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 26 judgments on Tuesday 21 June 2016 and 65 judgments and / or decisions on Thursday 23 June 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 21 June 2016

Lähteenmäki v. Estonia (application no. 53172/10)

The applicant, Signe Kristiina Lähteenmäki, is an Estonian national who was born in 1981 and lives in Vara Parish, Tartu County (Tartumaa, Estonia). The case concerns the refusal of the civil courts to award her compensation following a traffic accident.

In May 2008 Ms Lähteenmäki, suspected of staging a traffic accident, was charged with insurance fraud. The criminal proceedings against her were discontinued in December 2008 at the request of the prosecutor, and with the consent of Ms Lähteenmäki and her counsel, on the grounds that the offences were of minor importance and her guilt was negligible. She was ordered to pay procedural costs and to perform 80 hours' community service.

After the criminal proceedings against her had been discontinued, Ms Lähteenmäki instituted civil proceedings claiming compensation from the insurance company for the damage caused to her vehicle by the traffic accident. She submitted the ruling ordering the discontinuance of the criminal proceedings against her as evidence that she had not been involved in staging the accident. The insurance company submitted the decisions by which Ms Lähteenmäki's co-accused had been convicted of staging an accident, arguing that those decisions refuted her assertion that there had been a genuine traffic accident. Her claim was dismissed at first instance in December 2009. She appealed, complaining of a breach of her right to presumption of innocence because the first-instance court had treated her as being guilty of a criminal offence, even though she had not been convicted of staging the traffic accident. In May 2010 the Court of Appeal, relying on Article 202 of the Code of Criminal Procedure, rejected her claim essentially because she had failed to prove the truth of her allegations.

Relying on Article 6 §§ 1 and 2 (presumption of innocence) of the European Convention on Human Rights, Ms Lähteenmäki complains about the reasoning of the national courts in the judgments refusing to award her compensation, submitting that they had treated her as being guilty of a criminal offence even though the criminal proceedings against her had been discontinued.

Tchankotadze v. Georgia (no. 15256/05)

The applicant, Zurab Tchankotadze, is a Georgian national who was born in 1952 and lives in Tbilisi. The case concerns his pre-trial detention and his criminal conviction of abuse of power.

Mr Tchankotadze was the chairperson of the Civil Aviation Agency of Georgia (CAA) between March 2002 and March 2004, when he resigned. In March 2004 criminal proceedings were brought against him on charges of repeated abuse of power. In particular, he was accused of having entered into civil contracts in his capacity as chairperson of the CAA with three civil aviation companies, which undertook to pay the CAA on a monthly basis a "fee for services rendered in relation to the regulation of activities", and of having issued an order which had allowed the CAA to charge several

companies the same fee. According to the investigator, Mr Tchankotadze had in this way circumvented the legal effects of a 2003 judgment of the Constitutional Court which had declared unconstitutional the obligation on airline companies to pay an "annual regulation fee for transport activities" to the CAA.

Mr Tchankotadze was arrested on 16 March 2004 and a district court ordered his detention pending investigation and trial for three months. His appeal against the detention order was dismissed. In June 2004 his detention was extended until 16 September 2004. Mr Tchankotadze remained in detention after that date, and in February 2005 he complained that he had ben unlawfully detained since September 2004. Without replying to his complaint, the competent court decided, on 16 March 2005, to uphold the measure, in particular on the basis of the "nature of the charges".

In August 2005 the trial court convicted Mr Tchankotadze of two of the three episodes of abuse of power of which he had been charged but acquitted him with respect to the CAA collecting a fee from eight of the aviation companies concerned. He was sentenced to five years' imprisonment and banned from holding public office for two years. On appeal, he was acquitted in respect of the charge relating to a further 14 companies, but the appeal court upheld the conviction as to the remaining charges. Mr Tchankotadze's prison sentence was amended and set at four years. His appeal on points of law was dismissed by the Supreme Court in September 2006.

Relying on Article 5 § 1 (c) (right to liberty and security) of the European Convention, Mr Tchankotadze complains that his detention between 16 September 2004, the date of the expiration of his five-moth detention period, and 16 March 2005, the date of his committal for trial, had been unlawful. He further complains of a violation of Article 6 § 1 (right to a fair trial), maintaining that the domestic courts did not give sufficient reasons for their decisions to convict him of a criminal offence. Moreover, he relies on Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5 § 1, complaining that the criminal proceedings against him and his pre-trial detention had ulterior, abusive motives. Finally, he makes a number of complaints under Article 5 relating to his pre-trial detention.

Ramadan v. Malta (no. 76136/12)

The applicant, Louay Ramadan, was born in 1964 in Egypt and currently lives in Hamrun (Malta). The case concerns the revocation of his Maltese citizenship.

Originally an Egyptian citizen, he acquired Maltese citizenship following his marriage to a Maltese national in 1993. At the time, dual nationality was not possible under either Egyptian or Maltese law. A child was born of the marriage in 1994. The marriage was annulled in January 1998 on the ground that it had been simulated since his only reason to marry had been to remain in Malta and acquire Maltese citizenship.

Referring to that decision, the authorities then revoked Mr Ramadan's citizenship in July 2007, concluding that he had obtained Maltese citizenship by fraud. Mr Ramadan, represented by a lawyer, was heard by the authorities before they came to their decision and later unsuccessfully mounted a constitutional challenge to that decision.

Mr Ramadan in the meantime remarried in 2003 in Malta to a Russian national and had two children, both Maltese nationals.

Relying on Article 8 (right to respect for private and family life), Mr Ramadan complains about the decision to deprive him of his Maltese citizenship, asserting among other things that he is now stateless since he had to renounce his Egyptian citizenship in order to become a citizen of Malta and is currently at risk of removal from Malta.

Mugoša v. Montenegro (no. 76522/12)

The applicant, Nebojša Mugoša, is a Montenegrin national who was born in 1962 and is currently detained in Spuž (Montenegro). The case concerns his complaints about a decision extending his pre-trial detention.

Mr Mugoša was detained on 21 February 2011 on suspicion of murder. His detention was then extended in March, May and July 2011. On 23 September 2011 Mr Mugoša requested his release, arguing that there had been no decision to further extend his detention after 18 September 2011, corresponding to the time-limit of two months provided for under the relevant legislation for extending detention. On the same day he received by fax a decision of 22 September 2011 extending his detention; it bore no signature or stamp. He was served with this – stamped and signed – decision three days later. His subsequent appeals complaining about the detention order were rejected. He thus lodged a constitutional appeal, complaining that his detention after 18 September 2011 had not been extended within the statutory time-limit of two months, that the copy of the detention order of 22 September 2011 had not been signed or stamped and that that decision had breached his presumption of innocence as it had referred to him depriving X of his life by shooting him. His constitutional appeal was dismissed in April 2012: the Constitutional Court found in particular that the statutory time-limit for extending detention had not been mandatory and that the lower courts had not stated that Mr Mugoša had been guilty.

