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

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Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing 14 judgments on Tuesday 15 March 2016 and 54 judgments and / or decisions on Thursday 17 March 2016.

*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 15 March 2016

Ciorap v. the Republic of Moldova (no. 5) (application no. 7232/07)

The case concerns a complaint by a mentally-ill prisoner that he was ill-treated following a search of his cell.

The applicant, Tudor Ciorap, is a Moldovan national who was born in 1965 and lives in Chișinău. He has a personality disorder.

According to Mr Ciorap, who was serving an 11-year prison sentence in Prison no. 13 in Chișinău, a group of masked officers armed with rubber truncheons and metal shields carried out a search of his cell on 28 October 2006, forcing him and his cellmates to line up in the corridor with their faces to the wall. Mr Ciorap alleges that, seeing all his and his cellmates' possessions – including food and medication – scattered everywhere, he refused to obey the order to go back into his cell and demanded that the prosecution or prison authorities draw up a report on the incident. He was then hit and kicked in the stomach and forced back into his cell. During the altercation, his glasses were smashed and his foot, which had been slammed between the cell-door and its doorpost, injured. He was taken to hospital the same day and, diagnosed with a suspected bone fracture, had his foot put in a plaster.

According to the Government, no force had been used either during or after the search and the cell had been left in good order.

On 31 October 2006 Mr Ciorap made a formal complaint of ill-treatment to the authorities. A criminal investigation was initiated on 8 December 2006. Subsequently Mr Ciorap, a number of detainees, prison staff and medical personnel gave statements. They all essentially confirmed that there had been an altercation, that the cell had been put into disorder and that Mr Ciorap had sustained a foot injury. The prosecuting authorities discontinued the criminal investigation in February 2008. Basing their decision on a compact disk submitted by the prison administration with a six-minute video of the incident filmed by one of the officers who had searched the cell, the authorities found that the recording did not prove that violence had been used, only that Mr Ciorap had acted provocatively by refusing to obey prison staff. The investigation was reopened again after that, but finally discontinued in August 2008. His request for an extraordinary appeal to the Supreme Court of Justice was rejected in October 2009

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy) of the European Convention on Human Rights, Mr Ciorap complains that he was ill-treated in detention and that the investigation into his allegation of ill-treatment was ineffective. He notably alleges that the video material submitted to the prosecuting authorities must have been edited as it included only six minutes of the 30-minute search.

Savca v. the Republic of Moldova (no. 17963/08)

The case concerns the detention of a high-ranking police officer.

The applicant, Corneliu Savca, is a Moldovan national who was born in 1970 and lives in Chisinau.

Mr Savca was arrested in March 2008 on suspicion of being part of a criminal gang specialised in smuggling heroin. In October 2009, however, he was found guilty of other offences, namely negligence and abuse of power, and sentenced to five years and nine months' imprisonment. That judgment was subsequently set aside on appeal and Mr Savca was released. The proceedings are currently still pending.

Between Mr Savca's arrest and his sentencing he was placed in detention on remand. His detention was extended throughout this period on the ground that he had been accused of a serious criminal offence and that there was a risk of him absconding or hindering the investigation.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, Mr Savca complains that his conditions of detention during his remand in custody and after his conviction were degrading, alleging notably that the cells were overcrowded, dirty and infected with vermin. Also relying on Article 5 §§ 1 and 3 (right to liberty and security), he alleges in particular that his remand in custody for longer than 12 months had been contrary to domestic law and that it had not been based on relevant and sufficient reasons.

Gillissen v. the Netherlands (no. 39966/09)

The applicant, Jozef Johan Anna Gillissen, is a Netherlands national who was born in 1946 and lives in the Hague. The case concerns his complaint about the failure to hear witnesses in proceedings before the social-security courts with regard to his invalidity pension.

Mr Gillissen was a policeman for over 30 years. He was discharged from service in 1996 for health reasons and granted an invalidity pension. He was also allowed to earn additional income as a self-employed stress management trainer. When it was discovered that Mr Gillissen had earned more than was normally permitted, administrative proceedings were brought against him and he was made to pay back the excess amount received in invalidity pension. In those proceedings, he alleged that in 1998 a social-security officer had given him permission to earn additional income beyond the usual maximum. The arrangement had apparently been witnessed by another officer. The idea was to create financial reserves that would permit him to make his own living and gradually reduce his dependence on social security. However, no written trace of such an arrangement was ever found in the official files. The social-security authorities and administrative courts therefore decided that the arrangement could not have been entered into at all and that the absence of any written record disproved Mr Gillissen's allegations. His appeals before both the Regional Court and the Central Appeals Tribunal were thus dismissed in November 2006 and January 2009, respectively, both levels of jurisdiction refusing to grant his repeated requests to summon the two social-security officers as witnesses.

