



## Forthcoming judgments

The European Court of Human Rights will be notifying in writing 11 judgments on Thursday 31 July 2014 and one on Tuesday 12 August 2014.

*Press releases and texts of the judgments will be available at 10 a.m. (local time) on the Court's Internet site ([www.echr.coe.int](http://www.echr.coe.int))*

### Thursday 31 July 2014

#### [Aliyeva and Aliyev v. Azerbaijan \(application no. 35587/08\)](#)

The applicants, Samaya Shukur gizi Aliyeva and Faday Damirkhan oglu Aliyev, are Azerbaijani nationals who were born in 1947 and 1942 respectively and live in Baku. The case concerns the applicants' complaint about the Azerbaijani authorities' investigation into the death of their 43-year-old son in Ukraine.

The applicants' son, who owned a business in Ukraine and lived in Kiev, died in the early hours of the morning of 1 June 2001 when he was stabbed outside a café in Kiev. The Ukrainian authorities immediately launched criminal proceedings into the murder and identified two possible suspects or witnesses, both Azerbaijani nationals, one of whom was working at the Azerbaijani Embassy in Ukraine at the time and the other, a major general of the Azerbaijani army on mission in Ukraine at the time. The Ukrainian authorities transferred the criminal case to the Azerbaijani authorities on two occasions, ultimately concluding in February 2003 that the major general had been responsible for the stabbing. Criminal proceedings were then opened against the major general in Azerbaijan in April 2003. They were dismissed in September 2003 on the ground that there was insufficient evidence to prove that the general had been involved in the murder. The applicants, not informed of this decision, wrote numerous letters to the prosecuting authorities to enquire about the investigation's progress and eventually lodged a complaint with the national courts in December 2007 about the inactivity and ineffectiveness of the investigation into their son's death. In December 2010, the prosecution authorities suspended the criminal proceedings, finding that it had not been possible to determine who had killed the applicants' son. Most recently, in May 2013, the courts quashed that decision and the criminal proceedings are therefore apparently still pending.

Relying in particular on Article 2 (right to life) of the European Convention on Human Rights, the applicants allege that the Azerbaijani authorities' criminal investigation into their son's death was neither effective nor impartial. They notably allege that the major general, who had not even been questioned during the criminal proceedings, was being protected by the Azerbaijani authorities and this explained the unreasonable and protracted nature of the investigation. They also complain that the authorities failed to keep them informed of decisions during those proceedings, and notably the decision of September 2003 dismissing the criminal proceedings against the main suspect, the major general, in their son's murder.

#### [Jannatov v. Azerbaijan \(no. 32132/07\)](#)

The case concerns an allegation of torture in police custody and the authorities' failure to investigate.

The applicant, Mushfig Rahim oglu Jannatov, is an Azerbaijani national who was born in 1971 and lived, prior to his arrest, in Baku.

Mr Jannatov was convicted in March 2005 – upheld by the Supreme Court in February 2007 – of, among other offences, complicity in aggravated murder and aggravated robbery and sentenced to 13 years’ imprisonment. He alleges that he was repeatedly tortured between 23 and 26 June 2004 following his arrest in order to make him confess to those offences. In particular, he claims that during those three days he was regularly punched, kicked, beaten with a rubber truncheon, suffocated with a plastic bag placed over his head, placed inside a metal cupboard for several hours and electrocuted with telephone cables attached to his toes. He subsequently made two complaints to the Prosecutor General’s Office and one to the Ministry of Internal Affairs, alleging that he had been tortured and requesting an investigation to be carried out; all his complaints went unanswered.

Relying in particular on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention, Mr Jannatov alleges that he was tortured in police custody and that the national authorities failed to investigate his allegations. Also relying on Article 6 § 1 (right to a fair trial), he complains that the criminal proceedings against him were unfair, because he had been convicted solely on the basis of incriminating statements extracted from him and his co-accused under duress.

