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 15 judgments on Tuesday 30 May 2017 and 28 judgments and / or decisions on Thursday 1 June 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 30 May 2017

Muić v. Croatia (application no. 79653/12)

The applicant, Vladimir Muić, is a Croatian national who was born in 1948 and lives in Resetari (Croatia). He was dismissed from his job as a driver in 2000. The case concerns his complaint about the proceedings he brought for unemployment benefit. In particular, the administrative authorities, including the Administrative Court, rejected Mr Muić's claim for unemployment benefit, finding that he had lodged it outside the time-limit provided for by law. Relying on Article 6 § 1 (right of access to court) of the European Convention on Human Rights, he complains that he was unable to obtain a judicial determination of his claim because the authorities had calculated the time-limit in an excessively formalistic way.

Ónodi v. Hungary (no. 38647/09)

The applicant, Gábor Ónodi, is a Hungarian national who was born in 1965 and lives in Szajol (Hungary). The case concerns contact rights with his daughter, born in 1994, following his divorce in 2006.

Following Mr Ónodi's divorce, there were seven court decisions over the next five years setting out contact arrangements, all authorising Mr Ónodi to have regular contact with his daughter. His ex-wife was granted custody. Difficulties already arose with those arrangements in 2006 and Mr Ónodi lodged an enforcement request with the guardianship authority. He subsequently lodged more than 60 such requests for enforcement of his contact rights. However, the guardianship authorities were unable to enforce the contact orders because of the mother's lack of cooperation and the child's negative attitude towards her father. Although the mother was fined on a number of occasions, Mr Ónodi continued to experience problems in having regular and uninterrupted contact with his daughter, notably between November 2008 and January 2010 and then in 2011 when there was no contact at all.

Relying on Article 8 (right to respect for private and family life), Mr Ónodi complains that the Hungarian authorities failed to take effective steps to enforce his contact with his daughter.

Apcov v. the Republic of Moldova and Russia (no. 13463/07)
Soyma v. the Republic of Moldova, Russia, and Ukraine (no. 1203/05)
Vardanean v. the Republic of Moldova and Russia (no. 22200/10)

All three cases concern arrests and criminal proceedings in the break-away "Moldavian Republic of Transdniestria (the "MRT").

Sergiu Apcov, the applicant in the first case, is a Moldovan national who was born in 1982 and lives in Tiraspol (in the "MRT"). In January 2005 he was arrested and detained in custody in the "MRT" on charges of robbery. He alleges that he was infected with HIV during this period of detention when a

doctor used the same syringe on all inmates. He was released on bail in July 2005. He was subsequently convicted in August 2006 and sentenced to seven years' imprisonment which he served until April 2012. He had not apparently informed the Moldovan authorities about his detention in the "MRT" or about the related criminal proceedings.

Sergiy Soyma, the applicant in the second case, now deceased, was a Ukrainian national who used to live in Vinnytsya (Ukraine). He was arrested in the "MRT" in 2001 on charges of murder. He was convicted in 2002 in a final judgment by the "MRT" Supreme Court and sentenced to ten years' imprisonment. Both his mother and lawyer attempted to have him transferred to a Ukrainian prison, without success. In particular, his mother made about 40 requests to various Ukrainian official bodies to transfer her son; his lawyer made two requests for assistance from the Moldovan authorities. Neither Mr Soyma nor his mother apparently ever complained to the Moldovan authorities about any breach of his rights under the Convention. He was found hanged in prison in May 2006.

Ernest and Irina Vardanean, the applicants in the third case, are Moldovan nationals who were born in 1980 and live in Chisinau (Moldova). They are husband and wife and both journalists. In April 2010 Mr Vardanean, who was living at the time with his wife in the "MRT" and employed by a Russian news agency as well as a Moldovan newspaper, was arrested by the "MRT" secret services on charges of treason and/or espionage. He was convicted by a "MRT" tribunal in December 2010 and sentenced to 15 years' imprisonment. The Moldovan authorities made numerous attempts to secure Mr Vardanean's release, notably by informing various European bodies and the United States about the matter. They also initiated a criminal investigation into his arrest and detention, which was later discontinued; and, provided Mr Vardanean's family with financial support during his detention and a free apartment when he was released.

All three applicants complain in particular that their detention could not be considered "lawful" under Article 5 § 1 (right to liberty and security) of the European Convention because it had been ordered by the authorities of the "MRT", an unrecognised state. For the same reason, they all also argue that the "MRT" court that sentenced them could not be considered an "independent tribunal established by law" under Article 6 § 1 (right to a fair trial).

Mr Apcov makes a number of other complaints under Article 3 (prohibition of inhuman or degrading treatment) about inadequate conditions of detention and medical care for his HIV during both his custody and imprisonment.

Mr Soyma's mother, who decided to continue the proceedings before the Court in place of her son, further alleges under Article 2 (right to life) that Ukraine, Russia and Moldova were responsible for her son's death.

Mr Vardanean and his wife further complain about a search of their apartment, carried out when Mr Vardanean was arrested, and about restrictions on Ms Vardanean's visiting rights when her husband was in detention. They rely on Article 8 (right to respect for private and family life, the home, and the correspondence). Lastly, Mr Vardanean alleges that the "MRT" authorities had not allowed his lawyers representing him in the proceedings before the European Court to have access to him in detention, in breach of Article 34 (right of individual petition).