Relying on Article 5 § 1 (c) (right to liberty and security), Article 6 § 1 (right to a fair trial), and Article 6 § 2 (presumption of innocence), Mr Mugoša alleges: that his detention between 18 and 22 September 2011 was unlawful; that the Constitutional Court did not address his complaint about the decision of 22 September 2011 not bearing a signature or stamp; and that the decision of 22 September 2011 extending his detention pronounced him guilty.

Ramos Nunes de Carvalho e Sá v. Portugal (nos. 55391/13, 57728/13 and 74041/13)

The applicant, Paula Cristina Ramos Nunes de Carvalho e Sá, is a Portuguese national who was born in 1972 and lives in Barcelos. She is a judge. The case concerns three sets of disciplinary proceedings brought against the applicant, on conclusion of which the Supreme Council of the Judiciary imposed penalties on her in the form of a fine and two orders suspending her from her duties.

In November 2010 the Supreme Council of the Judiciary decided to institute disciplinary proceedings against the applicant, who at the time was a judge of the Vila Nova de Famalicão Court of First Instance. In March 2011 the judicial inspector F.M.J. proposed that she be ordered to pay 20 day-fines for having referred to another judicial inspector as a "liar" during a telephone conversation, thereby acting in breach of her duty of propriety. He also found that the applicant had accused the inspector responsible for conducting her performance appraisal of "inertia and lack of diligence". In March 2011 the applicant submitted a request to the Supreme Council of the Judiciary for Judge F.M.J. to be withdrawn from her case on the grounds that he had breached her right to be presumed innocent and had close ties to the judicial inspector whom she had allegedly insulted. Judge F.M.J. requested leave from the Supreme Council of the Judiciary to withdraw from the case, saying that he was the applicant's "sworn enemy" following the accusations she had made against him.

The newly appointed inspector, Judge A.V.N., proposed that the applicant be ordered to pay 15 day-fines for acting in breach of her duty of propriety. In a decision of 10 January 2012 the full Supreme Council of the Judiciary ordered the applicant to pay 20 day-fines, corresponding to 20 days' salary, for acting in breach of her duty of propriety. The applicant appealed on points of law, requesting that the establishment of the facts be reviewed. On 21 March 2013 the Judicial Division of the Supreme Court of Justice unanimously upheld the ruling of the Supreme Council of the Judiciary.

A second set of disciplinary proceedings was opened against the applicant for the use of false testimony in the earlier proceedings. On 11 October 2011 the full Supreme Council of the Judiciary

ordered that the applicant be suspended from her duties for 100 days for acting in breach of her duty of honesty. It found that the applicant had given false testimony by asking a witness to make false statements concerning the allegations against her. A third set of proceedings was brought against the applicant for allegedly asking the judicial inspector Judge F.M.J., in the course of a private conversation, not to take disciplinary action against the witness on her behalf who had been called during the first set of proceedings.

In a decision of 10 April 2012 the full Supreme Council of the Judiciary ordered the applicant's suspension from her duties for 180 days for acting in breach of her duty of loyalty and propriety. The Judicial Division of the Supreme Court of Justice unanimously upheld that decision. On 30 September 2014 the full Supreme Council of the Judiciary, after grouping together the penalties imposed in the three sets of disciplinary proceedings, delivered a unanimous decision in which it imposed a single penalty on the applicant of 240 days' suspension from her duties.

Relying on Article 6 (right to a fair hearing), Ms Ramos Nunes de Carvalho e Sá alleges a breach of her right to an independent and impartial tribunal, her right to obtain a review of the facts established by the Supreme Council of the Judiciary and her right to a public hearing. She further complains that, in view of the reclassification of the facts by the Supreme Council of the Judiciary in its decision of 11 October 2011, she was not informed in detail of the nature of the accusations against her and accordingly did not have adequate time and facilities for the preparation of her defence.

Soares v. Portugal (no. 79972/12)

The applicant, António Alberto Mota Soares, is a Portuguese national who was born in 1957 and lives in Góis (Portugal). The case concerns his criminal conviction for reporting an alleged misuse of public money.

In November 2009 Mr Soares, a chief corporal in the National Republican Guard (*Guarda Nacional Republicana*), working at the Góis territorial post, sent an email to the General Inspectorate of Internal Administration alleging that the Commander of the Arganil territorial post had been misusing public money. He claimed that his intention was to prompt an investigation into the allegations, which he admitted were based on a rumour.

Three different entities – the prosecuting authorities, the General Inspectorate of Internal Administration and the National Republican Guard – then investigated Mr Soares' allegations throughout 2010, without being able to establish their veracity or whether the commander had committed a criminal act or had acted unlawfully.

In July 2011 the public prosecutor brought charges against Mr Soares for aggravated defamation on the grounds that the statements made in his email called into question the commander's honesty, honour and professional reputation. In these criminal proceedings brought against Mr Soares, the courts were not able to confirm the rumour which had given rise to the allegations and decided that he had not acted in good faith. In a judgment of January 2012, upheld on appeal in September 2012, he was therefore convicted of aggravated defamation and sentenced to 80-day fines, totalling 720 euros (EUR), and ordered to pay EUR 1,000 in damages to the commander.

Disciplinary proceedings were also brought against Mr Soares, and in a final report of February 2013 it was concluded that he had breached his duty of loyalty, as he should have first reported the rumour via internal channels within the hierarchy of the National Republican Guard.

Relying in particular on Article 10 (freedom of expression), Mr Soares complains about his conviction for aggravated defamation, maintaining that he had acted in good faith in disclosing the suspicion of alleged misuse of public money within the National Republican Guard.

Tato Marinho dos Santos Costa Alves dos Santos and Figueiredo v. Portugal (nos. 9023/13 and 78077/13)

The applicants in each of the two cases, Sofia Tato Marinho dos Santos Costa Alves dos Santos and Maria da Luz Figueiredo, are Portuguese nationals who were born in 1975 and 1963 and live in Loures and Lisbon respectively. Both are judges, and both complain that the disciplinary proceedings brought against them were unfair.

Ms Tato Marinho dos Santos Costa Alves dos Santos

On 6 July 2010 the Supreme Council of the Judiciary decided to institute disciplinary proceedings against Ms Tato Marinho dos Santos Costa Alves dos Santos, who at the time was a judge of the Lisbon Labour Court. She was accused of acting in breach of her duty to pursue the general interest and her duty of diligence. On 20 September 2011 the full Supreme Council of the Judiciary imposed a disciplinary penalty of 25 day-fines on the applicant, corresponding to 25 days' salary, on the grounds that she had breached her duty to convene hearings in her cases as swiftly as possible and that her output was inadequate. The applicant appealed to the Judicial Division of the Supreme Court of Justice. In her grounds of appeal she invoked the jurisdiction of the Supreme Court of Justice to examine all aspects of the case and requested a review of the facts considered to have been established.

The Supreme Court of Justice unanimously dismissed the appeal, finding that it was not its task to review the facts of the case.

