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

Press Release
issued by the Registrar of the Court

ECHR 374 (2016)
18.11.2016

Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 18 judgments on Tuesday 22 November 2016 and 41 judgments and / or decisions on Thursday 24 November 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 22 November 2016

Hiller v. Austria (application no. 1967/14)

The applicant, Rozalia Hiller, is an Austrian national who was born in 1953 and lives in Vienna. The case concerns her son's suicide.

Ms Hiller's son, M.K., born in 1981, jumped in front of a subway train on 12 May 2010 after escaping from the psychiatric hospital where he had been placed. A few months earlier – in March 2010 – a court had ordered his placement on the psychiatric ward of the Otto Wagner Hospital in Vienna, a public institution, following an acute episode of paranoid schizophrenia. Shortly after his hospitalisation he had managed to escape twice from a closed ward. However, from the beginning of April 2010 he had voluntarily taken medicine and his condition had significantly improved. He had thus been transferred to an open ward where he was successively given more freedom, such as being allowed to take walks on his own in the hospital grounds on the condition that he notified hospital staff before going out on a walk and again on his return. On 12 May he did not return from one of these authorised walks; the police informed the hospital later on in the day that he had jumped in front of a train and been killed.

Ms Hiller subsequently brought civil proceedings against the City of Vienna as the authority responsible for the hospital, seeking compensation for the death of her son. She claimed in particular that her son should have been under stricter supervision and been prevented by the hospital staff from leaving the ward, given his unpredictable behaviour and the fact that he had already escaped twice before his death. Ultimately however the domestic courts dismissed Ms Hiller's claim, concluding that the hospital, which had not recorded any signs of self-harm or suicidal thoughts throughout her son's stay in the institution, could not have foreseen her son's escape and subsequent suicide and was not therefore liable.

Moreover, the courts also noted that, given that his condition had been stabilised, restricting his liberty in a closed ward would have raised issues under both domestic law and the European Convention on Human Rights.

Relying on Article 2 (right to life) of the European Convention on Human Rights, Ms Hiller alleges that the hospital authorities had failed in their duty to prevent her mentally-ill son from taking his life.

Erményi v. Hungary (no. 22254/14)

The applicant, Lajos Erményi, now deceased, is a Hungarian national who was born in 1950 and lived in Budapest. The case concerns his dismissal as Vice-President of the Hungarian Supreme Court.

Mr Erményi was appointed Vice-President of the Hungarian Supreme Court in November 2009 for a six-year term. However, he was removed from this position in January 2012, that is to say three

years and ten months before the scheduled expiry of his mandate. This event was connected to the premature termination of the President of the Supreme Court's mandate, following his public criticism of judicial reform in Hungary (see *Baka v. Hungary*, Grand Chamber judgment of June 2016).

Mr Erményi remained in office as president of one of the Civil Law division benches of the *Kúria* (the historical Hungarian name by which the Supreme Court was renamed in 2012). He was then released from his duties in July 2012 when the compulsory retirement age of judges was lowered. The new legislation on the retirement age of judges was however subsequently found to be unconstitutional and the termination of his judicial service found to be unlawful. Mr Erményi later opted not to be reinstated to his previous position and received a lump-sum for the termination of his post as judge.

In the meantime, Mr Erményi's constitutional complaint challenging the termination of his mandate as Vice-President of the Supreme Court was rejected on the ground that it had been justified by the full-scale reorganisation of the judicial system.

Relying in particular on Article 8 (right to respect for private life) of the European Convention, Mr Erményi complains that he was dismissed from his position as Vice-President before the statutory expiry date, thus ruining his career and reputation as well as his social and professional relationships.

Abdullahi Elmi and Aweys Abubakar v. Malta (nos. 25794/13 and 28151/13)

The case concerns two asylum seekers' detention for eight months pending the outcome of their asylum procedure and in particular a procedure to assess whether they were minors or not.

The applicants, Burhaan Abdullahi Elmi and Cabdulaahi Aweys Abubakar, are Somali nationals who were born in 1996 and 1995 respectively. At the time of the introduction of their application the two applicants were detained in Safi Barracks Detention Centre, Safi, Malta.