Grecu v. the Republic of Moldova (no. 51099/10)

The applicant, Tatiana Grecu, is a Moldovan national who was born in 1960 and is detained in Vadul lui Voda (the Republic of Moldova). The case concerns her complaint that she was unlawfully detained and subjected to police brutality for almost ten hours.

Ms Grecu was arrested in the early hours of the morning on 22 February 2002, but released later the same day after a court found that her detention had been abusive. She subsequently lodged a criminal complaint against the police accusing them of punching and strangling her during her

detention; the complaint was unsuccessful. However, in civil proceedings she brought against the State, the domestic courts acknowledged that there had been a breach of her rights under the European Convention, on account of her unlawful detention, ill-treatment and the inadequacy of the criminal investigation into her complaints. She was awarded 3,200 euros (EUR).

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 5 § 1 (right to liberty and security), Ms Grecu reiterates her complaints of unlawful detention, ill-treatment and the ineffective investigation into her complaints, arguing that the compensation she was awarded had been inadequate. She also relies on Article 5 § 5 (right to compensation) and Article 13 (right to an effective remedy), to complain that there was no effective remedy with which she could complain about the breach of her rights.

Scavetta v. Monaco (no. 33301/13)

The applicant, Mr Giuseppe Scavetta, is an Italian national who was born in 1955 and lives in Monaco.

The case concerns a failure to communicate to the Review Court a report by the reporting judge and the written conclusions of the representative of the prosecutor's office.

In 2005 Mr Scavetta advised some longstanding acquaintances of his (A.A., F.A. and M.T.) to purchase a French company manufacturing costume jewellery through the intermediary of a holding company, "FH Finances", which he invited them to set up. The individuals in question, together with Mr Scavetta, duly set up the FH Finances company with its head office in France and X.B. as its president. In July 2006 FH Finances bought up all the shares in the jewellery manufacturing company. In November 2007 A.A., F.A., M.T. and FH Finances lodged a complaint, together with an application to join the proceedings as civil parties, against Mr Scavetta for misappropriation and fraud.

A judicial investigation was instigated.

In June 2011 a Monegasque investigating judge of Monaco gave a decision declining jurisdiction, and ordered the partial termination of the proceedings. The judge only examined the facts relating to embezzlement perpetrated in favour of the Monegasque company IET, which was responsible for managing, from its Monaco head office, the other two companies based in France. Mr Scarvetta was brought before the criminal court for misappropriation. By judgment of 17 January 2012 the Monaco Criminal Court found that Mr Scarvetta had never provided any documentary evidence of the expenditure which had allegedly been incurred and that a sum of EUR 25,000 had been paid into his personal account, solely for his own benefit. The court found him guilty and sentenced him to one year's imprisonment. Mr Scarvetta and the public prosecutor appealed against that judgment. The Court of Appeal upheld it, although it reduced the sentence. Mr Scarvetta lodged an appeal on points of law.

The Prosecutor General submitted his conclusions on 3 December 2012. On 5 December 2012 the registry sent a copy of those conclusions to the First President of the Review Court, the reporting judge and two Monegasque lawyers, Mr C. Lecuyer and Mr G. Gazo, in their capacity as "avocats-défenseurs" (defence lawyers). In accordance with usual practice in the Review Court, a reporting judge drew up a report for the members of the Review Court, subject to secrecy of the deliberations. By judgment of 24 January 2013 the Review Court dismissed Mr Scarvetta's appeal on points of law. The judgment explicitly concerned Mr Scarvetta, mentioning that he had "appeared in person, defended by the litigation lawyer Mr Gaston Carrasco, practising in Nice" and citing the names of the parties claiming damages in the proceedings and their representative, Mr Gazo, "avocat-défenseur" with the Court of Appeal.

Relying on Article 6 §§ 1 and 3 (right to a fair trial), the applicant complained of the failure to communicate to the Review Court a report by the reporting judge and the written conclusions of the representative of the prosecutor's office.

Just Satisfaction

Żuk v. Poland (no. 48286/11)

The applicant, Danuta Bronisława Żuk, is a Polish national who was born in 1951 and lives in Szczecin (Poland).

The case concerned Ms Żuk's claim to purchase two plots of state-owned land and the non-enforcement of a final judgment in her favour with regard to that claim.

By an administrative decision of November 1989 the Szczecin Town Council held that Ms Żuk's husband was entitled to purchase plots of land owned by the State Treasury. The Town Council was obliged to sell the land to him on the basis of that decision. This entitlement was confirmed in another administrative decision in March 1990.

However, the Szczecin municipality refused to transfer ownership of the land to Ms Żuk and her husband as the land they wished to claim had been designated for non-agricultural purposes under a new land development plan. Notably, on 16 May 1994 the municipality had adopted a local land development plan which provided that land situated within the administrative limits of the municipality was designated for non-agricultural purposes.

In April 2003, Ms Żuk and her husband lodged a civil action against the Szczecin municipality requesting the court to oblige it to sell the land to which they were entitled on the basis of the 1989 decision. The Szczecin District Court dismissed the claim. However, in September 2004 Ms Żuk and her husband were successful on appeal to the Szczecin Regional Court which allowed the claim and obliged the municipality to sell them the land concerned. That court notably found that the 1989 administrative decision created a right to buy the plot of land concerned and that the legal reform of 1990 did not affect the validity of Ms Żuk's claim. This decision, which became final, was not implemented and, in 2008, Ms Żuk and her husband initiated further civil proceedings seeking to have their rights realised. These proceedings were unsuccessful.

