Mr Benedetti was appointed president of L'Oeuvre française. On 28 June 2013 the Minister of the Interior informed Mr Benedetti of the government's intention to dissolve the association. In a decree of 25 July 2013 the President of France ordered its dissolution. On 21 September 2013 Mr Benedetti applied to have the decree set aside. In a judgment of 30 December 2014 the *Conseil d'Etat* rejected the application.

*Application no. 34550/15*

Mr Gabriac was president of the Jeunesses nationalistes association, which was registered on 19 October 2011. According to the Government, the association is the youth wing of L'Oeuvre française. On 24 June 2013 the Minister of the Interior informed Mr Gabriac of the government's intention to dissolve the applicant association. Jeunesses nationalistes and Mr Gabriac as its president lodged an urgent court application for a stay of execution of the dissolution decree, which they also sought to have set aside. In a judgment of 30 December 2014 the *Conseil d'Etat* rejected the application.

Relying on Articles 10 (freedom of expression) and 11 (freedom of assembly and association), the applicants complain that the dissolution of the associations led by them amounted to unjustified interference with the exercise of their right to freedom of association and freedom of expression.

## Aghdgomelashvili and Japaridze v. Georgia (no. 7224/11)

The case concerns a police raid on the office of a lesbian, gay, bisexual and transgender organisation in Tbilisi.

The applicants, Ekaterine Aghdgomelashvili and Tinatin Japaridze, are Georgian nationals who were born in 1969 and 1979 respectively and live in Tbilisi.

On 15 December 2009 around 17 police officers in civilian clothing rushed into the office of the LGBT non-governmental organisation, the Inclusive Foundation, where preparations were being made for an art exhibition. The officers announced that they were there to conduct a search, without showing a search warrant or any other judicial order.

The applicants, who both worked for the NGO, and their colleagues submit that the police, on realising that they were on the premises of an LGBT organisation, became aggressive. One of the officers forcibly seized the first applicant's mobile phone, while another said that he wished he could burn the place down. The officers insulted the women present, calling them "sick", "perverts" and "dykes", and threatened to reveal their sexual orientation to the public.

Female officers later proceeded to strip-search nearly all of the women present, including the applicants. No records of the strip-searches were drawn up, and the women concerned all felt that the measure had been carried out to humiliate them as the officers did not search the clothes they were told to take off.

The applicants' criminal complaint filed in January 2010 for police abuse is still ongoing. There has been no reply to the applicants' requests that they be granted victim status or that the investigating authorities examine the allegedly discriminatory aspects of the police's behaviour during the raid.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 14 (prohibition of discrimination), the applicants allege that the police subjected them to physical and mental abuse with clear homophobic and/or transphobic overtones, which were moreover overlooked in the course of the ensuing ineffective investigation.

They also bring related complaints under Article 8 (right to respect for private and family life) and Article 1 of Protocol No. 12 (general prohibition of discrimination).

### Liamberi and Others v. Greece (no. 18312/12)

The applicants, Grigorios, Kariaki and Panayiota Liamberi, are Greek nationals who were born in 1952, 1966 and 1953 respectively and live in Athens. All three are descendants of Ioannis V., who acquired a plot of land in Piraeus in 1934 and built a house there.

The case concerns proceedings for recovery of possession instituted in the Greek civil courts against the applicants in 2002 by the Megisti Lavra monastery of St Athanasius on Mount Athos, the largest monastic establishment in Greece.

In 2001 the applicants sold the property to C.T. and A.S. for the sum of 352,164 euros. The purchasers demolished the existing house to build their own home.

Following the sale, the monastery, which had had no previous contact with the applicants and had not registered its claims over the property, brought an action against the purchasers C.T. and A.S., seeking to be recognised as the owner of the property in question.

The monastery alleged that Ioannis V., under a different name, had belonged to its community of monks before 1921, and that in accordance with Greek law – which provided that any property acquired by a monk after his monastic tonsure was to belong to the monastery as long as it had not dismissed the monk from religious orders – it was the rightful owner of the property.

At final instance, the monastery's action for recovery of possession was successful. The domestic courts found that the property in question could never have been bequeathed by Ioannis V. to his heirs, because he had been a monk at the Megisti Lavra monastery on Mont Athos at some point during his lifetime. Furthermore, Greek law provided, since a 1926 decree, that monasteries' property rights were not subject to any limitation period.

