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 eight judgments on Tuesday 13 September 2016 and 19 judgments and / or decisions on Thursday 15 September 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 13 September 2016

Siemaszko and Olszyński v. Poland (application nos. 60975/08 and 35410/09)

The applicants, Marek Siemaszko and Jan Olszyński, are Polish nationals who were born in 1976 and 1975 respectively and live in Morąg and Bielsko-Biała (Poland).

The case concerns the obligation imposed on them, when they were imprisoned, to place sums from their prison earnings into a deposit account with an interest rate of 0.1% in order to constitute a kitty that would be available to them on their final release.

While Mr Siemaszko and Mr Olszyński were serving their sentences, an account was opened in their names by the prison administration with the bank PKO BP, on the basis of Article 126 of the Sentence-Enforcement Code, so that part of their prison earnings could be paid into it and ultimately become available for them to use on their release.

Between August 2000 and March 2012, 19 payments were made in the name of Mr Siemaszko, totalling a sum of 1,600 Polish zlotys (PLN). On a number of occasions, he complained about the low interest rate applied to his account. After being informed by the mediator that he was entitled to transfer the money into another account of his choosing, Mr Siemaszko requested to be allowed prison leave in order to go to the bank and open a new account, as PKO BP required customers to do this in person, but his request was rejected by the relevant authorities. In February 2009 he again asked the prison administration to take him to the bank, but he received no reply. In March 2012, after being transferred to Kamińsk Prison, Mr Siemaszko was taken to a branch of the PKO BP to open a deposit account of his choosing and to transfer to it the sums that had been paid into the old account in the meantime.

In 2002 Mr Olszyński signed for the opening of a deposit account with the PKO BP without being informed of the interest rate applied until 2007. At an unknown date he complained to the public prosecutor's office alleging poor management of his property by the prison administration and by the bank, and also undue influence, arguing that he had sustained a financial loss, but the public prosecutor refused to open an investigation. That decision was confirmed by the District Court in May 2009. In March 2009 he also brought civil proceedings against the State, but his first complaint was not examined and the second was dismissed. He also filed a complaint with the consumer protection watchdog.

Relying on Article 1 of Protocol No. 1 (protection of property) to the Convention, Mr Siemaszko and Mr Olszyński complain about the obligation imposed on them to pay release savings taken from their prison earnings into a demand deposit account with the bank PKO BP.

Andrey Medvedev v. Russia (no. 75737/13)
Kirillova v. Russia (no. 50775/13)

The applicants, Andrey Medvedev and Natalya Kirillova, are Russian nationals who were born in 1980 and 1962, respectively. They both live in Moscow.

Both cases concern evictions from flats in Moscow. Mr Medvedev was evicted from his flat in Ulitsa Lavochkina in November 2013 and Ms Kirillova has been faced with eviction from her flat in Nagatinskaya Naberezhnaya since an order was made against her in April 2015.

Mr Medvedev bought his flat in 2011. Six years earlier a previous owner of the flat had been found guilty of fraud and the domestic judicial authorities had recognised Moscow City's title to the flat. However, this previous owner continued to be registered as the flat's owner and sold the flat on. Ms Kirillova bought her flat in 2010. 13 years earlier a previous owner of the flat had died without leaving a valid will. An heir brought a claim to the flat which was granted and she then sold the flat on. The next owner then sold the flat to Ms Kirillova even though, in the meantime, the previous judgment recognising the heir's title to the flat had been quashed. Both flats therefore changed hands twice, including being sold to the applicants.

Both applicants thus had proceedings brought against them by the Housing Department for the revocation of their titles to the flats, their eviction and the restitution of the flats to the City of Moscow. In October and November 2012 the courts granted the Housing Department's claims against the applicants and they were subsequently stripped of ownership without compensation or any provision of replacement housing. They both brought proceedings against the previous owners of their flats and were awarded damages. The enforcement proceedings are currently pending in both cases.

The applicants complain under Article 1 of Protocol No. 1 (protection of property) about being deprived of their flats and under Article 8 (right to respect for private and family life and the home) about their evictions.

Krgović v. Serbia (no. 29430/06)

The applicant, Vojkan Krgović, is a Serbian national who was born in 1967 and lives in Stari Bar (Montenegro). The case concerns Mr Krgović's claim against his basketball club.