In its judgment on the merits of 6 October 2015 the Court found violations of Article 6 § 1 (right to a fair hearing within a reasonable time) and Article 1 of Protocol No. 1 (protection of property). It held that the question of the application of Article 41 (just satisfaction) of the Convention, as regards pecuniary damage, 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 30 May 2017.

Just Satisfaction

S.C. Antares Transport S.A. and S.C. Transroby S.R.L. v. Romania (no. 27227/08)

The applicants, S.C. Antares Transport S.A. and S.C. Transroby S.R.L., are Romanian commercial transport companies based in Râmnicu-Vâlcea (Romania). The case concerned the withdrawal of their transport licences.

Following a decision by the local county council in April 2005 adopting a new programme of passenger transport, a public tender took place and the applicant companies acquired licences to provide passenger transport services on a group of seven routes in their local area for a period of three years. However, shortly afterwards two companies which lost their licences for one of the routes in that tender asked the courts to annul the decision of April 2005. In February 2006 the County Court found that the county council had acted arbitrarily by limiting access for other competitors in the public transport market and ordered the council to call a new public tender for the route in question as an individual route. The first applicant company's appeal on points of law was subsequently rejected and, on 6 July 2006, the county council put out to public tender all seven

routes as individual routes. As a result, on 26 July 2006 the applicant companies were informed that they had to hand over their licences for the entire group of seven routes.

The applicant companies lodged two sets of administrative proceedings requesting the annulment of the county council's decision of 6 July 2006 and of the decision of 26 July 2006 to withdraw the licences, without success.

In its judgment on the merits of 15 December 2015 the Court found a violation of Article 1 of Protocol No. 1 (protection of property) 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 30 May 2017.

Davydov and Others v. Russia (no. 75947/11)

The case concerns allegations of serious irregularities in several polling stations in St Petersburg for the city and federal elections of December 2011 and lack of effective review of these allegations in Russia.

The applicants, 11 Russian nationals who live in St Petersburg, all took part in the elections held simultaneously on 4 December 2011 at city and federal level: namely to elect deputies to the Legislative Assembly of St Petersburg as well as to the State Duma of the Russian Federation. All of the applicants were registered voters; some were also candidates for *Spraverdlivaya Rossiya* (SR), one of the opposition parties; and others were members of the electoral commissions or observers. Elections at both levels were based on proportional representation by party list, meaning that the electorate voted for lists of candidates proposed by political parties. Vote counting and tabulation at the 2011 elections was managed by commissions at three different stages: precinct, territorial and city.

The applicants contested the results of these elections. According to the applicants, the voting results in a number of electoral precincts in St Petersburg had been grossly distorted in recounts. They all alleged in particular that the vote counting protocols at the precinct stage were replaced with new ones containing different figures at the territorial stage, which in general inflated the results for the ruling party, *Yedinaya Rossiya*, and diminished the results for other parties, notably SR and *Yabloko*. In support of their allegations, the applicants submitted copies of the protocols drawn up at the precinct stage which contained different figures from those officially published. They lodged complaints with the City Electoral Commission, the prosecutor's office (requesting that a criminal investigation be brought into electoral fraud) and initiated separate court proceedings at all levels of the judicial system. All the applicants' attempts to obtain a review of the elections at domestic level were, however, unsuccessful.

Relying on Article 3 of Protocol No. 1 (right to free elections) and Article 13 (right to an effective remedy), the applicants argued that the recounts in question, producing different results for dozens of precincts, constituted a major breach of the right to free elections. They further stressed that they had not had an effective or independent review of their complaints in any domestic forum. Also relying on Article 34 (right of individual petition), two of the applicants (Mr Davydov and Ms Andronova) make allegations about the authorities trying to dissuade them from continuing with their applications before the European Court.

Fedorov v. Russia (no. 48974/09)

The case concerns the remand in custody of the head of the pharmacology department at the medical academy in Yaroslavl.

Vladimir Fedorov, the applicant, was born in 1957 and lives in Yaroslavl. He was remanded in custody from February to September 2009 on suspicion of bribe-taking. The grounds for keeping him

in custody over this six-month period were the seriousness of the charges against him and the risk of him interfering with the investigation by putting pressure on witnesses, namely his students, or destroying evidence. As soon as the pre-trial investigation was completed and the charges against him were finalised in September 2009, he was released against an undertaking not to leave his place of residence. He was ultimately convicted of 26 counts of bribe-taking and given a conditional sentence of four years and six months' imprisonment. He was dismissed from his post at the academy during the proceedings against him.

Relying on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), Mr Fedorov alleges that his remand in custody was not sufficiently justified. He also complains under Article 8 (right to respect for private and family life) that he was denied the right to see his family throughout his pre-trial detention.

Trabajo Rueda v. Spain (no. 32600/12)

The applicant, Carlos Trabajo Rueda, is a Spanish national who was born in 1976 and lives in Seville (Spain).

The case concerns the seizure of Mr Trabajo Rueda's computer on the grounds that it contained child pornography material.

On 17 December 2007 Mr Trabajo Rueda brought his computer to a computer shop to have a defective data recorder replaced. The technician duly replaced the part and tested it by opening a number of files, whereupon he noticed that they contained child pornography material. On 18 December 2007 he reported the facts to the authorities and handed over the computer to the police, who inspected its content and passed it on to the police computer experts. The investigating judge was then informed of the ongoing police inquiries.