The purchasers C.T. and A.S., for their part, instituted proceedings in 2003 for the seizure of the applicants' assets for the purposes of repayment, and the applicants were required to refund the sale price to the purchasers.

Relying on Article 1 of Protocol No. 1 (right of property), the applicants complain of an interference with their rights over the property of their ancestor Ioannis V. Under Article 14 (prohibition of discrimination), they allege that the domestic courts did not take certain items of evidence into consideration.

### Gelevski v. North Macedonia (no. 28032/12)

The applicant, Nikola Gelevski, is a Macedonian/citizen of the Republic of North Macedonia who was born in 1964 and lives in Skopje.

The case concerns the applicant's complaint about his conviction for defamation for criticising a journalist in an opinion piece in a daily newspaper, *Utrinski Vesnik*.

A regular columnist for the newspaper, Mr Gelevski wrote an article which was published in March 2009 commenting on a student protest against the Government's plan to build a church on the main square in Skopje. He expressed the opinion that the Government's policies were "fascist", criticising in particular a number of journalists for their support of such policies.

One of the journalists pointed to by the applicant lodged a criminal complaint against him for defamation and insult. He was ultimately convicted for defamation in September 2011. The courts considered that the applicant had portrayed the journalist as dishonest and incompetent, and that this had damaged his reputation and dignity. He was ordered to pay a 320 euro fine, with 16 days' imprisonment in the event of default.

The applicant's constitutional appeal was dismissed in May 2012.

Relying on Article 10 (freedom of expression), Mr Gelevski complains that his conviction breached his freedom of expression, submitting that the aim of the article was to stir public debate on government policy.

### Goryaynova v. Ukraine (no. 41752/09)

The applicant, Aurika Goryaynova, is a Ukrainian national who was born in 1970 and lives in Kyiv.

The case concerns Ms Goryaynova's complaint that she was dismissed from her post at the local prosecutor's office for criticising the prosecution authorities in an open letter published on the Internet.

On 15 March 2007 Ms Goryaynova, a senior prosecutor at the Odesa regional prosecutor's office, published a letter addressed to the Prosecutor General on an Internet news site, expressing concerns about corruption by local prosecution officials. She referred in particular to alleged pressure on prosecutors to act unlawfully in return for profit or to retire if they disagreed.

She was dismissed from her post on 3 April 2007, the prosecuting authorities finding that her statements were "unfounded, false and insulting" and that she had disseminated confidential information about the prosecutor's office, which amounted to misconduct discrediting herself as a prosecutor.

She challenged this decision in the domestic courts, submitting that she had repeatedly attempted to raise her concerns with her hierarchy, without a response, and had therefore felt compelled to turn to the media.

The courts ultimately upheld her dismissal in April 2010.

Relying on Article 10 (freedom of expression), Ms Goryaynova alleges that her dismissal for publishing the open letter breached her right to express her viewpoint on the situation in her workplace, submitting that she had no alternative means to report on the wrongdoing she had witnessed.

### Teslya c. Ukraine (no. 52095/11)

The applicant, Ivan Teslya, was born in 1975 and is serving a sentence of life imprisonment in Berdychiv.

The case concerns his complaint of a lack of impartiality on the part of the Supreme Court panel which upheld his conviction and life sentence.

In December 2008 the Kyiv Regional Court of Appeal, sitting as a first-instance court, found the applicant guilty of the murder of two men and sentenced him to 15 years of imprisonment.

In March 2009 the Supreme Court, sitting as a panel of three judges presided over by R. and including Judge K., quashed the first-instance judgment, and remitted the case. It raised issues related to the taking of witness evidence and the sentence, which it found to be too lenient. In December of the same year the Regional Court delivered a new verdict of guilty and sentenced the applicant to life imprisonment.

On appeal in cassation, the Supreme Court upheld the new judgment and sentence in February 2011. The three-judge panel of the Supreme Court again included R. as the president and Judge K.

The applicant, relying on Article 6 § 1 (right to a fair trial), complains that the panel of the Supreme Court which upheld his conviction and life sentence in February 2011 was not impartial.

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.

