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

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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 30 judgments on Tuesday 12 January 2016 and 34 judgments and / or decisions on Thursday 14 January 2016.

*Press releases and texts of the judgments and decisions will be available at **10 a.m.** (local time) on the Court's Internet site (www.echr.coe.int)*

Tuesday 12 January 2016

Gouarré Patte v. Andorra (application no. 33427/10)

The applicant, Gérard Gouarré Patte, is an Andorran national who was born in 1948 and lives in Andorra La Vella (Andorra). The case concerns the inability for Mr Gouarré Patte, a doctor, to obtain revision of an ancillary penalty entailing a lifetime ban on exercising his profession.

On 17 December 1999 Mr Gouarré Patte was sentenced to five years' imprisonment, one year of which was to be served in prison and the remainder on parole, for three sexual offences committed while carrying out his duties as a doctor. In application of the Criminal Code in force at that time, Mr Gouarré Patte was also sentenced to an ancillary penalty, namely a lifetime ban on practicing medicine.

On 29 October 2003 Mr Gouarré Patte was granted a pardon, which provided for an eight-month reduction in prison sentences in relation to offences or lesser offences committed before 19 September 2003. The provision specifically excluded from this remission any other penalty imposed by the Andorran criminal courts. The ancillary penalty was not affected by the pardon.

The new Criminal Code, adopted on 21 February 2005, amended the provisions concerning ancillary penalties and specified that their duration could not exceed that of the main sentence. In addition, the second transitional provision of this new Criminal Code provided persons who had been sentenced in a final judgment to a prison or custodial sentence with the possibility of lodging an application for revision, where the sentence was being served at the time of the entry into force of the new Criminal Code. On the basis of these provisions Mr Gouarré Patte lodged an application for revision. The High Court of Justice dismissed his application, pointing out that the second transitional provision of this new Criminal Code did not provide for revision of sentences entailing a ban on exercising a profession. It pointed out that an application for revision was open only in respect of criteria which were not met in the present case. Mr Gouarré Patte's subsequent appeals were all dismissed.

Relying on Article 7 (no punishment without law) of the European Convention on Human Rights, Mr Gouarré Patte complains that the Andorran courts failed to apply the principle of retrospective application of the criminal law more favourable to the defendant, explicitly recognised in Article 7 of the new Criminal Code. Relying on Article 13 (right to an effective remedy) taken together with Article 7 of the Convention, he complains about the fact that the possibility of lodging an application for revision is only available for sentences entailing a deprivation of liberty. Relying on Article 6 § 1 (right of access to a court), he complains that the lack of an effective remedy to challenge the absence of an automatic revision of his sentence resulted in a limitation on his right of access to a court.

Genner v. Austria (no. 55495/08)

The applicant, Michael Genner, is an Austrian national who was born in 1948 and lives in Vienna. The case concerns criminal proceedings against him for defamation.

Mr Genner, who at the time was working for an association which offers support to asylum seekers and refugees, published a statement on the association's website on 1 January 2007 about the Minister for Interior Affairs, who had unexpectedly died on the previous day. It commented: "The good news for the New Year: L.P., Minister for torture and deportation is dead." After referring to several individual stories of asylum seekers, the text stated, in particular, that the Minister had been "a desk criminal just like many others there have been in the atrocious history of this country", that she had been "the compliant instrument of a bureaucracy contaminated with racism" and that "no decent human is shedding tears over her death".

The late Minister's widower filed a private prosecution for defamation against Mr Genner and the association. In September 2007 the Vienna Regional Court convicted Mr Genner of defamation and sentenced him to a fine of 1,200 euros (EUR). It found in particular that a recently enacted amendment to the legislation concerning the status of foreigners and asylum seekers could not justify positioning the Minister in a national-socialist and racist context. The court concluded that the accusations, on the day after her death, overstepped the limits of acceptable criticism, although those limits were widely drawn in the context of a refugee association criticising a politician. The conviction was upheld on appeal, and in October 2009 the Supreme Court dismissed Mr Genner's request to have the proceedings re-opened.

Mr Genner complains that the Austrian courts' judgments were in breach of his rights under Article 10 (freedom of expression) of the Convention.

Bilbija and Blažević v. Croatia (no. 62870/13)

The applicants, Lenka Bilbija and Sanja Blažević, are Croatian nationals who were born in 1958 and 1961 respectively and live in Zagreb. The case concerns the applicants' complaint about the domestic authorities' inadequate response following the death of their mother.

The applicants' mother died on 13 February 2001 in hospital following her admission with respiratory problems. An autopsy – carried out the following day – indicated that the cause of death was respiratory insufficiency leading to cardiac complications. Ms Bilbija met with health inspectors in July 2001 and in October 2001 made an official complaint to the Croatian medical Chamber of medical negligence. This complaint was ultimately dismissed by the Constitutional Court more than 11 years later in December 2013. The sisters also instituted criminal proceedings in February 2004 which were the subject of a final determination by the Constitutional Court dismissing their request for an investigation in February 2013, more than nine years later.

Relying in particular on Article 2 (right to life), the applicants complain about the effectiveness of the investigation into their mother's death. They also complain under Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy) about the ineffectiveness of the domestic proceedings and that they had no effective domestic remedy for their complaints.

Treskavica v. Croatia (no. 32036/13)

The applicants, Draginja Treskavica, Nataša Treskavica, and Valentina Treskavica, are Croatian nationals who were born in 1943, 1975, and 1969, respectively, and live in London (the United Kingdom).

The case concerns the applicants' complaint about the lack of an effective investigation following the death of their husband and father, J.T., on 5 August 1995 during shelling by the Croatian military. The applicants allege that he was buried in a mass grave without the authorities trying to find out the exact circumstances in which their relative had died. In April 2001 during exhumations at the

cemetery in which J.T. was presumed to be buried, Draginja Treskavica approached the police and was subsequently interviewed about the circumstances of her husband's death. In June 2001 the International Criminal Tribunal for the former Yugoslavia issued an autopsy report which concluded that the probable cause of death for the remains (identified – following a DNA analysis – in 2010 as being those of J.T) was a gunshot to the neck. The police opened an inquiry into the circumstances of J.T.'s death in February 2007 and, as result, two witnesses who had hidden with the Treskavica family during the artillery attack and had seen J.T.'s dead body were interviewed. No other leads were, however, discovered. The applicants' civil action against the State seeking damages was dismissed in December 2008 on the ground that they had not proved that their relative had been killed by the Croatian army or that his death had not been war-related. This judgment was ultimately upheld by the Supreme Court in February 2012 and the applicants' constitutional complaint was dismissed in October 2012.