In July 1997 Mr Krgović, a professional basketball player, submitted a claim against his basketball club, Vojvodina BFC, with the Serbian Municipal Court of Novi Sad. The court ruled in his favour, ordering the club to pay him approximately 10,000 euros (EUR). This judgment became final and in October 1998 the courts issued an enforcement order.

In the ensuing enforcement proceedings, Mr Krgović suggested twice other methods of enforcement, notably proposing that his club's legal successor, the newly formed NIS-Vojvodina, sell its immovable assets. However, the proceedings were suspended in January 2005 when Mr Krgović refused to pay the cost of the proceedings in advance and failed to comment on the filed submission of NIS-Vojvodina denying any connection with Vojvodina BFC.

Insolvency proceedings against Vojvodina BFC were opened in September 2011, and a five-year payment plan was adopted. Mr Krgović received a first instalment in September 2012, but there is no information as to whether he has received any other payments since and the judgment in his favour remains partially unenforced.

Relying on Article 6 § 1 (right to a fair hearing), Mr Krgović complains that the Serbian authorities have failed to enforce a final court judgment.

A.Ş. v. Turkey (no. 58271/10)

The applicant, Mr A.Ş., is a Turkish national who was born in 1995 and lives in İstanbul (Turkey).

The case concerns sexual assault and physical violence sustained by him when he was a minor in prison.

At the age of thirteen and a half, in June 2008, A.Ş. was accused of sexually assaulting a child of eight. The Youth Assize Court of Üsküdar decided to remand him in custody, then found him guilty of attempted robbery causing bodily harm to the victim, and sentenced him to five years and ten months in prison without suspension.

The judgment was quashed by the Court of Cassation. A.Ş. was released. He was again sentenced after a retrial to the same prison term as that handed down by the first trial court. A.Ş. appealed on points of law against that decision and the case is still pending. Moreover, in February 2011 he was charged with illegal restraint, in connection with the same events of June 2008, and was found guilty.

On 27 and 31 March 2010, while he was in pre-trial detention, placed in a dormitory for juveniles who had committed similar sexual offences, A.Ş., then fifteen, was the victim of sexual assault by one of the other detainees, M.B., aged seventeen. He was also beaten up by three other detainees because he had not denounced the assault by M.B.

The prison administration decided on disciplinary sanctions against M.B. and the three other assailants. It also informed the public prosecutor of Kartal that A.Ş. wished to file a complaint for assault. However, on 14 April 2010 the public prosecutor discontinued the proceedings against the three assailants on the ground that the offence complained of depended on a complaint by the victim and that the latter, who had been able to defend himself both physically and mentally, had stated that he no longer wished to file a complaint.

Relying on Articles 2 (right to life) and 3 (prohibition of torture and inhuman or degrading treatment), the applicant alleges that he was physically and sexually assaulted by other inmates while in custody, when he was under the responsibility of the State. He accuses the State of failing in its duty to protect persons under its supervision.

Under Article 5 §§ 1 and 3 (right to liberty and security), 5 § 4 (right to a speedy decision on the lawfulness of detention) and 5 § 5 (right to compensation) the applicant complains that he was placed unfairly in pre-trial detention and for a lengthy period. He also challenges the Assize Court's decision not to suspend his sentence.

Güzel v. Turkey (no. 29483/09)

The case concerns the blanket ban on political parties using any language other than Turkish at their congresses and meetings.

The applicant, Semir Güzel, is a Turkish national who was born in 1968 and lives in Diyarbakır (Turkey).

In February 2005 Mr Güzel, along with 12 other members of HAK-PAR (*Hak ve Özgürlükler Partisi* – the Rights and Freedoms Party), a party representing Kurds, was indicted for not intervening at a party political congress when speeches were given by delegates in Kurdish. He had been elected to act as the meeting's chairman. He was subsequently convicted of breaching Section 81 (c) of Law no. 2820 and sentenced to one year's imprisonment. This judgment was however subsequently quashed by the Court of Cassation and ultimately the criminal proceedings against Mr Güzel were terminated on the ground that the statutory time-limit had expired.

Relying in particular on Article 10 (freedom of expression), Mr Güzel complains about being tried and convicted for not preventing delegates at a meeting of a political party which he was chairing from speaking in Kurdish, their mother tongue, instead of Turkish. In his view, his conviction was the result of a desire to diminish Kurdish culture and language.

