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 14 judgments on Tuesday 24 October 2017 and 26 judgments and / or decisions on Thursday 26 October 2017.

*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 24 October 2017

Achim v. Romania (application no. 45959/11)

The applicants, Angela Achim and Nicolae Achim, are Romanian nationals belonging to the Roma ethnic group. They were born in 1970 and 1957 respectively and live in Mănăstirea (Călărași). The case concerns the placement in care of the couple's seven children.

In August 2010 Ms Achim sent a complaint to the Romanian President claiming that her father had subjected her to abuse and threatened her children. Following an investigation the authorities established that Ms Achim's allegations had no basis in fact. The Călărași Directorate-General of Social Assistance and Child Welfare (DGASPC) was subsequently instructed to assess the situation of her children.

In September 2010 the social services visited Ms and Mr Achim's home, noting, in particular, that the children did not attend school and that they had not been registered with a doctor; that their parents' financial situation was insecure and that they lived in an insalubrious house. Consequently, the DGASPC wrote to Ms and Mr Achim to inform them that as parents they had to provide the minimum conditions necessary for their children's development and should not neglect them. A regular follow-up programme was then put in place for the family.

From October 2010 to January 2011 the social services paid several visits to Ms and Mr Achim's home, noting that the children's living conditions had remained unchanged. According to the social services, Ms and Mr Achim were refusing to cooperate and failing to honour their parental obligations. In a report of February 2011 they recommended that the children be placed under a protection order.

In April 2011, at the DGASPC's request, Călărași County Court ordered the emergency placement of the seven children, followed by their temporary placement in care. One of the children was placed with a childminder and the other six in a special residential centre. Ms and Mr Achim unsuccessfully appealed against the court decision temporarily placing the children in care.

Following the placement of their children, Ms and Mr Achim carried out work on their house, in particular thanks to financial assistance from the municipality. Moreover, they continued to visit their children and to contact them by telephone. Their financial situation also improved, and they agreed to take part in a programme to help them understand and exercise their rights and obligations as parents. In April 2012 a fresh investigation showed that the couple's living conditions had improved. They had cooperated with the authorities and begun to take the necessary action for their children's well-being. The DGASPC therefore proposed reuniting the children with their family. They finally came back home in June and August 2012.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Ms and Mr Achim complain, in particular, of the placement in care of their children, which they deemed unjustified.

Dickmann and Gion v. Romania (nos. 10346/03 and 10893/04)

The applicant in the first case was Dora Dickmann, an Israeli and Romanian national, who was born in 1932 and died in 2003. The proceedings have been continued by her husband, Jean Dickmann, who lives in Tel Aviv (Israel). The applicants in the second case were Mariana Gion, a Romanian and German national, born in 1943 and living in Essen, Germany, and her husband Helmut-Ion Gion, a German national, who was born in 1941 and died in 2004. The proceedings have been continued by his heirs, Mariana Gion and Nicolette Monica Gion.

The case concerns various proceedings based on the legislation on property restitution enacted in Romania after the fall of the communist regime and the applicants' complaints of the inefficiency of the restitution mechanism. They allege that although their title to property which had belonged to their predecessors before it was nationalised under the communist regime – buildings and appurtenant land – was acknowledged by the Romanian courts, they were prevented from enjoying their respective right owing to the sale of the property by the State.

Ms Dickmann's claim for restitution of a building and its appurtenant land in Bucharest, which had belonged to her predecessors, was allowed by a Bucharest district court in June 1997. As there was no appeal it became final. Since the flats in the building had been sold to the tenants by a State-owned company responsible for the management of property belonging to the State, in 1996 and 1997 respectively, Ms Dickmann lodged two civil actions in 2000, seeking the rescission of the sales contracts. Her claims were dismissed and no decision was taken regarding her parallel claim seeking compensatory measures.