In parallel with the administrative proceedings, Mr Gillissen was prosecuted for social-security fraud and forgery. He was ultimately acquitted in May 2007, the court of appeal finding that a plausible case for the existence of an agreement negotiated by Mr Gillissen with the social-security officer had been made out.

Relying on Article 6 § 1 (right to a fair hearing), Mr Gillissen complains that he was denied the possibility to prove the truth of his allegations by calling witnesses in the administrative proceedings against him.

Răzvan Laurenţiu Constantinescu v. Romania (no. 59254/13)

The applicant, Răzvan Laurenţiu Constantinescu, is a Romanian national who was born in 1969 and lives in Pitești.

The case concerns Mr Constantinescu's allegations of police ill-treatment and the lack of an effective investigation in that regard.

On 2 September 2009 at around 8 a.m. a member of the public telephoned the police to inform them that Mr Constantinescu was visibly drunk and creating a public disturbance. Thirty minutes later two police officers arrived at the scene and requested Mr Constantinescu to identify himself, which he refused to do. The officers left, but a short time later other officers arrived and requested the applicant to follow them to the police station. When he refused to comply, the officers used an irritant spray against him and handcuffed him before forcing him into a police car and taking him to the police station. Mr Constantinescu alleges that he was beaten violently on his arrival at the police station. Having been released after being issued with a fine, he began insulting the police officers, who allegedly caught up with him in the street and struck him so violently that they broke his femur. Mr Constantinescu remained in hospital from 2 to 17 September 2009 and underwent several operations. In October 2009 he lodged a criminal complaint. The ensuing proceedings ended in three decisions not to prosecute the police officers in question.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Constantinescu complains that he was subjected to ill-treatment by the police officers and that no effective investigation was carried out into his complaint against them.

Hoalgă and Others v. Romania (no. 76672/12)

The applicants, Adrian Hoalgă, Adrian Cornel Leleşan and Rusalin Viorel Săcârcea, are Romanian nationals who were born in 1978, 1976 and 1979 respectively and live in Petroş and Haţeg.

The case concerns the complaint lodged by the applicants alleging that they were ill-treated by the gendarmes during their arrest and that they were detained without any legal basis.

In the afternoon of 1 January 2011 an altercation arose between the applicants and four gendarmes in the ski resort of Parâng. One of the applicants' relatives had reportedly been stopped by the gendarmes while he was sledging on a ski run. The applicants were immobilised, handcuffed and taken to the resort's gendarmerie station. They lodged criminal complaints against the four gendarmes stationed in the ski resort, alleging ill-treatment. The applicants applied to join the proceedings as civil parties and submitted forensic medical certificates and photographs taken before the incident and after their detention at the gendarmerie station, showing visible signs of violence to various parts of their bodies. The case was referred to the military prosecutor's office, which instituted criminal proceedings against the gendarmes.

In the light of all the evidence, the military prosecutor gave a decision on 28 November 2011 finding that the gendarmes had acted in accordance with the law and were therefore not guilty of misconduct, as there had been no intent to commit an offence. Lastly, the prosecutor found that they had not detained Mr Hoalgă, Mr Leleşan and Mr Săcârcea unlawfully. The applicants appealed against that decision. The chief military prosecutor upheld the decision, and that ruling in turn was upheld at final instance by the Timişoara Military Court.

Relying on Articles 3 (prohibition of torture and inhuman or degrading treatment) and 6 (right to a fair trial/right to be presumed innocent), Mr Hoalgă, Mr Leleşan and Mr Săcârcea allege that they were subjected to ill-treatment as a result of the unjustified and disproportionate use of force by the gendarmes on 1 January 2011. Under Article 5 (right to liberty and security/right to a speedy decision on the lawfulness of detention), they complain that they were detained without any legal basis between 3.30 p.m. and 11.30 p.m. on 1 January 2011.

M. G. C. v. Romania (no. 61495/11)

The case concerns an allegation of defective legislation for the prosecution of rape and/or sexual abuse of children in Romania.

The applicant, Ms M.G.C., is a Romanian national who was born in 1997 and lives in Deva (Romania).

Ms M.G.C., 11 years old at the time, alleges that she was raped between August 2008 and February 2009 at a neighbouring family's house where she often went to play with two girls of the same age. She says that she was raped on two occasions in that period by J.V., a 52-year-old relative of her neighbours who was unemployed and living in the family's vacant cattle stable, as well as by her neighbours' sons and one of their friends. She eventually told her mother about the sexual abuse in March 2009, saying that she had been too ashamed to talk about it earlier and afraid because J.V. had threatened to beat her if she told anyone. As a result of the sexual abuse, Ms M.G.C. became pregnant and had to have an abortion.

