



## FLASH NEWS

12/19

# EUROPEAN COURT OF HUMAN RIGHTS

## OVERVIEW FROM 15/07 TO 13/09/2019

### **NO / STRAND LOBBEN AND OTHERS v/s NORWAY [GC]**

**Right to respect for family life - Deprivation of parental responsibility - Best interests of the child**

**Violation** of Article 8 (right to respect for private and family life) of the ECHR.

Placed in a foster family at a very young age, the son of a Norwegian national had been adopted by his foster parents after a 3-year placement period. A year later, the national courts confirmed the administrative decision to deprive the biological mother of her parental responsibility. The latter and her son challenged the said decision of deprivation of parental responsibility as well as the permission to adopt.

Ruling of 10.09.2019 (application no. 37283/13) ([FR](#) / [EN](#))  
Press release ([FR](#) / [EN](#))

### **IT / RIZZOTTO v/s ITALY (No. 2)**

**Right to liberty and security - Appeal filed by a court-appointed lawyer in the absence of the person concerned - Right to be heard effectively by the court hearing an appeal against detention**

**Violation** of Article 5 § 4 (right to have the court adjudicate on the legality of the detention in a short period) of the ECHR.

The applicant, an Italian national detained after being on the run for a few months, filed a complaint for not having benefitted from an effective judicial review of the legality of his detention pending trial. Invoking the Italian principle of uniqueness of the right to file an appeal, the court had deemed that the appeal filed in the interest of the applicant, who was on the run at that time, by the court-appointed lawyer, prevented him from personally filing a new appeal.

Ruling of 05.09.2019 (application no. 20983/12) ([FR](#))  
Press release ([FR](#) / [EN](#))

### **BG / AGRO FRIGO OOD v/s BULGARIA**

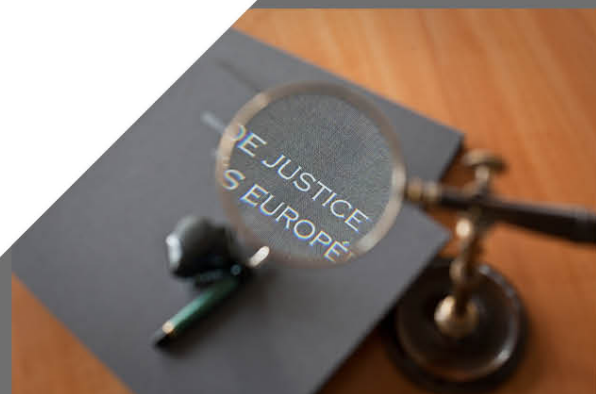
**Right to a fair trial - Protection of property - Revocation of a final judgment granting damages as part of a pre-accession programme in favour of agriculture**

**Non-violation** of Article 6 § 1 (right to a fair trial) of the ECHR.

**Non-violation** of Article 1 of Protocol no. 1 (Protection of property) of the ECHR.

The applicant, a Bulgarian company, filed a complaint against the revocation of a final judgment that sentenced the State of Bulgaria to pay it approximately 3 million Euros as damages. This sum was granted owing to the unjustified refusal of the National Agricultural Fund to approve the subsidy request presented by the applicant under the pre-accession agricultural instrument, SAPARD. The application to set aside this judgment, filed by the Finance Minister, was upheld on the grounds that the State had been aggrieved by this judgment without having appeared in court.

Ruling of 05.09.2019 (application no. 39814/12) ([EN](#))  
Press release ([FR](#) / [EN](#))



## GE / SVANIDZE v/s GEORGIA

### Right to a fair trial - Conviction without a new hearing of the witnesses - Principle of immediacy

**Violation** of Article 6 § 1 (right to a fair trial) of the ECHR.

The applicant, a Georgian gynaecologist, was convicted for medical negligence that resulted in the death of a patient. Since one of the judges of first instance had been replaced during the proceedings, she held that all the testimonies should have been heard again. She argued that therefore, the process was unlawful owing to a violation of the principle of immediacy.

Ruling of 25.07.2019 (application no. 37809/08) ([EN](#))  
Press release ([FR](#) / [EN](#))

## DE / ROOK v/s GERMANY

### Right to a fair trial - Right to have adequate time and facilities for the preparation of one's defence - Access to vast quantities of electronic evidence.

**Non-violation** of Article 6 §§ 1 and 3 (b) (right to a fair trial and right to have adequate time and facilities for the preparation of one's defence) of the ECHR.

The applicant, a German national, filed a complaint against the fact that, during the criminal proceedings against him, his lawyer and he both did not have adequate and sufficient access to the voluminous evidence seized by the authorities during the investigation. There were millions of digital files seized during the house searches or from the interception of the telecommunications of the applicant.

Ruling of 25.07.2019 (application no. 1586/15) ([EN](#))  
Press release ([EN](#))

## OTHER INFORMATION

### Polish judicial reform

On 9 July 2019, the ECHR decided to inform the Polish government about the [Grzęda v/s Poland](#) case (application no. 43572/18) and requested the latter to submit its observations in this regard.

The case concerns the judicial reform in Poland, which led to the early termination of the 4-year term of office of a judge of the Naczelny Sąd Administracyjny (Supreme Administrative Court) elected in the Krajowa Rada Sądownictwa (National Council of the Judiciary). The applicant had been replaced with immediate effect and without any notification from another elected judge in pursuance of a new law adopted as part of a large-scale judicial reform.

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

Also refer to the [Xero Flor w Polsce sp. z o.o. v/s Poland](#) {MQ case communicated to the Polish government} (application no. 4907/18):

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