Ms Figueiredo

On 7 June 2011 the full Supreme Council of the Judiciary ordered the second applicant, who at the time was a judge of the Lisbon Labour Court, to pay a disciplinary penalty of 50 day-fines, corresponding to 50 days' salary, for acting in breach of her duties of pursuit of the general interest, diligence, loyalty and information. Ms Figueiredo appealed against that judgment to the Judicial Division of the Supreme Court of Justice, disputing the establishment of the facts. She also alleged that the fact that the Supreme Court of Justice had jurisdiction to hear appeals against decisions of the Supreme Council of the Judiciary had infringed her right of access to an impartial tribunal, as the judges of that Court were themselves subject to the disciplinary jurisdiction of the Supreme Council of the Judiciary. The Judicial Division of the Supreme Court of Justice upheld the decision of 7 June 2011. Ms Figueiredo lodged a constitutional appeal with the Constitutional Court, alleging that parts of the Status of Judges Act were unconstitutional. The Constitutional Court delivered a judgment dismissing her claims.

Relying on Article 6 § 1 (right to a fair hearing), the applicants allege that the domestic courts infringed their right to obtain a review of the facts established by the Supreme Council of the Judiciary and their right to a decision given by an independent and impartial tribunal.

Eze v. Romania (no. 80529/13)

The case concerns a complaint about conditions of detention in Rahova Prison.

The applicant, Iwuchukwu Chinagolu Eze, is a Nigerian national who was born in 1981 and is currently serving a 13-year sentence in Giurgiu Prison (Romania) for drug-trafficking offences.

Mr Eze was detained in Rahova Prison from July 2012 until his transfer to Giurgiu Prison in July 2014, with intermittent periods also spent in the prison hospital. He alleges that the conditions of his detention in Rahova Prison were inhuman and degrading, on account in particular of overcrowding and lack of hygiene. He relies on Article 3 (prohibition of inhuman or degrading treatment). Also relying on Article 9 (freedom of thought, conscience, and religion), he complains that, as a Muslim, he was not provided with an appropriate diet in Rahova Prison, namely one without pork, and that he was not allowed to receive food from his family.

G. v. Russia (no. 42526/07)

The case concerns an allegation of inadequate medical care in detention for an inmate suffering from rectal cancer.

The applicant, Mr G., is a Russian national who was born in 1955 in the Omsk Region (Russia). Until his arrest he lived in the village of O. in the same region. He was arrested in November 2006 on suspicion of large-scale bank fraud by abuse of position and placed in detention on remand. His detention was extended over the following 15 months, the authorities relying on the gravity of the charges against him, the risk of him absconding and of him hampering the investigation by putting pressure on witnesses. Mr G., suffering from a number of illnesses including rectal cancer, made repeated requests to be released on medical grounds, which were all rejected until February 2008 when the trial court accepted that his health condition had become serious and warranted his release.

On arrival in prison, Mr G. was suffering from colon cancer. In December 2006 his condition worsened when his sigmoid colon prolapsed and fell out of his rectum, resulting in his having faecal incontinence. Over the following year he was admitted to the medical unit in the remand prison on a number of occasions and examined by senior medial officials in the colorectal department of a civilian hospital, who recommended urgent surgery. However, he was also examined at various intervals by the prison surgeon and doctors, who saw no need for urgent surgery. Eventually, in October 2007, Mr G. made a request under Rule 39 of the Rules of Court (interim measures) to the European Court of Human Rights to indicate to the Russian authorities that he should be allowed, among other things, to have urgent colorectal surgery in a specialist hospital. The European Court granted this request and he had a colostomy in December 2007.

Relying on Article 3 (prohibition of inhuman or degrading treatment), he alleges that the authorities failed to provide him with adequate medical care during his detention, delaying urgent surgery and failing to provide him with adult absorbent briefs or hygiene products for his condition. He further complains under Article 3 that the conditions of his detention were inhuman and degrading – particularly on account of overcrowding and lack of privacy in the cells where he was detained, forcing him to go to the toilet and wash in full view of other inmates and the prison guards and causing him considerable distress given his serious health condition. He makes a further complaint under Article 5 § 3 (entitlement to trial within a reasonable time or to release pending trial), alleging that the reasons for extending his pre-trial detention were not sufficiently justified, especially given his poor health.

Ibragim Tsechoyev v. Russia (no. 18011/12)
Mutayeva and Ismailova v. Russia (no. 33539/12)

The cases concern two abductions and disappearances in Ingushetia and Dagestan.

The applicant in the first case, Ibragim Tsechoyev, is a Russian national who was born in 1983 and lives in Ordzhenikidzevskaya, Ingushetia (Russia). He alleges that his brother, Abubakar Tsechoyev, born in 1978, was abducted and killed by Russian servicemen.

On 22 March 2012 a group of armed men in camouflage uniforms and balaclavas broke into the water-pumping station in Ordzhenikidzevskaya (Ingushetia) where Abubakar Tsechoyev was at work and, tying him and three other employees up and blindfolding them, subjected them to beatings for 40 minutes. The men then placed Abubakar Tsechoyev, unconscious, in their UAZ vehicle and drove away in the direction of Chechnya; he has not been seen since.

Ibragim Tsechoyev immediately reported the abduction to the authorities and a criminal investigation was initiated on 24 March 2012. Thus, investigators examined the crime scene and various people were interviewed within the following days and months, including the employees of the water-pumping station who had witnessed the abduction, the applicant and other family

members. 12 police officers, who had been manning checkpoints located in the vicinity, were also questioned and stated that they had not seen any Russian military vehicle passing through on the night of the abduction. Furthermore, at Ibragim Tsechoyev's request, CCTV footage was collected on 30 March 2012 from the building of a school located on the only road leading to the pumping station; however the video recordings around the time of the abduction had already been overwritten. The investigation, suspended in August 2012 for failure to identify those responsible for the abduction, has since been resumed and suspended on a number of occasions and is currently still pending.

In April 2013 Ibragim Tsechoyev complained about ineffectiveness of the investigation, alleging that the investigators had failed to take a number of crucial investigative steps. His complaint was rejected as unsubstantiated.

The applicants in the second case, Zukhra Mutayeva and Ayshat Ismailova, are Russian nationals who were born in 1980 and 1971 respectively and live in Zubutli-Miatli, Kizilyurt district, Dagestan (Russia). They also allege that their husband and brother, Kamil Mutayev, born in 1976 was abducted and killed by Russian servicemen.

On 2 May 2012 Mr Mutayev was driving through the centre of town in Kizilyurt with his 12-year old son when his car was blocked by two other cars with heavily tinted windows and eight armed, masked men in black uniforms knocked him down and forced him into one of their vehicles. His son, threatened at gunpoint, was forced back into his father's car.

The applicants immediately reported the abduction to the authorities and the same day the police examined the crime scene and questioned Mr Mutayev's son, the only eyewitness to the abduction, and Ms Ismailova. An official investigation was thus initiated on 14 May 2012 and the crime scene was examined again on 6 June 2012, this time by investigators. In August 2012 the registration log of detainees at the local police station was examined and the police officers on duty on the day of the abduction were questioned; they stated that neither Mr Mutayev nor his car had been brought in. The investigation, suspended in September 2012 and then resumed and suspended on a number of occasions since then, is currently still pending.

