



FLASH NEWS

17/18

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 29/10 TO 16/11/2018

PT / RAMOS NUNES DE CARVALHO E SÁ v. PORTUGAL [GC]

Right to a fair trial - Procedural guarantees - Rights of the defence - Right of the parties to a hearing - Inadequate judicial review

Violation of Article 6 § 1 (right to a fair trial) of the ECHR due to the flaws in the judicial procedure
Non-violation of Article 6 § 1 (right to a fair trial) of the ECHR due to the lack of independence and impartiality of the Supreme Court

The applicant, a Portuguese national, complained of the violation of their rights of defence during disciplinary proceedings initiated against them in the course of their professional activity as a judge.

Ruling of 06/11/2018 (applications nos. 55391/13, 57728/13, 74041/13) ([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))

BE / K.G v. BELGIUM

Right to liberty and security - Duration of detention pending the closure of an asylum application - Public security

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

The applicant, a third-country national and asylum seeker, had been detained for approximately 13 months for security reasons pending the processing of his asylum application. He alleged that his "being made available" to the Belgian government, adopted on this basis, did not respect the legal channels. He also alleged that his detention was arbitrary, that it took place in a place unsuited to his mental health condition and that it was of excessive duration.

Ruling of 06/11/2018 (application no. 52548/15) ([FR](#))
Press release ([FR](#) / [EN](#))

BE / BEUZE v. BELGIUM [GC]

Right to a fair trial - Right to the assistance of a lawyer during police custody

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

The applicant, a Belgian national who handed over to the Belgian authorities by the French authorities in execution of a European arrest warrant, complained that no lawyer was present between the time of his handover to the Belgian authorities and the end of his police custody, when he was heard by the Belgian police services and the Belgian investigating judge.

Ruling of 09/11/2018 (application no. 71409/10) ([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))

ES / VICENT DEL CAMPO v. SPAIN

Right to respect for an individual's reputation - Trial by a local authority for harassment - Judgement naming the individual

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

The applicant, a Spanish national, complained that a judgement of the higher court named him as a harasser of a colleague at work, even though that judgement had been rendered in proceedings to which he was not a party. The applicant argued that the judgement amounted to an unjustified infringement of his right to honour and reputation and that no effective remedy was available to him to assert his claims in this respect.

Ruling of 06/11/2018 (application no. 25527/13) ([EN](#))
Press release ([FR](#) / [EN](#))

ES / OTEGI MONDRAGON AND OTHERS v. SPAIN

Right to a fair trial - Right to an impartial court - Doubt about the impartiality of judges in a judicial panel

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

The applicants, all Spanish nationals and former members of the former banned organisation ETA, alleged that the judges who sentenced them for membership of that organisation were biased. They argued that, during the criminal trial of the first applicant, the president of the panel had shown a lack of impartiality which had contaminated the entire panel in the case.

Ruling of 06/11/2018 (applications nos. 4184/15, 4317/15, 4323/15, 5028/15 and 5053/15) ([EN](#))
Press release ([FR](#) / [EN](#))

FR / HÔPITAL LOCAL SAINT-PIERRE D'OLÉRON AND OTHERS v. FRANCE

Right to a fair trial - Legislator's intervention during the proceedings

Non-violation of Article 6 § 1 (right to a fair trial) of the ECHR due to the legislator's intervention during the proceedings

Non-violation of Article 6 § 1 (right to a fair trial) of the ECHR due to the alleged lack of grounding of the rulings of the Court of Cassation

The applicants, legal entities, complained in particular that by adopting a law in December 2010, the legislature had intervened to change the outcome of the proceedings to which the State was a party, thereby breaking the equality of arms.

Ruling of 08/11/2018 (applications nos. 18096/12 and 23 others) ([FR](#))
Press release ([FR](#) / [EN](#))

HR / NARODNI LIST D.D. v. CROATIA

Right to freedom of the press and freedom of expression - Public interest - Critique of a judge's ethics

Violation of Article 10 § 1 (freedom of expression) of the ECHR.

The case concerns the freedom of the press to criticise judges. The applicant, publisher of a Croatian weekly magazine, complained that it had been ordered to pay damages based on the publication of an article in which the unethical behaviour of a national judge was criticised.

Ruling of 08/11/2018 (application no. 2782/12) ([EN](#))
Press release ([FR](#) / [EN](#))

BG / TOGRUL v. BULGARIA

Protection of property - Customs - Confiscation and retention of undeclared amounts

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

The applicant, a Turkish national, complained that the confiscation of EUR 199,400 for failure to fulfil their reporting obligations to the Bulgarian customs service was a disproportionate and unjustified interference with their right to respect for their property. He also complained that EUR 9,100, which had been kept as material evidence in the criminal proceedings against him, had not been returned to him even after the criminal proceedings had been closed.

Ruling of 15/11/2018 (application no. 20611/10) ([FR](#))
Press release ([FR](#) / [EN](#))