On learning of the abuse, Ms M.G.C.'s parents immediately lodged a complaint with the local police against J.V. and the neighbours' four sons. During the preliminary investigation, the police ordered a psychiatric evaluation of Ms M.G.C. The ensuing report concluded that she was suffering from post-traumatic stress and, due to her young age, had difficulties in foreseeing the consequences of her acts. The case was subsequently forwarded to the prosecutor's office for further investigation. In December 2009, finding that it had not been proved beyond doubt that Ms M.G.C. had not given consent to the sexual acts, the prosecutor indicted J.V. for the crime of sexual intercourse with a minor. The neighbours' sons were given an administrative fine for the same crime. The domestic courts, in a final judgment of March 2011, found J.V. guilty of sexual intercourse with a minor and sentenced him to three years' imprisonment. The courts noted that no signs of violence had been detected on Ms M.G.C.'s body and, taking into consideration the statements by J.V. and the neighbours' sons that Ms M.G.C. had acted provocatively and the fact that she had not told her parents about any abuse or discontinued going to play at her neighbours' house, came to the conclusion that she had initiated the incidents of sexual intercourse.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life), Ms M.G.C. alleges that Romanian law and practice did not provide effective protection of children against rape and sexual abuse. In particular, in Romania the crime of rape requires a lack of consent on the victim's part, which was impossible for her to prove because there were no signs of violence on her body. Furthermore, the authorities, ignoring the results of her psychiatric examination, refused to take into consideration that her young age and vulnerability were factors contributing to her attitude towards the abuse.

Rebegea v. Romania (no. 77444/13)

The applicant, Dumitru Rebegea, is a Romanian national who was born in 1975. He is currently detained in Ploieşti Prison.

The case concerns the applicant's conditions of detention in Mărgineni Prison and the alleged breach of his right to be presumed innocent.

On 4 November 2009 criminal proceedings were instituted against Mr Rebegea, who at the time was head of the criminal division of Prahova District Court. Mr Rebegea was suspected of accepting bribes and harbouring criminals, having ordered the release of two individuals who had been remanded in custody, in exchange for substantial sums of money which he allegedly received through a lawyer. On 5 November 2009 the National Anti-Corruption Department (DNA) brought charges against Mr Rebegea, and the Bucharest Court of Appeal ordered his detention pending trial. The same day the DNA issued a press release stating that criminal proceedings were being brought against the applicant and providing some factual details. On 8 November 2009 the High Court of Cassation and Justice, in a final ruling, upheld the order made by the Bucharest Court of Appeal.

On 23 February 2012 the Bucharest Court of Appeal sentenced Mr Rebegea to seven years' imprisonment for accepting bribes, and acquitted him of harbouring criminals. Mr Rebegea appealed against that judgment. In a judgment of 27 May 2013 the High Court of Cassation and Justice sentenced the applicant to five and a half years' imprisonment for accepting bribes and harbouring criminals. From 28 May 2013 to 18 March 2014 Mr Rebegea was detained in Mărgineni Prison. He was later transferred to Jilava Prison, and then to Ploieşti Prison.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), Mr Rebegea complains about the physical conditions of his detention in Mărgineni Prison. Under Article 6 § 2 (presumption of innocence), he complains that the Bucharest Court of Appeal, at the time of his placement in detention on 5 November 2009, and the prosecuting authorities, in their press release of the same day, found him guilty although his guilt had not been established in accordance with the law.

Novruk and Others v. Russia (nos. 31039/11, 48511/11, 76810/12, 14618/13 and 13817/14)

The case concerns the entry and residence rights of HIV-positive non-Russian nationals.

The applicants are Mikhail Novruk, a Moldovan national who was born in 1972; Anna Kravchenko, a Ukrainian national who was born in 1982; Roman Khalupa, a Moldovan national who was born in 1974; Irina Ostrovskaya, an Uzbek national who was born in 1953; and Mr V.V., a national of Kazakhstan who was born in 1983.

The first three applicants settled in Russia following their marriage to Russian nationals. They all have children born of those marriages who have acquired Russian nationality by birth. The fourth applicant, Ms Ostrovskaya, was taken to live in the Uzbek Soviet Socialist Republic of the USSR by her parents in 1966 and acquired Uzbek nationality following the collapse of the USSR. After the death of her parents and her son's move to Russia in 2006, she remained alone in Uzbekistan. She decided to move to Russia in 2011 to follow her extended family (notably, her son and his family, who have valid Russian residence permits, and her sister and her husband, who are Russian nationals). The fifth applicant, Mr V.V. moved to Russia in 2006 to study and has been living since 2007 with his same-sex partner, a Russian national.

