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

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Forthcoming judgments

The European Court of Human Rights will be notifying in writing ten judgments on Tuesday 10 June 2014 and nine on Thursday 12 June 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)*

Tuesday 10 June 2014

Just Satisfaction

Dragostea Copiilor - Petrovschi - Nagornii v. the Republic of Moldova (no. 25575/08)

The applicant company runs a primary school in Chişinău (Moldova). A party to civil proceedings in 2001, the company was ordered to pay an individual 78,400 US dollars. However, in a final judgment in July 2007, an appeal court found that the application for enforcement of the order was time-barred. The company complained that the final judgment in its favour had been subsequently quashed in review proceedings, which ended in October 2008 with a Supreme Court judgment enforcing the original payment order. The company also complained that the judge rapporteur in the review proceedings had been changed in disregard of the applicable provisions.

In its principal judgment of 13 September 2011 the Court found violations of Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property) of the European Convention on Human Rights, and decided to reserve the question of the application of Article 41 (just satisfaction). This question will be examined by the Court in its judgment of 10 June 2014.

P.K. v. Poland (no. 43123/10)

The case concerns a child custody dispute.

The applicant, Mr P.K., is a Polish national who was born in 1978 and lives in Bychawa (Poland). Relying on Article 8 (right to respect for private and family life) of the Convention, Mr P.K. alleges that the Polish authorities failed to enforce his contact rights with his son, born in 2001, following his divorce with the child's mother in 2004. He submitted in particular that between 2001 – when he separated with the child's mother – and 2006, he had repeatedly requested the police to assist with the access arrangements to his son, to no avail. After that, he had turned to the courts, repeatedly informing them of the mother's obstructive behaviour, but alleges that the fines imposed on her had been infrequent and far too lenient and the court-appointed guardian ineffectual. The Government argue that the animosity between Mr P.K. and his ex-wife had made it particularly difficult for the authorities to enforce the contact order, submitting also that Mr P.K. had in any event shown little interest in his son between 2001 and 2006 and had even tried – unsuccessfully – to challenge his paternity of the child during the divorce proceedings.

Bujorean v. Romania (no. 13054/12)

The applicant, Gheorghe Bujorean, is a Romanian national who was born in 1968. He is currently detained in Botoşani Prison in Romania, where he is serving a five-year sentence after being convicted of fraud on 13 September 2011. The case concerns the conditions of detention in the prison. Relying on Article 2 (right to life), Mr Bujorean complains of his conditions of detention.

Constantin Aurelian Burlacu v. Romania (no. 51318/12)

The applicant, Constantin Aurelian Burlacu, is a Romanian national who was born in 1982. He is currently detained in Vaslui Prison. The case concerns the issue of overcrowding in certain detention facilities in Romania.On 16 February 2009 Mr Burlacu, who was suspected of trafficking in hard drugs, was taken into police custody following a decision by the public prosecutor's office, and was placed in pre-trial detention. He was subsequently sentenced to 11 years' imprisonment, a decision which was upheld on appeal and on further appeal. Relying in particular on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Burlacu complains of the poor conditions of detention in the Bucharest police headquarters and in Rahova Prison, and especially of overcrowding in the cells.

Mihai Laurenţiu Marin v. Romania (no. 79857/12)

The applicant, Mihai Laurențiu Marin, is a Romanian national who was born in 1975. He is currently detained in Măgineni Prison (Romania). Relying on Article 3 (prohibition of inhuman or degrading treatment), he complains about the conditions in which he has been detained since 2004 in Poarta Albă and Măgineni Prisons in overcrowded and inadequately heated cells.

Voicu v. Romania (no. 22015/10)

The case concerns the pre-trial detention of a former senator on charges of trading in influence.

The applicant, Cătălin Voicu, is a Romanian national who was born in 1965 and lives in Bucharest. He was arrested in March 2010 and his pre-trial detention was extended roughly every month until he was released pending trial in July 2011 on the condition that he was not to leave town. Mr Voicu makes three complaints under Article 3 (prohibition of inhuman or degrading treatment): complaining about both the conditions of his pre-trial detention (on account of overcrowding and lack of basic hygiene) and his transportation from prison to the prosecutor's office (in the back of a van with no heating or lighting); and, alleging that he had been handcuffed in full view of the public and the press whilst being taken to the court hearings to decide on his pre-trial detention. He also complains under Article 5 § 3 (right to liberty and security) that the courts refused to consider other less restrictive preventive measures than pre-trial detention and, under Article 8 (right to respect for private and family life), that the authorities leaked excerpts from the prosecution file to the press – in particular, transcripts of conversations obtained through telephone tapping during the criminal surveillance operation against Mr Voicu and his co-defendants.