In both cases, the Government submit that there was no evidence of Russian servicemen's involvement in the abduction, pointing out that the eye-witnesses to the abduction in the first case had been blindfolded and could not therefore be relied upon and the only eye-witness in the second case was a minor.

Relying on Article 2 (right to life), Article 5 (right to liberty and security) and Article 13 (right to an effective remedy), the applicants in both cases allege that their relatives were abducted and killed by Russian servicemen and that the authorities failed to carry out an effective investigation into their allegations.

Igoshin v. Russia (no. 21062/07)

The applicant, Nikolay Nikolayevich Igoshin, is a Russian national who was born in 1982. He is currently serving a 23-year prison sentence in the IK-8 correctional colony in the Orenburg Region (Russia).

The case concerns Mr Igoshin's allegations of ill-treatment by police officers immediately after his arrest and his claim that no effective investigation was carried out.

Mr Igoshin was arrested on 11 February 2004 on suspicion of murder and burglary, and was taken to the Dzerzhinsky District police station in Orenburg, where he was allegedly subjected to ill-treatment by police officers, including being struck with a full water bottle, tortured with an electric current and asphyxiated with a plastic bag. On 13 February 2004, on being admitted to the temporary detention centre, the applicant was examined by a medical auxiliary, who noted a long-standing fracture of his right index finger and a healed bruise on his back.

On the same day the applicant complained at the remand hearing that he had been tortured following his arrest. On 16 February 2004 he was transferred to Orenburg Prison, where on 17 February 2004 he was examined by Dr A., who observed various injuries to his body. The doctor's report was sent to the prosecutor's office of the Dzerzhinsky District of Orenburg.

The prosecutor examined the applicant's allegations and dismissed them as unfounded. The Regional Court conducting the criminal proceedings against Mr Igoshin reached the same conclusion. It disregarded Dr A.'s report, observing that on 19 February 2004, two days after the doctor's examination, the therapist and dermatologist who had examined the applicant had not mentioned the injuries referred to by their colleague. On 21 February 2008 Dr A. was convicted by the Leninsky District Court of Orenburg of giving false testimony.

On 3 May 2006 Mr Igoshin was found guilty as charged. The judgment was upheld by the Russian Supreme Court on 27 October 2006.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment) and Article 13 (right to an effective remedy), Mr Igoshin alleges that he was severely beaten while in police custody and that no effective investigation was carried out in that regard.

Oleynik v. Russia (no. 23559/07)

The applicant, Aleksey Nikolayevich Oleynik, is a Russian national who was born in 1974 and lives in Rtishchevo (Saratov Region, Russia).

The case relates to the allegations of ill-treatment made by Mr Oleynik, a police officer suspected of extorting a sum of money, and also to the lack of an effective investigation, the recording of conversations and the applicant's unacknowledged detention on the premises of the Federal Security Bureau (FSB).

On 3 February 2006 Mr Oleynik was apprehended by FSB officers in the State school where his wife worked, while an individual (V.) was in the act of handing over money to him. According to the applicant, he was held for a large part of the night on the premises of the FSB in the absence of any document authorising his detention, and was severely beaten by officers seeking to extract a confession from him.

Mr Oleynik was released on 4 February 2006 and went to hospital for treatment. The following day he lodged a complaint with the military prosecutor of Saratov barracks requesting the opening of a criminal investigation into ill-treatment. His request was refused.

On 6 October 2006 Mr Oleynik was sentenced to two years' imprisonment. The court based its judgment, among other considerations, on the statements given by V. and some witnesses, the reports concerning the seizure of banknotes and the audio recordings of conversations between the applicant and V. Following an appeal on points of law, the Saratov Regional Court upheld the judgment on 26 December 2006.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Oleynik complains of being severely beaten by FSB officers following his arrest. Under Article 5 § 1 (right to liberty and security), he also complains of being apprehended by FSB officers and detained on the FSB premises for 15 hours without his detention being acknowledged. Lastly, relying on Article 8 (right to respect for private and family life), Mr Oleynik alleges that the recording of his conversations with V., carried out in the context of a test operation instigated by the FSB, was in breach of domestic law.

Vasenin v. Russia (no. 48023/06)

The applicant, Yevgeniy Vasenin, is a Russian national who was born in 1973 and is currently detained in a psychiatric hospital in the Kostroma Region (Russia). The case concerns his complaint

about the unfairness of criminal proceedings brought against him and inadequate medical care in detention.

Mr Vasenin was arrested in November 2005 on suspicion of setting fire to a car, blowing up another car and robbery and was placed in a temporary detention facility in view of the gravity of the charges and the risk of his absconding. Before his trial, he lodged an application for a preliminary hearing on his case, arguing that he had an alibi for one of the offences and that he had incriminated himself as a result of police brutality. At the preliminary hearing on his case, which he attended, he also insisted on his transfer to a psychiatric hospital and on his personal participation at his trial; positions which were not backed up by his counsel or appointed legal guardian. The court thus ordered his continued detention pending trial and stated that, given Mr Vasenin's mental condition, Russian law did not call for his presence at trial.

Following a trial hearing held in his absence, Mr Vasenin was convicted as charged on 3 May 2006. Relying on a psychiatric report carried out before his trial which concluded that he was suffering from paranoid schizophrenia, the trial court ordered his treatment in a high-security psychiatric institution. Mr Vasenin was eventually admitted to Oryol Psychiatric Hospital on 11 June 2006 and, after that, to two other psychiatric hospitals. He was given standard psychiatric treatment with antipsychotic medication in all those hospitals and, his condition having significantly improved, he was eventually discharged in August 2009. He was also treated during his detention for hepatitis, brought under control in June 2007, and tuberculosis, from which he made a complete recovery in November 2008.

In the meantime, Mr Vasenin appealed against his conviction, alleging that he had confessed under pressure to the arson attacks and that his defence team, assigned against his will, had been manifestly ineffective. His appeal was rejected on the ground that only his lawyer or legal guardian were allowed to appeal.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Vasenin complains that he was infected with tuberculosis and hepatitis in detention and that the authorities failed to provide him with adequate medical care either for those illnesses or his mental condition. Further relying on Article 5 § 1 (right to liberty and security), he also complains about his delayed admission to a mental institution from 3 May to 11 June. Lastly, he makes a number of complaints under Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing) about the unfairness of the criminal proceedings against him, alleging in particular that it had not been possible for him to attend his trial, that his legal assistance had been poor and that he had been stripped of his right to appeal against the judgment of the trial court.

Naït-Liman v. Switzerland (no. 51357/07)

The applicant, Abdennacer Naït-Liman, is a Tunisian national who was born in 1962 and lives in Versoix in the Canton of Geneva. The case concerns the refusal of the Swiss civil courts to examine his civil claim for compensation in respect of the non-pecuniary damage caused by his alleged torture in Tunisia.

According to the applicant, he was arrested on 22 April 1992 by the Italian police at his place of residence in Italy and taken to the Tunisian consulate in Genoa. He was presented with a bill of indictment according to which he represented a threat to Italian State security. He was then taken to Tunis by Tunisian agents. Mr Naït-Liman alleges that, from 24 April to 1 June 1992, he was arbitrarily detained and tortured in Tunis at the premises of the Ministry of the Interior on the orders of A.K., the then Minister of the Interior.