All five applicants wished to obtain residence permits in Russia. To complete their application, they were required to have a medical examination which included a mandatory test for HIV infection. After they tested positive for HIV, the migration authorities refused their applications by reference to the Foreign Nationals Act, which prevents HIV-positive foreign nationals from obtaining residence permits. In the cases of Mr Khalupa, Ms Ostrovskaya and Mr V.V., the hospitals reported their test results to the relevant authorities and their presence on Russian territory was pronounced undesirable. Such a decision can be made on the basis of the provisions of the HIV Prevention Act and of the Entry and Exit Procedures Act, which mandate deportation of aliens who are discovered to be HIV-positive.

The applicants challenged the decisions to refuse them residence permits in court proceedings.

Mr Novruk's and Ms Ostrovskaya's challenges were dismissed in November 2010 and September 2012 respectively by the national courts, on the ground that the migration services' decisions to reject their applications had been in compliance with the law, namely the Foreign Nationals Act.

As concerned Mr Khalupa, the courts refused to order a new review of the undesirability decision in December 2012, arguing that there was no legal provision explicitly providing for the possibility of such a review. Later on, in January 2014, his request to the Consumer Protection Authority to review the undesirability decision and to allow him to visit his children in Russia was refused on the ground that it was not competent to review decisions issued by the migration services.

Lastly, as concerned Ms Kravchenko and Mr V.V. the courts held in a first round of proceedings that their personal ties to Russia carried greater weight than an alleged threat to public health and directed the migration service to make a new assessment of their applications. However, Ms Kravchenko's application for a residence permit was ultimately refused in February 2011 and Mr V.V.'s presence in Russia was pronounced undesirable again in March 2013. The applicants' HIV-positive status was cited as the reason for those decisions, once again in view of the applicable legal provisions. In a further round of proceedings concerning Mr V.V. two new grounds for refusing his claim for residence were cited: firstly, in August 2013 the Court of Appeal referred to an increased risk of unsafe behaviour on his part because he had refused to name his former partners; and, in February 2014, the Regional Court found that he could transmit HIV by using shared dormitory facilities in a student hostel. The Supreme Court ultimately refused Mr V.V. leave to appeal to the Supreme Court in April 2014.

Relying on Article 14 (prohibition of discrimination) read in conjunction with Article 8 (right to respect for private and family life and the home), all five applicants allege that they have been discriminated against because they are HIV-positive. Also relying on Article 34 (right of individual petition), Mr V.V. complains that, following the communication of his case by the European Court of Human Rights to the Russian Government, his partner was summonsed to the prosecutor's office for an interview so as to intimidate the couple.

Vidish v. Russia (no. 53120/08)

The applicant, Mikhail Vidish, is a Russian national who was born in 1962 and lives in Shadrinsk (Russia). The case concerns his complaint about appalling conditions of detention in a correctional institution designated as a medical facility.

Mr Vidish was convicted of murder in August 2003 and sentenced to ten years' imprisonment. HIV-positive and suffering from tuberculosis and hepatitis, he was admitted to a medical facility in the Kurgan region from December 2008 to November 2009. He submits that the conditions in which he was held on the wards in this facility for those ten months were appalling, alleging severe overcrowding and restricted access to daylight on account of the windows being covered with louvre shutters. He relies on Article 3 (prohibition of inhuman or degrading treatment). Also relying on Article 8 (right to respect for private and family life, the home, and the correspondence), he further complains that the medical authorities monitored his correspondence with the European Court of Human Rights and that they prevented his daughters from visiting him following their introducing a visiting fee in February 2009 which he could not afford to pay.

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.

Multiprojekt Kft v. Hungary (no. 24710/11)
Shapkin and Others v. Russia (nos. 34248/05, 46745/06 and 28424/07)
Shurygina and Others v. Russia (nos. 2982/05, 5991/05, 9546/05 and 24130/06)
Yegorov and Others v. Russia (nos. 51643/08, 54070/08, 20094/09, 35161/09, 4619/10, 62237/10, 67534/10, 73323/10, 29637/11, 32804/11, 41447/11, 46131/11 and 54726/12)
Menéndez García and Álvarez González v. Spain (nos. 73818/11 and 19420/12)

Thursday 17 March 2016

Zalyan and Others v. Armenia (nos. 36894/04 and 3521/07)

The applicants, Arayik Zalyan, Razmik Sargsyan, and Musa Serobyan, are Armenian nationals who were born in 1985 and live in Vanadzor and Gyumri (Armenia). The case concerns their complaint of having been subjected to torture while performing their military service and Mr Zalyan's complaint of having been unlawfully deprived of his liberty.

According to the applicants, on 19 April 2004, while performing their military service on the territory of the unrecognised Nagorno Karabakh Republic, they were taken to the office of their military unit's commander for questioning in connection with the murder of two servicemen in December 2003. The applicants maintain that they were beaten, threatened and verbally abused by law-enforcement officers in order to force them to confess to the murder. Subsequently they were taken to the military prosecutor's office, where the ill-treatment continued before they were transferred to the military police department. During the next two days they were again questioned several times – officially as witnesses, although they were already being suspected of the crime – and they were continually beaten and threatened with the aim of extorting a confession. They were not allowed to eat or sleep, and were transferred between several law enforcement agencies blindfolded and handcuffed.