Revision

Gülbahar Özer and Others v. Turkey (no. 44125/06)

The case concerns a request for revision of a judgment by the European Court of Human Rights in a case relating to the killing of the applicants' children by Turkish soldiers.

The applicants, Gülbahar Özer, Yusuf Özer, Halil Esen, Hüseyin Esen and Abdurrahman Çınar, are Turkish nationals who were born in 1963, 1965, 1947, 1952 and 1946 respectively. Gülbahar Özer and Yusuf Özer live in İzmir, Halil Esen and Hüseyin Esen live in Mardin and Abdurrahman Çınar lives in Diyarbakır (Turkey). The case concerned the killing of the applicants' five children, aged between 13 and 24, by soldiers in south-east Turkey in 2005. The ensuing investigation conducted by the authorities concluded that the applicants' children, terrorists and members of the PKK, had opened fire on the soldiers and had been killed in the ensuing armed clash. Relying in particular on Article 2 (right to life), the applicants alleged that the soldiers' use of force against their children had been excessive and that the investigation into the incident, if it had been carried out adequately by, for example, taking swabs for gunpowder residue, would have shown that their children had been unarmed and could not possibly have opened fire on the soldiers.

In its principal judgment of 2 July 2013 the Court held that there had been a violation of Article 2 (right to life) as concerned both the death of the applicants' children as well as the related investigation, and awarded each of the five applicants 65,000 euros (EUR) for non-pecuniary damage and EUR 5,930, jointly, for costs and expenses.

On 5 December 2013 the applicants' legal representatives requested that the European Court revise its judgment of 2 July 2013, submitting that Mr Halil Esen had died and that his widow, Mrs Fatma Esen, therefore requested that the judgment be rectified so that she could receive the compensation awarded to her husband in respect of the killing of their daughter Zerga Esen. The Court will deal with this request in its judgment of 10 June 2014.

Just Satisfaction

Selin Aslı Öztürk v. Turkey (no. 39523/03)

The applicant, Selin Aslı Öztürk, is a Turkish national who was born in 2000 and lives in Istanbul. She complained that she had been unable to apply for recognition of her deceased father's divorce decree and was thus deprived of part of her inheritance.

In its principal judgment of 13 October 2009, the Court held that there had been a violation of Article 6 (right to a fair trial) on account of the applicant's inability to apply for recognition of her deceased father's divorce decree, which had deprived her of a quarter of the inheritance to which she was entitled. The Court also found a violation of Article 1 of Protocol No. 1 (protection of property), on the grounds that the restrictive interpretation given by the Court of Cassation, according to which children could not request recognition of a parent's divorce decree even after the parent's death, was liable to upset the fair balance between the demands of the general interest and the requirement of the protection of individual rights. In the present case, Ms Öztürk had no longer been able to claim her full share of her father's estate. As the question of the application of Article 41 (just satisfaction) was not ready for decision, the Court reserved it. This question will be examined by the Court in its judgment of 10 June 2014.

Repetitive cases

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

Eltari v. Albania (no. 16530/06) - **Just Satisfaction**

This case concerned the non-enforcement of final court decisions in the applicant's favour. In its principal judgment of 8 March 2011 the Court found violations of Article 6 § 1 (right to a fair trial), Article 13 (right to an effective remedy) in conjunction with Article 6 § 1, and Article 1 of Protocol No. 1 (protection of property), and reserved the question of just satisfaction (Article 41) for examination at a later date. The Court will deal with this question in its judgment of 10 June 2014.

Vidu and Others v. Romania (no. 9835/02) - **Just Satisfaction**

This case concerned the failure to enforce a final judgment in the applicants' favour. In its principal judgment of 21 February 2008 (available only in French) the Court found violations of Article 6 § 1 (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property), and reserved the question of just satisfaction (Article 41) for examination at a later date. The Court will deal with this question in its judgment of 10 June 2014.

Thursday 12 June 2014

Jelić v. Croatia (no. 57856/11)

The case concerns the allegation of targeted disappearances and killings of civilians of Serbian origin by the Croatian police and army in the Sisak area (Croatia) in 1991 and 1992 during the Homeland war in Croatia.