Both applicants arrived in August 2012 in Malta by boat as irregular migrants. They were immediately registered by the immigration police. They were then given two documents in English (a Return Decision and a Removal Order) informing them that their stay was being terminated and that they would remain in custody until they had been removed.

Shortly after their arrival, they both applied for asylum, stating on their forms that they were 16 and 17 years old, respectively. They were referred to the Agency for the Welfare of Asylum Seekers (AWAS), a government-run agency, for an age assessment, which consists of one or two interviews and an X-ray of the wrist bones.

Mr Burhaan Abdullahi Elmi was interviewed and taken for the bone test a few weeks after his arrival. He claims that he was told informally in or around October 2012 that he was found to be a minor and would be released. He was, however, only released six months later under a care order and placed in an open centre for unaccompanied minors. He subsequently absconded and went to Germany where he is waiting for the outcome of judicial proceedings as to whether he would be sent back to Malta to have his asylum claim determined there.

Mr Cabdulaahi Aweys Abubakar was interviewed some weeks after his arrival and taken for the bone test some five months later. He also claims that he was told informally – in March 2013 – that he was found to be a minor and would be released. He was, however, only released two and a half months later under a care order and placed in an open centre for unaccompanied minors. He was granted subsidiary protection in September 2013.

Relying on Article 3 (prohibition of inhuman or degrading treatment), both applicants complain about the conditions of their immigration detention for eight months, which involved overcrowding, lack of light and ventilation, no organised activities and a tense, violent atmosphere. They argue that these conditions were all the more difficult in view of their vulnerable status as asylum-seekers and

minors; indeed, there was no support mechanism for them and this, combined with the lack of information as to what was going to happen to them or how long they would be detained, had exacerbated their fears. Also relying on Article 5 § 1 (right to liberty and security), they allege that their detention was the result of a blanket policy applied to all irregular migrants without distinction or review and was therefore arbitrary and unlawful; they also complain in particular that they were detained despite the fact that they claimed to be minors. They further allege under Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) that they did not have a remedy to challenge the lawfulness of their detention and under Article 5 § 2 (right to be informed promptly of the reasons for arrest) that the documents given to them on their arrival were in English, a language they did not understand, meaning that they were not provided with enough information to challenge their detention.

Grebneva and Alisimchik v. Russia (no. 8918/05)

The applicants, Irina Grebneva and Nadezhda Alisimchik, are two Russian nationals who were both born in 1943 and live in Vladivostok (Russia). The case concerns their criminal prosecution for publishing a satirical article in 2003 about the regional prosecutor.

Ms Grebneva is the editor of a weekly newspaper, Arsenyevskiyye Vesti, which is distributed in the Primorskiy Region. Ms Alisimchik is a journalist and columnist at the paper.

In late 2003 during a campaign for elections to the State Duma, the newspaper published a number of satirical articles about the campaign in the Primorskiy Region. In one of these articles, written by Ms Alisimchik and entitled "Candidates must be known from the inside!", the face of the then prosecutor of the region, Mr V., was depicted on a picture of the body of a woman dressed in a one dollar banknote. In the article, a character named 'Vasilinka' had given an interview, and was portrayed in a very negative light – including being labelled as a "prostitute-werewolf".

Mr V. brought a private criminal prosecution against the applicants, under Article 130 § 2 of the Russian Criminal Code. He alleged that the article had been highly insulting, indecent and defamatory. In June 2004, the Justice of the Peace no.27 in the Frunzenskiy District Court of Vladivostok convicted the applicants of aggravated insult. They were fined 30,000 Russian roubles (approximately 860 euros) each. In particular, the court found that the article had invited the reader to associate the character of 'Vasilinka' with Mr. V.. It had therefore portrayed Mr V. as an immoral and corrupt 'prostitute-werewolf', and that the applicants' actions had been intended to damage the honour, dignity and professional reputation of Mr V..