According to the submissions of the Armenian Government, the applicants' questioning in the office of the military unit's commander, as witnesses in connection with the murder, took place only on 21 April 2004. During the questioning it was revealed that they had abandoned their military unit without authorisation in December 2003, which constituted a grave disciplinary offence; therefore, a disciplinary penalty of ten days in isolation was imposed on the applicants. They were subsequently taken to the military prosecutor's office and later to the military police department, where they were placed in an isolation cell in order to serve their disciplinary penalty.

At the request of the Military Prosecutor, however, the applicants were transferred on 23 April 2004 to Yerevan. On the following day, Mr Sargsyan confessed that he and the other two applicants had committed the murder. All three applicants were formally arrested as suspects. When questioned separately on the same day, the two other applicants denied their guilt. Subsequently the applicants were formally charged with murder and questioned as accused. Mr Sargsyan retracted his confession in May 2004 in a letter to the military prosecutor, maintaining that he had confessed because one of the investigators had threatened to harm his family members.

On several occasions during the investigation and the trial against them, the applicants and their lawyers unsuccessfully complained to a number of authorities that they had been ill-treated by the investigators and that they had been unlawfully detained between 19 and 24 April 2004 without an arrest warrant. From early August to early November 2004 Mr Zalyan went on a hunger strike to protest against the allegedly unlawful actions of the authorities; following the deterioration of his health he was hospitalised for about two weeks.

In May 2005 the applicants were convicted of murder and sentenced to 15 years' imprisonment. The conviction was based, in particular, on Mr Sargsyan's confession statement. The trial court found the applicants' allegations of ill-treatment unsubstantiated. In May 2006 the criminal and military court of appeal upheld the applicants' conviction and increased their sentence to life imprisonment. In December 2006 the court of cassation granted an appeal on points of law lodged by the father of one of the murdered servicemen in his capacity as a victim, who complained that the trial had been conducted with procedural violations, as a result of which three innocent servicemen had been convicted while the real perpetrators had never been brought to justice. The court of cassation quashed the judgments of May 2005 and May 2006 and remitted the case for further investigation; it also ordered the applicants' release from detention.

In October 2007 the Prosecutor General decided not to open criminal proceedings in connection with the applicants' alleged ill-treatment; he also found that the applicants' deprivation of liberty before 24 April 2004 had been a lawful disciplinary measure imposed by the commander of their military unit.

In December 2012 the applicants were eventually acquitted.

The applicants complain that they were subjected to torture while in custody from 19 to 23 April 2004 and that there was no effective investigation into their complaints. Mr Zalyan also complains that he was not provided with appropriate medical assistance and was not allowed to meet his family during his hunger strike. The applicants rely on Article 3 (prohibition of torture and of inhuman or degrading treatment).

Relying further on Article 5 § 1 (right to liberty and security), Mr Zalyan also complains that his deprivation of liberty between 19 and 24 April 2004 was unlawful and that his detention from 24 August to 4 November 2004 was not authorised by a court as required. Finally, he alleges a violation of, in substance, Article 5 §§ 2, 3, and 4 (right to be informed of the reasons for arrest / entitlement to trial within a reasonable time or to release pending trial / right to have lawfulness of detention decided speedily by a court), complaining that he was given no reasons for his arrest, that he was not brought promptly before a judge and that he was not able to contest the lawfulness of his arrest between 19 and 27 April 2004.

Rasul Jafarov v. Azerbaijan (no. 69981/14)

The applicant, Rasul Agahasan oglu Jafarov, is an Azerbaijani national who was born in 1984 and lives in Baku. The case principally concerns his complaint that his arrest and pre-trial detention were unjustified.

Mr Jafarov is a well-known civil-society activist and human rights defender. He is the chairman and co-founder of a non-governmental organisation (NGO), Human Rights Club, which has unsuccessfully attempted to obtain legal entity status with the authorities. Moreover, he has been involved in the preparation of various reports, including in the context of the work of international bodies, relating to human rights issues in Azerbaijan.

In July 2014 Mr Jafarov was invited to the Prosecutor General's office, where he was questioned as a witness in connection with criminal proceedings which had been opened in April 2014 concerning alleged irregularities in the financial activities of a number of NGOs. Subsequently searches were conducted in the office of the Human Rights Club, and a number of documents related to book-keeping were seized.