The applicant, Ana Jelić, is a Croatian national who was born in 1934 and lives in Sisak. She alleges that five armed men in camouflage uniforms and balaclavas came to the family home in Sisak in the evening of 15 November 1991 and took away her husband, Vaso Jelić. His body was found nearly three months later on the banks of the river Kupa in Sisak. An autopsy showed that he had been shot dead and a criminal complaint was lodged against a person or persons unknown on murder charges. None of the ensuing investigative measures taken produced any tangible results until September 1999 when the police interviewed a man who had collected information about the arrests and killings of 83 civilians of Serbian origin and the disappearances of a further 500 civilians of Serbian origin in the Sisak area. Ultimately, the investigation led to the conviction by a first-instance court in December 2013 of the Deputy Head of the Sisak Police (Commander of the Police Forces in the broader area of Sisak and Banovina) for the killings and for failing to undertake adequate measures to prevent them. In the meantime, Ms Jelić had brought civil proceedings seeking compensation for the death of her husband – including a constitutional complaint – which were dismissed.

Relying in particular on Article 2 (right to life) and Article 13 (right to an effective remedy), Ms Jelić alleges that the Croatian police arrested and killed her husband and that the ensuing official investigation into his death was inadequate. Further relying on Article 14 (prohibition of discrimination) in conjunction with Article 2, she alleges that her husband was arrested and killed purely because of his Serbian ethnic origin, arguing that 130 civilians of Serbian origin had been killed in the Sisak area in 1991 and 1992 without a proper investigation being carried out.

Marić v. Croatia (no. 50132/12)

The case concerns a hospital's disposal of the body of a stillborn child as clinical waste.

The applicant, Miodrag Marić, is a Croatian national who was born in 1966 and lives in Žrnovica (Croatia). On 7 August 2003 Mr Marić's wife gave birth, in the ninth month of pregnancy, to a stillborn child at a publicly-owned hospital in Split. After the birth, Mr Marić and his wife did not want to take their child's remains, leaving the hospital to carry out an autopsy and burial. An autopsy was carried out and on 13 October 2003 the hospital disposed of the child's body together with other clinical waste. The clinical waste was then taken by the hospital's contractor to Zagreb cemetery for cremation. Soon afterwards, Mr Marić and his wife tried to find out about their child's burial, without success. As a result, they brought civil proceedings against the hospital seeking damages for the distress caused by the way in which it had disposed of their child's body. Split County Court subsequently found that, under the relevant domestic law, the body of their child should not have been disposed of as clinical waste but that, as no provision of the law obliged the hospital to inform parents where their stillborn child was buried, they could not claim damages. This decision was confirmed by the Supreme Court in November 2008. The couple's constitutional complaint was dismissed in February 2012. In parallel, Mr Marić brought a criminal complaint against the hospital as well as the employees of the hospital and its contractor, which was rejected on the grounds that the body had been disposed of in accordance with the relevant law and procedures.

Relying on Article 8 (right to respect for private and family life), Mr Marić complains that the body of his stillborn child had been disposed of improperly by the hospital and that, as a result, he had been prevented from obtaining information about where the child was buried.

Couderc and Hachette Filipacchi Associés v. France (no. 40454/07)

The applicants are the company Hachette-Filipacchi, which publishes the weekly magazine *Paris-Match* and its editor, Anne-Marie Couderc, a French national born in 1950. The case concerns the freedom of expression of the press viewed against the protection of the reputation and the rights of others.

On 3 May 2005 the *Daily Mail* published claims by Ms C. that Albert Grimaldi, the reigning Prince of Monaco, was the father of her son. The English newspaper reproduced the main points of an article due to be published in *Paris-Match*. Prince Albert served notice on the applicants by means of a bailiff's order dated 3 May 2005 to refrain from publishing the article in question. The magazine ignored the notice and published the article, which appeared simultaneously in the German weekly magazine *Bunte*.