The Frunzenskiy District Court of Vladivostok heard an appeal of the case. However, in July 2004 it found against the applicants, for reasons similar to those given at first instance. In August 2004 the Primorskiy Regional Court upheld the applicants' conviction in a final appeal, endorsing the reasoning of the lower courts.

Relying on Article 10 (freedom of expression), the applicants complain of their criminal conviction for a satirical publication.

Ortsuyeva and Others v. Russia (nos. 3340/08 and 24689/10)

The applicants are 49 Russian nationals who were born between 1935 and 2003 and live in Mesker-Yurt and Grozny (Chechnya, Russia), and Komsomolskoye (Dagestan, Russia). They are all close relatives of 17 men who disappeared as a result of a large-scale sweeping operation conducted by Russian military forces in Mesker-Yurt between 21 May and 11 June 2002.

The applicants make the following claims about the operation. At the time, the village of Mesker-Yurt was under curfew. The Russian military forces had set up checkpoints on the roads leading to and from the settlement, and nobody was allowed to leave. The military servicemen then checked the residents' identity documents. After the check, the servicemen took the applicants' relatives

away (as well as a number of other members of the village), under the pretext of needing to carry out further identity checks on them. They were taken to a temporary filtration camp outside of the village.

On 4 June 2002 the body of one of the applicants' relatives was thrown from a military vehicle on the outskirts of the village. The other 16 abducted men were transferred from the filtration camp to an unknown location. The applicants maintain that they have had no news of their missing relatives since. Between 9 and 17 June 2002, the military unit conducting the special operation left the place where they had been stationed, as well as the temporary filtration camp. On 17 June 2002, local residents went to the place where the military unit had been stationed. They state that they found several pits with blown-up human remains.

Between June and July 2002, criminal investigations concerning the abductions were started by the Shali district prosecutor's office. They investigations were later joined into a single criminal case. From 2002 onwards, the case was repeatedly transferred between different government authorities, as well as being suspended and restarted. The applicants made repeated complaints to the authorities, but no investigation has been completed, and no criminal proceedings have been brought against any of the alleged perpetrators. The proceedings are still pending.

Relying on Article 2 (right to life), the applicants complain that their relatives disappeared after being detained by military servicemen during the security operation, and that the domestic authorities failed to carry out effective investigations into the matter. Relying on Article 3 (prohibition of inhuman or degrading treatment), they complain of the mental suffering caused to them by the disappearance of their relatives. Relying on Article 5 §§ 1 (c), 2, 3, 4, and 5 (right to liberty and security), they complain of the unlawfulness of their relatives' detention. Finally, they rely on Article 13 (right to an effective remedy) to complain that there were no domestic remedies available to them in relation to the alleged violations.

Kaos Gl v. Turkey (no. 4982/07)

The applicant is an association established under Turkish law, the "Kaos Association for cultural research and solidarity of gays and lesbians" (*Kaos Gey ve Lezbiyen Kültürel Araştırmalar ve Dayanışma Derneği*); it has its headquarters in Ankara. It seeks to promote the rights of the lesbian, gay, bisexual and transsexual (LGBT) community in Turkey. The case concerns the seizure of all the copies of a magazine published by the association.

On 21 July 2006 the Ankara public prosecutor, on the basis of section 25 § 1 of the Press Act, seized three copies of issue no. 28 of the magazine *Kaos GL*, prior to distribution. The issue in question contained articles and interviews on pornography and homosexuality; some of the accompanying photographs were explicit. On the same date the criminal court of first instance, at the public prosecutor's request, ordered that the 375 copies of issue no. 28 of the magazine be seized for the purpose of a criminal investigation. It considered that the content of certain of the published articles and images ran counter to the principle of protecting public morals. The association *Kaos GL* applied to the Ankara Criminal Court to have that decision set aside, but their application was dismissed.

At the same time the Ankara public prosecutor brought proceedings against Mr Umut Güner, president of the applicant association and editor-in-chief of the magazine *Kaos GL*, for publishing obscene images through the medium of the press, an offence provided for in Article 226 § 2 of the Criminal Code. In 2007 the Ankara Criminal Court acquitted Mr Güner of the offence with which he had been charged. It considered that the constituent elements of the offence had not been made out, since the copies of the magazine had been seized prior to distribution. The court also ordered that the 378 seized copies of the magazine be returned to the defendant once its decision had become final. In 2012 the Court of Cassation upheld the criminal court's judgment.