In early August 2014 Mr Jafarov was again invited to the Prosecutor General's office for questioning as a witness. On his arrival there, he was arrested and charged with the offences of illegal entrepreneurship, large-scale tax evasion and abuse of power. A district court subsequently ordered his placement in pre-trial detention for three months. Mr Jafarov appealed, arguing that there was no reasonable suspicion that he had committed a criminal offence and that there was no risk of absconding, having regard to the fact that he had cooperated with the investigating authorities by appearing for questioning and that he had recently returned to Azerbaijan from a trip abroad although he knew that he was under investigation. His appeal against the detention order was dismissed and his detention was extended for another three months. In addition to the original charges, he was charged, in December 2014, with high-level embezzlement. In April 2015 he was convicted of all charges and sentenced to six and a half years' imprisonment. In addition, he was deprived of the right to hold official positions in State authorities and to engage in entrepreneurial activity for three years. Mr Jafarov's appeal against the judgment is currently pending.

Mr Jafarov has submitted to the European Court of Human Rights the statements by a number of organisations which had made donations to the Human Rights Club, including the Norwegian and

British Embassy in Azerbaijan. According to all those statements, Mr Jafarov had regularly provided the respective donor with the necessary information concerning the expenditure of the funds. The donors also specified that they were confident that the funds had been used properly for the relevant projects for which they had been awarded.

Before and after Mr Jafarov's arrest, numerous articles about him were published in the media close to the Government, in which he was described as a spy for foreign interests and "a traitor". A number of politicians made similar statements in interviews.

In November 2014 disciplinary proceedings were brought against Mr Jafarov's lawyer, Khalid Bagirov, who is also representing other applicants in proceedings before the European Court of Human Rights. As a result, his licence to practice law was suspended and the authorities stopped allowing him to meet Mr Jafarov in prison.

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), Mr Jafarov complains that he was arrested and detained without a reasonable suspicion that he had committed a criminal offence and that the national courts have failed to provide relevant and sufficient reasons justifying his continued detention. Relying further on Article 5 § 4 (right to have lawfulness of detention decided speedily by a court), he complains that the national courts have not properly addressed the arguments in favour of his release. Furthermore, he relies on Article 18 (limitation on use of restrictions on rights) taken in conjunction with Article 5, complaining that his Convention rights were restricted for purposes other than those prescribed in the Convention. In particular, his arrest and detention had the purpose of punishing him as a government critic, silencing him as an NGO activist and human rights defender, discouraging others from such activities, and paralysing civil society in the country. Moreover, he complains that since his arrest and detention were intended to silence him as an activist there was a breach of his rights under Article 11 (freedom of assembly and association). Finally, he introduced a new complaint in January 2015, maintaining that the suspension of his lawyer's licence to practice law and the impossibility of meeting him in prison amounted to a breach of his rights under Article 34 (right of individual petition).

Didov v. Bulgaria (no. 27791/09)

The applicant, Stoyan Didov, is a Bulgarian national who was born in 1972 and lives in Burgas (Bulgaria). The case concerns his detention by the police for six and half hours.

Having received a summons, Mr Didov reported to Pomorie police station at 7 a.m. on 11 July 2007. He was informed that he was being detained in connection with the offence of theft. Without having been questioned, he was released at 1.30 p.m. when a lawyer retained by his wife was allowed to meet him and insisted on his release.

Mr Didov immediately brought judicial review proceedings to complain about the lawfulness of his detention. In a judgment of December 2007 – upheld on appeal in November 2008 – the domestic courts, accepting as evidence an order of July 2007 referring to a theft committed by an unknown person and instructing the police to investigate, found that the detention order had been in accordance with the law.

Mr Didov complains that he was detained for six-and-a-half hours without a reasonable suspicion that he had committed an offence. He also alleges that the ensuing judicial review proceedings were ineffective, meaning he was denied the possibility of seeking compensation for his unlawful detention. He relies in particular on Article 5 § 1 (right to liberty and security).

Vasileva v. Bulgaria (no. 23796/10)

The applicant, Maria Vasileva, is a Bulgarian national who was born in 1948 and lives in Plovdiv (Bulgaria). The case concerns her complaint about the lack of impartiality of medical experts in proceedings relating to her allegation of medical malpractice.

In 2002 Ms Vasileva was diagnosed with cancer and had to have a mastectomy of her left breast. Following a bone scan, Ms Vasileva had further surgery in March 2003 to remove suspected metastasis in her chest. On seeing her hospitalisation report when discharged, she suspected that the surgeon who had operated on her had removed fragments of the wrong ribs during the surgery, and had left in place the rib which had showed signs of lesions in the bone scan.

In late 2003 Ms Vasileva thus complained to the Ministry of Health and the hospital and an inquiry was carried out. A hospital commission reviewed the case but did not find any misconduct on the part of the surgeon.

In January 2004 she also brought a claim for damages against the surgeon and the hospital. The courts, admitting a number of medical documents and ordering reports by various medical experts, dismissed her claim at first-instance and then on appeal. The court of appeal, crediting all expert opinions save one (which had been disqualified because the expert was a surgeon in the defendant hospital) notably found that the operation had been necessary and that the surgeon had acted in line with established medical practice.