On 19 May 2005 the Prince brought proceedings against the applicants in the Nanterre *tribunal de grande instance*, relying, among other things, on Article 8 (right to respect for private and family life) of the Convention. On 29 June 2005 the court awarded the Prince 50,000 euros (EUR) in damages and ordered details of the judgment to be printed in a full-page feature on the front cover of *Paris-Match*, under the title "Court order made against *Paris-Match* at the request of Prince Albert II of Monaco" (« Condamnation judiciaire de *Paris-Match* à la demande du prince Albert II de Monaco »). The court ruled that the judgment was to be immediately enforceable. It considered that the whole article and the accompanying pictures came within the most intimate sphere of emotional and family life and were not apt to be the subject of a debate of general interest. The applicants appealed and obtained a suspension of the judgment's immediate enforceability. On 6 July 2005 the Prince issued a statement in which he publicly acknowledged that the child was his. The Court of Appeal gave judgment on 24 November 2005, finding that the article in *Paris-Match* had caused irreversible damage to the Prince, as the fact that he was the child's father, which had remained secret from the birth of the child until publication of the article, had suddenly become public knowledge, against his wishes. The Court of Appeal upheld the award of EUR 50,000 for damages and altered the conditions of the order for publication, ruling that the statement should appear without a title and should occupy one third of the front cover. Alleging a violation of Article 10 (freedom of expression) of the Convention, the applicants lodged an appeal on points of law, which was dismissed.

In Germany, the urgent application lodged by the Prince against the magazine *Bunte* was dismissed in a judgment that was subsequently upheld by the Court of Appeal.

Relying on Article 10 (freedom of expression), the applicants allege that the court order against them amounted to unjustified interference with the exercise of their right to freedom of information.

Biblical Centre of the Chuvash Republic v. Russia (no. 33203/08)

The case concerns the dissolution of a Protestant church on the ground that it administered religious education without a State license and that it ran a Sunday school for children, which was not appropriately equipped.

The applicant is a Russian religious organisation, the Biblical Centre of the Evangelical (Pentecostal) Christians of the Chuvash Republic. Belonging to the Pentecostal movement of the Christian faith, it was registered as a religious organisation in November 1991, founding a Biblical college and Sunday school in 1996. However, following inspections of the Biblical Centre in April and May 2007, the domestic courts ruled against the applicant organisation in two sets of administrative proceedings for allowing the Centre to conduct educational activities without authorisation and for violating sanitary rules and hygienic requirements. On that basis, the Supreme Court upheld the prosecuting authorities' claim to dissolve the applicant organisation in August 2007 and, following the dismissal of the organisation's appeal in October 2007, it was dissolved with immediate effect.

Relying in particular on Article 9 (freedom of thought, conscience, and religion), interpreted in the light of Article 11 (freedom of assembly and association), the applicant organisation complain about the decision on its dissolution and the ensuing restriction on its right to teach its followers.

Chuprikov v. Russia (no. 17504/07)

The case concerns a complaint about pre-trial detention.

The applicant, Aleksey Chuprikov, is a Russian national who was born in 1969 and is currently serving a prison sentence in a correctional colony in the Ryazan Region (Russia) for kidnapping. Mr Chuprikov was detained on charges of murder, kidnapping and robbery and held in pre-trial detention over two separate non-consecutive periods from June 2004 to December 2006 and from January to June 2007. The murder and robbery charges against him were dropped, respectively, in November 2004 and May 2005. His conviction of the kidnapping charges was quashed on three separate occasions, before he was ultimately convicted in June 2007 in the fourth and final set of criminal proceedings against him. Mr Chuprikov complains that two periods of his detention – from 13 July to 26 December 2006 and from 26 April to 28 June 2007 – were unlawful, that the length of his pre-trial detention was not based on relevant and sufficient reasons and lacked effective judicial review and that he lacked an enforceable right to compensation for his unlawful detention. He relies on Article 5 §§ 1, 3, 4, and 5 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial / right to have lawfulness of detention decided speedily by a court).

Primov and Others v. Russia (no. 17391/06)

The applicants, Niyaz Primov, Nasir Dzhavadov and Bunyam Askerov, are Russian nationals who were born in 1957, 1962, and 1953 respectively. The case primarily concerns the banning and dispersal by the police of a demonstration which was held on 25 April 2006, in and near the villages of Usukhchay and Miskindzha in Dagestan, to criticise the work of the head of the local administration and to protest against corruption. It is disputed between the parties whether the event was entirely peaceful or whether it involved violence. According to Mr Primov and Mr Askerov, who participated in the event, the police fired with rifles over protesters' heads and used tear gas and smoke bombs in order to disperse the demonstration. Both Mr Primov and Mr Askerov were arrested and placed in pre-trial detention a few days after the event – the former on suspicion of having incited demonstrators to block the road and the latter on suspicion of having been involved in another scuffle with the police in the village of Khiv a few days before the demonstration. They both remained in detention for nearly two months. The charges against them were eventually dropped. Mr Dzhavadov was also arrested with reference to his alleged involvement in the scuffle in Khiv and remained in detention for nearly two months. Relying on Article 5 §§ 1 (c) and 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), all applicants complain that their arrest and detention were unjustified. They further complain that the authorities' refusal to allow the demonstration, the violent dispersal of the event and their arrest breached their rights under Article 10 (freedom of expression) and Article 11 (freedom of assembly and association).