Relying on Article 10 (freedom of expression), the applicant association complains about the seizure of issue no. 28 of the magazine *Kaos GL* and about the criminal proceedings brought against the

association's president, who was also the magazine's editor-in-chief. Under Article 6 § 1 (right to a fair trial), it criticises the domestic courts for failing to give sufficient reasons for their decisions with regard to the seizure.

Kerman v. Turkey (no. 35132/05)

The applicant, Hüseyin Serhat Kerman, is a Turkish national who was born in 1962 and lives in Tekirdağ (Turkey). The case concerns criminal proceedings which took place before the military courts and which involved Mr Kerman, who was a military doctor at the relevant time.

In 2005 the Elazığ military prosecutor's office questioned Mr Kerman as part of a preliminary investigation into suspicions of undue influence and rigging public calls for tender. On the same date Mr Kerman was heard by the three-judge Elazığ military court, which unanimously ordered that he be placed in detention, having regard to the existence of serious evidence of his guilt and to the need to maintain military discipline. His appeal against that detention order was dismissed. On 11 May 2005 the military prosecutor's office examined, of its own motion, the question of Mr Kerman's possible release. By an order of that same date, it ruled that it was appropriate to maintain the applicant in detention. Mr Kerman also submitted an application for release, which he sent to the prosecutor's office for transmission to the court. The court dismissed the request, having regard to the nature and seriousness of the offence, the period already spent in detention and the need to maintain strict military discipline.

On 30 June 2005 the prosecutor's office closed the investigation and drew up an indictment charging Mr Kerman with acts of undue influence and rigging public calls for tender, among other offences. Between 7 July and 3 August 2005 Mr Kerman submitted several requests for release to the military court. At the first hearing on 4 August 2005 the military court ordered Mr Kerman's release, holding that the grounds which had justified his placement in detention had ceased to exist. In 2009 the military court convicted Mr Kerman of abuse of office but held nevertheless that it was appropriate to suspend pronouncement of the judgment for a so-called probation period of five years. Mr Kerman lodged an appeal against that judgment. His appeal was dismissed.

Relying on Article 5 § 1 (right to liberty and security), Mr Kerman complains about having been placed and kept in pre-trial detention. Under Article 5 § 3 (right to liberty and security), he complains that neither the judge nor the prosecutor who ruled on his detention was independent. Relying on Article 5 § 4 (right to speedy review of the lawfulness of detention), he alleges a violation of the right to appeal against his detention. Further relying on Article 5 § 5 (right to liberty and security), he complains that he did not have an effective remedy by which to obtain reparation. Lastly, under Article 6 (right to a fair hearing), he complains that at the first hearing he was not informed by the prosecution service of his rights and of the accusations against him, and that he was unable to obtain legal assistance at that stage of the proceedings.

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.

Antsiferov and Novikov v. Russia (nos. 10387/07 and 1372/10)
Artemenko v. Russia (no. 24948/05)
Belova v. Russia (no. 4629/07)
Dzhasybayeva v. Russia (no. 49689/10)
Gviniashvili v. Russia (no. 44292/09)
Kiselev v. Russia (no. 11010/10)
Kornilov v. Russia (no. 50624/09)
Kosyanov v. Russia (no. 7955/07)

Maryasova and Others v. Russia (nos. 1956/05, 12055/07, 25655/07, 32983/07, 35385/07, 44395/07, 10688/08, 7461/09, 29775/09, 5290/10, 19055/10, 33694/10, 37955/10, 57867/10, 65011/10, 6914/11, 6951/11, 27075/11, 33042/11, 40292/11, 42297/11, 46006/11, 52428/11, and 3537/12)
Vasilyadi v. Russia (no. 49106/09)
Grešáková v. Slovakia (no. 77164/12)

Thursday 24 November 2016

Manucharyan v. Armenia (no. 35688/11)

The applicant, Spartak Manucharyan, is an Armenian national who was born in 1976 and is currently serving a 13-year prison sentence for murder. The case concerns his complaint that his conviction was based on the pre-trial statement of a key prosecution witness who did not attend his trial and whom he had had no opportunity to examine at any stage of the proceedings against him.