## Tuesday 6 October 2020

| Name | Main application number |
|---|---|
| Bou Hassoun v. Bulgaria | 59066/16 |
| Póka v. Hungary | 31573/14 |
| Giurgi v. Romania | 40124/13 |
| Pfenning Distributie S.R.L. v. Romania | 75882/13 |
| Scurtu v. Romania | 7418/14 |
| Spătaru v. Romania | 5843/16 |
| Borets-Pervak and Maldon v. Russia | 42276/15 |
| Daniliny v. Russia | 32400/12 |
| Demin v. Russia | 66314/11 |
| Karelskiy and Others v. Russia | 66856/14 |
| Svarovskiy and Others v. Russia | 47800/14 |
| Velilyayeva v. Russia | 3811/17 |
| Vladovskiye v. Russia | 40833/07 |
| Yelkhoroyev v. Russia | 46935/18 |

## Thursday 8 October 2020

| Name | Main application number |
|---|---|
| Saghatelyan v. Armenia | 31155/13 |
| Savic v. Austria | 10487/16 |
| Aliyeva v. Azerbaijan | 64593/16 |
| Gurbanova v. Azerbaijan | 4302/18 |
| Huseynova v. Azerbaijan | 2805/12 |
| Isayeva v. Azerbaijan | 74829/17 |
| Valiyev and Others v. Azerbaijan | 17419/16 |
| Muhović and Others v. Bosnia and Herzegovina | 40841/13 |
| EM Inzhenering EOOD v. Bulgaria | 66319/11 |
| Kozaliev and Starchev v. Bulgaria | 59845/14 |
| Y and Others v. Bulgaria | 1666/19 |
| Ivanošić v. Croatia | 35465/18 |

| Name | Main application number |
|---|---|
| Puljić v. Croatia | 46663/15 |
| Radišić and Others v. Croatia | 48255/16 |
| Vozáb v. the Czech Republic | 6780/17 |
| Giabourani and Others v. Greece | 49856/13 |
| Malamis v. Greece | 27079/18 |
| Sakkas v. Greece | 6078/14 |
| Berényi v. Hungary | 67123/14 |
| A.M. v. Italy | 29855/17 |
| Fiore v. Italy | 20956/08 |
| Reale v. Italy | 16430/13 |
| Spirovski v. North Macedonia | 52370/14 |
| Beker v. Poland | 36526/14 |
| Słoń v. Poland | 22963/16 |
| Turturica v. Portugal | 32561/17 |
| Aldea v. Romania | 30619/09 |
| Băsescu v. Romania | 78929/16 |
| Cloşcă and Others v. Romania | 54609/15 |
| Dragomirescu and Others v. Romania | 29662/14 |
| Dumitrașcu v. Romania | 29235/14 |
| Grecu v. Romania | 1035/18 |
| Lăzărescu v. Romania | 21556/14 |
| Manolea v. Romania | 58162/14 |
| Petic v. Romania | 43526/15 |
| Pivniceru-Ioan v. Romania | 54495/08 |
| Scurtu v. Romania | 45007/06 |
| Strașină v. Romania | 72145/14 |
| Țigănilă v. Romania | 60717/16 |
| Baykova v. Russia | 37996/14 |
| Bedianashvili and Others v. Russia | 12542/09 |
| Datashvili v. Russia | 8978/09 |
| E.P. v. Russia | 24601/09 |
| Elbakidze v. Russia | 19879/09 |
| Giorgi Lazarashvili v. Russia | 2452/10 |
| Gogidze and Others v. Russia | 8100/09 |
| Gulnara Nebieridze v. Russia | 20076/09 |
| Ismailovy v. Russia | 41358/12 |
| Ivane Lazarashvili v. Russia | 8956/09 |
| Jabishvili v. Russia | 14653/09 |

| Name | Main application number |
|---|---|
| Maslotsov v. Russia | 16627/10 |
| Megrelishvili v. Russia | 9483/09 |
| Neretin v. Russia | 48909/17 |
| Taratukhin v. Russia | 74778/14 |
| Vazha Gherkenashvili v. Russia | 8157/09 |
| Çam v. Turkey | 78972/11 |
| Gülen v. Turkey | 38197/16 |
| Hilmioğlu v. Turkey | 60625/12 |
| Kılıçoğlu v. Turkey | 38861/09 |
| Uğur and Other v. Turkey | 31800/11 |
| Kris, Tov v. Ukraine | 69282/10 |
| Osipov v. Ukraine | 795/09 |
| Severyn v. Ukraine | 50256/08 |
| Shumanskyy v. Ukraine | 70579/12 |
| Rogers v. the United Kingdom | 42425/19 |



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

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