On 20 December 2007 Mr Trabajo Rueda was arrested on his way to the computer shop to pick up his computer. In May 2008 he was sentenced to four years' imprisonment by the Seville *Audiencia provincial* for possession and circulation of pornographic images of minors. Mr Trabajo Rueda invited the court to declare the evidence null and void on the grounds that his right to respect for his private life had been infringed by the fact that the police had accessed the content of his computer and the files contained therein, but this request was dismissed. Mr Trabajo Rueda appealed on points of law and lodged an *amparo* appeal with the Constitutional Court, neither of which remedies proved successful.

Relying on Article 8 (right to respect for private and family life) of the European Convention, Mr Trabajo Rueda submitted that the police seizure and inspection of his computer had amounted to an interference with his right to respect for his private life and correspondence.

N.A. v. Switzerland (no. 50364/14)
A.I. v. Switzerland (no. 23378/15)

N.A., the applicant in case no. 50364/14, is a Sudanese national who was born in Khartoum (Sudan) in 1972 and currently lives in the Canton of Zurich. A.I., the applicant in case no. 23378/15, is a Sudanese national who was born in 1984 in the State of Sennar (Sudan) and currently lives in the Canton of Zurich.

These cases concern decisions taken by the Swiss authorities to return the applicants to Sudan after having rejected their asylum applications.

N.A. alleges that he worked in a car-wash in Sudan, and was stopped and searched by the Sudanese authorities one day while parking a car owned by a customer who belonged to the Justice and Equality Movement ("JEM"). He was interrogated and ill-treated for 45 days and then imprisoned for five days. He states that he left Sudan at the end of 2008, transiting through several different countries. On 7 March 2012 N.A. entered Switzerland, where he lodged an asylum application.

A.I. submits that ever since secondary school he was a member of an organisation working to promote the rights of minorities and to combat discrimination in Darfur, and that since 2005 he was a member of the JEM. He collected money to support Darfur and regularly sent the money to two intermediaries, but the Sudanese authorities picked him up at home following the arrest of those two intermediaries. He left Sudan in 2009, transiting through several different countries. On 7 July 2012 A.I. entered Switzerland, where he lodged an asylum application.

The Federal Migration Office (now the State Secretariat for Migration ["SEM"]) interviewed them and concluded that they were not refugees, rejected their asylum applications and ordered their expulsion from Switzerland. N.A. and A.I appealed against those decisions to the Federal Administrative Court (TAF), submitting that they ran a risk of persecution in Sudan on account of their political activities. The TAF dismissed their appeals.

They allege before the Court that the enforcement of the Swiss authorities' decisions to expel them to Sudan would expose them to the risk of treatment contrary to Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment) of the Convention.

Revision

Kavaklıoğlu and Others v. Turkey (no. 15397/02)

This request for revision concerns a judgment by the European Court of Human Rights relating to an application lodged by 74 Turkish nationals, including the late Mr Mahir Emsalsiz, concerning an anti-riot operation conducted on 26 September 1999 in Ulucanlar Central Prison in Ankara.

Relying, in particular, on Article 2 (right to life) and Article 3 (prohibition of inhuman or degrading treatment), some of the applicants submitted that their relatives had been killed by the security forces in breach of their right to life, while others complained of the ill-treatment which they had suffered during and after the operation. The applicants also complained that the investigations conducted had been inadequate and ineffective.

In a judgment of 6 October 2015, the Court found that in the light of the circumstances of the anti-riot operation on 26 September 1999, there had been a substantive and procedural violation of Article 2 of the Convention in respect of the late Mr Mahir Emsalsiz, among others. It awarded Ms Mehiyet Emsalsiz (the deceased's mother) the sum of 50,000 euros (EUR) in respect of non-pecuniary damage.

On 3 January 2017 the applicants' lawyer, Mr Kazım Bayraktar, informed the registry of Ms Mehiyet Emsalsiz's death on 5 February 2015. Consequently, he requested the revision of the judgment pursuant to Rule 80 of the Rules of Court and the designation of the late Ms Mehiyet Emsalsiz's four heirs as beneficiaries of the award made in respect of just satisfaction. The Court will adjudicate on that request for revision in its judgment of 30 May 2017.

Thursday 1 June 2017

Ayvazyan v. Armenia (no. 56717/08)

The applicant, Silvar Ayvazyan, is a Russian national who was born in 1951 and lives in Rostov-on-Don (Russia). The case concerns the killing of her mentally-ill brother, Seyran Ayvazyan, born in 1961, by the police.

On 6 March 2006 Seyran Ayvazyan went to a local shop and stabbed a shop assistant and a customer. The police were called and went to Seyran Ayvazyan's home where he had, in the meantime, fled. One of four police officers who arrived at his home was also then stabbed. More police officers were called, as well as the local mayor, an ambulance and the fire brigade. The house being surrounded, the police tried to persuade him to surrender, without success. After about five

hours, they decided to enter the house to apprehend him, but when he attacked another officer with a knife, they opened fire and shot him dead.

Criminal proceedings were immediately instituted after the shooting to investigate Seyran Ayvazyan's armed assaults. An inspection of the crime scene and an autopsy were conducted, and police officers involved in the incident were questioned. However, in October 2006 the prosecuting authorities decided to discontinue the criminal case given that Seyran Ayvazyan had died. At the same time the authorities refused to open criminal proceedings against the police officers involved in the incident, concluding that they had acted lawfully in the face of a life-threatening attack. One of Seyran Ayvazyan's sisters lodged a complaint about this decision, submitting in particular that no separate criminal proceedings had been brought into the killing. The complaint was dismissed at both first and second instance. Her appeal on points of law was also finally dismissed in May 2008 by the Court of Cassation because it had been lodged out of time. The Court of Cassation did nevertheless point out a number of shortcomings in the investigation into the killing, namely that not all the police officers present at the shooting had been questioned, that no measures had been taken to prevent collusion between those officers who had been questioned and that no reasonable explanation had been given for the fact that six of the ten bullets fired at Seyran Ayvazyan had hit him in the back.