Relying in particular on Article 2 (right to life), the applicants complain about the effectiveness of the investigation into the death of their relative; in particular, they complain that the authorities did not take appropriate and adequate steps to bring the perpetrators to justice. They also complain under Article 6 § 1 (access to court) that the civil proceedings in their case were not an effective remedy in their attempt to obtain damages.

Miracle Europe Kft v. Hungary (no. 57774/13)

The applicant company, Miracle Europe Kft, is a limited liability company registered under Hungarian law, based in Budapest. The case concerns the company's complaint about the national procedure for designating cases to courts other than the territorially competent ones.
In January 2012 the applicant company brought an action in damages against a university following a dispute concerning a construction project. The President of the Budapest High Court requested that the case be reassigned to another court due to the court's heavy work load. The President of the National Judicial Office, exercising her discretionary power under the relevant legislation, granted this request. The applicant company's claim was ultimately dismissed in September 2013.

Meanwhile, the company filed a constitutional complaint arguing that the domestic courts had reached decisions in an arbitrary manner and that it was deprived of a 'tribunal established by law' as a result of the reassignment. On 2 December 2013 the Constitutional Court upheld the complaint that the regulations permitting the President of the NJO to reassign cases among courts were unconstitutional and in breach of Article 6 of the European Convention. However, the Constitutional Court's decision did not invalidate any reassignment decisions already taken in ongoing procedures. Relying on Article 6 § 1 (right to a fair hearing), the company complains that the court designated to hear its case was not a 'tribunal established by law'.

Szabó and Vissy v. Hungary (no. 37138/14)

The applicants, Máté Szabó and Beatrix Vissy, are Hungarian nationals who were born in 1976 and 1986 respectively and live in Budapest. At the relevant time they worked for a non-governmental watchdog organisation (*Eötvös Károly Közpolitikai Intézet*) which voices criticism of the Government.

The case concerns Hungarian legislation on secret anti-terrorist surveillance.

A specific Anti-Terrorism Task Force was established within the police force as of 1 January 2011. Its competence is defined in section 7/E of Act no. XXXIV of 1994 on the Police, as amended by Act no. CCVII of 2011. Under this legislation, the task force's prerogatives in the field of secret intelligence gathering include secret house search and surveillance with recording, opening of letters and parcels, as well as checking and recording the contents of electronic or computerised communications, all this without the consent of the persons concerned.

In June 2012 the applicants filed a constitutional complaint arguing that the sweeping prerogatives under section 7/E (3) breached their right to privacy. The Constitutional Court dismissed the majority

of the applicants' complaints in November 2013. In one aspect the Constitutional Court agreed with the applicants, namely, it held that the decision of the minister ordering secret intelligence gathering had to be supported by reasons. However, the Constitutional Court held in essence that the scope of national security-related tasks was much broader than the scope of the tasks related to the investigation of particular crimes.

Relying on Article 8 (right to respect for private and family life, the home and the correspondence), the applicants complain that they could potentially be subjected to unjustified and disproportionately intrusive measures within the Hungarian legal framework on secret surveillance (namely, "section 7/E (3) surveillance"). They allege in particular that this legal framework is prone to abuse, notably for want of judicial control. They also complain that their exposure to secret surveillance without judicial control or remedy breached their rights under Article 6 § 1 (right to a fair hearing/ access to court) and Article 13 (right to an effective remedy) read in conjunction with Article 8.

Buterlevičiūtė v. Lithuania (no. 42139/08)

The applicant, Vitalija Buterlevičiūtė, is a Lithuanian national who was born in 1966 and lives in Panevėžys (Lithuania). The case concerns her complaints about her temporary suspension from work and the criminal proceedings against her.

Ms Buterlevičiūtė, the former head of a municipal kindergarten, was informed on 11 December 2007 that she was under investigation on suspicion of a number of offences including fraud. On 12 December 2007, the first-instance court granted the prosecutor's request to have Ms Buterlevičiūtė suspended from her job as head of the kindergarten for three months. Ms Buterlevičiūtė's appeal was dismissed. On a number of occasions after that the first-instance court granted the prosecutor's requests to extend the suspension. On each occasion the decision of the first-instance court was taken following a written procedure, while the appellate court held oral hearings. Neither Ms Buterlevičiūtė nor her representative was present at any of these hearings. On 13 July 2009 she was found guilty of several charges against her, some of which were overturned on appeal. The Supreme Court ultimately upheld the appellate court's decision on 16 November 2010, sentencing her to a one-year-and-three month prohibition on working for the civil service. In the meantime, Ms Buterlevičiūtė had been dismissed from her job at the kindergarten.

Relying in particular on Article 6 § 1 (right to a fair hearing), Ms Buterlevičiūtė complains that the first-instance courts had decided on her suspension from her post without holding oral hearings and, where oral hearings had been held on appeal, she had not been duly informed of them and thus could not participate. Also relying on Article 1 of Protocol No. 1 (protection of property), she complains that her suspension from her post left her with any source of income for more than one year.

Borg v. Malta (no. 37537/13)

The applicant, Mario Borg, is a Maltese national who was born in 1976 and is currently detained at the Corradino Correctional Facility in Paola (Malta). The case concerns, in particular, his complaint of not having had any legal assistance during questioning in police custody.

Mr Borg was arrested in April 2003 on suspicion of importing and trafficking heroin. During his police custody he gave a statement without assistance by a lawyer, which was used as evidence against him in the subsequent proceedings. In January 2008 he was convicted of, in particular, importing heroin and sentenced to 21 years' imprisonment and a fine of EUR 70,000. In May 2011 the judgment was upheld on appeal. The appeal court found in particular that the witness statements by two women who had been investigated on suspicion of being drug couriers and having delivered heroin capsules to Mr Borg were credible in the light of, among other things, information he had

disclosed during his questioning by the police, namely information about his wife and the car he normally used.

Mr Borg's claims in constitutional redress proceedings – complaining of the lack of legal assistance during the investigation and inquiry in his respect and in respect of witnesses who had also been under investigation, and of the fact that the same magistrate who had conducted the inquiry had also been in charge of compiling the evidence in the committal proceedings – were rejected.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), Mr Borg complains: that he did not have any legal assistance while in police custody; that the fact that the two witnesses who had given evidence against him had also lacked legal assistance when giving their statements affected the fairness of his trial; and about the lack of impartiality in the proceedings on account of the fact that the same magistrate who had conducted the inquiry was also in charge of compiling the evidence in the committal proceedings. Furthermore, relying on Article 6, he complains that the Maltese Constitutional Court changed its interpretation of the European Court of Human Rights' case-law concerning the right to legal assistance in police custody, which ran counter to the principle of legal certainty. He also alleges breaches of Article 14 (prohibition of discrimination) in conjunction with Article 6, and of Article 13 (right to an effective remedy).