#### [Tershiyev v. Azerbaijan \(no. 10226/13\)](#)

The applicant, Ramazan Tershiyev, is a Russian national of Chechen ethnic origin who was born in 1961. The case concerns his threatened extradition to Russia.

Having arrived in Azerbaijan in 2009, he was convicted, in April 2011, of a number of serious offences committed in Azerbaijan, including the creation of an illegal organised armed unit and of a network of clandestine flats in Baku as temporary accommodation for members of illegal armed units in Chechnya. He was sentenced to 14 years’ imprisonment and is currently serving his sentence in Azerbaijan.

In September 2011 criminal proceedings were brought against Mr Tershiyev in Russia on suspicion of membership in an illegal armed unit operating in Chechnya. In 2012 he was formally charged. The Russian authorities issued an international search warrant in his respect. In November 2012 the Azerbaijani Deputy Prosecutor General granted a request by the Russian authorities and ordered Mr Tershiyev’s “temporary extradition” to Russia for three months for the purpose of carrying out the necessary steps in the criminal proceedings against him in Russia. His appeal against the extradition order was dismissed by the courts in Azerbaijan, which noted in particular that his request for asylum with the Baku office of the United Nations High Commissioner for Refugees (UNHCR) had been rejected. The courts did not take into consideration that his appeal against the UNHCR decision was pending. In February 2013 the European Court of Human Rights indicated to the Government of Azerbaijan, under Rule 39 of its Rules of Court (interim measures), that he should not be extradited to Russia for the duration of the proceedings before the Court.

Relying in substance on Article 3 (prohibition of torture and of inhuman or degrading treatment) and on Article 13 (right to an effective remedy) in conjunction with Article 3, Mr Tershiyev complains that his extradition to Russia would expose him to a real risk of being tortured and that he did not have an effective remedy in Azerbaijan to challenge the extradition decision.

#### [Jaeger v. Estonia \(no. 1574/13\)](#)

The case concerns a prisoner’s complaint about a body search.

The applicant, Egon Jaeger, is an Estonian national who was born in 1987. On 10 October 2010, while serving his sentence in Tartu Prison, Mr Jaeger was subjected to a body search when on his way back to his accommodation block after a walk. Two prison guards, who suspected him of smuggling cigarettes into the accommodation block, asked him to lower his trousers and underpants twice and lift his sexual organ. Mr Jaeger made a complaint to the prison administration, claiming that the

search had been degrading because it was carried out in a stairwell in full view of other detainees. This complaint was subsequently rejected and his claim before the national courts was ultimately dismissed in October 2012 by the Supreme Court, which found that Mr Jaeger's privacy and dignity had been respected.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private life), Mr Jaeger alleges in particular that the body search was humiliating and that it was impossible to conduct strip searches privately in the stairwell of the prison as it was accessed through two doors with transparent glass windows.

#### [Jüssi Osawe v. Estonia \(no. 63206/10\)](#)

The applicant, Veronika Jüssi Osawe, is an Estonian national who was born in 1979 and lives in Tallinn. The case concerns her inability to obtain a court decision concerning the paternity of her child.

When Ms Jüssi Osawe gave birth to her daughter in October 2008, the Estonian authorities registered her former partner, a Nigerian national, O., whom she had married in Copenhagen, as the child's father, despite the fact that she objected and maintained that another man was the father. Ms Jüssi Osawe and O. had separated by decision of a Danish court in November 2007 in his absence; the spouses remained legally married. After her daughter's birth she brought proceedings before the Estonian courts seeking to change the entry in the birth register. In December 2009, the competent county court declined to proceed with the examination of her claim, as she had not paid the full court fee and as the place of residence of her former partner, who would have to be heard in the matter, was unknown. Her subsequent request to have the provisions of the Code of Civil Procedure concerning the fee and the requirement for her former partner to appear in person to be declared unconstitutional was dismissed by the courts. The courts eventually dropped the examination of her claim.