On 1 July 2009 Mr Manucharyan presented himself to the police, surrendering a gun and confessing to the murder of a man in the town of Alaverdi. The same day the victim's girlfriend was questioned by the police, and stated that she had witnessed Mr Manucharyan, her neighbour, open fire on her boyfriend's car, killing him. Mr Manucharyan was charged with murder and illegal possession of firearms. However, when questioned on 3 July 2009 Mr Manucharyan denied the charges and refused to testify. At additional questioning in March 2010 he stated that he had confessed to the murder to cover up for his brother, who in the meantime had been killed.

The case was referred to the Lori Regional Court for trial in April 2010. During the ensuing judicial proceedings, the Regional Court had to reschedule a number of hearings on the case in an attempt to secure the presence of the victim's girlfriend and sought police assistance to that end. However, the police repeatedly failed to enforce the court's orders to compel the victim's girlfriend to attend the trial as they could not locate her; she was believed to have left the country. The Regional Court eventually examined the case in her absence and found Mr Manucharyan guilty as charged in November 2010. The court relied, in particular, on the following evidence: witness statements by the victim's girlfriend and her family as well as by a friend of Mr Manucharyan's father, whom he had cited to confirm his alibi for the night of the murder, and forensic evidence of gunshot residue on the clothes worn by Mr Manucharyan on the day of the murder.

Mr Manucharyan's conviction was upheld by the Court of Appeal in January 2011, which relied on the same body of evidence as the Regional Court. The Court of Appeal did not address Mr Manucharyan's request to have the pre-trial statement of the victim's girlfriend declared inadmissible as she had not been examined in court.

The Court of Cassation declared Mr Manucharyan's appeal on points of law inadmissible for lack of merit in April 2011.

Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), Mr Manucharyan alleges that he was deprived of the opportunity to examine the sole eyewitness in his case and whose testimony played a decisive role in his conviction.

Muradyan v. Armenia (no. 11275/07)

The applicant, Hrachya Muradyan, is an Armenian national who was born in 1956 and lives in Baghramyan village (Armenia). The case concerns the death of his son, Suren Muradyan, during his compulsory military service, allegedly following ill-treatment by his superiors.

Suren Muradyan was drafted into the Armenian army in June 2001 and assigned to a military unit based in the (unrecognised) Nagorno Karabakh Republic. On or around 24/25 July he started to feel unwell, having a temperature, muscle pain, headaches and nausea. Two military doctors visited him

and gave him paracetamol. His condition having deteriorated, on 3 August 2002 he was hospitalised with suspected malaria. The next day his condition worsened further: he lost consciousness and his pulse disappeared. Doctors failed to resuscitate him and his death was registered at 9.15 p.m. The results of a blood test the same day showed no trace of malaria.

The Karabakhi authorities immediately ordered a post-mortem examination, including an autopsy. The following day the examiner made his initial conclusion about the cause of death, reporting to the Karabkhi investigator that Suren Muradyan had died from internal bleeding due to a ruptured spleen and that the injury to his spleen had involved old and new bruises. The Karabkhi investigator thus decided to institute criminal proceedings for intentional infliction of grave bodily harm resulting in death. During the subsequent inquiry, the Karabakhi investigating authorities interviewed a number of servicemen. On 7 August 2002 a group of servicemen from Suren's military unit suggested that there had been conflict between Suren and two of his officers over an allegedly stolen watch. The group of servicemen stated in particular that they had witnessed an argument between Suren and the two officers on 21 July 2002 during which one of the officers had grabbed Suren's hand and removed the watch. They also explained that Suren had, over the next few days, been taken to the office of the military unit's acting commander to reveal the identity of the person who had allegedly stolen the watch and return another watch which had also apparently been lost. The two officers were questioned a few days later and the acting commander ten days later, they denied any ill-treatment. A further two servicemen, who had been summoned to the acting commander's office at the same time as Suren about the allegedly stolen watches, were also questioned; they stated however that they were not aware of Suren having been subjected to any ill-treatment.