Sidika İmren v. Turkey (no. 47384/11)

The applicant, Sıdıka İmren, is a Turkish national who was born in 1945 and lives in Ankara. The case concerns the death of her daughter, Serpil İmren, a secretary for a private company involved in the trade of mineral oil.

In December 2002 Ms İmren's daughter suffered serious injuries as a result of a fire caused by one of the colleagues at her workplace, to which she succumbed in January 2003. After the police investigation of the incident the Ankara public prosecutor initially indicted her daughter's colleague. The owner of the oil company was also subsequently indicted following a complaint brought by Ms İmren based on the findings in a report by the Ministry of Labour and Social inspectors regarding the lack of necessary precautions taken for the prevention of fires in her daughter's workplace.

Both defendants were sentenced in April 2005 to ten months' imprisonment and a fine by the Ankara Assize Court. The same court issued similar sentences after two additional sets of proceedings in November 2006 and February 2009, which were held due to its judgments being first remitted for reassessment by the public prosecutor's office attached to the Court of Cassation and later quashed by the court itself. In December 2010 the Court of Cassation eventually decided that the criminal proceedings should be discontinued on the ground that the prosecution of the offence had become time-barred.

Ms Imren has also initiated compensation proceedings against the company where her daughter used to work. After a certain number of hearings held since April 2004 the Ankara 13th Labour Court finally granted her request in June 2014 in respect of non-pecuniary damage and the funeral costs. Although this judgment was upheld by the Court of Cassation in April 2015, Ms İmren has not yet received any payments because the company of her deceased daughter has been closed down.

Relying in particular on Article 2 (right to life), Ms İmren complains that the domestic authorities did not provide an adequate and effective judicial response to her daughter's death. She complains in particular about the excessive length of both the criminal proceedings, which resulted in the offence in question becoming time-barred, as well as of the civil proceedings, which dragged on for years pending the result of the criminal proceedings.

Üstdağ v. Turkey (no. 41642/08)

The applicants, Celal Üstdağ and Hanım Üstdağ, are Turkish nationals who were born in 1942 and 1945 respectively. Celal Üstdağ died on 3 July 2012. His wife, Hanım Üstdağ, informed the Court that she wished to maintain the application in her own name.

The case concerns lethal injuries sustained by the son of Mr and Mrs Üstdağ, Celal Abbas Üstdağ, during his compulsory military service.

In December 1999 Celal Abbas Üstdağ was wounded by a shot fired by another conscript (M.G.) in the barracks where they were stationed during their military service. The injury was life-threatening and he was taken to Diyarbakır hospital, then to the Ankara military hospital, where he was treated until August 2000. He underwent the removal of his large intestine, left kidney, spleen, and part of his liver. Celal Abbas Üstdağ died on 11 January 2003 at Sivas hospital.

When questioned, M.G. stated that the shot had been accidental. Celal Abbas Üstdağ was questioned at the hospital by a military prosecutor and stated, among other things, that M.G. had been a very good friend and that they had never quarrelled. Other soldiers testified that the two men got on well. In March 2000 criminal proceedings were brought against M.G., who was sentenced by the Diyarbakır military tribunal to two months and 15 days in prison for injuries caused by negligence and failure to comply with accident prevention instructions. The Court of Cassation, however, quashed that judgment in March 2003 and the case was referred back to the military tribunal. As Celal Abbas Üstdağ had died in the meantime, his father lodged an application on 1 February 2006 to join the proceedings. He requested that the offence be reclassified and that

M.G. be convicted of voluntary homicide, alleging that it was not an accident. In a judgment of 23 November 2006 the military tribunal found that there was no evidence in the investigation file to support the allegation of an intentional shot and decided that no causal link had been established between the injury sustained by Celal Abbas Üstdağ on 16 December 1999 and his death. The military Court of Cassation upheld the judgment on 10 July 2007.

Relying on Articles 2 (right to life), 6 (right to a fair hearing), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the Convention, Mrs Üstdağ accuses the authorities of not preventing the lethal injuries sustained by her son during his military service, alleging that her son was the victim of murder because of his Kurdish ethnic origin, and also complains about the lack of an effective investigation and the length of the proceedings. Under Article 3 (prohibition of torture and inhuman or degrading treatment), she complains that she has suffered from mental distress.

