



FLASH NEWS

11/19

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 01/07 TO 12/07/2019

RO / MIHALACHE v. ROMANIA [GC]

Ne bis in idem - Traffic offence - Criminal and administrative proceedings

Violation of article 4 of Protocol no. 7 (right not to be tried or punished twice) to the ECHR.

The applicant, a Romanian national stopped by the police in the context of a preventive checking while he was in his vehicle, had refused to go to the hospital to undergo a biological sampling with a view to determine his blood alcohol content. Given a suspended sentence of one year imprisonment after being ordered to pay an administrative fine, the applicant complained of having been tried and sentenced twice for the same offence.

Ruling of 08.07.2019 (application no. 54012/10) ([FR](#) / [EN](#))

Press release ([FR](#) / [EN](#))

FR / OLIVIERI v. FRANCE

Right to a fair hearing - Police custody - No notification of the right to remain silent - No assistance of a lawyer during the interrogations

Violation of article 6 §§ 1 (right to a fair hearing) and 3 c) (right to the assistance of a lawyer) of the ECHR.

The applicant, a French national, complained about having been convicted based on confessions made while he was in police custody, during which he had not been notified about his right to remain silent or availed of the effective assistance of a lawyer, in accordance with the French law in force at the time and amended in the meantime.

Ruling of 11.07.2019 (application no. 62313/12) ([FR](#))

Press release ([FR](#) / [EN](#))

DE / ALTERNATIVE FÜR DEUTSCHLAND (AFD) v. GERMANY

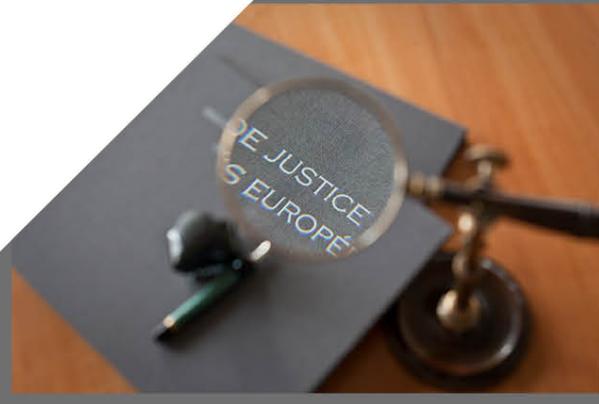
Freedom of expression - Right to an effective remedy - Stigmatising information about to be made public by the internal intelligence service in charge of monitoring the activities that are against the Constitution

Inadmissibility of the application owing to the non-exhaustion of domestic remedies [article 35 §§ 1 and 4 of the ECHR].

The applicant, Alternative für Deutschland (AfD), a German political party having participated in the European Parliament elections as well as the regional and national elections, complained that the Office for the Protection of the Constitution was about to inform the public that it was suspected of activities against the Constitution especially taking into account its hostile attitude to migrants and Muslims, which it equated to a stigmatisation and a "de facto ban". In addition, the AfD alleged that it had no effective remedy, in internal law, for the purpose of protecting its rights against the circulation of such information.

Decision communicated on 04.07.2019 (application no. 57939/18) ([EN](#))

Press release ([FR](#) / [EN](#))



AZ / ABDALOV AND OTHERS v. AZERBAIJAN

Right to free elections - Right of individual recourse - Late registration on the list of candidates of legislative elections

Violation of article 3 of Protocol no. 1 (right to free elections) to the ECHR.

Violation of article 34 (right of individual recourse) of the ECHR.

The applicants, three Azerbaijani nationals who intended to stand in 2010 for the legislative elections, stated that their late registration as candidates had prevented them from being able to campaign and effectively participate in the elections like the other candidates. In fact, they had been registered as such only at the end of several appeals seeking to contest the decisions, which were arbitrary according to them, of refusal to register taken by the electoral commissions of their respective constituencies. The second and third applicants also complained of the seizure of their dossiers in the context of the search carried out at their lawyer's firm.

Ruling of 11.07.2019 (application nos. 28508/11, 37602/11 and 43776/11) ([EN](#))

Press release ([FR](#) / [EN](#))

HU / R.S. v. HUNGARY

Prohibition of inhuman or degrading treatment and torture - Traffic offence - Forced urine testing using a catheter

Violation of article 3 (prohibition of inhuman or degrading treatment and torture) of the ECHR.

The applicant, a Hungarian national arrested by the police while he was at the wheel of his parked vehicle, alleged having been forced to take a urine test using a catheter, conducted by a doctor upon the request of the policemen, because he was suspected of driving under the influence of alcohol or drugs. He stated to have never consented to the catheter and his legs were shackled during the incident.

Ruling of 02.07.2019 (application no. 65290/14) ([EN](#))

Press release ([FR](#) / [EN](#))

BE / ROMEO CASTAÑO v. BELGIUM

Right to life - European arrest warrants - Person suspected of murder - Refusal of the Belgian authorities to Spain to execute the arrests

Violation of article 2 (right to life) of the ECHR (procedural aspect).

The applicants, five Spanish nationals, complained about the refusal of the Belgian authorities to execute the European arrest warrants issued by Spain against a Spanish national, member of a commando group, who had claimed to belong to the ETA terrorist organisation, suspected of having killed their father, on the grounds that handing her over would expose her to a risk of inhuman and degrading treatment. In particular, the applicants alleged that such a refusal prevented prosecuting this national in Spain.

Ruling of 09.07.2019 (application no. 8351/17) ([FR](#))
Press release ([FR](#) / [EN](#))

LT / DARDANSKIS v. LITHUANIA

Prohibition of inhuman or degrading treatment and torture - Life sentences - Ensuring compliance of the national legislation with the case-law of the ECHR

Striking off of the appeals on account of the resolution of the dispute [article 37 § 1 b) of the ECHR].

The applicants, sixteen Lithuanian nationals sentenced to life imprisonment, complained about the absence of modification of the national legislation with a view to ensuring its compliance with the case-law of the ECHR relating to life sentences (see, mainly, the ruling of 23.05.2017, [Matiošaitis and others v. Lithuania](#)). They stated that this sentence constituted inhuman and degrading treatment in that they had no hope of being free one day, of being able to avail of the possibility of parole or a changing of their sentence to a fixed-term sentence.

Decision communicated on 11.07.2019 (application no. 74452/13) ([EN](#))
Press release ([FR](#) / [EN](#))