Moxamed Ismaaciil and Abdirahman Warsame v. Malta (nos. 52160/13 and 52165/13)

The applicants, Saamiyo Moxamed Ismaaciil and Deeqa Abdirahman Warsame, are Somali nationals who were born in 1988 and 1992 respectively and were, at the time of the introduction of the application, detained in Malta. The case concerns their detention following their arrival in Malta as asylum seekers.

Both applicants arrived in Malta in August 2012 by boat. They were registered by the immigration police and were each presented with two documents in English, one containing a return decision, the other a removal order. The applicants did not understand the documents, as they did not speak English. According to Ms Moxamed Ismaaciil the contents of the decision were not explained to her; according to Ms Abdirahman Warsame none of the documents she received were explained to her. Both applicants were placed in detention, pursuant to the Immigration Act. Their asylum applications, which they submitted a few days later with the assistance of staff of the Office of the Refugee Commissioner, were rejected at first-instance and eventually on appeal.

The applicants remained in detention until their release in August 2013. They both submit that in the detention centre they were kept in prison-like and very basic conditions. In particular, the centre was overcrowded and noisy; in summer the heat was unbearable and in winter it was too cold; they were fed the same food every day and were allowed only one hour of fresh air per day. Furthermore, they did not have access to adequate medical care. Ms Abdirahman Warsame, who suffered from gastric pains, was not provided with a special diet or medication other than paracetamol.

Both applicants complain that the detention conditions in which they were kept were in breach of Article 3 (prohibition of inhuman or degrading treatment). Furthermore, they complain that they did not have a remedy to challenge the lawfulness of their detention, in breach of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court). Finally, they complain that their prolonged detention for almost a year was arbitrary and unlawful, in violation of Article 5 § 1 (right to liberty and security).

Morgoci v. the Republic of Moldova (no. 13421/06)

The applicant, Constantin Morgoci, was a Moldovan national who was born in 1976 and died on 13 August 2010. The case concerns allegations of ill-treatment and the lack of an effective

investigation, and also the conditions of Mr Morgoci's detention and the fact that he contracted tuberculosis while held in pre-trial detention.

While he was serving a 14-year prison sentence in Russia, Mr Morgoci was extradited to the Republic of Moldova on account of proceedings against him for murder. On arrival, he was held in the remand centre at Chisinau police headquarters. In his application, Mr Morgoci alleged that he had been subjected to ill-treatment while there. He also complained about his poor conditions of detention. Following his transfer to a prison in Chisinau, the authorities allegedly continued to ill-treat him in order to obtain a confession. A medical certificate indicates that Mr Morgoci showed signs of self-harm and was suffering from the effects of a head injury and pulmonary tuberculosis.

Mr Morgoci's criminal complaint against the police officers in question was discontinued; the investigating judge at the Râșcani Court (Chisinau) upheld that decision. At the close of proceedings for damages brought by Mr Morgoci against the State, he was awarded an amount equivalent to 985 euros by the Supreme Court of Justice. In the meantime, Mr Morgoci was acquitted of the accusations brought against him; in consequence, he was extradited to the Russian Federation in order to serve the remainder of the sentence imposed by the Russian authorities. He died two years and nine months later.

Relying on Articles 3 (prohibition of inhuman or degrading treatment and failure to conduct an effective investigation) and 8 (right to respect for private and family life), Mr Morgoci complained about the ill-treatment to which he was subjected while in detention, the failure to carry out an effective investigation in this respect, his conditions of detention in the remand centre at Chisinau police headquarters, and the fact that he contracted tuberculosis during his detention.

A.G.R. v. the Netherlands (no. 13442/08)
A.W.Q. and D.H. v. the Netherlands (no. 25077/06)
M.R.A. and Others v. the Netherlands (no. 46856/07)
S.D.M. and Others v. the Netherlands (no. 8161/07)
S.S. v. the Netherlands (no. 39575/06)

All five cases concern the threatened expulsion from the Netherlands of Afghan asylum seekers, most of whom were more or less high ranking officers in the former Afghan army or intelligence service.

The applicant in the first case, Mr A.G.R., is an Afghan national of Pashtun origin national who was born in 1965. He worked as an official for the Afghan security service KhAD/WAD *("Khadimat-e Atal'at-e Dowlati / Wezarat-e Amniyat-e Dowlati"*) from 1982 to 1992, attaining the rank of major after periodical promotions. He fled Afghanistan in 1992, one week after the mujahideen seized power in the country, and, first going to Pakistan, entered the Netherlands in 1997.

The applicants in the second case, Mr A.W.Q. and Ms D.H., husband and wife, are Afghan nationals who were born in 1956 and 1966 respectively. Mr A.W.Q. was a career soldier in the Afghan army from 1981, rising to the rank of senior captain in 1988 and appointed first secretary of the Army Museum in Kabul in 1990. After the collapse of the communist regime in 1992, Mr A.W.Q. first remained in Kabul continuing his work in the Army Museum, then lived in Kunduz from 1994 until 1998 when, on being denounced by relatives, he was arrested and detained by the Taliban. Having managed to abscond he fled to Mazar-e-Sharif, where he was joined by his family and with whom he fled to the Netherlands in December 1999.

The applicants in the third case, Mr M.R.A., his wife, Ms F.A.K., and their three children, are Afghan nationals who were born in 1959, 1966, 1991, 1996, and 2007 respectively. Mr M.R.A. started to work in 1982 as a construction engineer within the ranks of KhAD, attaining the rank of major. He moved to Mazar-e-Sharif in 1992 when the mujahideen seized power and continued to work as a

construction engineer until 1998 when the Taliban seized power and he was arrested. Having managed to abscond he fled Afghanistan with his family and entered the Netherlands in April 1999.

The applicants in the fourth case, Mr S.D.M., Ms M.A., a divorced couple, and their child O.M., are Afghan nationals who were born in 1969, 1975 and 2002 respectively. Mr S.D.M. worked from 1988 to 1992 for the Afghan security service, rising to the rank of Second Lieutenant. When the communist regime was overthrown in 1992 he remained in Herat, continuing to work under mujahideen rule until 1996 when the Taliban seized power. In October/November 1995 he was sentenced to death by a Taliban tribunal for conspiracy and, fearing for his life, he fled to Turkmenistan in January 1996 and travelled by plane shortly afterwards to the Netherlands.