Following the alleged torture, Mr Naït-Liman reportedly fled Tunisia in 1993 for Switzerland, where he applied for political asylum. The Swiss authorities granted him asylum on 8 November 1995.

On 8 July 2004 the applicant filed a claim for damages with the District Court against Tunisia and against A.K. The District Court declared the claim inadmissible on the ground that the court lacked territorial jurisdiction. It found that the Swiss courts did not have jurisdiction by necessity in the case at hand, owing to the lack of a sufficient link connecting the alleged facts with Switzerland. Mr Naït-Liman lodged an appeal with the Cantonal Court of Justice, which dismissed his claims on the grounds that the defendants enjoyed immunity from jurisdiction. It referred to the Court's Grand Chamber judgment of 21 November 2001 in the case of Al-Adsani v. the United Kingdom.

The applicant lodged an appeal with the Federal Court which was dismissed. The Federal Court considered that the Swiss courts in any event lacked territorial jurisdiction.

Relying on Article 6 § 1 (right to a fair trial), Mr Naït-Liman complains of the fact that the Swiss courts declined jurisdiction to examine the substance of his claim for damages in respect of the acts of torture to which he was allegedly subjected in Tunisia.

Ayboğa and Others v. Turkey (no. 35302/08)
Seki v. Turkey (no. 44695/09)

The cases concern allegations of shortcomings in review proceedings concerning detention on remand.

The applicants in the first case, Ali Ayboğa, Abdurrezzak Ayboğa, Abdülcebbar Ayboğa, Salih Ayboğa, and Dergah Bitkin, are Turkish nationals who were born in 1947, 1976, 1973, 1983, and 1987 respectively. At the time of the application they were being held in detention in Buca F-Type prison in İzmir (Turkey). The applicants were placed in pre-trial detention on 27 July 2007 on suspicion of being members of a criminal organisation. The applicants' lawyer subsequently objected to the order for the pre-trial detention of the first four applicants and repeatedly applied for their release pending trial. All his requests were rejected, without an oral hearing being held. In March 2008 Mr Ayboğa was indicted with establishing a criminal organisation and the other applicants with being members of a criminal organisation. Their pre-trial detention was extended and their lawyer's request for the first four applicants' release dismissed, also without an oral hearing being held, until 24 June 2008 when the trial court held its first hearing and they appeared before court. They were released on the same day.

The applicant in the second case, Deniz Seki, is a Turkish national who was born in 1970 and lives in Istanbul. Ms Seki was placed in detention on remand on 24 February 2009 and subsequently indicted for using drugs and providing drugs to third persons. All her requests for release were dismissed, without an oral hearing being held, until 1 October 2009 when the trial court held its first hearing and she appeared before the court. She was released the same day.

Relying on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), all the applicants complain about not being able to appear before a court when their pre-trial detention was reviewed.

Şahinkuşu v. Turkey (no. 38287/06)

The applicants, Fariz Şahinkuşu and Medine Şahinkuşu, are Turkish nationals who were born in 1950 and 1956 respectively and live in Adana (Turkey). The case concerns the death of their son Ferid Şahinkuşu during his compulsory military service.

Ferid Şahinkuşu joined the army on 4 December 2003 in order to perform his compulsory military service. After his basic training he was sent to the district gendarmerie barracks in Erbaa (Tokat). On 29 December 2004 Ferid Şahinkuşu, the staff sergeant and another conscript went into town to buy heating supplies and to allow the staff sergeant to run some errands. The latter ordered the two conscripts to remain close to the vehicle until he returned. While they were waiting, Ferid Şahinkuşu suggested to his fellow conscript that they buy some food in the nearby supermarket. However, they

encountered the staff sergeant and were reprimanded by him. The same day, at around 7 p.m., the staff sergeant struck Ferid Şahinkuşu for having disobeyed his orders. On 30 December 2004 Ferid Şahinkuşu committed suicide in the dormitory by shooting himself in the head with a fellow serviceman's weapon. He was airlifted to hospital, where he died from his injuries.

A criminal investigation was opened immediately. Statements were taken from the eyewitnesses and from the staff sergeant, and an autopsy was performed. The proceedings ended with a decision by the Sivas military prosecutor not to prosecute, on the grounds that there was no causal link between the conscript's death and the actions of the staff sergeant, and that no third party could be held responsible. That decision was upheld by the Malatya Military Court on 7 July 2006.

Meanwhile, on 30 December 2004, an administrative investigation into the suicide and possible negligence was opened against the captain and staff sergeant. The investigation report found that Ferid Şahinkuşu had publicly insulted the staff sergeant, with the result that the latter had been on sick leave for two days. On learning of this, Ferid Şahinkuşu had reportedly confided in his fellow servicemen, fearing in particular that his military service would be extended and that he would be punished; he had therefore committed suicide. The investigator also found that the staff sergeant and the captain had been negligent as they had not had Ferid Şahinkuşu admitted to hospital despite his having been diagnosed with psychological problems a few months earlier.

On 26 July 2005 the military prosecutor's office instituted proceedings against the staff sergeant on charges of assaulting his subordinates (Ferid Şahinkuşu and his fellow serviceman). On 4 November 2010 he was found guilty as charged and received a prison sentence of one month and 20 days, which was suspended. On 6 June 2011 an appeal lodged by Mr and Mrs Şahinkuşu was dismissed. The couple, and also Ferid Şahinkuşu's brothers and sisters, were paid damages by the Ministry of Defence after the Supreme Military Administrative Court partially granted their claim for compensation in a judgment of 14 February 2007.

Relying on Article 2 (right to life), Mr and Mrs Şahinkuşu complain of the death of their son during his compulsory military service, of the lack of measures to prevent the young man's suicide, of the inadequate nature of the investigation into his death and of their inability to obtain compensation owing to the lack of support following their son's death.

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.

Hackel v. Austria (no. 43463/09)
Faur v. Romania (no. 11501/09)
Ignat v. Romania (no. 58613/08)
Loghin v. Romania (no. 1468/08)
Kalugina v. Russia (no. 2686/06)
Mamontov and Others v. Russia (nos. 46796/06, 13260/10 and 52082/10)
Poddubnyy and Babkov v. Russia (no. 9994/06)
Sheyman v. Russia (nos. 7873/09 and 8174/09)

Thursday 23 June 2016

Ben Moumen v. Italy (no. 3977/13)

The applicant, Smail Ben Moumen, is a Moroccan national who was born in 1974 and is currently in detention in Lecce Prison. The case concerns his complaint that he was unable to question or have

questioned a witness against him.

In November 2008 A. lodged a criminal complaint against Mr Ben Moumen. The applicant had offered to give her a lift home and had then driven her into the countryside before threatening, beating and raping her. Another Moroccan national, B., had been in the car but had left when the rape was taking place. B. was questioned on 23 November 2008 by the Lesina *carabinieri*.

