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

Press Release
issued by the Registrar of the Court

ECHR 113 (2017)
07.04.2017

Forthcoming judgments and decisions

The European Court of Human Rights will be notifying in writing ten judgments on Tuesday 11 April 2017 and 22 judgments and/ or decisions on Thursday 13 April 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 11 April 2017

Gábor Nagy v. Hungary (no. 2) (application no. 73999/14)

The applicant, Gábor Nagy, is a Hungarian national who was born in 1990 and lives in Budapest. The case concerns his pre-trial detention on suspicion of robbery.

Mr Nagy was arrested and remanded in custody in April 2013. He was indicted in July 2014 and the case was brought to trial. One year and six months later, after 12 hearings had been held and the case had been extended – as from April 2015 – to include two more suspects, he was convicted of robbery and illegally entering a private property. He was sentenced to nine years' imprisonment.

During the proceedings against Mr Nagy, the courts, in addition to the reasonable suspicion against him, repeatedly dismissed his applications for release, giving three principal grounds for his pre-trial detention, namely: the risk of his absconding (because he had fled from the police and been arrested under a warrant, and it had been impossible – even for his family – to contact him); the risk of him putting pressure on witnesses (because he had attempted to obtain a false alibi at the time of his arrest); and/or, the risk of his reoffending (given his criminal history, the professional nature of the crime he had allegedly been involved in and the fact that he had no income or work). Most recently, his custody was extended in March 2016 – when he was convicted – pending the closure of the appeal proceedings.

Relying on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial) of the European Convention on Human Rights, Mr Nagy complains that the length of his pre-trial detention, almost three years, was excessive and unjustified. He also complains that the proceedings concerning the extension of his pre-trial detention were unfair, in breach of Article 5 § 4 (right to have lawfulness of detention decided speedily by a court); in particular, as concerned one of the detention orders against him, the defence had not been provided with the prosecutor's application to extend his detention until after the decision had already been taken.

Mažukna v. Lithuania (no. 72092/12)

The case concerns the investigation into an accident at work. The applicant, Aleksandras Mažukna, now deceased, was a Lithuanian national who was born in 1959 and lived in Pamažupiai, Pasvalys Region (Lithuania). In April 2007, working as a welder on a construction site, he was injured when the scaffolding he was standing on broke, and he and other workers fell to the ground. He was disfigured.

The pre-trial investigation into the accident took three years and seven months. It was discontinued three times, the prosecuting authorities concluding that the accident had been caused by the workers' recklessness. However, these decisions were overruled by the courts, as they found that the prosecutor's conclusions had been based on speculation and that he had not addressed findings

by the State Labour Inspectorate or by a forensic expert that the accident had been caused by the employer's failure to comply with work safety requirements.

The case was then transferred to the first-instance court in April 2011, Mr Mažukna's supervisor having been indicted for negligence. A year later, after repeated adjournments because of the absence of witnesses and the accused's illness, the case was terminated as time-barred.

Relying in particular on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention, Mr Mažukna complained that the pre-trial investigation and criminal proceedings concerning his accident at work had been protracted and ineffective.

Morgunov v. Russia (no. 32546/08)

The applicant, Aleksandr Ivanovich Morgunov, is a Russian national who was born in 1969 and lives in Orenburg (Russia). The case concerns an allegation of police brutality.

In August 2006 Mr Morgunov was arrested by the Department for Combating Organised Crime of Orenburg regional police ("the UBOP"), on suspicion of having committed robberies. According to Mr Morgunov, he was later taken out of pre-trial detention to the UBOP building, where five or six police officers forced him to confess by shackling him, almost suffocating him with a gas mask and plastic bag, hanging him up on parallel bars, and beating him with a baseball bat. A routine medical examination on the same day recorded numerous injuries, consisting of haematomas and hyperaemias. Mr Morgunov requested that the officers be prosecuted, but the request was refused by the district prosecutor's office as it held that Mr Morgunov's injuries could have been self-inflicted. The domestic courts then upheld the decision taken by the district prosecutor's office. In March 2008 the court which convicted Mr Morgunov of robbery and sentenced him to 12 years and four months' imprisonment also dismissed his allegations of ill-treatment as ill-founded.