Relying on Article 2 (right to life), Silvar Ayvazyan alleges that the use of force against her brother had been unnecessary, the number of shots fired at him excluding the justification of self-defence, and that the police officers involved had been ill-prepared and ill-equipped for the situation. She further submits under Article 2 that the authorities' investigation had been inadequate.

Haupt v. Austria (no. 55537/10)

The applicant, Herbert Haupt, was Chairperson of the Austrian Freedom Party between 2002 and 2004, and Vice Chancellor of the Federal Government between February and October 2003. His application concerns the proceedings he brought against the media company ATV. Mr Haupt claimed compensation for criticism made of him in an episode of the satirical comedy show *Das Letze der Woche*, which aired in September 2003. Mr Haupt objected to the suggestion by the show's host that, just like a hippopotamus in Vienna Zoo, Mr Haupt was "usually surrounded by little brown rats". The reference to "brown rats" was regarded as an allusion to neo-nazis.

Mr Haupt's claim was granted by the Austrian courts in 2004 and 2005. However, the proceedings were later re-opened by the Supreme Court, after the television company lodged an application with the European Court of Human Rights complaining of a violation of their right to freedom of expression. After the proceedings were reopened, Mr Haupt's claim was rejected by the Austrian courts, which dismissed his claim for compensation and ordered him to pay ATV's costs.

Mr Haupt complains that his rights under Article 8 (right to respect for private and family life) were violated, because the Austrian courts had failed to protect him against lurid and degrading attacks on his reputation. He also relies on Article 6 § 1 (right to a fair hearing within a reasonable time) to complain that his compensation claim was not concluded within a reasonable period. Finally, he relies on Article 1 of Protocol No. 1 (protection of property) to claim that his property rights were violated by the dismissal of his compensation claim in the re-opened proceedings, even after the Austrian courts had already granted his claim in a "final" decision.

J.M. and Others v. Austria (nos. 61503/14, 61673/14, and 64583/14)

The applicants are J.M., Hans Jörg Megymorez, and Gert Xander. They are Austrian nationals born in 1959, 1970, and 1964 respectively and live in Klagenfurt-Wölfnitz (Austria) (Mr Megymorez) and Maria Wörth (Austria) (Mr Xander). Between 2004 and 2012, J.M. was Minister of the Regional Government of Carinthia. Mr Megymorez and Mr Xander were managers of Landes-und

Hypothekenbank, and board members of Hypothekenbank-Holding, a holding company that owned shares in the bank.

All of the applicants rely on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), to complain that they were subjected to an unfair trial. In October 2012 the Klagenfurt Regional Court found that they had been party to a breach of trust consisting of a six million euro payment made to a consultant for his role in a sale of shares in Landes-und Hypothekenbank. The court held that the true value of the consultant's services had been 300,000 euros. It convicted two of the applicants for breach of trust for authorising the payment, and convicted one of them for abetting breach of trust by ordering the payment. The applicants argue that the only official expert who had given evidence at trial had been the expert who had identified alleged wrongdoing by the applicants in the preliminary investigation. The applicants maintain that he was therefore effectively a witness for the prosecution. The applicants complain that they were not permitted to adduce their own expert evidence, or effectively challenge the court appointed expert for bias: meaning that the principle of equality of arms had been violated and that their trial was unfair.

Külekci v. Austria (no. 30441/09)

The applicant, Gokhan Külekci, is a Turkish national who was born in 1990 and lives in Turkey. He relies on Article 8 (right to respect for private and family life) to complain about his expulsion from Austria, and an exclusion order which prohibited him from being in the country. Mr Külekci was born in Austria to parents of Turkish origin. He left to live in Turkey in 1992, but returned to Austria in 1998. Mr Külekci had Turkish citizenship, and lived in Austria on a residence permit. In 2006 he was convicted of a series of violent crimes in Austria and served time in prison. As a result of his convictions, he was made the subject of an exclusion order, which was ultimately set for a period of five years. In February 2010 he was expelled to Turkey, aged 19.

Mr Külekci complains that his exclusion and expulsion from Austria had violated his right to private and family life. In particular, he argues that his entire family had lived in Austria, and that it had been disproportionate to expel him to what he considered to be a foreign country, as a result of juvenile delinquency that is common for children from broken families.

Malik Babayev v. Azerbaijan (no. 30500/11)

The application of Malik Seyfal oglu Babayev concerns the death of his son during his compulsory military training. Whilst serving as a sniper in the Gadabay region in military unit no.171, Mr Babayev's son died from a gunshot wound. The authorities found that he had committed suicide. Relying in substance on Article 2 (right to life), Mr Babayev complains that his son was driven to suicide as a result of being ill-treated during his military service, and that the State had failed to protect him whilst he was in its total control. Furthermore, Mr Babayev contends that the Government failed to carry out an effective investigation into the death. The investigation was repeatedly closed and reopened. It was eventually closed permanently, with the finding that the ill-treatment was not established and that Mr Babayev's son had probably committed suicide because he had been depressed. Mr Babayev claims that the proceedings were discontinued in order to avoid harm to the reputation of the Ministry of Defence.