Thursday 15 September 2016

Johansen v. Germany (no. 17914/10)

The applicant, Ruth Marion Johansen, is a German national who was born in 1970 and currently lives in London. The case concerns the domestic courts' decision not to allow her objection against a penal order, which she alleges that she had never received.

In October 2008 Ms Johansen, found guilty of withholding and embezzlement of employee salaries and sentenced to a fine, was issued with a penal order. According to the record of service issued by the courier the penal order had been placed in the mailbox next to Ms Johansen's residence on 7 November 2008 as it had been impossible to hand it over to her in person. In December 2008 Ms Johansen filed an objection against the penal order with the Frankfurt am Main District Court and applied for a reinstatement of the proceedings. She argued that her objection, which under domestic law had to be lodged within two weeks following its service, was not time-barred as the penal order had not been served on her on 7 November 2008. She had only found out about the penal order against her in December 2008 when she had found a bill in her mailbox requesting her to pay the fine.

Her objection was subsequently rejected, the district court considering it proved that the penal order had been served on Ms Johansen on 7 November 2008 as certified by the record of service. In its assessment of evidence the court had the courier interviewed by the police as a witness and assessed in detail statements made by Ms Johansen herself as well as three affirmations in lieu of an oath made by her mother, husband and counsel.

Ms Johansen's subsequent appeal was also dismissed, the Frankfurt am Main Regional Court essentially endorsing the district court's reasoning and emphasising that Ms Johansen had not provided the courts with sufficient evidence to prove that she had not been served with the penal order.

Ultimately, the Federal Constitutional Court declined to consider Ms Johansen's constitutional complaint in September 2009.

Relying on Article 6 § 1 (access to court), Ms Johansen complains that the domestic courts' decision not to allow her objection against the penal order had deprived her of the possibility to be heard by the court and to defend herself. She alleges in particular that the standard of proof which she had to comply with was far too strict.

Papavasilakis v. Greece (no. 66899/14)

The applicant, Leonidas Papavasilakis, is a Greek national who was born in 1988 and lives in Ikaria (Greece).

The case concerns the authorities' refusal to grant Mr Papavasilakis conscientious objector status and to allow him to carry out alternative civilian work instead of his military service.

In January 2013 Mr Papavasilakis requested authorisation to carry out alternative civilian work because he was a conscientious objector. He appeared before the army's Special Board to explain the reasons for his request, referring in particular to the religious education he had received from his mother, a Jehovah's witness, and the position he had adopted in life, rejecting any connection with war, violence or destruction in all its forms. The Special Board, made up of three of its members, unanimously rejected the request. On the same grounds as those given by the Board, the Minister of Defence rejected Mr Papavasilakis' request in July 2013. He appealed against that decision to the Supreme Administrative Court, challenging in particular the composition of the Special Board on the day it took its decision, on account of the absence of two of its members, university professors who had not been replaced. The Supreme Administrative Court dismissed his case in 2014 and he was ordered to pay a fine, with default interest, for insubordination. He appealed against the fine and the matter is still pending before the Mytilene Administrative Court, but the authorities have already seized a sum from his bank account.

Relying on Article 6 (right to a fair hearing), Mr Papavasilakis complains that the Supreme Administrative Court did not examine fairly his complaint that there had been a violation of Article 9 of the Convention on the ground that the Special Board was composed of a majority of servicemen. Relying on Article 9 (freedom of thought, conscience and religion), he alleges that his request was not examined properly or impartially, as the absence of two board members had resulted, in his view, in an erroneous interpretation of his beliefs and the denial of his requested status. Under Article 9 taken together with Article 11 (freedom of assembly and association), he alleges that the rejection of his request for conscientious objector status constitutes a breach of his negative freedom not to become a follower of a particular religion or a member of an anti-militarist organisation.

Giorgioni v. Italy (no. 43299/12)

The applicant, Mr Giorgioni, is an Italian national who was born in 1944 and lives in Selvino (Italy). The case concerns a dispute over his contact rights in respect of his child.

Mr Giorgioni had a son, L., with C.M. The couple separated in August 2006. Shortly afterwards C.M. expressed strong opposition to any relationship between the child and his father. Mr Giorgioni asked the Brescia Family Court for the right to have contact with his son. The court decided that the child would live with the mother and granted the father a right of contact two days a week, also ordering him to pay maintenance. In 2008 Mr Giorgioni, complaining that the child's mother was still not allowing him to see their son except in her presence, referred the matter to the court, which asked the social services to organise meetings in a supervised environment. The court also ordered the applicant to pay the maintenance that was overdue.