A claim lodged by the applicants in the second case, seeking reparatory measures in respect of a flat in Piteşti which was their property and had been seized by the State in 1977 after the applicants' decision to leave the country, was dismissed in May 1997 as the flat had in the meantime been sold to its tenants. The applicants' subsequent claims seeking to recover possession of the flat were allowed in May 2000. However, the tenants challenged the enforcement of that judgment and the Court of Appeal eventually found, by a final judgment of June 2003, that the judgment of May 2000 awarding the applicants title to the property was unenforceable against the tenants. In a separate set of proceedings against the tenants the applicants again sought to recover possession of the flat. Initially the courts found for them, but eventually the county court allowed an appeal by the tenants and found that the sale of the flat had been lawful. At the same time held that the applicants were entitled to compensation.

The applicants complain that their inability to obtain restitution of their properties or to secure compensation was in breach of Article 1 of Protocol No. 1 (protection of property) to the European Convention. They further allege a violation of Article 6 § 1 (right to a fair hearing).

Revision

Guță Tudor Teodorescu v. Romania (no. 33751/05)

The case concerns a request for revision of a judgment by the European Court of Human Rights on the compensation mechanism for property taken over under the Treaty of Craiova of 1940. The applicant, Guță Tudor Teodorescu, was a Romanian national who was born in 1925 and died in 2016.

A compensatory mechanism for Romanian citizens whose immovable properties were confiscated without compensation under the Treaty of Craiova of 1940 was established in March 1998 under Law no. 9/1998. There have since been a number of successive legislative amendments impacting the functioning of this mechanism, the most recent being Law no. 164/2014 which provides for a

five-year instalment payment plan and adjustment of the amounts granted as compensation in line with the consumer price index.

In April 1998 Mr Teodorescu lodged a request with the Bucharest Commission for Implementing Law no. 9/1998 seeking compensation for assets owned by his ancestors in provinces which were formerly part of Romania and were transferred to the Bulgarian State. In December 2000 the Commission issued a decision proposing him compensation of approximately 88,000 euros (EUR). The compensation was eventually validated in August 2003 and paid out in November 2003, which at that time represented approximately EUR 54,000. In the meantime, Mr Teodorescu had brought judicial proceedings claiming adjustment of the compensation to take into account inflation. His general entitlement to have the amount of compensation adjusted was confirmed several times by the courts between 2002 and 2004. However, in February 2005 the Bucharest Court of Appeal found against Mr Teodorescu. The Court of Appeal notably found that he was not entitled to an adjustment for inflation because the compensation had been paid all at once and in the same year as it had been validated.

Relying in particular on Article 1 of Protocol No. 1 (protection of property), Mr Teodrescu complained that the authorities had failed to issue and validate the decisions granting him compensation in good time and that the courts had then refused his claim for an adjustment of the compensation in line with inflation.

In its judgment of 5 April 2016 the Court found a violation of Article 1 of Protocol No. 1 and awarded Mr Teodorescu 900 euros for non-pecuniary damage.

The Romanian Government have now requested revision of the judgment of 5 April 2016, which they had been unable to execute because the applicant had died before the judgment was adopted.

The Court will deal with the Government's request in its forthcoming judgment of 24 October 2017.

Devyatkin v. Russia (no. 40384/06)

The applicant, Nikolay Devyatkin, is a Russian national who was born in 1986 and lives in Krasnodar (Russia). The case concerns an allegation by a minor about police brutality.

On 4 November 2003 Mr Devyatkin, 16 years old at the time, was stopped by two police officers. He alleges that one of the officers seized him by the neck, knocked him down and tried to strangle him. He says he was then punched and dragged into a police car, before being taken to a local administrative building where his father eventually found him and took him home.

The father was subsequently found guilty of failing to properly bring up his son because he had used obscene language in a public place. The father appealed and the proceedings against him were later dropped as there was a lack of evidence to show that he had not properly raised his children, who had been well cared for, studied hard in school and were from a well-thought of family.

Mr Devyatkin sustained multiple injuries, including a fracture of the hyoid bone, cuts and bruising to his neck, face and elbow, as recorded in a number of medical reports.