The applicant in the fifth case, Mr S.S., is an Afghan national of Pashtun origin who was born in 1964. He started working at an administrative department of one of the directorates of the Afghan security service KhAD/WAD in 1982, rising to the rank of lieutenant-colonel in 1990. After the fall of Kabul in 1992, he fled to Mazar-e-Sharif where he remained until various mujahideen groups came to the city in 1997 and, fearing for his life, he had to go into hiding. He subsequently fled to Pakistan with his family, entering the Netherlands in August 1998.

On arriving in the Netherlands, all the applicants applied for asylum and, in their interviews with immigration officials, claimed in particular that they were at risk of persecution and ill-treatment by the mujahideen and/or the Taliban if returned to Afghanistan, citing both their personal situations as former officials of KhAD/WAD and the general security situation in the country.

Mr A.W.Q.'s wife and four children were granted asylum in September 2010. Mr M.R.A.'s wife, daughter and youngest son were granted a Netherlands residence permit in September 2011; two sets of proceedings concerning the residence permit for his eldest adult son are currently still pending. Mr S.D.M.'s ex-wife and child were granted asylum in the Netherlands in March 2009.

In the asylum proceedings concerning the men, however, they were all later informed of decisions to hold Article 1F of the 1951 Refugee Convention against them, under which they could be excluded from international protection. These decisions were based on an official report of February 2000 by the Netherlands Ministry of Foreign Affairs which found that there were serious reasons to believe that virtually every Afghan asylum seeker holding the rank of third lieutenant or higher for the KHad (or its successor, the WAD), during the communist regime in Afghanistan had been implicated in human rights violations. The immigration authorities analysed each applicant's individual responsibility under Article 1F of the Refugee Convention, finding that throughout their careers in the KhAD, they could not have been unaware of its cruel, lawless methods – including torture – and the climate of terror it had spread throughout the whole of Afghan society. The authorities further examined whether the applicants' expulsion would be in breach of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention and found that there was nothing to indicate that persons in Afghanistan should fear persecution merely because of their ties with the former communist regime. Nor had the applicants shown in a concrete and specific manner that their personal circumstances warranted their protection in the Netherlands. The authorities further considered that it was unlikely that Mr S.D.M.'s death sentence by the Taliban would be followed up on by Afghanistan's present courts. These decisions were all subsequently upheld by the domestic courts and the applicants' appeals rejected.

In the first, second and fifth cases the applicants' expulsion was stayed on the basis of an interim measure granted by the European Court of Human Rights under Rule 39 of its Rules of Court, which indicated to the Dutch Government that the applicants should not be expelled to Afghanistan whilst the Court was considering their cases.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicants allege that their removal to Afghanistan would expose them to a real risk of ill-treatment.

Karykowski v. Poland (no. 653/12)
Prus v. Poland (no. 5136/11)
Romaniuk v. Poland (no. 59285/12)

The cases concern the regime in Polish prisons for detainees who are classified as dangerous.

The applicants are Dariusz Karykowski, Kamil Prus and Tomasz Romaniuk, three Polish nationals who were born in 1966, 1987 and 1985, respectively.

Mr Karykowski is serving a three-year-and-six month prison sentence in Stargard Szczeciński (Poland) for uttering threats. Mr Prus is serving a cumulative sentence in Lublin (Poland) for four criminal convictions, including battery and robbery. Mr Romaniuk is serving a 12-year prison sentence in Sokołów Podlaski (Poland) for battery and attempted murder.

The first two applicants, Mr Karykowski and Mr Prus, were each classified as dangerous prisoners for approximately five months because the prison authorities considered that, as leaders of prison protests, it was necessary to isolate them. Mr Karykowski was placed under the regime from September 2011 following a search of his cell during which a letter was found with his signature voicing criticism of proposed legislative changes. Mr Prus was placed under the regime from November 2010 when he, along with other prisoners, had refused to eat breakfast. The third applicant, Mr Romaniuk, was classified as a dangerous prisoner from the moment when he was remanded in custody in April 2009 on account of the fact that he had been charged with numerous violent offences. The measure was applied for three years until March 2012 when the authorities considered that he no longer posed a danger to security.

Relying on Article 3 (prohibition of inhuman or degrading treatment), all three applicants complain about the special high-security measures to which they were subjected during their classification as dangerous detainees, namely their solitary confinement, their isolation from their families, the outside world and other detainees, their shackling (handcuffs and fetters joined together with chains) whenever they were taken out of their cells, the routine daily strip searches and constant monitoring of their cells and sanitary facilities via closed-circuit television.

Bărbulescu v. Romania (no. 61496/08)

The applicant, Bogdan Mihai Bărbulescu, is a Romanian national who was born in 1979 and lives in Bucharest. The case concerns his employer's monitoring of his Yahoo messenger account and his resulting dismissal.

From 1 August 2004 until 6 August 2007 Mr Bărbulescu was employed by a private company as an engineer in charge of sales. At his employers' request, he created a Yahoo Messenger account for the purpose of responding to clients' enquiries. On 13 July 2007 Mr Bărbulescu was informed by his employer that his Yahoo Messenger communications had been monitored from 5 to 13 July 2007 and that the records showed he had used the internet for personal purposes. Mr Bărbulescu replied in writing that he had only used the service for professional purposes. He was presented with a transcript of his communication including transcripts of messages he had exchanged with his brother and his fiancée relating to personal matters such as his health and sex life. On 1 August 2007 the employer terminated Mr Bărbulescu's employment contract for breach of the company's internal regulations that prohibited the use of company resources for personal purposes.

Mr Bărbulescu challenged his employer's decision before the courts complaining that the decision to terminate his contract was null and void as his employer had violated his right to correspondence in accessing his communications in breach of the Constitution and Criminal Code. His complaint was dismissed on the grounds that the employer had complied with the dismissal proceedings provided for by the Labour Code and that Mr Bărbulescu had been duly informed of the company's regulations. Mr Bărbulescu appealed claiming that e-mails were protected by Article 8 (right to respect for private and family life, the home and correspondence) of the European Convention and

that the first-instance court had not allowed him to call witnesses to prove that his employer had not suffered as a result of his actions. In a final decision on 17 June 2008 the Court of Appeal dismissed his appeal and, relying on EU law, held that the employer's conduct had been reasonable and that the monitoring of Mr Bărbulescu's communications had been the only method of establishing whether there had been a disciplinary breach. Furthermore, the Court of Appeal held that the evidence before the first-instance court had been sufficient.

Relying on Article 8 (right to respect for private and family life, the home and correspondence), Mr Bărbulescu complains that his employer's decision to terminate his contract was based on a breach of his privacy. Furthermore, relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), he complains that the proceedings before the domestic courts were unfair.

