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

Press Release
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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing seven judgments on Tuesday 7 April 2015 and 40 judgments and / or decisions on Thursday 9 April 2015.

*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 7 April 2015

Cestaro v. Italy (application no. 6884/11)

The applicant, Arnaldo Cestaro, is an Italian national who was born in 1939 and lives in Rome.

The case concerns the events that took place on the night of 21 to 22 July 2001, at the end of the G8 summit in Genoa, in the Diaz-Pertini school, a night shelter for demonstrators, authorised by the authorities.

The twenty-seventh G8 summit took place in Genoa from 19 to 21 July 2001. A certain number of NGOs had set up a group called "Genoa Social Forum" (GSF) with the aim of organising an alternative anti-globalisation summit in Genoa at the same time. The Italian authorities had put in place large-scale security arrangements.

Many incidents, involving clashes with the police, ransacking, violence, vandalism and damage took place in the city during the two days of 20 and 21 July. Several hundred demonstrators and members of the security forces were injured or incapacitated by tear gas. Whole neighbourhoods of the city of Genoa became scenes of havoc.

The Genoa city council had made the Diaz-Pertini school available to the demonstrators as a night shelter. On 20 and 21 July residents of the neighbourhood reported to the police that violent demonstrators had entered the Diaz-Pertini school and had begun to ransack it. On the night of 21 to 22 July a riot squad entered the building around midnight to carry out a search.

Mr Cestaro, then aged 62, was inside the school at the time. When the police arrived he was sitting with his back to the wall with his arms raised. He was struck several times, causing multiple fractures. He has never fully recovered from his injuries.

After three years of investigations by the Genoa public prosecutor's office, 28 individuals from the security forces, of various ranks, stood trial. On 13 November 2008 the court sentenced, among others, 12 defendants to between two and four years' imprisonment and jointly with the Ministry of the Interior to the payment of costs, expenses and damages to the civil parties, to whom the court made a provisional award of between 2,500 and 50,000 euros (EUR). Mr Cestaro received a provisional award of EUR 35,000. On 31 July 2010 the Court of Appeal partly set aside the judgment of the court below and on 2 October 2012 the Court of Cassation upheld the main part of the judgment.

Relying in particular on Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights, Mr Cestaro complains that he was the victim of violence and ill-treatment, described by him as torture, when the security forces raided the Diaz-Pertini school.

Veretco v. the Republic of Moldova (no. 679/13)

The applicant, Fiodor Veretco, is a Moldovan national who was born in 1963 and lives in Selişte (the Republic of Moldova). His case concerns the lawfulness of his detention and his access to medical treatment whilst in detention.

Mr Veretco was arrested in 2012, charged with child trafficking and detained. At the Prosecutor's request he spent approximately two months in custody based on an assessment of the risk of him absconding, interfering with the investigation or reoffending. Mr Veretco and his lawyer objected to this decision but their request to see any evidence or documents supporting the prosecutor's request was denied. Mr Veretco also submitted medical records to the domestic courts explaining that he needed hospitalisation for pre-existing broken ribs and pneumonia, this requirement being confirmed by a doctor. However Mr Veretco claims that he received no medical treatment whilst he was in detention. This claim is disputed by the Government, which alleges he did not complain about his health or request medical assistance whilst he was in custody.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and on Article 5 §§ 1 (c), 4, and 5 (right to liberty and security / right to have lawfulness of detention decided speedily by a court / right to compensation) of the Convention, Mr Veretco complains in particular that he did not receive adequate medical care whilst in detention and that, contrary to domestic law, he was not able to examine the evidence used to support the Prosecutor's request to detain him which had served as the basis for justifying his detention.

Adrian Radu v. Romania (no. 26089/13)

The applicant, Adrian Radu, is a Romanian national who was born in 1971 and is currently imprisoned in Jilava prison.

The case concerns the conditions of Mr Radu's detention in Giurgiu prison where he was held from 21 January 2009, before being recently transferred to Jilava.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Radu complains about the material conditions of his detention, in particular the lack of sufficient space, overcrowding in the prison, and a lack of food and drinking water.