In April 2010 the court took note of the mother's lack of cooperation and granted the father visiting and staying contact rights under the supervision of the social services. Despite the court's orders, the mother continued to oppose any meeting in her absence and in November 2010 the applicant told the social services that he no longer wanted any contact with his son. From that date on he refused to take part in any meetings, to talk to his son on the telephone or to spend holidays with him.

In 2012 the mother expressed the intention of moving to Turin with the child and the public prosecutor's office, observing that the child no longer had any contact with his father and that maintenance was no longer being paid, applied to the court for an order withdrawing parental authority. Mr Giorgioni in turn applied to the court to obtain sole custody of his son. In May 2012, the court, joining the two sets of proceedings, authorised the mother to settle in Turin since the father was no longer exercising his right of contact. It asked the social services in Turin to schedule meetings between the child and his father in a supervised environment, and unsupervised meetings

at a later stage. The Court of Appeal upheld the court's decision. In 2014 the Bergamo District Court sentenced the mother to a suspended term of one year's imprisonment for not complying with the court's decisions on the father's right of contact, while Mr Giorgioni was sentenced to three months' imprisonment for not paying maintenance, for abandoning his child and for violent behaviour towards his ex-wife.

Relying on Article 8 (right to respect for private and family life), the applicant complains that the authorities tolerated the conduct of the child's mother when she prevented him from exercising his right of contact and tried to turn the child against him. He also complains that the authorities did not take positive measures which would have enabled him to exercise his contact rights and restore a relationship with his son.

Trevisanato v. Italy (no. 32610/07)

The applicant, Mr Gino Trevisanato, is an Italian national who was born in 1937 and lives in Casatenovo.

The case concerns the inadmissibility of an appeal to the Court of Cassation for failure to formulate a point of law (*quesito di diritto*) appropriately.

Having been an employee of the company IBM for 32 years, including 23 years as a manager, he was dismissed on 17 June 1996. Claiming to have been demoted during the notice period, Mr Trevisanato had lodged an urgent application with the Milan District Court, which had granted his request for a provisional suspension of the decision. In August 1995 he had brought proceedings on the merits, seeking his reinstatement as product consultancy director. In a decision of 29 August 1997 the court ordered IBM to compensate Mr Trevisanato for the difference in salary that he should have been paid between May 1995 and June 1996, while rejecting the remainder of the complaint on the ground that the dispute had ceased to exist following the dismissal. On an appeal by IBM the court of Milan reversed that decision.

As regards the dismissal itself, Mr Trevisanato unsuccessfully appealed against it extrajudicially to the local office of the Department of Employment.

In September 2004 Mr Trevisanato brought proceedings against the company IBM before the Milan Employment Tribunal asking it to declare his dismissal null and void or ineffective and to order his reinstatement. The court found the application inadmissible, observing that the employment relationship had ended without any reservation on the part of Mr Trevisanato. He appealed against the decision. The Milan Court of Appeal dismissed his allegations. In November 2007 Mr Trevisanato appealed to the Court of Cassation. In his single ground of appeal he complained that the exclusion of managerial staff in calculating staff numbers for the application of Article 1 of Directive 98/59, as interpreted by the CJEU, was at odds with European law. On 28 October 2010 the Court of Cassation declared the appeal inadmissible in the absence of an appropriate formulation of the point of law in accordance with Article 366*bis* of the Code of Civil Procedure. A request for revision was also declared inadmissible.

Relying on Article 6 § 1 (right to a fair hearing), Mr Trevisanato complains of a breach of his right of access to the courts on account of the excessive formalism of the Court of Cassation.

Khamroev and Others v. Ukraine (no. 41651/10)

The applicants are Umid Khamroev, an Uzbek national who was born in 1976 and lives in Sweden; Kosim Dadakhanov, born in 1966 and living in Ukraine, who claims to be a Russian national (but whom the Ukrainian authorities refer to as an Uzbek national); Utkir Akramov, an Uzbek national who was born in 1985 and lives in the United States of America; and Shodilbek Soibzhonov, a Russian national who was born in 1970 and lives in Ukraine.