Mr Devyatkin's mother attempted to initiate criminal proceedings against the police officers, without success. Investigators refused on a number of occasions to open a criminal case, basing their decisions on a pre-investigation inquiry which had concluded that the applicant's injuries must have occurred when he had attempted to escape the police, necessitating the use of force. The investigators' refusals were annulled on a number of occasions by their superiors with instructions to clarify exactly what each police officer had done to restrain the applicant or whether there had actually been any need to apprehend him. Most recently, in 2005, the investigator maintained however his findings without rectifying those shortcomings.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment), Mr Devyatkin complains that he sustained injuries at the hands of the police and that no effective investigation was carried out into his complaints.

Nesterenko and Gaydukov v. Russia (nos. 20199/14 and 20655/14)

The applicants, Konstantin Ivanovich Nesterenko and Gennadiy Nikolayevich Gaydukov, are Russian nationals who were born in 1973 and 1965 respectively and live in Tikhoretsk (Krasnodar region). The case mainly concerns the right of access to a court by Mr Nesterenko and Mr Gaydukov, two servicemen who had requested the privatisation of the apartments assigned to them by the Ministry of Defence.

The Ministry of Defence assigned Mr Nesterenko and Mr Gaydukov apartments on a social lease contract, which the applicants hoped to have privatised. They contacted the agency managing the apartments and also the Ministry of Defence, which replied that since the relevant administrative regulations on the privatisation procedure were still at the drafting stage, they could not take the requisite action to privatise the apartments. Those authorities added that they could, however, secure ownership rights through the courts.

Mr Nesterenko and Mr Gaydukov lodged an action with the Tikhorestsk Court against the Ministry of Defence and the management agency, seeking recognition of ownership rights over their apartments. By preliminary decision of 24 July 2013 the court declared their actions inadmissible on the grounds that they had failed to submit a pre-litigation request before applying to the court. According to the court, claimants were required to use administrative channels, and to lodge a judicial appeal only if their pre-litigation request was rejected; consequently, since the Ministry had not, strictly speaking, rejected the applicants' privatisation requests, the requirement on submitting a pre-litigation request had been flouted.

Mr Nesterenko and Mr Gaydukov appealed. In September 2013 the Krasnodar Regional Court of Appel dismissed their appeals and upheld the court's decisions.

Relying on Article 6 § 1 (right of access to court), Mr Nesterenko and Mr Gaydukov complain that their judicial remedies were not examined on their merits.

Štefančič v. Slovenia (no. 58349/09)

The applicant, Frančiška Štefančič, is a Slovenian national who was born in 1933 and lives in Ajdovščina (Slovenia). The case concerns her son's death in the course of a police intervention intended to take him to a psychiatric hospital.

The applicant's son, Branko Štefančič, born in 1961, was suffering from mental illnesses and was admitted to the psychiatric hospital on several occasions. In June 2008 he regularly telephoned and went in person to the Nova Gorica State Prosecutor's Office, making various delusional accusations. On 19 June 2008 he threatened that he would come back to the Prosecutor's Office on the next day, armed. The head of the Prosecutor's Office then contacted the psychiatric hospital where Mr Štefančič had been treated and was advised to suggest to the community health centre that a referral be made for his involuntary confinement. In the early evening of the same day, several police officers, a doctor of the health centre and two medical technicians went to Mr Štefančič's home.

According to the police report, Mr Štefančič refused to be taken to the psychiatric hospital. He became agitated and verbally aggressive. When he pushed off the medical technicians who were attempting to take him by his arms and then forcefully resisted being handcuffed by the police officers, they used force to push him to the ground. Eventually a medical technician injected him with an antipsychotic drug and, after he had been turned on his stomach, with another medication used to reduce the tremors caused by antipsychotic drugs. A few moments later, the officers and

medical technicians noticed that he had vomited, which the doctor attributed to exertion. One medical technician then detected an irregular heartbeat. The medical team began to resuscitate Mr Štefančič, but this was to no avail. At 8.45 p.m. the doctor pronounced him dead.

A preliminary inquiry was carried out into the circumstances of Mr Štefančič's death, in which the authorities examined the scene of the incident, ordered a forensic report and took statements from Ms Štefančič and the members of the intervention team. The forensic report established that Mr Štefančič had died as a result of asphyxiation caused by aspiration of gastric contents. It considered that the intervention team could not have applied measures to prevent him from inhaling gastric contents, having regard to his aggressiveness. In September 2008 the head of the State Prosecutor's Office decided that the conditions had not been met to open criminal proceedings.