The investigation into Suren Muradyan's death was then taken over by the Armenian prosecuting authorities in July 2003. Further interviews took place. In October 2003 one of the servicemen, G.M., who had also been summoned to the acting commander's office about the stolen watch/es, confirmed a statement he had made a few months earlier in which he had admitted that the acting commander had ill-treated him during those visits to his office. In April 2004 one of the implicated officers, V.G, was questioned again; it transpired that he had not previously told the whole truth and that there had actually been some accidental contact with Suren Muradyan's abdomen during the argument of 21 July 2002. The official investigation eventually concluded that Suren Muradyan's ruptured spleen was explained by this accidental physical contact. Further medical reports were drawn up which confirmed this explanation as well as the initial suspected diagnosis of malaria; the latter was relied on to explain why Suren's spleen was enlarged and could have erupted even from light contact. On completion of this investigation in April 2005, three defendants – officer V.G. as well as two military doctors – were indicted. The prosecutor decided, however, not to prosecute the acting commander of the military unit for beating G.M. as the commander had no criminal record and regretted his actions.

In the ensuing court proceedings officer V.G. and the two military doctors were found guilty. V.G. was sentenced to five years' imprisonment. The two military doctors were ultimately also sentenced to four years and three and a half years' imprisonment, respectively, but were granted amnesty and released. Allegations made during the appeal proceedings by two servicemen who had been in hospital with Suren just before he died and who submitted that he had told them that he had been ill-treated by his superiors were dismissed; the Court of Appeal found that these submissions were not sufficient for bringing harsher charges against officer V.G. or for remitting the case for further investigation against the other officers involved.

Mr Muradyan alleges that his son died as a result of ill-treatment by his superiors as well as of the failure to provide him with adequate medical assistance. He also submits that the authorities failed to carry out an effective investigation into the incident; indeed they even used the entire investigative machinery to make a false account of his son's fatal injury look plausible. He relies on

Article 2 (right to life), Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy).

Mustafa Hajili v. Azerbaijan (no. 42119/12)

The applicant, Mustafa Mustafa oglu Hajili, is an Azerbaijani national who was born in 1972 and lives in Baku. He was a journalist, and at the relevant time was working as the editor-in-chief of the *Demokrat* newspaper. He was also a member of the Musavat Party. The case concerns the applicant's allegation that he was assaulted by police officers, and that the authorities failed to properly investigate the incident.

On 2 April 2011, Mr Hajili intended to participate in a demonstration being held that day by a number of opposition parties in Fountains Square, Baku. However, upon arriving at the square, he was arrested by a group of police officers.

Mr Hajili claims that he was then taken to the Nasimi District Police Office, and placed in the exercise yard of the temporary detention centre along with other arrested persons. A few minutes later, the deputy head of the police station, S.N., entered the yard. He was accompanied by two men, one of whom was wearing a police uniform, while the other was in plain clothes. According to Mr Hajili, he introduced himself as a journalist, and asked S.N. why he had been arrested. He claims that the two men accompanying S.N. then held his arms, while S.N. punched and kicked him in different parts of his body. The three assailants then left the detention centre. The Government claims that the assault did not take place.

Two days later, Mr Hajili lodged a criminal complaint about the incident with the Nasimi district prosecutor's office. The investigator in charge of the case obtained evidence from Mr Hajili, and also two witnesses to the event who had been detained in the exercise yard at the time. Mr Hajili's account of the event remained consistent with the one he had made in his complaint, whilst the two witnesses also stated that the assault had taken place. A forensic expert carried out an examination of Mr Hajili, finding bruising on his calf, and stating that the time at which it had been inflicted corresponded to 2 April 2011. The investigator also questioned S.N. in relation to the incident, as well as four other police officers. They all denied that an assault had taken place.