All four applicants complain about their detention in Ukraine pending extradition to Uzbekistan. They had been placed on an international list of wanted persons by the Uzbek authorities, following criminal proceedings having been brought against them on suspicion of, among other things, sedition and involvement in a religious fundamentalist, extremist, separatist or other prohibited organisation.

They were arrested in Ukraine on 15 June, 29 June, 8 July and 2 July 2010, respectively, and were kept in detention pending receipt of extradition requests from the Uzbek authorities. After formal extradition requests were received for the first three applicants in July 2010 the Ukrainian authorities ordered their arrest pending extradition, for a period not to exceed 18 months. From then until November 2010, the Ukrainian authorities carried out an extradition inquiry as concerned the first three applicants, examining the circumstances which could prevent their extradition under domestic law, including their potential refugee status. In November 2010 the prosecuting authorities thus received reports from the regional prosecutor's office recommending that the applicants' extradition be refused. It found that the Uzbek authorities had failed to provide sufficient information about the acts of which the applicants were suspected in Uzbekistan. From then until the applicants' release, in January and February 2012, the applicants also pursued asylum requests in Ukraine and, for the first and third applicants, before the Swedish and US authorities (which they were eventually granted).

As concerned the fourth applicant, Mr Soibzhonov, he was released on 5 August 2010 as no extradition request had been received by that date. The prosecuting authorities subsequently decided in any case to refuse extradition on the grounds that the offence with which he had been charged under Uzbek law did not constitute an offence under Ukrainian criminal law.

Relying on Article 5 § 1 (right to liberty and security), the first three applicants make a number of complaints about their detention pending extradition. Mr Khamroev, the first applicant, alleges that his detention from 15 to 24 June was unlawful as it had been based on legislation which did not provide a procedure for detention pending extradition. The first three applicants all also allege that the extradition proceedings in their cases had not been carried out with due diligence. Lastly, Mr Soibzhonov, the fourth applicant, alleges under Article 5 § 1 that his detention was not justified because the offence for which he was wanted in Uzbekistan was not punishable under Ukrainian law and because he faced a risk of ill-treatment if extradited there.

British Gurkha Welfare Society and Others v. the United Kingdom (no. 44818/11)

The applicants in this case are: the British Gurkha Welfare Society, a non-governmental unincorporated association which acts on behalf of 399 Gurkha veterans; and two retired Gurkha soldiers, namely Tikendra Dewan, a joint Nepalese and British national born in 1953, and Subarna Adhikari, a Nepalese national born in 1960.

The case concerns Gurkha soldiers' pensions. Nepalese Gurkha soldiers have served the Crown since 1815, initially as soldiers in the (British) Indian Army and then following Indian Independence in 1947 when four of its regiments became an integral part of the British Army. Only Nepali nationals are eligible for service in what is today known as the Brigade of Gurkhas.

Gurkha soldiers are required to retire after 15 years' service. The Gurkha Pension Scheme ("GPS") was established in 1949 and applied the former Indian Army Pensions Code to Gurkhas serving in the Brigade. Pension entitlements under the GPS were index-linked to the cost of living in Nepal as it was presumed that the Gurkhas would retire there. Pensions were immediately payable upon retirement.

The situation of Gurkhas has significantly changed over time. Originally based in the Far East, the Brigade's home base moved to the United Kingdom on 1 July 1997. This led to a number of developments, for example, most recently in 2009, the Immigration Rules were amended to permit all Gurkha soldiers with at least four years' service to apply for settlement in the United Kingdom.

The British authorities thus accepted in 2004 that the situation of Gurkhas had changed and that differences in the majority of their terms and conditions of service (including their pension entitlement) could no longer be justified on legal and moral grounds. As a consequence, the 2007 Gurkha Offer to Transfer ("GOTT") was formulated in order to bring Gurkhas' pensions into line with those of other soldiers in the British Army who are entitled to pensions under the Armed Forces Pensions Scheme ("AFPS"). Soldiers in the British Army are entitled to serve for 22 years and, unlike the Gurkhas, are eligible for deferred pensions; the AFPS is not index-linked with the cost of living in the soldier's country of origin.

