



FLASH NEWS

16/18

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 15/10 TO 26/10/2018

HU / KÖNYV-TÁR KFT AND OTHERS vs. HUNGARY

Protection of property - Regulation of public procurement - Creation of a State monopoly - Right to respect for property as part of a commercial activity

Violation of Article 1 of Protocol no. 1 (protection of property) of the ECHR.

The applicants, school book distribution companies, complained of the loss of their clientele due to the new legislation providing for the creation of a State monopoly, holding that they had been removed from the market without any compensation and to the detriment of end-users.

Judgement of 16.10.2018 (application no. 21623/13) ([EN](#))
Press release ([FR](#) / [EN](#))

SL / PRODUKCIJA PLUS STORITVENO PODJETJE D.O.O. vs. SLOVENIA

Right to a fair trial - Procedural safeguards - Respect for the rights of defence - Respect for the right to a hearing of the parties

Violation of Article 6 § 1 (right to a fair trial) of the ECHR, as regards the right to a hearing of the parties in the course of a judicial proceeding.

The applicant, who was administratively convicted of two competition law offences, complained of a violation of his rights of defence due to the refusal of his request for a public hearing as part of two appeal proceedings for administrative decisions taken against him.

Judgement of 23.10.2018 (application no. 47072/15) ([EN](#))
Press release ([FR](#) / [EN](#))

FR / THIAM vs. FRANCE

Independent and impartial court - Equality of arms - Participation in the proceedings of a person with an institutional role in the career development of judges

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

The applicant, convicted for having obtained the operation of telephone lines, the delivery of mobile telephones and the payment of subscriptions, using bank references belonging to third parties, complained that the civil action to proceedings of the President of the Republic broke the equality of arms and undermined the right to an independent and impartial court.

Judgement of 18.10.2018 (application no. 80018/12) ([FR](#))
Press release ([FR](#) / [EN](#))

DK / ASSEM HASSAN ALI vs. DENMARK

Right to respect for private and family life - Expulsion procedure - Best interests of the child

Non-violation of Article 8 (right to respect for private and family life) of the ECHR.

The applicant, a third-country national and married to a Danish national with whom he had three children, complained about the deportation procedure against him as a result of his various convictions for assault and breaches of the law on narcotics. He alleged that, because of his deportation, he would be deprived of the ties that bind him to his children, who are all Danish nationals.

Judgement of 23.10.2018 (application no. 25593/14) ([EN](#))
Press release ([FR](#) / [EN](#))

TR / MEHMET DUMAN vs. TURKEY

Right to a fair trial - Right to legal assistance while in police custody

Violation of Article 6 §§ 1 and 3 (c) (right to a fair trial and the right to the assistance of a counsel of one's choice) of the ECHR.

The applicant, a Turkish prisoner, complained of his conviction, based on statements extorted from him in the absence of his lawyer and which he subsequently retracted. The applicant alleged, *inter alia*, that he was denied legal assistance while in police custody and complained that the trial court had found him guilty on the basis of the statements he had made to the police, which he alleged had been obtained by torture.

Judgement of 23.10.2018 (application no. 38740/09) ([EN](#))
Press release ([FR](#) / [EN](#))

ES / ARROZPIDE SARASOLA AND OTHERS vs. SPAIN

Right to a fair trial - No punishment without law - Right to liberty and security - Cumulative criminal penalties

Violation of Article 6 § 1 (right of access to a court) of the ECHR.

Non-violation of Article 7 (no punishment without law) of the ECHR.

Non-violation of article 5 § 1 (right to liberty and security) of the ECHR.

The applicants, Spanish nationals sentenced in France and Spain for acts of terrorism in connection with the ETA, challenged the failure to take into account the sentences already served in France for the purpose of calculating the maximum duration of sentences in Spain.

Judgment of 23.10.2018 (applications nos. 65101/16, 73789/16 and 73902/16) ([FR](#))
Press release ([FR](#) / [EN](#))

OTHER INFORMATION

First referral to the ECtHR of a request for an advisory opinion - Protocol no. 16

The ECtHR has received a request for an advisory opinion submitted by the French Court of Cassation on surrogacy.

This is the first application received by the Court since the entry into force, on 1.08.2018, of [Protocol No. 16](#) to the ECHR, which allows for high courts, as designated by the Member States concerned that have ratified the text, to send the Court requests for advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms defined by the Convention or its protocols.

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

[Link](#) to the table of signatures and ratifications