Relying on Article 6 § 1 (right to a fair trial), Ms Jüssi Osawe complains that her right of access to a court was breached. She also relies on Article 8 (right to respect for private and family life), complaining of the wrong entry in the birth register.

#### [F.H. v. Greece \(no. 78456/11\)](#)

The applicant, F.H., is an Iranian national who was born in 1987. The case concerns the holding of the applicant, an asylum seeker in Greece, in four different detention centres, in conditions that he alleges were inhuman and degrading.

On 16 December 2010, fleeing Iran where he feared for his life after converting to Christianity, F.H. arrived in Greece and was arrested by the police. The public prosecutor decided not to bring proceedings against him so that he could be returned to Iran via Turkey. F.H. was held at the Feres detention centre until a removal decision was issued. He was then transferred to the Venna detention centre, where, following a visit by the Greek Council for Refugees, he expressed the wish to apply for asylum and his application was registered, but he was transferred to another detention centre. The removal procedure was suspended when his asylum application was registered. F.H. applied for accommodation as an asylum seeker. On 12 April 2011 the Office of the United Nations High Commissioner for Refugees filed its opinion on F.H.'s asylum application: it found that the risks he alleged in the event of his return to Iran were not credible. The asylum application was rejected by the Greek authorities. F.H. lodged an appeal with the appeals board through the intermediary of the Greek Council for Refugees. He was released pending the examination of the appeal. He then went to Athens, where he lived as a homeless person.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), the applicant alleges that the conditions of his detention in the various centres and his living conditions after release constituted inhuman and degrading treatment. Relying on Article 3 in conjunction with

Article 13 (right to an effective remedy), he alleges in particular that there was no effective remedy by which to complain of his detention conditions. Relying on Article 5 (right to liberty and security), he also complains that his detention was unlawful.

#### [Tatishvili v. Greece \(no. 26452/11\)](#)

The applicant, Temur Tatishvili, is a Georgian national who was born in 1970 and lives in Thessaloniki.

The case concerns his detention pending removal and the conditions of detention on the premises of the Thessaloniki immigration police and of the Attica immigration department (Petrou Ralli detention centre).

On 20 May 2004 Mr Tatishvili arrived in Greece with a two-month visitor's permit. In 2009 he was given an eight-month suspended prison sentence for use of forgery. He was arrested on 22 July 2009 for not having a valid permit and his removal was ordered. In April 2010 he was again arrested by the Thessaloniki police for failing to leave Greek territory within the deadline and he was taken into custody on the premises of the Thessaloniki immigration police. Mr Tatishvili lodged an asylum application but it was rejected. In August 2010 Mr Tatishvili was transferred to the premises of the Attica immigration department (Petrou Ralli detention centre) from which he was released in January 2011. He was arrested again in May 2012 and taken into custody pending his removal. In total, Mr Tatishvili claims that he was held in custody from 10 April to 5 August 2010 and from 26 May to 29 June 2012 on the premises of the Thessaloniki immigration police and from 6 August 2010 to 25 January 2011 on the premises of the Attica immigration department. Mr Tatishvili was released on 29 June 2012. He left Greece on 1 January 2013 and moved to Turkey.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Tatishvili alleges that the conditions of his detention on the above-mentioned premises were inhuman and degrading. Under Article 5 (right to liberty and security), he complains that his detention pending removal was illegal. He further alleges that he had no meaningful or effective remedy with which to challenge the lawfulness of his detention.

#### [Nemtsov v. Russia \(no. 1774/11\)](#)

The applicant, Boris Nemtsov, is a Russian national who was born in 1959 and lives in Moscow. He is a politician and a well-known opposition leader. The case concerns his participation in a political demonstration in Moscow in the evening of 31 December 2010, during which he held a speech criticising the criminal conviction of Mikhail Khodorkovskiy (the former owner of the Yukos oil company), condemned corruption in the State administration and chanted slogans against President Putin. Mr Nemtsov was arrested at the end of the demonstration and placed in police detention. On 2 January 2011, he was found guilty of an administrative offence, for having disobeyed police orders to stop chanting anti-government slogans and for having resisted lawful arrest, and sentenced to 15 days' administrative detention. His subsequent appeals were unsuccessful.