Raguž v. Serbia (no. 8182/07)

The applicant, Vinko Raguž, is a Croatian national who was born in 1940 and lives in Dubrovnik (Croatia). His case concerns the difficulties he has encountered in enforcing a judgment concerning the repayment of a debt owed to him.

In 2003 the Municipal Court in Gornji Milanovac ordered a debtor to pay a sum of money, including interest, to Mr Raguž. Later that same year the Court ordered the seizure and sale of the debtor's assets in order to enforce the judgment. Three attempts to seize assets failed, and in 2007 the Municipal Court stayed proceedings because the debtor had died. Mr Raguž then tried to persuade that Court to enforce the judgment by seizure and sale of the debtor's estate but this request was eventually rejected in 2009.

Relying on Article 6 § 1 (right to a fair hearing) and Article 1 (protection of property) of Protocol No. 1 Mr Raguž complains about the non-enforcement of the judgment in his favour.

O'Donnell v. the United Kingdom (no. 16667/10)

The applicant, Matthew O'Donnell, is an Irish national who was born in 1980. He is currently detained at HMP Maghaberry (Northern Ireland, UK).

Mr O'Donnell is serving a sentence of life imprisonment for a murder committed in 2004. Mr O'Donnell's I.Q places him amongst the bottom 1% of the population and his understanding of

spoken English is equivalent to a six year old child. Witnesses provided evidence that Mr O'Donnell had spent most of the day before the murder drinking with the victim and another man, Samuel Houston. Following the murder the police found two sets of blood stained clothes and a knife in the flat where Mr O'Donnell was staying at the time. Mr Houston admitted to the killing and was sentenced. Mr O'Donnell was arrested in the Republic of Ireland, interviewed by Irish police officers about the murder and extradited to Northern Ireland in 2007. During his trial and at the request of the defence lawyer, the videotapes of the interviews conducted by the Irish police were excluded from evidence. The defence asked the judge to rule that it was undesirable for Mr O'Donnell to give evidence because of his mental condition. The judge refused, stating that he could manage the process in such a way that no unfairness would result and that he would tell the jury that they could draw an adverse inference if Mr O'Donnell did not give evidence. Mr O'Donnell decided not to testify although a clinical psychologist was permitted to give evidence to the jury as to his vulnerability and the difficulties he would have faced if he had testified. However, the psychologist was not allowed to share conclusions he had drawn from watching the videotaped interviews as these had been excluded from the evidence. Mr O'Donnell was convicted by the jury and his requests for an appeal have been dismissed.

Relying on Article 6 § 1 (right to a fair trial), Mr O'Donnell complains that his trial was unfair because the judge did not allow the clinical psychologist to share his observations on the videotaped interviews and because of the judge's direction to the jury about drawing adverse inferences from his decision not to give evidence without regard to whether there was a case to answer.

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.

Rasidescu v. Romania (no. 39761/03) – Just Satisfaction
Hill v. the United Kingdom (no. 22853/09)

Thursday 9 April 2015

Nježić and Štimac v. Croatia (no. 29823/13)

The applicants, Marija Nježić and Ana Štimac, who are sisters, are Croatian nationals who were born in 1956 and 1957 respectively and live in Zagreb.

The case concerns the alleged deficiencies in the investigation into the killing of the applicants' parents and their grandmother in October 1991 in the Croatian village of Bukovac, allegedly by Serbian paramilitary forces operating in Croatia. In December 1991 the local police lodged a criminal complaint with the County State Attorney's office against persons unknown on charges of murder in connection with the killing of seven inhabitants of that village, including the applicants' parents and grandmother. During the following year, the police interviewed a few potential witnesses, without any concrete results. Further investigative steps were taken several years later in response to two letters from a relative of the applicants, who described the events of October 1991 in Bukovac and named several commanders of the Serbian paramilitary forces who had allegedly been involved in the killing. To date the investigation has not resulted in any prosecutions.

Relying on Article 2 (right to life), the applicants complain that the Croatian authorities have not taken appropriate steps to investigate the death of their close relatives and to bring the perpetrators to justice.

Barras v. France (no. 12686/10)

The applicant, Jean-Louis Barras, is a French national who was born in 1949 and lives in Beuvron en Auge (France).