On 25 April 2011, the deputy prosecutor of the Nasimi district prosecutor's office issued a decision refusing to institute criminal proceedings in relation to the incident. Mr Hajili lodged a complaint about the decision in the Nasimi District Court, claiming that it had been unsubstantiated. In particular, Mr Hajili complained that the prosecutor had not taken into consideration either the witness evidence or the forensic report, and that he had failed to explain any of the circumstances in which the injury had been caused.

Mr Hajili's complaint was dismissed by the court on 24 January 2012. The court found that the prosecutor's decision had been lawful and properly substantiated; and that, though there was a bruise on Mr Hajili's body, it had not been established that this had been caused by S.N.. The court did not mention the witness statements that had been given in favour of Mr Hajili's version of events.

Mr Hajili appealed the decision, re-iterating his previous complaints. However, his appeal was dismissed by the Baku Court of Appeal on 6 February 2012.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy), Mr Hajili complains that he was ill-treated in police custody, and that the domestic authorities had failed to investigate his allegations.

Just Satisfaction

Ünsped Paket Servisi SaN. Ve TiC. A.Ş. v. Bulgaria (no. 3503/08)

This case deals with the question of just satisfaction following a judgment by the European Court of Human Rights concerning the confiscation of a lorry.

The applicant company, Ünsped Paket Servisi SaN. Ve TiC. A.Ş., is a Turkish logistic services company.

On 23 June 2007 a lorry belonging to the applicant company, was stopped for inspection at the Yambol customs post (Bulgaria). The Bulgarian authorities discovered and seized a quantity of drugs with an estimated value of 27,000 euros (EUR). Criminal proceedings were opened against the driver of the lorry and the lorry was seized as material evidence.

On 26 June 2007 the applicant company asked the Prosecutor for the return of the lorry. This was refused on the basis that it had to be retained as material evidence until the end of the criminal proceedings. On 3 August 2007 the applicant company renewed its request for the return of the lorry arguing, amongst other things, that the holding of the lorry was no longer justified as a forensic report had already been prepared and the value of the lorry (EUR 83,000) was over three times the value of the drugs seized. Meanwhile, the lorry driver agreed to a plea bargain with the prosecutor; the terms of the plea bargain included the forfeiture of the lorry. On 8 August 2007 the applicant company asked the criminal court not to confiscate its lorry, again arguing that the value of the lorry was three times higher than the value of the smuggled goods and as such, and in accordance with national law, should not be forfeited. However, the plea bargain agreed between the driver and the Prosecutor was accepted by the court on 14 August 2007 and the applicant company's lorry was forfeited.

On 26 May 2008 the company brought proceedings in Turkey against the lorry driver, seeking damages. The driver was found liable to pay the company for the damage his actions had caused but the company could not collect any of the compensation awarded as the lorry driver had no assets.

Ünsped Paket Servisi SaN. Ve TiC. A.Ş. complained, in particular, that the confiscation of its lorry in proceedings in which it had not been a party had breached its property rights under Article 1 of Protocol No. 1 (protection of property) to the European Convention.

In its principal judgment of 13 October 2015 the Court found a violation of Article 1 Protocol 1 and held that the question of the application of Article 41 (just satisfaction) of the Convention was not ready for decision and reserved it for decision at a later date.

The Court will deal with this question in its judgment of 22 November 2016.

Polimerkonteyner, Tov v. Ukraine (no. 23620/05)

The applicant company, Kharkivskyy Zavod Polimerkonteyner Ltd., is a limited liability company based in Ukraine which produces containers and other packaging items. The case concerns the customs authorities' practice of attributing the wrong code to certain goods the applicant company imported, resulting in them having to pay a higher customs duty.

Between 2001 and 2006 the customs authorities kept assigning the wrong classification code to a fabric which the applicant company had started importing into Ukraine in 1999. This had led to a considerable increase in the customs duty the company had to pay.

The company thus brought successive rounds of judicial proceedings to recover the overpaid customs duty. The courts found in the applicant company's favour each time – in total there were eight final judgments setting aside 14 respective decisions of the customs office and ordering the return to the applicant company of the overpaid tax.