Mr Babayev is an Azerbaijani national who was born in 1966 and lives in Khachmaz (Azerbaijan).

Zschüschen v. Belgium (no. 23572/07)

The applicant, Steve Mitchell Zschüschen, is a Dutch national who was born in 1970 and lives in Amsterdam.

The case concerns criminal proceedings which led to Mr Zschüschen's conviction for money laundering.

In March 2003 Mr Zschüschen opened an account in a bank in Belgium and, within two months, paid a total of 75,000 euros (EUR) into it, in five instalments. The bank notified the information processing unit of the payments, and criminal proceedings were brought against Mr Zschüschen for money laundering.

In June 2005 Antwerp Criminal Court sentenced Mr Zschüschen to ten months' suspended imprisonment, and fined him EUR 5,000. The EUR 75,000 on his account was also confiscated on the grounds that it constituted a pecuniary benefit directly linked to the offence of which he had been convicted. In its reasoning, the court had regard to the fact that Mr Zschüschen had not explained the origin of the money, that he had a record in the Netherlands of drug-related offences and that he had no income in that country. The judgment was upheld on appeal, and Mr Zschüschen's appeal on points of law was dismissed in November 2006.

Relying on Article 6 §§ 1 and 2 (right to a fair trial/presumption of innocence), Mr Zschüschen submits that his presumption of innocence, his right to remain silent and his defence rights had been violated, in view of the fact that the domestic courts had not described in detail the offence underlying the money laundering and had failed to establish the unlawful origin of the allegedly laundered money. Mr Zschüschen also relies on Article 6 § 3 (a) (right to be informed promptly of the accusation) and Article 1 of Protocol No. 1 (protection of property).

Krasteva and Others v. Bulgaria (no. 5334/11)

The four applicants rely on Article 1 of Protocol No. 1 (protection of property) to complain that they were deprived of their property without compensation. In 1968, the second applicant and the antecedents of the other three applicants purchased a plot of land on the outskirts of Sofia. The land in question had originally been collectivised in the years after 1945. In 2002, a group of persons claiming to be the heirs of the original pre-collectivisation owners brought a claim against the applicants for ownership of the land, arguing that they had a right to repossess it. The claimants were ultimately awarded ownership by the courts and the applicants had to surrender possession. The applicants complain that they were unfairly deprived of land that had been purchased in good faith, and that they were not awarded any compensation.

The applicants are Donka Krasteva, Maria Piskova, Angelina Piskova-Indzhova, and Iskra Piskova. They are Bulgarian nationals who were born in 1932, 1929, 1965, and 1956 respectively and live in Sofia.

Giesbert and Others v. France (nos. 68974/11, 2395/12 and 76324/13)

The case concerns the conviction of the weekly magazine "Le Point", its editor-in-chief, Mr Franz-Olivier Giesbert, and a journalist, Mr Hervé Gattegno, for having published the record of a set of criminal proceedings before it was read out at a public hearing, in the high-profile Bettencourt case.

On 10 December 2009 "Le Point" published a 4-page article concerning gifts worth one billion euros from Liliane Bettencourt, one of the wealthiest individuals in France, to her friend B., a writer and photographer. The article contained comments in quotation marks, presented as excerpts from statements made to the investigators. The article also reproduced statements by Ms Bettencourt under the heading "Exclusive: what Liliane Bettencourt actually told the police". On 4 February 2010 "Le Point" published an article entitled "The Bettencourt affair: how to earn a billion (without too much trouble)". That article reproduced lengthy excerpts from statements made by persons working at Ms Bettencourt's home, which had been recorded during the preliminary inquiry. On 11 February 2010, further to the publication of that article, Ms Bettencourt brought urgent proceedings against the applicants before the Paris *tribunal de grande instance* ("TGI"). B. followed suit. Ms Bettencourt complained that the reproduction of procedural documents relating to the preliminary inquiry violated section 38 of the 29 July 1881 Freedom of the Press Act and Article 9 of the Civil Code guaranteeing respect for private life. The court ordered the applicants to pay her a sum of 3,000

euros (EUR), together with a further EUR 3,000 in respect of costs and expenses. The applicants appealed against that decision. The Paris Court of Appeal upheld the substance of the decision, increased the award to EUR 10,000, and confirmed that the record of witness statements constituted "procedural documents", even if the preliminary inquiry had been discontinued. The court ruled that the publication of such excerpts amounted to a violation of section 38 of the 1881 Act, and was therefore an "unlawful nuisance" within the meaning of Article 809 of the Code of Civil Procedure. The Court of Cassation dismissed the applicants' appeal on points of law. As regards B.'s complaint, the TGI held that the publication of the article had infringed his rights to a fair trial and to the presumption of innocence. The applicants were ordered to pay him an advance of EUR 3,000 on the compensation to be awarded in respect of non-pecuniary damage, and an equivalent amount in respect of costs and expenses. The applicants appealed. The Paris Court of Appeal upheld the substance of that decision. The Court of Cassation dismissed the applicants' appeal on points of law. On 9 March 2010 B. brought proceedings against the applicants before the TGI, claiming compensation for the damage caused by the publication of the articles on 10 December 2009 and 4 February 2010 in breach of section 38 of the 1881 Act. The TGI dismissed all B.'s claims. In February 2012 the Court of Appeal set aside the judgment, ruled that the impugned publications had infringed B.'s right to a fair trial with respect for his defence rights and the presumption of innocence and violated section 38 of the 1881 Act, and ordered the applicants to pay B. EUR 1 in compensation for each publication and EUR 6,000 in respect of costs and expenses. The Court of Cassation dismissed the applicants' appeal on points of law.