In January 2009 Ms Štefančič lodged a criminal complaint against the police officers, alleging that her son had died as a result of an unnecessary and unprofessional police intervention. The complaint was rejected in June 2009.

Relying in particular on Article 2 (right to life), Ms Štefančič complains that the State was responsible for her son's death and that the investigation into the circumstances of his death were carried out by the authorities to conceal the truth and to avoid liability.

Eker v. Turkey (no. 24016/05)

The case concerns the obligation placed on a newspaper publisher to publish a reply correcting an article which he had written and published in his newspaper.

The applicant, Mustafa Eker, is a Turkish national who was born in 1971 and lives in Sinop (Turkey). He formerly published a local daily newspaper entitled "*Bizim Karadeniz*" which was circulated in Sinop.

In February 2005 Mr Eker published an editorial entitled "*Yolunuz açık olsun*" ("*May your road be smooth*") criticising the Sinop journalists' association for acting contrary to its primary purpose and abandoning its founding aims. Taking the view that Mr Eker's article had undermined his dignity and that of the other leaders of the journalists' association, the association's President sent a reply correcting the original article, but Mr Eker refused to print it in his newspaper.

In March 2005 the President of the journalists' association applied to the Sinop Magistrate's Court seeking an order for his reply to be published. The court acceded to that request on the basis of the case file. Mr Eker appealed to the Sinop Criminal Court, which dismissed his appeal in a final decision based on the case file. The text of the reply was published in Mr Eker's newspaper.

Relying on Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 10 (freedoms of expression) and Article 13 (right to an effective remedy), Mr Eker complains about the lack of a hearing before the Magistrate's Court and the Criminal Court; the inadequate assessment of the case by the Magistrate's Court and the Criminal Court; his inability to appeal to a higher court against the decisions given by those courts; and the fact that he was forced to print the text correcting his article, which he claims harmed his reputation and undermined his dignity, and amounted to an interference with his freedom of expression.

Tibet Menteş and Others v. Turkey (nos. 57818/10, 57822/10, 57825/10, 57827/10 and 57829/10)

The case concerns five employees who worked in duty-free shops at İzmir airport and the dismissal of their claims for overtime pay.

The applicants are Tibet Menteş, Atilla Kantar, Birol Arısoy, Rahmi Aydoğmuş, and Muhammed Erkan Güneri. They are Turkish nationals who live in İzmir (Turkey). They were born in 1967, 1965, 1968, 1960, and 1958 respectively.

In 2003 they brought proceedings against their employer, the General Directorate of Monopolies on Spirits and Tobacco, a formerly State-run enterprise. They claimed, among other things, compensation for the overtime hours they had worked beyond the legal working time; they submitted that the relevant terms of their collective bargaining agreement provided for the remuneration of overtime hours as well as the hours set aside for rest at the workplace. In September 2005 the İzmir Labour Court found in favour of the applicants and awarded them compensation as calculated in an expert report which had been ordered during the proceedings.

However, on appeal in 2008 the Court of Cassation quashed the decision to award the applicants compensation and remitted the case to the labour court with instructions to take a different approach on what counted as overtime. In particular, it relied on its previous case-law on customary practices in respect of radio-relay station workers as regards 24-hour work shifts with time off for the next 24-hours or 48-hours, such as in the applicants' cases; in those previous cases it had concluded that out of the 24-hours spent at the workplace, only 14 hours could be considered as working time given that it was not possible to work continuously for 24 hours without resting.

In the resumed proceedings, a new expert report was commissioned which, calculating according to this approach, found that the applicants had not worked overtime. On the basis of the new report, the labour court gave a final judgment in 2009 dismissing some of the applicants' claims entirely and, in others, awarding 90 per cent less than what had been awarded in the previous expert report.