Relying on Article 3 (prohibition of inhuman or degrading treatment), Mr Morgunov complains of being beaten by police officers whilst in their custody and of the ineffective investigation into his complaint.

Strekalev v. Russia (no. 21363/09)

The applicant, Roman Strekalev, is a Russian national who was born in 1978 and lives in Moscow. The case concerns his complaint that the City of Moscow reclaimed a flat from him that he had bought in good faith.

In November 2002 Mr Strekalev bought a flat from a private individual, K., who had previously been transferred title to the flat by the Moscow Housing Department under a privatisation scheme. The prosecuting authorities subsequently brought a claim on behalf of the housing authorities, seeking to annul all transactions on the flat, to evict Mr Strekalev and to restore the flat to the City of Moscow because all the documents submitted by K. for the exchange and privatisation of the flat had been forged. The courts subsequently granted the claim, reinstated the City's title to the flat and ordered Mr Strekalev's eviction. The appeal court upheld this decision in October 2006. In the meantime, his claim against the City of Moscow, requesting damages for the deprivation of his property, had been dismissed. However, the Housing Department later, in October 2014, transferred ownership of the flat to Mr Strekalev under the privatisation scheme.

Relying on Article 1 of Protocol No. 1 (protection of property) and Article 8 (right to respect for private and family life and the home), Mr Strekalev complains about being deprived of the title to his flat for eight years, from October 2006 to October 2014. He argued in particular that it was not up to him to bear the consequences of the authorities' failure to verify the validity of documents submitted by the previous owner of the flat.

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.

Berger v. Austria (no. 58049/11)
Jeannée v. Austria (no. 56672/12)
Costache and Others v. Romania (no. 30474/03)
Kozma v. Romania (no. 22342/08)
Osman v. Romania (no. 59362/14)
Borović and Others v. Serbia (nos. 58559/12, 9162/15, 14772/15 and 14883/15)

Thursday 13 April 2017

Huseynova v. Azerbaijan (no. 10653/10)

The case concerns the murder of a well-known journalist.

The applicant, Rushaniya Huseynova, is an Azerbaijani national who was born in 1978 and lives in Norway. She was the wife of Elmar Huseynov, a prominent independent journalist who wrote strongly critical articles of the Government as well as the opposition. He was shot dead outside their apartment as he returned home from work on 2 March 2005.

A criminal investigation into the murder was immediately instituted and numerous investigative steps were taken. Among other things, the scene of the crime was inspected, a post-mortem examination carried out, forensic examinations ordered and Ms Huseynova was questioned as a witness. In May 2005 two Georgian nationals were identified as suspects by the investigation and international warrants for their arrest were issued. Soon after, the Azerbaijani authorities asked the Georgian authorities to extradite the two suspects. The Georgian authorities refused on the grounds that the suspects were Georgian nationals and could not be extradited to a foreign country; however, they undertook to prosecute the suspects at the Azerbaijani authorities' request if the criminal case was transferred to them. Since then, the Georgian authorities have conducted various investigative actions – such as the search of two flats in Tbilisi and the questioning of various people, including one of the suspects – at the request of their Azerbaijani counterparts, but the investigation is currently apparently still ongoing with no perpetrators having yet been prosecuted.

Throughout the proceedings Ms Huseynova wrote to the investigating authorities enquiring about the progress in the investigation and complaining that, although she had been recognised as a victim, she had not been provided with any information. She was told that the investigation was ongoing and that, under the relevant domestic law, she had the right to familiarise herself with the case file only when the preliminary investigation was over.

Relying in particular on Article 2 (right to life) and Article 10 (freedom of expression), Ms Huseynova alleges that the State was behind the murder of her husband because of his work as a journalist and that the authorities failed to carry out an effective investigation. She argues in particular that the State knew or ought to have known about a risk to his life, as he had been regularly threatened and targeted in numerous legal proceedings brought against him by various public officials.

Janssen Cilag S.A.S. v. France (no. 33931/12)

The applicant is Janssen-Cilag, a company incorporated under French law with its head office in Issy-les-Moulineaux. The case concerns search and seizure operations carried out at the company's premises.

In an order of 29 April 2009 the liberties and detention judge of the Nanterre *tribunal de grande instance* authorised officials of the competition authority to carry out search and seizure operations at the premises of the applicant company. During the operations, which were carried out on 5 and 6 May 2009 by officials of the authority, numerous documents and computer files were seized and catalogued.