From June 2010 onwards the startling developments and the political/financial ramifications of the Bettencourt affair attracted intensive media coverage. In December 2011 B. was placed under formal investigation for exploitation of weakness, and on 28 May 2015 he was found guilty and sentenced to three years' imprisonment, thirty months of which were affirmative, a fine of EUR 350,000, and EUR 158 million in respect of damages payable to Ms Bettencourt. The Bordeaux Court of Appeal upheld the judgment and altered the sentence.

The applicants allege that the findings of civil liability against them under section 38 of the 1881 Freedom of the Press Act amounted to a violation of Article 10 (freedom of expression).

Mindadze and Nemsitsveridze v. Georgia (no. 21571/05)

The two applicants make a number of complaints arising from the criminal proceedings against them, including claims of police ill-treatment, unlawful deprivation of liberty and an unfair trial.

The applicants, David Mindadze and Valerian Nemsitsveridze, are Georgian nationals who were born in 1977 and 1979 respectively and live in Tbilisi and Tskaltubo (Georgia). In 2004 they were arrested and charged in connection with an attack on a member of the Georgian Parliament. The Tbilisi Regional Court found both men guilty of attempted murder with aggravating circumstances (as well as various other charges), finding that Mr Nemsitsveridze had ordered the murder of the parliamentarian, and that Mr Mindadze had attempted to carry it out with the use of a firearm (the victim was wounded but not killed).

Relying on Article 3 (prohibition of torture and ill-treatment), Mr Mindadze complains that police officers subjected him to electrical shocks and severe beatings in order to extract a confession from him, and that the violence was never properly investigated. Also relying on Article 3, both applicants claimed that they were subjected to ill-treatment as a result of the poor conditions of their pre-trial detention. Relying on various provisions under Article 5 (right to liberty and security), they claim that parts of their pre-trial detention were unlawful. They submit that, when the domestic court had ordered an extension of their pre-trial detention, it did not provide any valid reasons for this; that they had not been provided with the prosecutor's application to extend their detention on remand in advance of the judicial examination of it; and that almost six months of their pre-trial detention had not been covered by any valid court decision. Finally, the applicants rely on Article 6 § 1 (right to

a fair trial) to complain the criminal proceedings against them had been unfair, on account of the extraction of a confession and related statements from Mr Mindadze by torture, as well as the applicants' inability to benefit from the assistance of lawyers of their own choice at the early stages of the proceedings.

Astikos Kai Paratheristikos Oikodomikos Synetairismos Axiomatikon and Karagiorgos v. Greece (nos. 29382/16 and 489/17)

These two cases concern the admissibility criteria for appeals on points of law before the Council of State.

Application no. 29382/16

The applicant body, Astikos Kai Paratheristikos Oikodomikos Synetairismos Axiomatikon (application no. 29382/16), is a police cooperative.

In 1994 the applicant cooperative purchased a large piece of land in order to build second homes for police officers. On 18 April 1994 the Minister for the Environment, Spatial Planning and Public Works approved the site for building purposes, but the Council of State issued an unfavourable opinion on the construction of buildings there. In July 2000 the applicant cooperative lodged an action for damages with the administrative courts against the State, unsuccessfully. The Council of State, adjudicating on the applicant cooperative's appeal on points of law, dismissed the third appeal as being inadmissible on the grounds that the initial statement of claim did not comprise any specific allegation in support of the admissibility of the appeal, as required under Law No. 3900/2010 (in force since 1 January 2011).

Application no. 489/17

The applicant, Panagiotis Karagiorgos (application no. 489/17), is a Greek national who was born in 1937 and lives in Ioannina (Greece).

In April 2002 the Assembly of the Ionian University in Corfu, where Mr Karagiorgos worked as a part-time lecturer, elected him to a full-time professorship. The appointment file was submitted to the Ministry of Education on 21 May 2004 for scrutiny of the lawfulness of the election and the appointment, with a view to its publication in the Official Gazette. However, the scrutiny in question did not take place and Mr Karagiorgos reached retirement age on 31 August 2004. His election and appointment were therefore cancelled. In August 2006 Mr Karagiorgos lodged a claim with the administrative courts for compensation against the State and the University, but his action was dismissed at first instance and on appeal. The Council of State dismissed his appeal on points of law as inadmissible, referring, in particular, to Law No. 3900/2010, and did not reply to Mr Karagiorgos' request to refer the case to the Court of Justice of the European Union (CJEU) for a preliminary ruling.

The applicants rely on Article 6 § 1 (right of access to a court and right to a fair trial) and Article 1 of Protocol No. 1 (protection of property).

Stefanetti and Others v. Italy (nos. 21838/10, 21849/10, 21852/10, 21855/10, 21860/10, 21863/10, 21869/10 and 21870/10)

The eight applicants are Italian nationals who were born between 1933 and 1944. They live in Sondrio Province in Lombardy (Italy). The case concerns the calculation of their retirement pensions.

Relying on Article 6 § 1 (right to a fair trial), the applicants submitted that the action of the legislature in enacting Law No. 296/2006 while their actions were still pending before the Italian courts had amounted to a violation of their right to a fair trial. Under Article 1 of Protocol No. 1 (protection of property) they also complained that according to their calculations they had lost 67 % of the total pensions to which they had been entitled.