Relying on Article 6 § 1 (right to a fair hearing), the applicants complain that the proceedings concerning their overtime were unfair. They allege in particular that the Court of Cassation's interpretation of overtime protected employers and encouraged excessive working hours. They also allege that the dismissal of their claims for compensation was in breach of Article 1 of Protocol No. 1 (protection of property) and Article 4 (prohibition of forced labour).

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.

Barış Demir v. Turkey (no. 51144/06)
Bayar v. Turkey (no. 9) (no. 603/09)
Durmuş v. Turkey (no. 5159/10)
Kaya and Gül v. Turkey (nos. 47988/09 and 47989/09)
Özdemir Gürcan v. Turkey (no. 2722/10)
Taş v. Turkey (no. 702/11)

Thursday 26 October 2017

Ratzenböck and Seydl v. Austria (no. 28475/12)

The applicants, Helga Ratzenböck and Martin Seydl, are Austrian nationals who were born in 1966 and 1964 respectively and live in Linz (Austria). The case concerns their complaint that, as a heterosexual couple, they were denied access to a registered partnership, a legal institution only available to same-sex couples.

In February 2010, the applicants, who had been living in a stable relationship for many years, lodged an application to enter into a registered partnership under the Registered Partnership Act. The Mayor of Linz dismissed their application, finding that they did not meet the requirements since the registered partnership was reserved for same-sex couples. After the applicants' appeal – alleging discrimination based on their sex and their sexual orientation – had been dismissed by the Upper

Austrian Regional Governor, they lodged complaints with the Administrative Court and the Constitutional Court. They argued that marriage was not a suitable option for them and that a registered partnership was more modern and "lighter" than marriage. In particular, there was a difference in the statutory time-limit for divorce and for the dissolution of a registered partnership and there were differences as regards a number of obligations following from marriage and registered partnership respectively.

In September 2011, the Constitutional Court dismissed the complaint. Referring to the European Court of Human Rights' judgment in the case of Schalk and Kopf v. Austria (30141/04), the Constitutional Court considered that if the question of whether or not to allow same-sex marriage was left to regulation by domestic law this had to apply also for the question of whether registered partnerships were to be open to different-sex couples. Moreover, given that persons of different sex had access to marriage, the registered partnership had been introduced only to counter discrimination against same-sex couples. In February 2013, the Administrative Court also dismissed the applicants' complaint.

Relying on Article 14 (prohibition of discrimination) taken in conjunction with Article 8 (right to respect for private and family life), the applicants complain of discrimination based on their sex and sexual orientation on account of their exclusion from the registered partnership.

Azzolina and Others v. Italy (nos. 28923/09 and 67599/10)
Blair and Others v. Italy (nos. 1442/14, 21319/14, and 21911/14)

These five cases submitted by 59 applicants of different nationalities concern incidents following the G8 Summit in Genoa in July 2001, as well as the effectiveness of the investigation and the sentences imposed by the domestic courts.

The city of Genoa in Italy hosted the 28th G8 Summit from 19 to 21 July 2001. At the same time an Anti-Globalisation Summit was also attended in the city by between 200,000 and 300,000 persons. A large number of demonstrations were organised during that event, some of which led to clashes between the security forces and the demonstrators. These confrontations caused hundreds of injuries on both sides. Whole neighbourhoods of the city were also severely damaged.

A system was put in place to provide for the individuals arrested in the framework of those demonstrations. In particular, two temporary centres, the Forte San Giuliano and Bolzaneto barracks, were used as holding areas for arrestees before their transfer to various prisons.

The applicants, who were arrested and taken to the Bolzaneto barracks between 20 and 22 July, stayed there for one or two day(s) before being transferred to prison. They allege that they suffered violence at the hands of members of the security forces and the medical staff. In particular, they submit that they sustained bodily injury and insults, were sprayed with irritant gas, had their personal effects destroyed and were subjected to other forms of ill-treatment. They were at no stage provided with appropriate treatment for their injuries, and the violence also continued during the medical examinations.