However, the customs authorities continued to assign the wrong code to the fabric when it was subsequently imported by the applicant company.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicant company complains that, despite numerous final decisions in its favour, it had been regularly forced to pay the wrong customs duty. Meanwhile it had not been able to use either the imported fabric – as it had been impounded pending the judicial proceedings – or the funds paid out in wrong customs duty. Further relying on Article 6 § 1 (right to a fair hearing), it also complains that the final domestic decisions in its favour were not duly enforced.

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.

Huseynov and Others v. Azerbaijan (nos. 34262/14, 35948/14, 38276/14, 56232/14, 62138/14, and 63655/14)
Anatoli Borisov Dimitrov v. Bulgaria (no. 78441/11)
Dimitrova and Others v. Bulgaria (no. 54833/07)
Éri v. Hungary (no. 75500/12)
Fedrigon and Others v. Italy (no. 32728/02 and 43 other applications)
Pisanti v. Italy (no. 23899/08)
Galaida and Coposciu v. the Republic of Moldova (no. 29732/07 and 41421/07)
Buru and Curtușan v. Romania (nos. 41038/14 and 29913/15)
Dragomir and Others v. Romania (nos. 39366/14, 53995/14, 54806/14, 69928/14, 76340/14, 34354/15, 36304/15, 45763/15, 53029/15, 53944/15, 53968/15, 55355/15, 56811/15, 3371/16, and 3561/16)
Kovács and Krajczár v. Romania (nos. 16227/15 and 40241/15)
Prian and Farcaș v. Romania (nos. 53409/14 and 68453/14)
Afanasyev v. Russia (no. 61531/14)
Aleksandrov and Others v. Russia (nos. 26764/06, 55597/10, 51330/11, and 60876/11)
Borisenko and Others v. Russia (nos. 18682/09, 58052/09, 49397/10, 41901/11, 19251/13 and 13382/14)
Chernykh v. Russia (no. 32719/09)
Ivanov v. Russia (no. 24533/09)
Klepikov and Others v. Russia (nos. 3400/06, 1134/12, 27903/12, 15155/13, 1454/14, 43335/14, 43527/14, 60371/14, 68060/14, 36550/15, 39181/15, 41633/15, and 51162/15)
Kolevatov and Others v. Russia (nos. 47696/10, 62151/10, 17790/11, 35535/12, 44590/12, 29586/13, 33709/13, 50624/13, and 2959/15)
Kravets v. Russia (no. 49961/10)
Mayevskiy and Others v. Russia (nos. 5403/07, 12097/09, 52460/13, 54286/13, 60823/13, and 6503/14)
Migashkin v. Russia (no. 31548/09)
Mumzhiyev v. Russia (no. 752/15)
Ryabtseva v. Russia (no. 36214/10)
Solovyev and Others v. Russia (nos. 68433/10, 55250/13, and 44979/14)
Terenina v. Russia (no. 46144/12)
Zborshchik v. Russia (no. 54549/08)
Caballero Ramirez v. Spain (no. 24902/11)
Hjelm v. Sweden (no. 36557/13)
Gergalo v. Ukraine (no. 12450/06)
Kulyk and Others v. Ukraine (nos. 6747/04, 38832/07, 7828/08, 10879/08, 11888/08, 26043/08, 50512/08, 51146/08, 41732/09, and 54472/12)
Nosova v. Ukraine (no. 9636/07)

Pasternak and Others v. Ukraine (nos. 27517/08, 37340/08, and 11632/11)
Roslyakov and Others v. Ukraine (nos. 69411/13, 31486/15, 49161/15, and 57645/15)
Svystoruk v. Ukraine (no. 50067/13)
Svystun and Others v. Ukraine (nos. 25250/16, 26596/16, and 37731/16)
Yurchenko and Others v. Ukraine (nos. 36102/07, 43816/07, 51770/08, and 48971/13)

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

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Denis Lambert (tel: + 33 3 90 21 41 09)
Inci Ertekin (tel: + 33 3 90 21 55 30)
George Stafford (tel: + 33 3 90 21 41 71)