Mr Ben Moumen was charged with rape, assault and committing lewd acts. On 9 February 2009 A. was questioned at an *ad hoc* hearing before the investigating judge.

The hearing of 14 January 2010 was to be devoted, among other tasks, to hearing B.'s evidence. However, B. failed to appear. The court ordered that the statement which B. had given to the Lesina *carabinieri* on 23 November 2008 be read out. The statement was added to the case file. The Lucera District Court sentenced the applicant to seven years' imprisonment. His conviction was based on A.'s statements at the *ad hoc* hearing of 9 February 2009, which were judged to be detailed, credible and corroborated by other evidence, including B.'s statement.

Mr Ben Moumen appealed. He contested the assessment of the evidence against him and objected to the use of B.'s statement. The Bari Court of Appeal reduced his sentence to six years' imprisonment. Mr Ben Moumen appealed on points of law, reiterating his allegations concerning the inadmissibility of B.'s statement. The Court of Cassation dismissed his appeal, observing that the Court of Appeal had specified that B. could not be traced, that the impossibility of hearing his evidence again could not have been foreseen, and that the absence of the witness had not resulted from the latter's free choice. The authorities had attempted to serve the summons to appear on B. at the home address he had given and a report had been drawn up stating that the search had proved unsuccessful. Furthermore, B. was of Moroccan origin and his place of residence was unknown. He had been resident in Italy for a long time and had had stable and regular employment there, with the result that his failure to appear had not been "foreseeable". Lastly, there was nothing to suggest that B. had intended to evade questioning.

Relying on Article 6 §§ 1 (right to a fair trial) and 3 (d) (right to question witnesses), Mr Ben Moumen contends that the criminal proceedings against him were unfair.

Brambilla and Others v. Italy (no. 22567/09)

The applicants, C. Brambilla, D. De Salvo and F. Alfano, are Italian nationals who were born in 1954, 1976 and 1971 respectively and live in Lecco (Italy).

The case concerns the conviction of three journalists who intercepted radio exchanges between *carabinieri* in order to arrive quickly at crime scenes and report on them for their local newspaper.

Mr Brambilla is the publication director of a local online newspaper in the province of Lecco, while Mr De Salvo and Mr Alfano are journalists working for the newspaper. On 1 August 2002, using radio equipment to intercept the frequencies used by the police and the *carabinieri*, the three journalists gained access to a conversation during which the Merate *carabinieri* operations centre decided to send a patrol to a location where weapons were being stored illegally. Mr De Salvo and Mr Alfano went to the scene immediately. The *carabinieri* decided to search their vehicle and found two pieces of equipment capable of intercepting radio exchanges between law-enforcement officers. The *carabinieri* later went to the offices of the two journalists and seized two further items of fixed equipment which were tuned to the frequencies used by the *carabinieri*.

Criminal proceedings were instituted against the three applicants. They were acquitted at first instance on 9 November 2004 by the Lecco District Court, which took the view that the interception of the communications in question did not constitute an offence and that the possession and use of such equipment was not prohibited. On 15 May 2007 the three journalists were convicted on appeal and received custodial sentences. The Milan Court of Appeal held that the communications had been confidential and that their interception was punishable under the Criminal Code. However, the

applicants' sentences were suspended. The Court of Cassation upheld the Court of Appeal judgment on 28 October 2008, taking the view, among other findings, that the right to press freedom could not take precedence in a case concerning the illegal interception of communications between law-enforcement officers.

Relying on Article 10 (freedom of expression), the three journalists complain about the search of their vehicle and their offices, the seizure of their radio equipment and their conviction.

Strumia v. Italy (no. 53377/13)

The applicant, Alessandro Strumia, is an Italian national. He has a daughter who was born on 11 September from his marriage to N.R.

The case concerns Mr Strumia's inability to exercise his contact rights under the conditions set by the courts, owing to the opposition of the child's mother.

On 1 May 2007 the applicant's wife (N.R.) left the marital home with the couple's daughter, aged three at the time. On 21 May 2007 she applied to the Youth Court for urgent measures, alleging that her daughter had been ill-treated and sexually abused by her father. Mr Strumia, who had been unable to exercise his contact rights prior to that, requested that visits be arranged in a protected setting. On various dates the courts ordered meetings between the applicant and his daughter in a protected setting, but the orders were not complied with because of the mother's strong objections. The social services wrote various reports observing that the child no longer wanted to see her father and was hostile towards him; they also noted that the mother's behaviour indicated an intention to exclude Mr Strumia from the child's life.

On 2 April 2009 N.R. lodged a complaint against the applicant for indecently assaulting her daughter. In support of her claims she produced a certificate from a gynaecologist who had examined her daughter. A medical expert report was ordered from a court-appointed gynaecologist, who concluded that there had been no sexual interference with the child. On 20 July 2015 the Florence Court of Appeal acquitted the applicant of the charges against him.

In a judgment of 12 November 2010 the Florence Court of Appeal placed the child in the care of social services, with her mother's home as her main residence. The Court of Appeal also decided that the child should receive counselling and awarded Mr Strumia contact rights and the right to have the child stay with him. N.R. appealed on points of law and the proceedings are currently pending. On 25 February 2014 the Florence Court of Appeal ordered social services to take the requisite steps to secure the child's interests, including removing her from her mother's home if necessary. It also suspended N.R.'s parental responsibility, finding that she was not capable of ensuring the child's psychological development, and ruled that meetings should be arranged between Mr Strumia and his daughter. That decision was upheld by the Court of Cassation on 25 February 2015.

In 2013 the applicant lodged a criminal complaint against his ex-wife for failure to comply with a court order and ill-treatment of a family member or minor. Those proceedings are currently in progress.

Relying on Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination), the applicant complains that he was unable fully to exercise his contact rights for seven years, despite the existence of several domestic court orders setting the conditions for the exercise of that right. He complains that the domestic courts failed to put in place measures enabling him to maintain his ties with his daughter, thereby allowing his ex-wife the time to turn the child against him. He complains of the authorities' lack of action in response to his wife's conduct.

I.N. v. Ukraine (no. 28472/08)

The applicant, Mr I.N., is a Ukrainian national who was born in 1963 and lives in the town of Severodonetsk (Ukraine). The case concerns his involuntary hospitalisation.

Mr I.N. was placed in a psychiatric hospital in March 2000 following the opinion of a panel of experts, which had been requested by a prosecutor after I.N. had sent offensive letters to various authorities. He stayed in two different hospitals between March and December 2000, when he was discharged. He was again hospitalised between late May and late June 2001. I.N. subsequently requested the hospitals to allow him to study his medical file and inform him on what legal basis he had been subjected to psychiatric treatment. In September 2001 he brought court proceedings against one of the hospitals for its failure to reply to his request. His claim was rejected in 2002, but the appeal court quashed the decision and remitted the case for fresh consideration. I.N. later joined the complaint that his committal to hospital had been unlawful. In August 2007 the district court partially allowed his claim, holding that while his initial hospitalisation in March 2000 had been in compliance with the relevant provisions, his transfer to the second hospital, in September 2000, had been in breach of the Psychiatric Medical Assistance Act, which had entered into force in the meantime, in April 2000. The court awarded him the equivalent of approximately 286 euros in compensation. The decision was upheld on appeal and the Supreme Court dismissed I.N.'s appeal on points of law in February 2008.