Mr Nemtsov complains that his arrest, detention and conviction for an administrative offence violated his rights under Article 10 (freedom of expression) and Article 11 (freedom of assembly and association). Relying on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), he further complains that the hearing in his case was not public and that he was unable to participate effectively or to obtain the attendance of witnesses on his behalf under the same conditions as the witnesses against him. Moreover, he complains that his arrest and detention were arbitrary and that there was no effective judicial review of his detention, alleging a breach of Article 5 §§ 1 and 4 (right to liberty and security / right to have lawfulness of detention decided speedily by a court). He also alleges a violation of Article 3 (prohibition of inhuman or degrading treatment) on account of the conditions of his police detention – stating in particular that he was kept in a small solitary cell without windows, sanitary equipment, bed or beddings – and of

Article 13 (right to an effective remedy), stating that he did not have an effective remedy in respect of his complaint under Article 3. Finally, he alleges a breach of Article 18 (limitation on use of restrictions on rights).

#### Just Satisfaction

#### [OAO Neftyanaya Kompaniya Yukos v. Russia \(no. 14902/04\)](#)

The applicant company, OAO Neftyanaya kompaniya YUKOS, was a publicly-traded private open joint-stock company incorporated under the laws of Russia and registered in Nefteyugansk. It was established by the Russian Government in 1993 as a holding company to acquire and control a number of stand-alone entities specialised in oil production. The company was fully State-owned until the mid-1990s when, through a series of tenders and auctions, it was privatised. The case concerned the applicant company's complaint that it was targeted by the Russian authorities with tax and enforcement proceedings, which eventually led to its liquidation in November 2007.

In its [principal judgment](#) of 20 September 2011 the Court found that there had been a violation of Article 6 §§ 1 and 3 (b) (right to a fair trial) concerning tax assessment proceedings in 2000 against YUKOS, because it had insufficient time to prepare its case before the lower courts; a violation of Article 1 of Protocol No. 1 (protection of property) concerning tax assessments of 2000-2001, regarding the imposition and calculation of penalties; a further violation of Article 1 of Protocol No. 1 in that the enforcement proceedings had been disproportionate; no violation of Article 1 of Protocol No. 1, concerning the rest of the tax assessments of 2000-2003; no violation of Article 14 (prohibition of discrimination) in conjunction with Article 1 of Protocol No. 1 concerning whether YUKOS had been treated differently from other companies; and, finally, no violation of Article 18 (limitation on use of restriction on rights) in conjunction with Article 1 of Protocol No. 1, concerning whether the Russian authorities had misused the legal proceedings to destroy YUKOS and seize its assets.

The Court further held that the question of the application of Article 41 (just satisfaction) was not ready for decision. It will deal with this question in its judgment of 31 July 2014.

#### Repetitive cases

The following cases raise issues which have already been submitted to the Court.

**Filatova and Others v. Ukraine** (no. 12424/06 and 15 other applications)

**Shtefan and Others v. Ukraine** (no. 36762/06 and 249 other applications)

The applicants in these two cases complain mainly of the lengthy non-enforcement of decisions in their favour and of the lack of effective domestic remedies in respect of those complaints. They rely on Article 6 § 1 (right to a fair hearing within a reasonable time), Article 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property).

Tuesday 12 August 2014

#### [Firth and Others v. the United Kingdom \(no. 47784/09 and nine other applications\)](#)

The case concerns ten prisoners' complaints about their ineligibility to vote in the 2009 European Union elections.

The applicants are ten British nationals who were born between 1947 and 1984 and were all incarcerated at the relevant time following criminal convictions. Relying on Article 3 of Protocol No. 1 (right to free elections), they complain that, pursuant to primary legislation, they were automatically prevented from voting in the elections to the European Parliament on 4 June 2009.

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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.