Following those events, the Genoa public prosecutor's office commenced criminal proceedings against 145 persons, including a deputy police commissioner, police officers and medical staff. On 14 July 2008 fifteen of the defendants in those proceedings were sentenced to between 9 months' and 5 years' imprisonment, and were also temporarily banned from holding public office. Ten of them were granted stays of execution of sentence, three were granted complete remission of sentence and two were granted a three-year remission of sentence. The court held that inhuman and degrading treatment had demonstrably been inflicted, but that the difficulties with identifying the perpetrators and the fact that Italian criminal law lacked any criminal offence of torture had complicated the process of convicting the guilty parties.

An appeal judgment of 5 March 2010 overturned the aforementioned judgment in part on the grounds that a number of offences had become statute-barred, although the court of appeal emphasised that the credibility of the witness statements and the seriousness of the violence were beyond doubt and held that the sustained, systematic abuse suffered by the applicants had been intended to smash their psychological and physical resistance and had had serious consequences for the victims, with after-effects continuing long after the end of their detention. On 14 June 2013 the Court of Cassation upheld that judgment, finding that virtually all the offences had become statute-barred.

Relying essentially on Article 3 (prohibition of torture, and inhuman and degrading treatment), all the applicants claim to have suffered acts of violence which they equate with torture or inhuman and degrading acts. They also consider that the investigation was inadequate on the grounds, in particular, of the lack of appropriate sanctions against the persons deemed responsible. In that regard, they complain, in particular, of the statute of limitations applying to most of the offences with which those persons had been charged, the remission of sentence granted to some of the convicted persons, and the absence of disciplinary sanctions against the same persons. Furthermore, they affirm that the Italian State failed to take the requisite action to prevent this kind of ill-treatment by omitting the offence of torture from Italian criminal law.

Cirino and Renne v. Italy (nos. 2539/13 and 4705/13)

The applicants in this case were Andrea Cirino and Claudio Renne, Italian nationals born in 1978 and 1975 respectively. Mr Cirino lives in Turin; Mr Renne was detained in Turin until he died in January 2017. Following his death, the proceedings have been continued by his daughter. The case concerns the applicants' complaint that in December 2004 they were ill-treated by prison officers of the Asti Correctional Facility, where they were both detained at the time, and that those responsible were not appropriately punished.

Following an altercation between Mr Cirino and a prison officer on 10 December 2004, in which Mr Renne intervened, the applicants were separately placed in solitary confinement. According to their submissions, which were later confirmed by the findings of the domestic courts, they were stripped of their clothes and remained naked for several days in cells in which the bed had no mattress, sheets or covers, where there was no sink and the window had no window panes. They were also subjected to the rationing of food and water. Both applicants were beaten by groups of prison officers on a daily basis, during the day and at night. On 16 December 2004 Mr Renne was admitted to hospital, where an examination revealed a fractured rib and bruising.

In 2011 five officers were charged with ill-treatment with the aggravating circumstance of having abused their position as civil servants. The applicants joined the proceedings as civil parties.

In its judgment of January 2012, the Asti District Court found that the evidence showed that the events had occurred in the manner described by the applicants. The court considered it established that Mr Cirino had been subjected to repeated physical violence from 10 to 29 December 2004 and Mr Renne from 10 to 16 December 2004. It also found that at the time there had been a "generalised practice of ill-treatment" in the Asti Correctional Facility, inflicted on prisoners considered problematic. This had happened, according to the court, in a climate of impunity, due to the acquiescence of high-level prison administrators.

The District Court held that the conduct of four of the prison officers amounted to infliction of bodily harm. However, since the statutory limitation period for this offence had expired, it ordered that the proceedings against them be discontinued. With respect to two of these officers, who had been responsible for most or all of the acts of abuse at issue, the court considered that those acts could be classified as torture pursuant to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, since Italy had failed to incorporate the offence of torture into national legislation, the court had to conclude that there was no provision

under Italian law that would allow the conduct in question to be classified as torture and had to turn to other existing offences, namely the provisions of the Criminal Code relating to abuse of authority against detained persons. However, the statutory limitation period for that offence had also elapsed.

The four prison officers underwent disciplinary proceedings in relation to the conduct in question. One of them was dismissed from his functions; the other three officers were either dismissed and later reinstated or suspended for a temporary period.