In remittal proceedings in 2008 and 2009, following Ms Vasileva's appeal on points of law to the Supreme Court of Cassation, the Plovdiv Court of Appeal, having re-examined the case on the basis of the earlier reports as well as a fresh and expanded report, again upheld the lower courts' judgments. Finding that the medical team had faced a situation requiring immediate action, namely the presence of a tumour which had to be localised and removed via surgery, the Court of Appeal concluded that the surgeon had not acted negligently.

Relying in particular on Article 8 (right to respect for private and family life) and Article 6 § 1 (right to a fair hearing and access to court), Ms Vasileva alleges that Bulgarian law lacks a system to effectively ensure the impartiality of medical experts in medical malpractice proceedings such as hers. She complains that this shortcoming in the law prevented her from obtaining compensation and made the proceedings she brought for damages unfair.

Kahn v. Germany (no. 16313/10)

The applicants, Katharina-Maria Kahn and David Kahn, are two German nationals who were born in 1998 and 2003 and live in Strasslach. They are the children of Oliver Kahn, former goalkeeper of the German national football team, and his ex-wife Simone Kahn.

The case concerns the repeated publication of photos of the applicants in two magazines in spite of a blanket ban on publication ordered by a court.

Between July 2004 and June 2009 the magazines *Neue Woche* and *Viel Spass*, owned by the same publisher, printed photos of Katharina-Maria and David Kahn with their parents.

On 27 December 2007 Katharina-Maria and David Kahn applied to the Hamburg District Court complaining about the photographs that had appeared up to that point in defiance of the order made by the Hamburg Regional Court on 21 January 2005 banning publication. The applicants sought an order from the District Court requiring the publisher to pay them at least EUR 40,000 each by way of pecuniary damage for having published ten photographs of Katharina-Maria Kahn and five photographs of David Kahn without the applicants' consent. They alleged that the publication of the photos had seriously infringed their personality rights. In two judgments of 11 July 2008 the Regional Court found in the applicants' favour and awarded them the sums claimed. The publisher lodged an appeal.

In two judgments delivered on 4 November 2008 the Hamburg Court of Appeal set aside the judgments of 11 July 2008. It accepted that the publisher had persistently breached the applicants' right to the protection of their own image and the blanket ban ordered by the Regional Court on 21 January 2005, despite the penalties that had already been imposed. Nevertheless, the Court of Appeal held that it was not necessary to make an award in respect of pecuniary damage, as the Regional Court had ordered a blanket ban on publication under the terms of which the applicants could request that the publisher be ordered to pay penalties. The Court of Appeal refused the applicants leave to appeal on points of law. The Federal Court of Justice rejected their requests to the same effect, and dismissed the appeals lodged by Katharina-Maria and David Kahn claiming that they had not had sufficient opportunity to make submissions. Lastly, on 23 September 2009 a three-judge formation of the Federal Constitutional Court declined to entertain the constitutional appeals lodged by the applicants.

Relying on Article 8 (right to respect for private and family life), Katharina-Maria and David Kahn allege a violation of their right to respect for their private and family life.

Zakshevskiy v. Ukraine (no. 7193/04)

The applicant, Vladimir Zakshevskiy, is a Ukrainian national who was born in 1972 and is currently serving a prison sentence. The case concerns complaints related to his pre-trial detention and the criminal proceedings against him.

Mr Zakshevskiy was arrested and placed in pre-trial detention in November 2001 as a suspect in criminal proceedings concerning a robbery, which had been opened in June 2000. He was subsequently charged with armed robbery and questioned several times during the next few days. The charges against him were later amended; in particular, the charges of murder and attempted murder were added. His pre-trial detention was extended on several occasions. A request made by Mr Zakshevskiy in 2003 to change his preventive measure to a non-custodial one was rejected by the courts.

In October 2005 Mr Zakshevskiy was convicted of a number of offences, including armed robbery, murder and attempted murder. He was sentenced to life imprisonment with confiscation of all his property. The trial court based its findings in particular on his and his co-defendants' testimonies during the pre-trial investigation, along with other evidence. The judgment was upheld by the Supreme Court in October 2006.

According to Mr Zakshevskiy, while being detained in a pre-trial detention centre in Kharkiv between July and October 2004 he was kept in poor conditions. In particular: cells were overcrowded, so that detainees had to take turns sleeping; and some of his cellmates suffered from tuberculosis. In the high-security wing of the Donetsk pre-trial detention centre, where he was kept for some time following his conviction, he was handcuffed whenever he left his cell.