On 18 May 2009 the applicant company applied to the President of the Versailles Court of Appeal for judicial review of the search and seizure operations. In an order of 19 February 2010 the judge set aside the order for the seizure of three files in respect of which neither the inventory nor the written report made clear whether they contained documents connected with the authorisation issued by the liberties and detention judge. However, the judge found the search and seizure operations to have been otherwise lawful. In a judgment of 30 November 2011 the Court of Cassation dismissed the appeals on points of law lodged by the applicant company and the general rapporteur of the competition authority.

Relying on Article 6 § 1 (right to a fair trial) read in conjunction with Article 8 (right to respect for the home and correspondence), the applicant company complains of a breach of the principle of the confidential nature of lawyer-client correspondence. It also alleges that the number of lawyers permitted to monitor the search operation was restricted, in breach of Article 6 § 3. Lastly, relying on Articles 6 § 1 and 13 (right to an effective remedy), the applicant company complains that it did not have an effective remedy by which to obtain a review of the manner in which the search operations were carried out.

Poulain v. France (no. 16470/15)

The applicant, Patrice Poulain, is a French national who was born in 1937 and lives in Dainville. The case concerns his claim that the length of a set of liquidation proceedings was excessive.

In December 1995 insolvency proceedings were commenced in respect of Mr Poulain, a horse breeder. In February 1996 the Arras *tribunal de grande instance* made a compulsory liquidation order and the horses were sold. In September 2006 Mr Poulain received a list of creditors' claims. The insolvency judge and the court gave several rulings between 2009 and 2012.

The Arras *tribunal de grande instance* summoned Mr Poulain and the liquidator to appear at a hearing on 9 July 2014 in order to check on progress in the case and decide whether the proceedings could be closed. The case was adjourned on several occasions. In a judgment of 19 January 2017 the Douai Court of Appeal ordered the closure of operations in the liquidation proceedings.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), Mr Poulain complains of the excessive length of the proceedings concerning the liquidation of his business.

Fasan and Others v. Italy (no. 36974/11)

The applicants, Fabrizio Fasan, Carmine Alberelli, Luciano Cacciari, Antonio Ferretti, Francesco Petrucci and Alberino Spinelli, are Italian nationals who were born in 1946, 1954, 1944, 1950, 1953 and 1954 respectively and live in Rome.

The case concerns the length of the proceedings they brought in an employment dispute between the Chamber of Deputies and its officials.

In July 1981 the applicants applied to the judicial commission for staff of the Chamber of Deputies in order to challenge their classification in the first professional category. In September 1999 the commission rejected their application. Between November 1999 and January 2000 they appealed to the judicial section of the Bureau of the Chamber of Deputies, which dismissed their claims in a judgment of 26 January 2009.

On 16 July 2009 the applicants applied to the appeals panel of the Chamber of Deputies seeking compensation under the "Pinto Act" for the non-pecuniary damage they had allegedly sustained on account of the length of the main proceedings. On 8 November 2010 the appeals panel found that the appeal proceedings had exceeded "a reasonable time" and awarded the applicants 4,000 euros each in respect of non-pecuniary damage. However, it rejected their claim for compensation with regard to the length of the first-instance proceedings, on the ground that the applicants should have applied to the European Court of Human Rights on conclusion of those proceedings.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicants complain of the length of the main proceedings and the allegedly inadequate amount of compensation obtained under the "Pinto" procedure.

Tagayeva and Others v. Russia (nos. 26562/07, 14755/08, 49339/08, 49380/08, 51313/08, 21294/11, and 37096/11)

The case is brought by 409 Russian nationals. It concerns the terrorist attack on a school in Beslan, North Ossetia (Russia), in September 2004, and the ensuing hostage-taking, siege and storming of the school, which resulted in the deaths of over 330 people, including over 180 children, and injuries to over 750 people. Some of the applicants were taken hostage and/or injured; others are family members of those taken hostage, killed or injured.

Relying on Article 2 (right to life), the applicants maintain that the State failed in its obligation to protect the victims from the known risk to their lives, and that there was no effective investigation into the events. Some applicants also maintain that many aspects of the planning and control of the security operation were deficient, and that the deaths were the result of a disproportionate use of force by the authorities. Some applicants further allege violations of Article 13 (right to an effective remedy).