Mr Barras' grandmother owned a house of which Mr and Ms V. were the salaried caretakers. In 1960 she terminated their employment but authorised them to live in the farm house free of charge for the rest of their lives. After his mother's death, Mr Barras and his father became, respectively, title owner and life tenant of the house. Wishing to use the house for his own son, Mr Barras, acting with his father, decided to terminate the rent free arrangement allowing Mr and Ms V. to live there. As they refused to quit, Mr Barras and his father brought proceedings against them. The Lisieux *tribunal de grande instance* (TGI) upheld their claim. On an appeal by Mr and Ms V., the Caen Court of Appeal quashed that judgment on the grounds that the occupants had "a more pressing need of the premises". Taking the view that this judgment was in line with the principles of the Court of Cassation's case-law, Mr Barras and his father decided not to appeal on points of law.

Departing from its previous case-law, the Court of Cassation held, in a judgment of 3 February 2004, that an open-ended free loan for the use of property could be terminated at any time.

On 28 January 2005 Mr Barras and his father once again brought proceedings against Mr and Ms V. before the Lisieux TGI, seeking the termination of the free loan on the grounds of a lack of maintenance by the occupants and their eviction. On 23 March 2006 the court dismissed their claims, finding that Mr and Ms V. had not failed in their duty to maintain the property. On 30 October 2007 the Caen Court of Appeal found, firstly, that in its judgment of 3 September 2002 it had dismissed the claims brought by Mr Barras and his father seeking the eviction of Mr and Ms V., and, secondly, that even though an expert's report had revealed a lack of maintenance attributable to the occupants, that situation pre-dated the judgment of 3 September 2002, such that the report in question could not be relied upon in any subsequent claim to justify termination on the same ground. Mr Barras appealed on points of law. On 24 September 2009 the Court of Cassation dismissed the appeal, finding that the claimant had been obliged to submit, in the proceedings concerning the first claim, all the arguments that he wished to use as a basis for the claim.

Relying on Article 6 § 1 (right to a fair hearing and right of access to a court), the applicant complains that in his case the domestic court applied the principle, stemming from a departure from precedent by the Court of Cassation on 7 July 2006, that, in order to challenge the dismissal of a claim for being identical to a previous one, a party may not rely on a legal basis that it has not already raised in the proceedings concerning the initial claim.

Relying on Article 1 (protection of property) of Protocol No. 1, the applicant complains that, despite the Court of Cassation's departure from case-law in its judgment of 3 February 2004, he remains unable to terminate the open-ended rent free agreement for the use of his property granted over fifty years ago and cannot therefore recover possession of it.

Tchokontio Happi v. France (no. 65829/12)

The applicant Elisabeth Tchokontio Happi, is a national of Cameroon who was born in 1972 and lives in Paris.

The case concerns a failure to enforce a final judgment granting the applicant accommodation in the context of the law on the enforceable right to housing (known as the "DALO" Act).

Ms Tchokontio Happi has been living with her daughter and brother in the Paris region since 2003. In a decision of 12 February 2010, notified on 12 March 2010, the Paris Mediation Commission, finding that they were housed in indecent and insalubrious conditions, earmarked their case as a priority for urgent re-housing.

Six months from the date of that decision she had not received an offer of housing which took account of her needs and capacities so the applicant lodged an application with the Paris Administrative Court under the "DALO" Act of 5 March 2007 with the objective of obtaining new accommodation. The Act in question provides that a right to decent and independent housing, for individuals who are unable to obtain it by their own means or to keep their existing housing is guaranteed by the State. The State is bound by an obligation of results and not only of means. To that end the Act introduced a procedure for the effective allocation of housing, involving initial recourse to the *département*-level mediation commission and then, if necessary, proceedings in the Administrative Court.

On 28 December 2010 the Paris Administrative Court upheld Ms Tchokontio Happi's application, instructing the Prefect of the Ile-de-France region to re-house her, her daughter and her brother, imposing a fine on the authority, payable to the urban development fund of the Ile-de-France region, amounting to 700 euros (EUR) per month of delay from 1 February 2011 onwards.

On 31 January 2012, as the applicant still had not been re-housed, the Administrative Court provisionally enforced the fine for the period 1 February 2011 to 31 January 2012, ordering the State to pay EUR 8,400 to the urban development fund of the Ile-de-France region.