Boacă and Others v. Romania (no. 40355/11)

The applicants are seven Romanian nationals, born between 1956 and 1993, who live in Clejani (Romania), except for Tănţica Boacă who lives in Bucharest. They are of Roma origin. The case concerns their complaint that three of them and a family member, deceased in the meantime, were victims of police brutality.

According to their submissions, three of the applicants, who are brothers, were attacked by a group of 50 villagers when they went to the local police station on 30 March 2006 to report an assault against the wife of one of them. Their father, I.B., joined the scene when he heard the noise. The applicants submit that later on the same day two police officers, together with colleagues of a rapid intervention squad, arrived at I.B.'s home to take him into custody. Without producing a search warrant they took him and two family members to the police station. His three sons were later apprehended in the street by ten masked police officers who took them to the police station as well. On both occasions the police called the applicants and/or their family members "wretched, disgraceful gypsies". At the police station, I.B. was beaten up by police officers, who kicked him in the ribs and punched him, until he lost consciousness. Later, his three sons were also hit by several police officers. Eventually I.B. was allowed to leave. His sons were only released after they had signed confessions, which they were not allowed to read, concerning the rape of a woman and the theft of pipes.

I.B. was subsequently taken to hospital and examined by a forensic doctor a few days later, who concluded that he had suffered a thoracic trauma inflicted by a blow.

According to the Government, on 30 March 2006 an altercation broke out between the applicants' family and another family of Roma origin in front of the local police station. The rapid intervention squad was called to restore public order. There were no incidents during this operation, as the applicants willingly complied with police orders when they were apprehended.

Following the events, a police investigation was opened into the theft of pipes and into a brawl involving 21 people, mainly belonging to the applicants' family and the other family of Roma origin. In May 2007 the prosecutor decided not to prosecute any of the suspects.

In June 2006 I.B. and three of the applicants – his sons – lodged a criminal complaint against the police officers who had allegedly ill-treated them. The prosecutor dismissed the complaints in December 2006, having taken statements from the police officers involved in the events, who all denied having harmed the plaintiffs. Eventually the decision was quashed on appeal, but in August 2008 the prosecutor again refused to institute criminal proceedings against the police officers. The decision was subsequently quashed again, but eventually the appeal court upheld the decision not to institute criminal proceedings in December 2010.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment), the applicants complain in their own name and on behalf of I.B., who died in April 2010 of causes unrelated to the

case, that I.B. and three of the applicants – his sons – were ill-treated by the police and that there was no effective investigation into those complains. They further rely on Article 14 (prohibition of discrimination) taken together with Article 3, complaining that the ill-treatment and the decision not to bring criminal charges against the police officers were mainly due to the applicants' Roma origin, and were thus discriminatory.

Khayletdinov v. Russia (no. 2763/13)

The applicant, Ildar Khayletdinov, is a Russian national who was born in 1953 and is serving his sentence in a correctional colony in the Astrakhan Region (Russia). The case concerns his complaint, in particular, that he did not receive appropriate medical care in detention.

Mr Khayletdinov, who had been diagnosed with HIV in 2004 and had been receiving antiretroviral therapy since 2011, was remanded in custody in May 2012 on suspicion of murder. His pre-trial detention was extended on several occasions and his appeals against those orders – arguing, in particular, that his suffering from an advanced stage of HIV precluded his detention – were dismissed. In August 2013 the trial court convicted him of murder and sentenced him to seven years' imprisonment, taking a number of mitigating circumstances into account, in particular that he had no criminal record, that he had confessed and that the murder victim had initiated the conflict with him.

According to Mr Khayletdinov, as a result of his detention, in particular the lack of adequate medical care and the lack of an appropriate diet, his health deteriorated significantly.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Khayletdinov complains that the authorities did not take any steps to safeguard his health and well-being in detention, having failed to provide him with adequate medical assistance. He further complains of a violation of Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) on account of his unreasonably long pre-trial detention. Finally, he complains of not having had an effective remedy in respect of his complaint under Article 3, in breach of Article 13 (right to an effective remedy).

Salamov v. Russia (no. 5063/05)

The applicant, Aslambek Salamov, is a Russian national who was born in 1960 and lives in Grozny, Chechnya (Russia).

The case concerns the seizure of Mr Salamov's truck during a counter-terrorist operation in Chechnya.

During an identity check in December 1999 military servicemen seized a truck from Mr Salamov's home in Shali (Chechnya). The truck was eventually returned to him in April 2000, but it was damaged. He thus attempted to submit complaints to the local and military prosecutors, but was advised in August 2003 to seek damages in civil proceedings. He therefore went on to sue the military unit concerned for unlawful seizure of his truck, claiming compensation for missing parts and the cost of repairs. He notably submitted eyewitness statements of the truck's seizure, two letters issued by military commanders confirming the seizure and return of the vehicle and findings reached by a local administration commission confirming his account of the circumstances of his case. However, in July 2004 the domestic courts, relying on the statements of two servicemen from the military unit in question (who denied having seen the truck) as well as the military unit's log book (which had no record of the seizure), found that the State could not be held responsible for the damage to Mr Salamov's truck. This decision was upheld on appeal in September 2004. An internal inquiry was subsequently conducted by the military prosecutor in 2009, during which the military unit stated that it had not conducted any special operations in Shali in December 1999 and that their archives had no trace of any complaints by Mr Salamov regarding the seizure of his truck. Four

servicemen in the military unit in question also signed affidavits confirming that they could not recall a truck seized by a local inhabitant having been used by their unit.

Relying on Article 1 of Protocol No. 1 (protection of property), Mr Salamov complains that the seizure of and damage to his truck breached his property rights.

Milojević and Others v. Serbia (nos. 43519/07, 43524/07 and 45247/07)

The case concerns the dismissal of three police officers from the police force pending criminal proceedings against them and their complaint that, despite their ensuing acquittal, they have not been reinstated.

The applicants, Ivan Milojević, Miodrag Radosavljević, and Petar Veličković, are Serbian nationals who were born in 1978, 1952, and 1962 respectively. Ivan Milojević and Miodrag Radosavljević live in Ćuprija and Petar Veličković lives in Niš (both in Serbia).

All three applicants were charged with criminal offences: Mr Milojević with instigation to abuse of power in 2004, Mr Radosavljević with abuse of power in 2004 and Mr Veličković with unauthorised possession of weapons and ammunition in 1999. All three applicants were dismissed under Article 45 of the Ministry of Interior Act 1991 in force at the time which provided that a police officer could be dismissed if criminal proceedings were pending against him. Subsequently acquitted, they challenged their dismissals in civil proceedings before the national courts. Ultimately in 2007, however, the Supreme Court decided that the applicants' dismissals had been lawful, finding in each case that the applicants' acquittal in the criminal proceedings and the absence of a decision on the merits in disciplinary proceedings were irrelevant.