The GOTT enabled Gurkha soldiers who retire on or after 1 July 1997 to transfer from the GPS to the AFPS depending on when they first enlisted in the British Army. The terms of transfer allowed only the transfer of pension rights accrued after 1 July 1997 on a year-for-year basis.

In March 2008 the applicants brought proceedings before the British courts and were granted permission to pursue a judicial review application in the High Court. They notably challenged the legality of: the decision that Gurkhas who retired prior to 1 July 1997 were not entitled to transfer their pension rights under the GPS into the AFPS; and the decision that, for those Gurkhas who retired after 1 July 1997, service before that date did not rank on a year-for-year basis. They alleged in particular that they were discriminated against in their entitlement to an army pension on the basis of their age and/or nationality. In particular, they argued that they were treated differently both from younger Gurkha soldiers who had (more) years of service after 1 July 1997 and from regular British Army soldiers. Their application was dismissed by the High Court in January 2010. As concerned the age discrimination challenge the High Court found that the difference in treatment did not occur due to the difference in age but due to the dates at which service had been rendered. As concerned the discrimination-on-grounds-of-nationality challenge the High Court considered that the difference in pension agreements reflected the different historical position of the Gurkhas and that, in any case, the choice of 1 July 1997 as the cut-off point for different treatment of accrued pension was a rational and reasonable one. The applicants' appeal was subsequently also dismissed and, ultimately, in December 2010 the Supreme Court refused to grant the applicants permission to appeal.

Relying on Article 14 (prohibition of discrimination) taken in conjunction with Article 1 of Protocol No. 1 (protection of property), the applicants maintain that their pension entitlements were less favourable than those of non-Gurkha soldiers in the British Army, as their service prior to 1 July 1997 was valued at as little as 23 per cent of the service of other soldiers serving at the same time. They allege that this amounted to a difference in treatment based on nationality, race and age.

Simon Price v. the United Kingdom (no. 15602/07)

The applicant, Simon Price, is a British national who was born in 1945 and is currently detained in HMP Long Lartin (England, the United Kingdom). The case concerns criminal proceedings in which Mr Price was convicted of attempting to import cocaine to the UK.

Between 16 May and 13 July 2005 Mr Price was tried before a judge and jury in the Crown Court at Snaresbrook for various offences relating to an attempt to import cocaine worth 35 million British Pounds into the UK via ports in the Netherlands and Belgium. He was convicted unanimously by the jury on 13 July 2005.

On appeal he alleged that those proceedings against him had been unfair, citing in particular three grounds with regard to: the reading out at trial of statements by a customs broker based in Antwerp (responsible for issuing licences for the shipments in question and payment of duty on them) because he refused to attend court to give evidence; the prosecution withholding evidence of a telephone call made immediately prior to Mr Price's arrest and arranging for the transportation to the Netherlands of the container in which the drugs were concealed; and the security screens put up at Mr Price's trial sealing the public gallery because he had allegedly previously been involved in jury

fixing. The Court of Appeal rejected these grounds of appeal, concluding that there was no basis for criticising the admission of the customs broker's statements at trial or for suggesting that the prosecution had failed to comply with their duty to disclosure and that the issue of security measures had been dealt with "fully and fairly" by the trial judge.

Relying in particular on Article 6 §§ 1, 2, and 3 (b) and (d) (right to a fair trial / presumption of innocence / right to adequate time and facilities for preparation of defence / right to obtain attendance and examination of witnesses), Mr Price alleges that the criminal proceedings against him were unfair because: the additional security measures at his trial had prejudiced him in the eyes of the jury; the prosecution had failed to comply with its duty to disclose an intercepted telephone conversation; and because of the admission of hearsay evidence at his trial.

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.

P.F. v. Belgium (no. 70759/12)
Brljačić v. Croatia (no. 11756/11)
Skokandić v. Croatia (no. 39307/11)
Stipan Jurišić v. Croatia (no. 29555/11)
Gereghiher Geremedhin v. the Netherlands (no. 45558/09)
Zuisens SA v. Switzerland (no. 53377/11)
Bayram v. Turkey (no. 2434/11)
Kholodov v. Ukraine (no. 64953/14)
Mushynskyy v. Ukraine (no. 3547/06)
Tarabayev and Petrik v. Ukraine (nos. 17274/06 and 21263/06)
VVD, TOV v. Ukraine (no. 46973/07)
Zakutniy v. Ukraine and Russia (no. 23647/06)

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