The seven applications were lodged with the European Court of Human Rights between June 2007 and May 2011. The case was communicated to the Russian Government for observations on 10 April 2012. A Chamber decision on admissibility was delivered on 2 July 2015, following a public hearing on the admissibility and merits in October 2014.

Podeschi v. San Marino (no. 66357/14)

The case concerns criminal proceedings brought against a politician for money laundering.

The applicant, Claudio Podeschi, is a San Marinese national who was born in 1956 and lives in San Marino. On 23 June 2014 he was informed of money laundering charges against him and placed in detention. He was suspected in particular of having a key role as a politician in a criminal organisation, made up of civil servants, entrepreneurs and bankers, which accumulated money that was then concealed behind various companies located in San Marino and abroad.

Throughout the proceedings the judicial authorities considered Mr Podeschi's detention necessary essentially on the grounds that there was a risk of his tampering with evidence and putting pressure on witnesses or other co-suspects. When extending his detention, the authorities subsequently also highlighted his strong support network which persisted and the risk of his reoffending. The courts referred in particular to Mr Podeschi's dealings even during his pre-trial detention. At a later stage, the courts invoked another reason, namely the risk of his absconding, as his links to San Marino were weakening, and he could seek refuge in jurisdictions with which San Marino had no extradition treaties. His repeated requests to revoke the detention order or to impose a less severe measure were examined and dismissed up until July 2015 when he was put under house arrest. The order for his house arrest was revoked in October 2015.

During the proceedings, certain materials were classified and remained so. The courts held that such non-disclosure was necessary to further the investigation and not to compromise measures planned

by the investigators in the context of a suspected money laundering racket. Some materials were however eventually released following Mr Podeshci's challenges concerning non-disclosure of evidence.

Relying on Article 5 § 3 (right to liberty and security / entitlement to trial within a reasonable time or to release pending trial), Mr Podeschi complains about his pre-trial detention, alleging that it was unjustified and that the proceedings to decide on it were too long. He also complains under Article 5 § 4 (right to have lawfulness of detention decided speedily by a court) that evidence used to justify his detention had been classified, meaning that he could not challenge his detention. Lastly, relying on Article 3 (prohibition of inhuman or degrading treatment), he complains about the conditions of his detention. He alleges in particular that he was kept isolated for 22 hours a day; that he had no access to a toilet (meaning he had to relieve himself in a bed-pan in his cell) for certain periods of his detention; and that he could only have a shower once per week.

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.

Aslan Ismayilov and Others v. Azerbaijan (nos. 20411/11, 20443/11, 24070/11, 29604/11, 29615/11, 31944/11, 36070/11, 36209/11, 36227/11, 36230/11, 37554/11 and 39042/11)
Samadbayli and Others v. Azerbaijan (nos. 36821/11, 37656/11, 37661/11, 37740/11, 37866/11, 38636/11, 38885/11, 41066/11, 42345/11 and 42360/11)
Tsulaia v. Georgia (no. 17398/10)
Traina v. Portugal (no. 59431/11)
Istrate v. Romania (no. 1882/10)
Mortogan v. Romania (no. 58344/09)
Muresan v. Romania (no. 33792/10)
Negritoru v. Romania (no. 29915/08)
Potec and Pernea v. Romania (no. 42342/06)
S.C. Italo Convest S.A. v. Romania (no. 53036/10)
Feger v. Russia (no. 31640/07)
OAO Gorodskaya Upravlyayushchaya Kompaniya Zavolzhskogo Rayona v. Russia (no. 39881/14)
Sapondzhyan v. Russia (no. 32986/08)
Sidneva v. Russia (no. 51895/13)
Radosavljević and Others v. Serbia (nos. 11553/09, 65771/12, 79059/12, 79829/12, 70957/14, 6268/15, 16097/15, 21848/15, 21851/15, 21852/15, 21853/15, 21854/15 and 34805/15)
Kocak v. Turkey (no. 63013/11)

Press contacts
echrpress@echr.coe.int | tel: +33 3 90 21 42 08

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)
Denis Lambert (tel: + 33 3 90 21 41 09)
Inci Ertekin (tel: + 33 3 90 21 55 30)
George Stafford (tel: + 33 3 90 21 41 71)

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.