Relying on Article 8 (right to respect for private and family life), the applicants complain that their dismissals, having brought great shame on them, had affected their reputations and the material well-being of themselves and their families. They allege in particular that Article 45 of the Ministry of Interior Act gave unlimited discretion to the Ministry to terminate the employment of police officers, solely on the basis of the initiation of criminal proceedings, and – citing another case in which a police officer was charged with a similar offence and acquitted, but remains in post – that this discretionary power was not consistently applied. The applicants also allege under Article 6 § 1 (right to a fair hearing) that the decisions in the civil proceedings concerning their dismissals were arbitrary.

Rodriguez Ravelo v. Spain (no. 48074/10)

The applicant, Fernando Rodriguez Ravelo, is a Spanish national who was born in 1970 and lives in Puerto Del Rosario (Spain).

The case concerns expressions used by Mr Rodriguez Ravelo, a lawyer, in a written application made during civil proceedings concerning the ownership of land. The application contained value judgments regarding a judge and attributed blameworthy conduct to her.

Mr Rodriguez Ravelo submitted a civil application to have a decision awarding title to the land in question to a Ms F. overturned, arguing that a company, D., was, in his view, the rightful owner of the land. In that application Mr Rodriguez Ravelo indicated, among other things, that the facts as set out by the district judge in her decision did not reflect reality. He also disputed the judge's decision to award title to the land in question to Ms F. without having informed the company D. in good time. In his written application Mr Rodriguez Ravelo attributed blameworthy conduct to the district judge, such as wilfully deciding to distort reality, unhesitatingly lying or, further, issuing an untruthful report containing false and malicious information.

Criminal proceedings were instituted against Mr Rodriguez Ravelo for the suspected offence of libel. He was sentenced to a daily fine of 30 euros for nine months and a custodial penalty in the event of default. The judgment indicated that the expressions used by Mr Rodriguez Ravelo seriously

impaired the honour of the district judge and went well beyond the legitimate right of defence, with Mr Rodriguez Ravelo choosing to resort to insult and libel. Mr Rodriguez Ravelo lodged a number of unsuccessful appeals against that decision.

Relying on Article 10 (freedom of expression), Mr Rodriguez Ravelo complains about his conviction and sentence on the grounds that these are a disproportionate interference in the exercise of his right to express himself freely in the context of his professional duties.

'Party for a Democratic Society (DTP)' and Others v. Turkey (nos. 3840/10, 3870/10, 3878/10, 15616/10, 21919/10, 39118/10 and 37272/10)

The applicants are, on the one hand, the Party for a Democratic Society ("the DTP", *Demokratik Toplum Partisi*) and, on the other, that Party's co-presidents, Aysel Tuğluk and Ahmet Türk, and individuals exercising various functions in the party, namely Sedat Yurtdaş, Halit Kahraman, Mehmet Salih Sağlam, Abdulkadir Fırat, Ahmet Ay, Bedri Fırat, Fehtah Dadaş and Hüseyin Bektaşoğlu. They are Turkish nationals who were born in 1965, 1942, 1961, 1977, 1970, 1958, 1967, 1956, 1967 and 1944 respectively.

This case concerns the dissolution of the Party for a Democratic Society and the disqualification of its co-presidents from holding their parliamentary seats.

Founded on 9 November 2005, the DTP belonged to the movement of Turkish left-wing pro-Kurdish political parties. At the parliamentary elections of 22 July 2007, twenty-one independent candidates were elected in the constituencies of east and south-east Turkey, and joined the DTP following the elections. In the local elections of 29 March 2009 the DTP emerged as the fourth political force in the country, obtaining a national score of 5.7% and thus reinforcing its status as the leading party in south-east Turkey.

On 16 November 2007 the Principal State Counsel at the Court of Cassation applied to the Constitutional Court for the DTP to be dissolved and asked it to impose, in respect of members of this party who were found to have brought about its dissolution, a ban on becoming founding members, ordinary members, leaders or auditors of any other political party for five years.

On 11 December 2009 the Constitutional Court unanimously ordered the dissolution of the DTP, which entailed the liquidation of the party and the transfer of its assets to the Treasury. As an ancillary penalty, it decided to strip Ms Aysel Tuğluk and Mr Ahmet Türk, the party's co-presidents, of their status as members of parliament, finding that that they had brought about the dissolution through their statements and activities. It also banned 37 members of the DTP from becoming founding members, ordinary members, leaders or auditors of any other political party for five years.

In its judgment dissolving the DTP, the Constitutional Court noted that the DTP had the same political goals as a terrorist organisation, the PKK. Based essentially on speeches by the DTP's leaders and the activities of the party and its members, it concluded that the DTP had become an instrument of the PKK's terrorist strategy, and that it was linked to and in sympathy with that organisation. It also held that the fact that the DTP had not openly distanced itself from the PKK's activities could be considered as evidence of its support for terrorism.

Relying on Article 11 (freedom of assembly and association), the applicants complain that the dissolution of the DTP infringed their right to freedom of association. Relying on Articles 1 (protection of property) and 3 (right to free elections) of Protocol No. 1 to the Convention, they also complain about the forfeiture of their parliamentary seats and the financial losses incurred by the DTP's dissolution.

İrmak v. Turkey (no. 20564/10)

The applicant, Nurettin İrmak, is a Turkish national who was born in 1977 and is serving a sentence in Diyarbakır prison (Turkey). The case concerns his complaint of ill-treatment in police custody and of the unfairness of the criminal proceedings against him.

Mr İrmak was arrested and taken into police custody in January 1996 on suspicion of being a member of Hizbullah, an illegal organisation. While questioned in police custody in the absence of a lawyer, he acknowledged being a member of the organisation and gave a detailed account of his activities within it. When being brought before the prosecutor, and then before a judge, in February 1996, he retracted his earlier statement, maintaining that he had signed it under duress. He was subsequently placed in detention and indicted with carrying out activities with the aim of bringing about the secession of part of the national territory. In June 1996 he was released pending trial.