Ms Tchokontio Happi complains that she has still not been re-housed in spite of the final judgment of 28 December 2010 ordering the Prefect of the Ile-de-France region to find her suitable housing.

Vamvakas v. Greece (no. 2870/11)

The applicant, Alexandros Vamvakas, is a Greek national who was born in 1953.

The case concerns the unexplained absence of Mr Vamvakas' assigned lawyer from a hearing of the Court of Cassation.

On 16 January 2006 Mr Vamvakas was sentenced to eight years' imprisonment for fraud and forgery to the detriment of a bank. When a hearing was to be held on 20 May 2009, Mr Vamvakas informed the Court that he would not be present but would be represented by two lawyers. However, neither of them turned up. The court assigned him a lawyer and adjourned the hearing until 27 May 2009 to give the lawyer time to study the file.

On 27 May 2009 the Court of Appeal reduced Mr Vamvakas' sentence to seven years' imprisonment. On 1 June 2009 Mr Vamvakas appealed on points of law and asked the President of the Court of Cassation to assign him a lawyer to represent him in the proceedings. In the light of Mr Vamvakas' indigence, on 2 January 2010 the President appointed Mr F.K. to represent him at any hearings.

In a judgment of 25 February 2010 the Court of Cassation dismissed the appeal on the grounds that the applicant, who had been summoned to the hearing, had not appeared. Mr Vamvakas argues that he had contacted Mr F.K., who had assured him he would be at the hearing; however, Mr F.K. did not attend the hearing nor did he inform Mr Vamvakas of the reasons for his absence, either beforehand or afterwards.

Relying on Article 6 § 1 (right to a fair hearing) and 6 § 3 (c) (right to be assisted by counsel), the applicant alleges that he did not have effective legal assistance in the context of his appeal on points of law, because the lawyer who had been assigned to him by the Court of Cassation was not present at the hearing and his appeal was dismissed as a result.

A.T. v. Luxembourg (no. 30460/13)

The applicant, A.T., is a British national who was born in 1973 and is currently held in Luxembourg prison.

On 4 December 2009 A.T. was arrested in the United Kingdom under a European Arrest Warrant issued by Luxembourg on charges of rape and indecent assault against a minor under 16. On 17

December 2009 he was surrendered to the Luxembourg authorities and questioned by the criminal investigation police. According to the police report drawn up that same day, A.T. began by refusing to give any statement and asked for the assistance of counsel, before finally agreeing to answer questions. The next day he was examined by an investigating judge in the presence of an assigned lawyer.

On 31 March 2011 the Criminal Division of the District Court sentenced A.T. to seven years' imprisonment, reduced by a partial suspension of three years with probation. On 7 February 2012, the Criminal Division of the Court of Appeal upheld the judgment. On 22 November 2012 an appeal by the applicant was dismissed by the Court of Cassation.

Subsequently, as A.T. had left Luxembourg for the United Kingdom, a new European Arrest Warrant was issued for the purposes of enforcing the judgment of 7 February 2012. The applicant was ultimately surrendered to the authorities in Luxembourg, where he is still serving his sentence.

Relying on Article 6 § 1 (right to a fair hearing) and Article 6 § 3 (c) (right to be assisted by counsel), the applicant complains of a failure to provide him with the assistance of a lawyer during his police interview and a lack of effective assistance by counsel when he appeared the next day before an investigating judge.

Adorisio and Others v. the Netherlands (nos. 47315/13, 48490/13 and 49016/13)

The applicants are 373 individuals of Italian, American, Romanian, Swiss, Brazilian, Egyptian, Venezuelan, Filipino, Dutch, and Tunisian nationalities, who were born between 1919 and 1993, and 13 companies based in Italy, Grand Cayman (Cayman Islands), Ireland, and Belgium. Their case concerns the manner by which the Netherlands Government expropriated the shares and subordinated bonds they owned in SNS Reaal, a banking and insurance conglomerate in the Netherlands, which ran into trouble as a result of the financial crisis of 2008. The compensation proceedings are still pending in the civil courts in the Netherlands; the present case only deals with the accelerated proceedings before the Administrative Jurisdiction Division of the Council of State in which the lawfulness of the expropriation could be contested.