Mr Zakshevskiy complains that those detention conditions violated his rights under Article 3 (prohibition of inhuman or degrading treatment). He further complains that he did not have an effective procedure available for judicial review of the lawfulness of his continued pre-trial detention, in violation of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court). Finally, relying on Article 6 § 3 (c) (right to legal assistance of own choosing), he complains of a violation of his defence rights, as he was not legally represented during the initial stage of the investigation or in the proceedings before the Supreme Court.

Hammerton v. the United Kingdom (no. 6287/10)

The applicant, William Hammerton, is a British national who was born in 1954 and lives in London. The case concerns his complaint about his committal to prison for civil contempt of court in family proceedings.

In the context of child contact proceedings, Mr Hammerton gave an undertaking not to contact his former wife except through his solicitor and an injunction was issued preventing him from using violence against her. In July 2005, the County Court committed Mr Hammerton to prison for three months for breaching the undertaking and injunction. He was released in September 2005 after six and a half weeks' imprisonment and lodged an appeal. In March 2007 the Court of Appeal overturned the committal decision. It found that the County Court had violated Article 6 of the European Convention on Human Rights by allowing the committal hearing to proceed without Mr Hammerton being represented by a lawyer. He subsequently brought proceedings for damages for wrongful imprisonment and for the violation of his Convention rights. The High Court dismissed his claim in February 2009. His request for leave to appeal was refused in August 2009.

Relying on Article 5 § 1 (right to liberty and security), Mr Hammerton complains about his committal to prison, alleging in particular that his detention had been unlawful. Also relying on Article 6 §§ 1 and 3 (c) (right to a fair trial and right to legal assistance of own choosing) and Article 13 (right to an effective remedy), he complains that, although the UK courts had acknowledged that there had been a violation of his rights, they failed to award him financial compensation and that domestic law prevented him from receiving such damages.

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.

Rista and Others v. Albania (nos. 5207/10, 24468/10, 36228/10, 39492/10, 39495/10, 40751/10 and 48522/10)
Hejlova v. the Czech Republic (no. 78226/14)
Hrazdira v. the Czech Republic (no. 62565/14)
Ledvina v. the Czech Republic (no. 64523/12)
SLOT Group, a.s. v. the Czech Republic (no. 65008/13)
Hoffmann v. Germany (nos. 66861/11 and 33478/12)
Adib and Others v. Greece (no. 16451/14)
Arvanitou and Others v. Greece (nos. 63584/10, 72018/10, 72793/10 and 39868/11)
Georgiou v. Greece (no. 76879/11)
Giannikos v. Greece (no. 13202/11)
Gouzoulis v. Greece (no. 66098/14)
Makridis and Others v. Greece (no. 11089/15)
Panagioteas v. Greece (no. 38607/11)
Papakonstantinou v. Greece (no. 19651/13)
Papastavrou and Others v. Greece (nos. 63653/10, 7062/12 and 12442/12)
Sambanis v. Greece (no. 61434/11)
Tsiggos and Nikola v. Greece (no. 48052/13)
Czigler v. Hungary (no. 44732/11)
Czigler and Cziglerné Takács v. Hungary (no. 36230/15)
Capriotti v. Italy (no. 28819/12)
Cento and Others v. Italy (no. 30851/06)
Czyzewska v. Italy (no. 5260/04)
Kordiak v. Italy (no. 10525/04)
Ostrowska v. Italy (no. 22677/07)
Piegdon v. Italy (no. 17714/07)
Mayer v. Liechtenstein (no. 52288/13)
Wahl v. Lithuania (no. 43062/08)
Ogrodniczuk v. Poland (no. 1286/09)

Marques Ganco Martins De Carvalho v. Portugal (no. 19752/11)
Bogdan v. Romania (no. 78951/11)
Colța v. Romania (no. 33636/12)
Fieraru v. Romania (no. 76773/13)
Ionascu v. Romania (no. 26841/14)
Lup v. Romania (no. 25159/11)
Mitu-Papai v. Romania (no. 55461/09)
Mureșan v. Romania (no. 35275/14)
Necula v. Romania (no. 29642/09)
S.C. Daromex Import Export S.R.L. v. Romania (no. 32856/07)
Trif v. Romania (no. 54950/10)
Bublikov v. Russia (no. 7416/09)
Kiselenko and Others v. Russia (nos. 55062/10, 20132/11 and 58755/13)
Salnikov v. Russia (no. 51006/08)
Smolnikova and Others v. Russia (nos. 8496/05, 20595/05, 42458/05, 507/06, 14562/07, 21607/07, 38190/07, 44374/07, 51194/07 and 54242/07)
Sokolovy v. Russia (no. 48326/08)
Fetaovski v. "The former Yugoslav Republic of Macedonia" (no. 71962/10)
Shchichka and Others v. Ukraine (no. 64511/12 and 572 other applications) - **Rectification**
Terletskiy and Others v. Ukraine (no. 22611/12 and 359 other applications) – **Rectification**

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