Relying on Article 5 § 1 (e) (right to liberty and security), Mr I.N. complains that his deprivation of liberty was unlawful. He further complains, under Article 5 § 5 (right to compensation for unlawful detention), that he had no effective and enforceable right to compensation for his detention, stating that the sum awarded to him had been insufficient compared to his suffering. Finally, he complains that the length of the civil proceedings he had brought was unreasonable, in breach of Article 6 § 1 (right to a fair hearing within a reasonable time).

Kleutin v. Ukraine (no. 5911/05)

The applicant, Denis Kleutin, is a Ukrainian national who was born in 1979 and lives in Odesa (Ukraine). The case concerns his alleged ill-treatment by the police, the conditions of his detention and the alleged unlawfulness of his pre-trial detention.

In January 2004 Mr Kleutin was arrested and placed in pre-trial detention on suspicion of having committed a robbery. His detention on remand was subsequently extended and he remained in detention throughout his trial. In June 2007 he was convicted, in particular, of premeditated robbery as part of a group and sentenced to five years' imprisonment, the judgment being eventually upheld by the Supreme Court in 2008.

According to Mr Kleutin, during his arrest in January 2004 he was ill-treated by three police officers. In particular, he maintains that they threatened him and hit him on his head and body with their firearms, fracturing two of his ribs. He subsequently complained to the prosecutors, on several occasions, and to the court about his ill-treatment. Eventually, in June 2007, the prosecutor refused to institute criminal proceedings against the police, having found that no physical force had been used. This conclusion was relied upon by the domestic court when dismissing Mr Kleutin's complaint of ill-treatment.

Mr Kleutin also submits that the conditions in the pre-trial detention centre in Odesa, where he was detained from January 2004 until November 2007, were very poor. In particular, the cells were overcrowded, the sanitary conditions were poor and no outdoor activity was allowed.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Kleutin complains of having been ill-treated by the police, of the lack of an effective investigation into his complaints, and of his poor detention conditions. He further relies on Article 5 §§ 1 (c), 3 and 4 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial / right to have lawfulness of detention decided speedily by a court), complaining in particular that his detention on remand was unlawful – as it was either not covered by a court order or the relevant orders were issued without sufficient reasons – and that the overall length of his pre-trial detention was unreasonable.

Krivoshey v. Ukraine (no. 7433/05)

The applicant, Anatoliy Krivoshey, is a Ukrainian national who was born in 1966 and is currently serving a prison sentence. The case concerns his complaint about the excessive length of criminal proceedings against him for theft and the unfairness of another set of criminal proceedings against him in which he was convicted of murder.

Mr Krivoshey was arrested on 15 August 2001 as a suspect in criminal proceedings for theft and was subsequently remanded in custody. On 23 August 2001, a man, V.Z., who was being interrogated in those theft proceedings, told the police that Mr Krivoshey had been involved in a traffic accident, fatally injuring a woman, and that he had then killed the woman's husband to cover up the crime. He stated that he and Mr Krivoshey had then hidden the bodies in the forest. Later the same day, both men took part in a crime reconstruction; Mr Krivoshey, who had agreed to give testimony, admitted that he had hit the woman with his car and had helped V.Z. to cover the victims' bodies, but denied having killed the husband, stating that V.Z. had been responsible. Further criminal proceedings were then instituted against Mr Krivoshey on charges of causing a traffic accident which resulted in a woman's death and of the aggravated murder of her husband and he was ultimately found guilty as charged in May 2004. His conviction was based mainly on V.Z.'s testimony, which the trial court found had been corroborated by Mr Krivoshey's wife, the results of the crime-site inspection and the forensic expert's examination of the victims' bodies. Mr Krivoshey was also convicted of the theft charges in May 2012 and sentenced to eight years' imprisonment. Given his murder conviction, the trial court defined the final sentence for all his crimes as 15 years' imprisonment combined with confiscation of his property and a three-year driving ban.

Relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing/right to a fair trial within a reasonable time), Mr Krivoshey complains about the excessive length – more than ten years – of the criminal proceedings against him for theft and about not being given the assistance of a lawyer at the initial stage of the criminal case against him for murder, namely during the crime reconstruction of 23 August 2001, submitting that his conviction for murder had been based on the statements he had made that day.

Kulyk v. Ukraine (no. 30760/06)

The applicant, Anatoliy Kulyk, was born in 1963 and lives in the town of Shargorod (Ukraine). The case principally concerns his complaint of having been ill-treated by the police.

On 30 December 2002 Mr Kulyk was apprehended by a police officer who suspected him of having stolen aluminium sheets from a factory. According to Mr Kulyk, the officer hit him on the head with a gun handle and kicked him, after he had fallen to the ground. Mr Kulyk was then taken to the police station, where several police officers repeatedly hit and kicked him in order to make him confess to the theft. On the following day he was fined in administrative proceedings for disobeying a police officer's order to stop. On the same day a decision was adopted not to institute criminal proceedings against him for theft.

Mr Kulyk was hospitalised from early January until mid-February 2003. He was diagnosed with a number of injuries, including brain contusion of medium severity causing numerous neurological problems, two broken ribs and injuries to his kidneys and face. In February 2003 he requested the prosecutor to institute criminal proceedings against the police officers. By a decision of March 2003 the prosecutor refused to institute proceedings, concluding that Mr Kulyk had sustained his injuries when trying to run away from the police officer. This decision and subsequent decisions not to institute criminal proceedings were respectively quashed by higher prosecutors who found that further investigative steps had to be taken. In October 2004 criminal proceedings on suspicion of abuse of power were instituted, which were subsequently terminated and reopened on several occasions. Eventually they were terminated in October 2008 for absence of evidence of a crime.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment) and Article 13 (right to an effective remedy), Mr Kulyk complains that he was subjected to ill-treatment by the police which amounted to torture and that no effective investigation was carried out into his complaints. His representative further complains, in substance, of a violation of Article 34 (right of individual petition), submitting that in October 2010 the police searched his office and seized his computer, which contained documents related to Mr Kulyk's case.

Lovyginy v. Ukraine (no. 22323/08)

The applicants, Anatoliy Lovygin and Galina Lovygina, are Ukrainian nationals who were born in 1938 and 1939 respectively and live in Kherson (Ukraine). The case concerns the death of their son during a police training exercise.

The applicants' son, who was a police officer, played the role of a criminal for the purposes of a police training exercise conducted on 14 January 2000. During the exercise he was accidentally shot by another police officer. Fatally wounded, the applicants' son died on the way to hospital.

A subsequent internal investigation concluded that the accident had occurred because of an irresponsible attitude and/or negligence on the part of the police officers involved. As a result, three police officers were dismissed, two officers were demoted and one was reprimanded.