SNS Reaal's banking arm was the fourth biggest high-street bank in the Netherlands. It was taken over by the Netherlands Government in 2013 after its real-estate division ran into trouble following the global economic crisis in 2008. Given the perceived risk of the bank collapsing, the Government decided to protect the banking service and customers' savings by nationalising SNS Reaal and to lessen the cost to the taxpayer by expropriating shares, capital securities and subordinated bonds held in the bank. A procedure specially designed for crises involving large financial institutions was used to determine the lawfulness of the expropriation in order to ensure a rapid decision. Under this procedure share and bond holders had ten days to lodge an appeal following the announcement of the government's decision on 1 February 2013. The Administrative Jurisdiction Division held a hearing on their case on 15 February 2013 and issued its decision ten days later, less than four weeks after the nationalisation was announced.

Relying on Article 6 § 1 (right to a fair hearing / access to court), the applicants complain that the ten day window they were given to appeal the expropriation following the decision by the Netherlands' Government was too short, that they did not have enough time to study a statement made by the Minister of Finance (received late in the afternoon on the day before the hearing on their case) and that they were only given access to incomplete versions of two reports concerning the bank and its assets.

Muradeli v. Russia (no. 72780/12)

The applicant, Robert Muradeli, is a Georgian national who was born in 1969. The case concerns his administrative removal from Russia.

Mr Muradeli first arrived in Russia in 1992, shortly after the disintegration of the Soviet Union, when there were no entry requirements for him to comply with. He has been married to a Russian citizen since 1994 and the couple has a son, born in 1995. Between 1996 and 1999, the family lived in Georgia, where Mr Muradeli worked for a Ministry. The family subsequently returned to Russia, where, pursuant to new visa requirements as from 2000, Mr Muradeli had to acquire a residence permit, which regularly had to be renewed. Between 2009 and 2011, he was found guilty of an administrative offence on several occasions for not having a valid residence permit and eventually had to leave Russia in March 2011. After Mr Muradeli had re-entered Russia through Russia's border with Belarus in October 2011, he was deported in November 2011. His appeals against the relevant court decisions were unsuccessful.

Relying in particular on Article 8 (right to respect for private and family life), Mr Muradeli complains of his administrative removal from Russia, arguing in particular that the severity of the punishment, which had disrupted his family life, was disproportionate to the offence of which he had been found guilty.

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Bajraktari v. Albania (no. 53115/07)
Qeska v. Albania (no. 11993/05)
Coko v. Croatia (no. 31779/08)
Gojevic-Zrnic and Mancic v. Croatia (no. 5676/13)
L.A. v. France (no. 22062/12)
Anninos v. Greece (no. 39682/09)
Agresti and Others v. Italy (no. 40440/11 and 170 other applications)
Bellezza and Others v. Italy (no. 10221/09 and 679 other applications)
Di Palma and Others v. Italy (no. 28591/11 and 43 other applications)
Milazzo v. Italy (no. 7917/07)
Ricci v. Italy (no. 13455/07)
Vannini and Others v. Italy (no. 30927/08 and 39 other applications)
G.S. v. Luxembourg (no 5235/13)
Cebotar and Tanasoglo v. the Republic of Moldova (no 25614/06)
A.N. and L.K. v. the Netherlands (no. 29043/14)
M.W. v. the Netherlands (no. 46938/10)
Rudnik v. Poland (no. 41192/12)
Bacanoiu and Popescu v. Romania (no. 44174/13)
Botomel v. Romania (no. 24788/14)
Csibi v. Romania (no. 66623/12)
H.A.U. v. Romania (no. 5796/14)
Ion Popescu v. Romania (no. 4206/11)
Lica v. Romania (no. 6/14)
Nagy and Others v. Romania (no. 16007/07)
Quadrat Impex S.R.L. v. Romania (no. 25492/13)
Tatu v. Romania (no. 43583/10)
Mitric v. Serbia (no. 13851/08)
Petrovic and Gajic v. Serbia (no. 36470/06)
Ristovic v. Serbia (no. 49872/10)
Bajrektarevic v. Slovenia (no. 16591/14)
G.V.A. v. Spain (no. 35765/14)

Ceylan v. Turkey (no. 26065/06)
Yildirim v. Turkey (no. 50693/10)

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