The applicants complain/complained that the acts of violence and ill-treatment which they suffered in the correctional facility amounted to torture, in violation of Article 3 (prohibition of torture and of inhuman or degrading treatment). They also rely/relied on Article 3 complaining that the penalty for those responsible for the acts of ill-treatment was inadequate, emphasising that by failing to incorporate the offence of torture into national law, the State had failed to take the necessary steps to prevent the ill-treatment which they had suffered.

Lubelska Fabryka Maszyn i Narzędzi Rolniczych 'PLON' and Others v. Poland (nos. 1680/08, 3117/08 and 46309/13)

The applicants are two Polish companies and two private individuals. They are the legal successors to companies which were nationalised during the communist era, based on legislation which was passed in 1946. They complain that they were deprived of their property without compensation, both because the original regulations providing for such compensation have never been enacted and because they were not given compensation for such legislative omission.

The applicants are Lubelska Fabryka Maszyn i Narzędzi Rolniczych 'PLON', Przedsiębiorstwo Naftowe 'OTERNA', and Iwonna Świątnicka and Michal Ostojski. Lubelska Fabryka Maszyn i Narzędzi Rolniczych 'PLON' and Przedsiębiorstwo Naftowe 'OTERNA' are limited liability companies based in Warsaw. Ms Świątnicka and Mr Ostojski are Polish nationals born in 1949 and 1974 respectively, who live in Łódź (Poland). They are the heirs of the former owner of a textile mill, which before the Second World War operated under the name Karol Post Mechaniczna Tkalnia Zarobkowa Pabianice.

In 1946 the State National Council passed legislation which led to the nationalisation of many areas of the economy. Owners of nationalised companies were to receive compensation, which was to be calculated under a cabinet ordinance. However, the necessary ordinance was never enacted.

After the collapse of communism, the applicant companies, and Ms Świątnicka and Mr Ostojski sought to have the nationalisation decisions overturned, but the courts ruled that the original decisions were lawful. The applicant companies later lodged compensation claims, however, the courts found against them.

In particular in the case of PLON, the courts found that laws on State liability for tort did not come into force until 2004, were not retroactive and did not apply even if the state of affairs in question continued to exist. The courts also found that there was no constitutional right to compensation for legislative omission. OTERNA also began compensation proceedings, but ended them on the grounds they had no prospect of success.

Relying on Article 1 of Protocol No. 1 (protection of property), the companies and Ms Świątnicka and Mr Ostojski complain about not being able to obtain compensation for the nationalisation of their property under the 1946 Act. Under Article 6 § 1 (access to court), the two applicant companies complain respectively that their claim for compensation was unsuccessful or lacked any prospect of success.

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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A.M. v. Austria (no. 32830/15)
Aleksandrov v. Bulgaria (no. 75423/14)
Vatashki v. Bulgaria (no. 25933/13)
Zhivko Gospodinov and Others v. Bulgaria (nos. 34639/07, 28678/08, 9777/10, 59178/10, 29219/11, 81170/12, 5608/13, 15418/13, 27596/13, and 1179/14)
Mahamud Ahmed v. Malta (no. 68883/13)
Gudema v. the Republic of Moldova (no. 16191/07)
Vlas v. the Republic of Moldova (no. 37057/11)
Giurgiu v. Romania (no. 26239/09)
Rău and Gâlea v. Romania (no. 43838/10)
Runteva v. 'the former Yugoslav Republic of Macedonia' (no. 55634/14)
Çetin v. Turkey (no. 14593/09)
İz v. Turkey (no. 10681/12)
Loizou v. Turkey (no. 50646/15)
Meriç v. Turkey (no. 25480/07)
Tisoğlu v. Turkey (no. 36230/06)
Uzan v. Turkey (no. 50677/09)
Yankovoy and Aliyev v. Turkey (no. 74785/10)
Yılmaz v. Turkey (no. 33565/08)
Zengin v. Turkey (no. 57088/09)
Gyrya v. Ukraine (no. 5878/16)
Koval and Others v. Ukraine (no. 4136/13 and 44 other applications)

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