In its 15 April 2014 judgment on the merits, the Court ruled that the impugned legislative action involving the enactment of Law No. 296 of 2006 (also known as the "Finance Law for 2007" or "law of authoritative interpretation"), section 1 (777) of which finally, and retroactively, settled the substance of the dispute between the applicants and the State before the domestic courts, had not been justified by any compelling reasons of public interest and that there had therefore been a violation of Article 6 § 1 of the Convention. The Court had also ruled that the infringement of the applicants' property rights had been disproportionate and created an imbalance between the requirements of the public interest and the protection of individuals' fundamental rights, and had therefore amounted to a violation of Article 1 of Protocol No. 1.

Under Article 41 (just satisfaction), the Court had awarded each of the applicants a sum of 12,000 euros (EUR) in respect of non-pecuniary damage; however, it had considered that the question of compensation for pecuniary damage was not ready for decision and deferred its consideration to a later date. The Court would decide on that question in its judgment of 1 June 2017.

Dejnek v. Poland (no. 9635/13)

The applicant, Artur Dejnek, complains of strip searches and personal checks that he was subjected to whilst serving a prison sentence in Lublin Remand Centre. Mr Dejnek maintains that prison guards repeatedly conducted extremely intimate searches of him and his cell. In particular, he claims that he was ordered to strip naked despite severe pain in his back and subjected to a search which included an inspection of his penis and anus. Mr Dejnek complains that the searches were humiliating and debasing, in violation of his rights under Article 3 (prohibition of inhuman or degrading treatment). The Court also chose to examine the claims under Article 8 (right to respect for private and family life, the home and the correspondence).

Mr Dejnek is a Polish national who was born in 1976 and is detained in Lublin (Poland).

Kość v. Poland (no. 34598/12)

The applicant, Jaroslaw Kosc, is a Polish national who was born in 1942 and lives in Tomaszow Mazowiecki (Poland). The case concerns his complaint about proceedings brought against him by a former local mayor, Z.M., for sending a petition to the district mayor in the run-up to the local elections of 2010, requesting clarifications about Z.M.'s management of village funds. Both Mr Kosc and Z.M. were candidates in those local elections. In May 2011 the domestic courts found that Mr Kosc had infringed K.M.'s personal rights by failing to prove his accusations. This decision was upheld on appeal in November 2011, the Court of Appeal also concluding that Mr Kosc's petition had not been in the public interest, but had been motivated by his desire to win the elections. Relying on Article 10 (freedom of expression), Mr Kosc submits that the courts' findings were disproportionate, stressing that the petition should have been regarded as private correspondence with local government officials concerning the proper use of public funds.

Shabelnik v. Ukraine (No. 2) (no. 15685/11)

The case concerns the applicant's claim that the criminal proceedings against him were unfair.

The applicant, Dmitriy Shabelnik, is a Ukrainian national who was born in 1979 and is currently in detention in Zhytomyr (Ukraine). In July 2002, he was convicted of murder. However, Mr Shabelnik made a successful complaint about the trial to the European Court of Human Rights, which found that the proceedings had been unfair and in violation of Article 6 (right to a fair trial). As a result of this finding, in 2010 the proceedings came before the Supreme Court for a fresh examination. The court excluded some of the evidence from consideration, but found that the rest of the evidence had been sufficient to support the trial court's finding that Mr Shabelnik had committed the murder.

Relying on various provisions under Article 6, Mr Shabelnik complains that the 2010 proceedings before the Supreme Court were also unfair. In particular, he complains that he was not permitted to

attend the hearing; that the court had implicitly relied on information which it had ostensibly struck from the admissible body of evidence and unfairly relied on psychiatric evidence not relied upon during the first trial; and that the Court had – contrary to domestic law and without warning - conducted a fresh re-examination of the entire factual circumstances of the case, rather than simply rule on the validity of the trial court's findings.

Tonyuk v. Ukraine (no. 6948/07)

The applicant, Yustyna Tonyuk, is a Ukrainian national who was born in 1941 and lives in the Ivano-Frankivsk Region of Ukraine. She complains about the existence and use of a cemetery, which was created ten metres from her home. Ms Tonyuk obtained two judgments from national courts, which banned the use of the cemetery for future burials, on the grounds that its proximity to Ms Tonyuk's home was in breach of the applicable sanitary standards.

Relying on Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy), Ms Tonyuk complains that burials in the cemetery continued despite of the judgments in her favour, claiming that the court orders were never properly enforced. Ms Tonyuk also complains that the use of the land for burials violated her rights under Article 8 (right to respect for private and family life, and the home): in particular, because of the risk that her well water would be poisoned, and because living in the immediate proximity of a functioning cemetery caused her serious psychological discomfort.

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.

Cherpion v. Belgium (no. 47158/11)
Legrain v. Belgium (no. 65683/11)
Timmermans v. Belgium (no. 12162/07)
Gapaev and Others v. Bulgaria (no. 41887/09)
Grabchak v. Bulgaria (no. 55950/09)
Kurilovich and Others v. Bulgaria (no. 45158/09)
A.N. v. France (no. 19919/13)
Nozadze v. Georgia (no. 41541/05)
Magri v. Malta (no. 22515/16)
Berardi and Others v. San Marino (no. 24705/16, 24818/16 and 33893/16)
Sofia v. San Marino (no. 38977/15)
Çakmakçı v. Turkey (no. 3952/11)
Minter v. the United Kingdom (no. 62964/14)

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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.