



FLASH NEWS

6/20

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 18/05 TO 12/06/2020

NL / AZERKANE v NETHERLANDS

Right to respect for private and family life - Foreign national holding a residence permit - Multiple criminal convictions - Possibility of expulsion

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

The applicant, a Moroccan national who had lived all his life in the Netherlands, complained that his residence permit had been revoked and that the Dutch authorities had ordered him not to return to the country, on the grounds that, as a result of his multiple convictions, he represented a threat to public order. The applicant claimed that he was dependent on his parents, who resided in the Netherlands, and that his links with Morocco were almost non-existent.

Judgment of 02/06/2020 (application no. 3138/16) ([EN](#))

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

PL / JEZIOR v POLAND

Freedom of expression - Anonymous publication of undisclosed information on a blog - Liability of the blog administrator

Infringement of Article 10 (right to freedom of expression) of the ECHR.

The applicant, a Polish national who kept a blog on current events in his municipality, had been convicted for comments made by third parties on that blog. According to the domestic courts, the applicant was responsible for the said comments, which constituted electoral propaganda material and whose content was unproven and prejudicial to the reputation of a candidate in the local elections. The applicant argued that these judicial decisions interfered with his right to freedom of expression.

Judgment of 04/06/2020 (application no. 31955/11) ([FR](#))

EL / GEORGOULEAS AND NESTORAS v GREECE

No punishment without law - Market manipulation - Dissemination of false or misleading information on financial instruments

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

The applicants, Greek nationals, had been found guilty of manipulation of the financial market for participating in transactions aimed at artificially manipulating share prices. According to the applicants, these transactions could not be assimilated to the offence of publication or dissemination of inaccurate or misleading information influencing the price provided for by Greek law. Arguing that their conduct was subject to criminal law only since the transposition of Directive 2003/6, which took place after the events, they claimed, inter alia, that the sanctions imposed had violated their right not to be convicted for an act which, at the time it was committed, did not constitute a criminal offence under the law.

Judgment of 28/05/2020 (applications nos. 44612/13 and 45831/13) ([EN](#))

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

DE / P.N. v GERMANY

Right to privacy - Collection of physical identification data for the purpose of future criminal investigations

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

The applicant, a German national suspected of handling stolen goods, complained about the collection, ordered by the police, of elements intended to identify him, such as photos of his face and body, including possible tattoos, as well as finger and palm prints, with a view to investigating future offences.

Judgment of 11/06/2020 (application no. 74440/17) ([EN](#))

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

ADVISORY OPINION UNDER PROTOCOL No. 16 TO THE ECHR

No punishment without law - Technique of "legislation by reference" for the definition of an offence - Comparison of two versions of the same criminal law with regard to the principle of non-retroactivity of criminal law

In the second opinion under Protocol No. 16 to the ECHR, the European Court of Human Rights answered questions raised by the Armenian Constitutional Court on certain aspects of Article 7 (no punishment without law) of the ECHR in proceedings against the former President of Armenia for allegedly committing acts aimed at overthrowing the constitutional order.

First of all, the European Court of Human Rights held that it could not answer the first two questions in that it did not see any direct link between those questions and the domestic proceedings in question.

Then, with regard to the third question concerning the definition of an offence by reference to certain provisions of the Constitution, it considered that the technique of legislation by reference does not per se contravene the requirements of Article 7 of the ECHR.

Finally, as regards the fourth question concerning the criteria to be applied when comparing the compatibility of two different versions of a legal act with the principle of the non-retroactivity of criminal law, it stressed that account should be taken of the particular circumstances of the case and that such a comparison could not be made *in abstracto*.

Opinion of 29/05/2020 (request no. P16-2019-001) ([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))

DE / EVERS v GERMANY

Right to respect for private and family life - Prohibition of contact with the mother of a child born as a result of sexual abuse

Inadmissibility of the complaint alleging a violation of Article 8 (right to respect for private and family life) of the ECHR for incompatibility *ratione materiae* with the Convention [Article 35 §§ 3(a) and 4 of the ECHR].

Infringement of Article 6 §1 (right to a fair trial) of the ECHR concerning the absence of a hearing.

The applicant, a German national, alleged that the decision of the German courts to prohibit him from any contact with his former partner's mentally handicapped daughter, whom he had sexually abused and with whom he had had a child, violated his right to respect for his private and family life. He also alleged that certain defects had vitiated the domestic proceedings, in particular that he had not been heard in person.

Judgment of 28/05/2020 (application no. 17895/14) ([EN](#)) Press release ([FR](#) / [EN](#))

CY / KOULIAS v CYPRUS

Right to a fair trial - Right of access to an impartial tribunal - Employment relationship between the son of a judge and a law firm

Infringement of Article 6 §1 (right to a fair trial/right of access to a tribunal) of the ECHR.

The applicant, a Cypriot national, alleged that one of the judges of the Supreme Court who had sat in proceedings against him for defamation was not impartial in that the son of the judge in question worked in a law firm, one of whose founding partners had represented the appellant in question.

Judgment of 26/05/2020 (application no. 48781/12) ([EN](#))

IS / CARL JÓHANN LILLIENDAHL v ICELAND

Freedom of expression - Homophobic comments in response to an article published online

Inadmissibility of the application on the grounds that it is manifestly ill-founded [Article 35 §§ 3a and 4 of the ECHR].

The applicant, an Icelandic national, claimed that his fine for homophobic comments made in response to an article published online violated his right to freedom of expression.

Decision communicated on 11/06/2020 (application no. 29297/18) ([EN](#))
Press release ([FR](#) / [EN](#))

FR / ASSOCIATION INNOCENCE EN DANGER ET ASSOCIATION ENFANCE ET PARTAGE v FRANCE

Prohibition of inhuman or degrading treatment - Right to an effective remedy - Ill-treatment of a child leading to her death - Liability of the State

Infringement of Article 3 (prohibition of inhuman or degrading treatment) of the ECHR.

Non-infringement of Article 13 (right to an effective remedy) of the ECHR.

The applicants, two child protection associations, alleged that the French authorities had failed to protect a girl who had died as a result of ill-treatment by her parents. In particular, they denounced the need to establish gross negligence in order to be able to hold the State liable for the malfunctioning of the public justice system.

Judgment of 04/06/2020 (applications nos. 15343/15 and 16806/15) ([FR](#))
Press release ([FR](#) / [EN](#))