While the case was still pending, Mr İrmak was rearrested in February 2002. Questioned by the police in the absence of a lawyer, he again acknowledged his membership in the organisation and that he had been involved in a number of killings and abductions committed by it. In court, he retracted the statement, alleging that he had been blindfolded while in police custody and coerced into signing the document. He was again placed in detention. In July 2008 he was convicted of attempting to undermine the constitutional order by force – the court finding in particular that he had been a member of Hizbullah and had ordered two other members of the organisation to kill two people – and sentenced him to life imprisonment. The judgment was upheld on appeal in October 2009.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), Mr İrmak complains of having been ill-treated in police custody in 1996 and in 2002 and of the authorities' failure to conduct an investigation into his complaints of ill-treatment. Further relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), he complains that he did not have any legal assistance during the preliminary investigation stage of his trial. He also complains, under Article 6, that the State Security Court, which heard his case until the abolition of those types of courts in 2004, had lacked independence and impartiality and had relied on evidence obtained under duress. Lastly, he alleges a number of other violations of the Convention, relying in particular on Article 5 (right to liberty and security).

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.

Sindely v. Hungary (no. 54602/11)
Escalda Ferreira v. Portugal (no. 62252/12)
Freitas v. Portugal (nos. 8349/13 and 56418/13)
Karpova v. Russia (no. 35413/07)

Thursday 14 January 2016

Duong v. the Czech Republic (no. 21381/11)

The applicant, Van Nam Duong, is a Vietnamese national who was born in 1974 and lives in Přimda (the Czech Republic). The case concerns his challenge to the warrant which had permitted a search of his home.

In July 2010 a police superintendent applied to the relevant judge for a search warrant, to be carried out in a flat belonging to a limited liability company and occupied by Mr Duong. A police

investigation had been underway since April 2010 into the illegal manufacture of psychotropic substances. According to the police, the flat could have been used, among other purposes, for concealment of these illegal substances.

On 28 July 2010 the Prague Municipal Prosecutor ordered a search of the flat occupied by Mr Duong, who was a suspect. On 4 August 2010, at the end of the search, he was charged and placed in detention. On 30 September 2010 he lodged a constitutional appeal, complaining of procedural flaws in the warrant, including a lack of sufficient reasoning. The Constitutional Court rejected the complaints as unfounded.

Relying on Article 8 (right to respect for one's home), Mr Duong alleges that the search of his home on the basis of a warrant which he considered to contain insufficient reasons was in breach of his right to respect for one's home.

Maslák and Michálková v. the Czech Republic (no. 52028/13)

The applicants, Miroslav Maslák and Katarína Michálková, are Slovak nationals who were born in 1979 and 1978 and live in Pružina (Slovakia) and Plevník-Drieňové (Slovakia) respectively. The case concerns a challenge to the lawfulness of searches.

In June 2012, as part of a preliminary investigation into Mr Maslák and two other individuals with regard to extortion, the prosecutor authorised, for a given period, surveillance of three vehicles. According to police information, the suspects were using these vehicles, which belonged to Ms Michálková or to the company managed by her, for their criminal activities. Following changes in ownership and registration numbers, two new warrants were issued for the vehicle surveillance. On 22 November 2012 the prosecutor asked the district court to order searches in several residential buildings and other premises. The judge authorised searches of the flat rented by Mr Maslák and also of two vehicles used by him.

Mr Maslák and Ms Michálková lodged a constitutional appeal, alleging that the search warrants and the conduct of the police during the searches had breached their rights as guaranteed by the Convention. They alleged that there had been insufficient reasons given in the search warrants. The Constitutional Court considered that the warrants had been acceptable and held that it could not examine the objections based on the lack of prior questioning or the alleged failure to comply with the conditions of Article 84 of the Code of Criminal Procedure.

Relying on Article 8 (right to respect for one's home), the applicants submit that the search of Mr Maslák's flat, his garage and the vehicles was not lawful. Relying on Article 13 (right to an effective remedy), they complain that – with the exception of the constitutional appeal – no effective remedy was available to them in order to raise their complaints.

Mandet v. France (no. 30955/12)

The applicants, Florence Mandet née Guillerm, Jacques Mandet and Aloïs Mandet, are French nationals who were born in 1955, 1945 and 1996 respectively and live in Dubai (Emirate of Dubai).

The case concerns the quashing of the recognition of paternity made by Mr Mandet at the request of the child's – Aloïs Mandet's – biological father.

Florence and Jacques Mandet married for the first time in 1986. Three children were born to them. In June 1996 their divorce was pronounced. Florence Mandet gave birth to Aloïs Mandet in August 1996 and he was registered under the mother's name. In September 1997 Jacques Mandet recognised the child. Florence and Jacques Mandet remarried on October 2003, which had the effect of legitimising the child.

On 22 February 2005 Mr Glouzmann applied to the Nanterre *Tribunal de Grande Instance*, challenging the recognition of paternity made by Mr Mandet and seeking to have his own paternity

outside marriage recognised. By a judgment of 10 February 2006, the court held that as the child had been born more than three hundred days after Florence and Jacques Mandet had separated, the legal presumption that Jacques Mandet was the father ought to be dismissed. The court noted that it was not contested that, at the time of the child's conception, Mr Glouzmann was in an intimate relationship with Ms Mandet and that numerous witness statements confirmed that they had lived together as a couple, and that the child had been known as being their common child. It concluded that the child had not had continuous status as the legitimate child of the Mandet couple and that the child's main interest lay in knowing his origins. The court declared Mr Glouzmann's action admissible and ordered genetic testing of the applicants and of Mr Glouzmann, who was the only one to comply.

On 16 May 2008 the court set aside the recognition of paternity and subsequent legitimation, held that the child was to resume use of his mother's surname and that Mr Glouzmann was his father, and ordered that this be entered on the birth certificate. The court stated that parental responsibility was to be exercised exclusively by the mother, and put in place contact rights for Mr Glouzmann. The court noted that the child, then aged 11, had been informed of the proceedings and knew that his paternity was being disputed. It noted that, in delaying the proceedings by all possible means, Mr and Ms Mandet were obliging the child to live in uncertainty as to his origins. It considered this attitude to be contrary to the child's interests. The court also considered that by refusing to submit to the genetic tests, Mr and Ms Mandet were recognising the merits of the action brought by Mr Glouzmann. The Versailles Court of Appeal upheld that judgment. Mr and Ms Mandet appealed on points of law. The Court of Cassation dismissed that appeal.

Relying on Article 8 (right to respect for private and family life), the applicants complained about the quashing of the recognition of paternity made by Jacques Mandet, and about the annulation of Aloïs Mandet's legitimation. They considered these measures to be disproportionate, having regard to the best interests of the child which, they submitted, required that the legal parent-child relationship, established for several years, be maintained, and that his emotional stability be preserved. Lastly, they criticised the court for having ordered the child to undergo a genetic test against his will, and for having considered his refusal as a factor which confirmed the untruthfulness of his recognition by Jacques Mandet.

Ventouris and Ventouri v. Greece (no. 45290/11)

The applicants, Ioannis Ventouris and Athina Ventouri, are Greek nationals who were born in 1940 and 1987 respectively and live in Piraeus (Greece). The case concerns their inability to dispose of a property inherited from their parents.