On the day of the incident criminal proceedings were opened. In the course of the investigation one police officer pleaded guilty to having shot the applicants' son. However, in July 2000 the trial court, in the absence of the applicants, terminated the criminal proceedings against that officer under the Amnesty Act, since he was the father of a minor and was not liable to serve a punishment. Ms Lovygina's request for a renewal of the time-limit to appeal against that decision was rejected. In June 2000 the prosecutor refused to institute criminal proceedings against other police officers involved in the organisation and conduct of the training exercise. That decision was quashed by the regional prosecutor and in September 2000 criminal proceedings were instituted in respect of the alleged negligence on the part of the officers involved, which were subsequently terminated and reopened on a number of occasions. A decision to terminate the proceedings was eventually upheld by the Supreme Court in January 2008.

The applicants brought proceedings against the regional department of the Ministry of the Interior claiming compensation for the damage inflicted by their son's death. Their claim was eventually rejected by the Supreme Court in October 2002, finding that since the applicants had already accepted an insurance payment – a lump sum which had been paid jointly to them and to their son's widow and daughter – they no longer had a valid compensation claim.

The applicants also unsuccessfully brought several other sets of proceedings, including against the prosecutor's offices at various levels, complaining that the investigation into their son's death had been ineffective and claiming compensation.

Relying on Article 2 (right to life), the applicants complain that the police failed to ensure the safety of the participants in the training exercise which resulted in their son's death – which they claimed, moreover, was intentional – and that the investigation into the alleged negligence on the part of the police officers was very lengthy and inefficient. The applicants also rely on Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination).

Truten v. Ukraine (no. 18041/08)

The applicant, Sergiy Truten, is a Ukrainian national who is currently in detention. The case concerns the criminal proceedings against him and the conditions of his detention.

In early July 2006 Mr Truten was questioned as a witness in connection with the disappearance of a young woman. He was subsequently arrested for "minor hooliganism" and placed in a cell at a police station. According to him, while kept in the cell on 8 and 9 July 2006, he was beaten by police

officers who threatened him and urged him to "tell the truth" about the young woman's disappearance. Questioned again on 10 July 2006 without a lawyer being present, he confessed to having murdered, robbed and raped the young woman in question. When investigators subsequently carried out a reconstruction of events in Mr Truten's presence, they found the woman's body. On the following day Mr Truten repeated his confession in the presence of a lawyer, but at a court hearing in November 2006 he stated that he had unintentionally killed the victim and submitted that the police had ill-treated him until he agreed to confess to murder. The trial court ordered the prosecution authorities to conduct an inquiry into his allegations of ill-treatment, but in February 2007 the prosecutor refused to institute a criminal investigation into the complaint.

In November 2007 Mr Truten was convicted of robbery, rape and murder and sentenced to 14 and a half years' imprisonment. The judgment was upheld by the Supreme Court in March 2008.

Mr Truten complains that the conditions in the detention centre where he was kept from August 2006 were in breach of Article 3 (prohibition of inhuman or degrading treatment). In particular: the cell where he was kept was too small for the number of inmates; it was impossible to open the window, so that in summer temperatures would rise up to 45°C; he was never allowed to leave the cell; and the food was inadequate. He further relies on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing), complaining in particular that the police questioned him several times without a lawyer being present and that the statements he had made during those questionings were used for his conviction.

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.

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They will not appear in the press release issued on that day.

Burgstaller v. Austria (no. 58461/13)
Davietmurzayev and Shabanova v. Belgium (no. 65979/10)
Krpic v. Croatia (no. 75012/12)
Maslak v. the Czech Republic (no. 15835/14)
Meissner v. the Czech Republic (no. 34827/11)
Stulir and Others v. the Czech Republic (no. 24654/12)
Loog v. Estonia (no. 56419/15)
I.O. v. France (no. 40132/15)
Saint-Denis v. France (no. 9318/13)
L'Union des Familles en Europe v. France (no. 25317/13)
Jurtz v. Germany (no. 33289/12)
F.E. v. Greece (no. 31614/11)
Castro and Lavenia v. Italy (no. 46190/13)
Ceccuti and De Barros e Vasconcellos Ponta v. Italy (no. 52511/14)
Gueye v. Italy (no. 76823/12)
Šćekić and Others v. Montenegro (nos. 24361/10, 45275/13 and 45674/13)
Calderon Silva v. the Netherlands (no. 4784/15)
Buksa v. Poland (no. 75749/13)
Lukaszewicz v. Poland (no. 32447/10)
Sliwka v. Poland (no. 37508/13)
Ali Khalil Salhi and Zaharia v. Romania (nos. 20359/12 and 73042/13)
Bărăgan v. Romania (no. 45211/08)
Căpitan and Others v. Romania (nos. 16497/06, 43943/06, 5579/07, 35907/07, 30448/08, 32241/08, 43154/08, 1411/09, 3044/09, 16199/09, 29686/09, 23802/10, 43022/10, 1799/11 and 65420/11) – **Revision**

Coman v. Romania (no. 29106/13)
Frija and Others v. Romania (no. 24515/13)
Gothard and Others v. Romania (nos. 2478/06, 35561/08, 14179/09 and 23091/10)
Iuga and Others v. Romania (nos. 47022/14, 47599/14, 48941/14, 6789/15, 7613/15, 19935/15, 29860/15, 30441/15, 31131/15, 44684/15, 49490/15 and 49920/15)
S.C. Black Sea Caviar S.R.L. v. Romania (no. 13013/06)
Şeitan and Others v. Romania (no. 2059/06)
Société Gacridanem S.R.L. and Gabriel Claudiu Nichitici v. Romania (no. 39007/06)
Spirea and Negreanu v. Romania (nos. 32136/15 and 37379/15)
Stan and Others v. Romania (no. 21837/06)
Vasile and Others v. Romania (nos. 52488/14, 53695/14, 58910/14, 64988/14 and 9459/15)
Voinea v. Romania (no. 55882/08)
Avdeyenko v. Russia (no. 21095/07)
Doshuyeva and Yusupov v. Russia (no. 58055/10)
Grodetskiy v. Russia (no. 42412/13)
Lagutin and Others v. Russia (no. 43496/12 and 87 other applications)
Malanicheva v. Russia (no. 50405/06)
Novikov and Maleyev v. Russia (nos. 36221/09 and 60001/09)
Rakhmonov v. Russia (no. 11673/15)
Shcherbak v. Russia (no. 14700/06)
Smyshnikova v. Russia (no. 69732/14)
Uktamov v. Russia (no. 65609/13)
Lukac v. Slovakia (no. 34906/14)
Lukacova v. Slovakia (no. 49377/14)
Maddalozzo v. Switzerland (no. 45165/14)
Cavus v. Turkey (no. 24296/05)
Esen v. Turkey (no. 34368/04)
Imirgi v. Turkey (no. 7358/08)
Kart v. Turkey (no. 24241/09)
Dennis Rye Ltd v. the United Kingdom (no. 60629/13)
Syllogos Ton Athinaion v. the United Kingdom (no. 48259/15)
Lyubchenko v. Ukraine (no. 34640/05)
Melnik v. Ukraine (no. 63147/13)
Yarushkevych v. Ukraine (no. 38320/05)

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