Berger-Krall and Others v. Slovenia (no. 14717/04)

The applicants in this case are ten Slovenian nationals, born between 1922 and 1959, who are members of the Association of Tenants of Slovenia and previous holders of specially-protected tenancies.

The case concerns the 1991 housing reform in Slovenia, which provided for the privatisation of socially-owned dwellings. In particular, the 1991 Housing Act replaced specially-protected tenancies – which had entitled holders to lifelong use of the flats concerned against the payment of a fee covering maintenance costs and depreciation – with normal lease contracts. Previous holders of specially-protected tenancies were given the possibility of renting the flats concerned for an

indefinite period and for a non-profit rent or of purchasing them on favourable terms. However, if the flats had been expropriated after the Second World War, previous holders of those tenancies could only purchase them on favourable terms if the previous owners agreed within one year from the restitution of the dwelling concerned. In a petition lodged with several State authorities in 1998 the Association of Tenants challenged the housing reform – which, in 1991, allegedly concerned 45,000 individuals – claiming that it was unconstitutional. The petition was rejected by the Government. The Association also unsuccessfully brought administrative proceedings and lodged a constitutional initiative challenging the reform.

Relying on Article 1 of Protocol No. 1 (protection of property), the applicants complain that they were deprived of their specially-protected tenancies without receiving adequate compensation. They maintain that the specially-protected tenancy had all the essential characteristics of a right of ownership save the title of owner. They further complain that they were thus deprived of their homes, in breach of Article 8 (right to respect for private and family life and the home). They also complain that, as tenants of nationalised flats, they were deprived of the right to purchase them and that they were thus discriminated against in comparison with other previous holders of specially-protected tenancies, alleging a violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 1 of Protocol No. 1. Finally, the applicants complain that they did not have sufficient access to a court to challenge the alleged infringement of their rights and that they did not have any effective legal remedies at their disposal, alleging breaches of Article 6 § 1 (right to a fair trial) and Article 13 (right to an effective remedy).

L.M. v. Slovenia (no. 32863/05)

The applicant, L.M., is a Slovenian national who was born in 1971 and lives in Ljubljana. She has suffered from a psychotic disorder, for which she has received treatment, for a number of years. The case concerns her confinement in two psychiatric hospitals, from July 2005 to January 2006, with one interruption of a few days. Relying on Article 5 §§ 1, 2, 4, and 5 (right to liberty and security / right to have lawfulness of detention decided speedily by a court), she complains in particular: that her involuntary confinement in the closed wards of the hospitals, which lasted several weeks, was not necessary; that her stay in the open wards of the hospitals was not voluntary; that she was not informed about the reasons for her confinement; that she was unable to obtain an effective review of the lawfulness of her confinement; and, that therefore she was deprived of an effective possibility of obtaining compensation for the unlawful deprivation of her liberty. Further relying, in particular, on Article 8 (right to respect for private and family life), she complains about the forced administration of medication and about the fact that her father was involved in her treatment without her consent.

Dončev and Burgov v. 'the former Yugoslav Republic of Macedonia' (no. 30265/09)

The applicants, Dragan Dončev and Stojan Burgov, are Macedonian nationals who were born in 1971 and 1970 respectively and live in Strumica ("The former Yugoslav Republic of Macedonia"). They are former police officers who were convicted on appeal in November 2008 of accepting a bribe from a driver they had stopped for speeding in April 2005. The driver, an undercover agent, gave evidence as a protected witness during the trial, alleging that the officers had accepted a bribe in exchange for them not drawing up an official report or pressing charges against him. Relying in particular on Article 6 §§ 1 and 3 (d) (right to a fair trial and right to obtain attendance and examination of witnesses), the applicants allege that their conviction was unfair as it had been based on evidence given by a witness, the driver, whose identity had not been disclosed during their trial, meaning they could not cross-examine him, and who had been involved as an undercover agent in an operation to incite them to commit bribery.

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