The forbears of Mr Ventouris and Ms Ventouri were owners of a plot of land and a building located on this land in the municipality of Drapetsona. These were expropriated in 1926. This expropriation was revoked in March 1938. In 1969 the Ministers of the Economy and of Social Security froze the property with a view to its expropriation, a measure which was lifted following a judgment issued by the Supreme Administrative Court on an application by the applicants' forebears.

In May 1986 a Presidential decree amended the municipality's urban land-use plan and allocated the property for the creation of a public green area. In March 1997 and December 2000 the applicants inherited portions of the property. As the expropriation decided by the 1986 decree had not been enforced, in June 2001 the applicants lodged an appeal with the Athens Administrative Court of Appeal against the implicit refusal to lift the freeze on their property. The administrative court of appeal granted their application and transmitted the case to the authorities so that the necessary measures could be taken. The authorities did not react.

In June 2004 the Piraeus Prefecture revoked the expropriation, but amended the urban land-use plan and imposed a further expropriation. The applicants applied to the Supreme Administrative

Court, seeking to have that decision set aside. It allowed their application. In July 2015 the municipal council again decided to expropriate the property with a view to creating a green area.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicants complain about the inability to dispose of their property. Relying on Article 6 § 1 (right to a fair hearing), they complain about the authorities' refusal to comply with the judgments issued by the administrative court of appeal and the Supreme Administrative Court.

D.A. and Others v. Italy (nos. 68060/12, 16178/13, 23130/13, 23149/13, 64572/13, 13662/13, 13837/13, 22933/13, 13668/13, 13657/13, 22918/13, 22978/13, 22985/13, 22899/13, 9673/13, 158/12, 3892/12, 8154/12, and 41143/12)

The case concerns patients who were contaminated through blood transfusions. The applicants are 889 Italian nationals who were born between 1921 and 1993 and live in Italy and Australia.

The applicants or the persons whom they are representing posthumously were infected by various viruses (HIV, hepatitis B and C) during blood transfusions in the course of curative treatment or surgical operations. They are or were entitled to administrative compensation, provided for by law, since the causal link between the transfusion of infected blood and their contamination has been proved. At various dates they brought civil proceedings against the Minister of Health with a view to obtaining compensation for the damage sustained by them.

Relying on Article 2 (right to life) under its procedural aspect, Article 6 § 1 (right to a fair hearing), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property), the applicants complain about the length of the proceedings for compensation or friendly settlement of their cases, and allege that no effective remedy was available in respect of their complaints.

Rodzevillo v. Ukraine (no. 38771/05)

The applicant, Oleg Rodzevillo, is a Ukrainian national who was born in 1967. He is currently serving a life sentence in Ladyzhynska Correctional Colony no. 39, Gubnyk, in the Vinnytsia Region (Ukraine). The case concerns his allegations of poor detention conditions and ill-treatment by prison guards as well as the authorities' refusal to transfer him to a prison colony closer to his home.

Mr Rodzevillo was convicted of a number of offences, including having formed a criminal association and having committed several murders and robberies, and sentenced to life imprisonment in January 2005. The judgment was upheld by the Supreme Court in October 2005.

Following his arrest in October 2003, he was placed in custody in the Dnipropetrovsk pre-trial detention centre, where he remained in detention until April 2007. Since May 2007 he has been detained in the Ladyzhynska Correctional Colony. He submits that he was kept in inhuman conditions in the pre-trial detention centre. In particular: for some time he had to share a ten-bed cell with 19 detainees; another cell, which he shared with one other inmate and where he had to spend most of the day, was located in the basement, with almost no daylight or fresh air and without basic furniture; the toilet was not separated from the living area and very close to the dining table; the cell was infested with rats; food was scarce and consisted mostly of bread and wheat cereal. As regards the correctional colony, he maintains in particular that he was not provided with any medical care. According to the Government's submissions, the conditions in both facilities were adequate.

Mr Rodzevillo also submits that on one occasion he was severely beaten by eight guards from the pre-trial detention centre. Since 2005 he has requested the authorities on numerous occasions to transfer him to a detention facility closer to his hometown of Simferopol, in order to facilitate visits by his parents and his minor son. On some occasions he was promised that his requests would be taken into account if space became available at an appropriate detention facility; on other occasions he was told that it was not possible to accommodate the requests.

Mr Rodzevillo complains of violations of Article 3 (prohibition of inhuman or degrading treatment) on account of the detention conditions and on account of his ill-treatment by the prison guards. Relying on Article 13 (right to an effective remedy) in connection with Article 3, he complains that he had no effective remedy in respect of his complaints under Article 3. Finally, relying in substance on Article 8 (right to respect for private and family life), he complains of the refusal to transfer him to a detention facility closer to his hometown.

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Tsonev v. Bulgaria (no. 44885/10)
Tykvova v. the Czech Republic (no. 54737/13)
Eklund v. Finland (no. 56936/13)
J.B. v. France (no. 78000/12)
Z.Z. v. France (no. 32029/12)
Lederer and Others v. Hungary (no. 66537/12)
Monaco v. Italy (no. 34376/13)
Podoleanu v. Italy (no. 63426/13)
Loyko v. Latvia (no. 27388/05)
Chechlacz v. Poland (no. 43898/14)
Mach v. Poland (no. 68750/11)
Wozny v. Poland (no. 70720/11)
Bleher and Others v. Romania (nos. 45975/06, 76268/12, and 20984/13)
Craciunescu v. Romania (no. 16066/14)
Ienciu v. Romania (no. 60255/08)
Nenciu v. Romania (no. 72102/14)
Nicula and Others v. Romania (nos. 29656/13, 26615/14, and 29163/14)
Tanase v. Romania (no. 52968/09)
Vasile and Others v. Romania (nos. 61446/11, 21900/12, and 69855/12)
Kolodyazhnyy v. Russia (no. 10033/10)
Lazarev and Bektashyants v. Russia (nos. 59813/09 and 17645/11)
Potapova and Others v. Russia (nos. 60687/08, 17609/10, and 55179/10)
Radetić and Others v. Serbia (nos. 47174/08, 47423/08, 34210/12, 50681/12, 71826/12, 78089/12, 49864/13, and 50135/13)
Petit Press, a.s. v. Slovakia (no. 29389/12)
Altay and Others v. Turkey (no. 9100/06 and 155 other applications)
Budan v. Ukraine (no. 38800/12)
Shepelenko v. Ukraine (no. 8347/12)
Stabrovska v. Ukraine (no. 65055/12)

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.