



FLASH NEWS

9/19

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 27/05 TO 07/06/2019

EE / LIBLIK AND OTHERS v. ESTONIA

Right to respect for private and family life - Authorisations of secret surveillance - Grounds

Non-violation of article 6 § 1 (right to a fair hearing within a reasonable time) of the ECHR.

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

The case concerns the subsequent grounds of the authorisations of secret surveillance that had been issued in the context of a criminal procedure initiated against the applicants, four Estonian nationals and two Estonian public limited companies. They considered, mainly, that such subsequent grounds had constituted a violation of their rights to privacy.

Ruling of 28.05.2019 (application nos. 173/15 and 5 others) ([EN](#))
Press release ([FR](#) / [EN](#))

TR / YILMAZ v. TURKEY

Right to respect for private and family life - Refusal of appointment to a teaching position - Justification based on the lifestyle and the attire of the spouse of the applicant

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

The applicant, a Turkish national having passed a competitive exam enabling access to a teaching position abroad, complained to the national authorities of having unduly had him, he and his family, undergo a security investigation and having refused, based on information concerning his private life, obtained after this investigation, to appoint him to one of the positions to which the competitive exam that he passed gave him access. In fact, the investigation carried out had revealed that the spouse of the applicant dressed in Islamic attire.

Ruling of 04.06.2019 (application no. 36607/06) ([FR](#))
Press release ([FR](#) / [EN](#))

FR / NODET v. FRANCE

Ne bis in idem - Manipulation of the price of a share - Double prosecution and double sentencing for the same financial facts

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

The applicant, a French national and financial analyst, had carried out transactions on the stock of a company. The Sanctions Commission of the Autorité des Marchés Financiers (AMF) imposed a penalty on him for these operations, and described them as manipulation. On criminal charges, the criminal court of Paris then gave him, for the same facts, a suspended sentence of 8 months for obstruction of the regular operation of a financial market. The applicant invoked a violation of the *ne bis in idem* principle on account of criminal prosecutions and his conviction, despite a decision of the AMF focussing exactly on the same facts and treated as final.

Ruling of 06.06.2019 (application no. 47342/14) ([FR](#))
Press release ([FR](#) / [EN](#))

SE / ABOKAR v. SWEDEN

Right to respect for family life - Family reunification - Refusal to grant a residence permit

Inadmissibility of the application owing to its clearly unfounded nature [article 35 §§ 3 a) and 4 of the ECHR].

The case pertains to the refusal of the Swedish authorities to grant to the applicant, a Somalian national residing in Italy, a residence permit for the purpose of family reunification, with his spouse herself holding a permanent residence permit in Sweden, where she lives with their children. The applicant alleged that Sweden's refusal to grant him a residence permit on the grounds that he could not prove his identity constituted a violation of his right to respect for his family life.

Decision communicated on 06.06.2019 (application no. 23270/16) ([EN](#))
Press release ([FR](#) / [EN](#))

IS / SIGURÐUR EINARSSON AND OTHERS v. ICELAND

Right to a fair hearing - Impartiality of a judge

Violation of article 6 § 1 (right to a fair hearing) of the ECHR, on account of lack of impartiality of a judge.

Non-violation of article 6 §§ 1 and 3 b) and d) (right to a fair hearing, right to have time and the facilities to prepare your own case, right to obtain the attendance and examination of witnesses) of the ECHR, on account of the alleged lack of access to data and on account of the alleged refusal to summon witnesses.

The applicants, four Icelandic nationals, had been considered guilty of market manipulation, on account of the acquisition of shares of the Kaupþing bank before it went bankrupt. Three of them had also been found guilty of breach of trust. They essentially alleged a lack of impartiality mainly on the grounds that the son of one of the judges of the Supreme court had been employed in the legal department of Kaupþing before the bankruptcy of this establishment, and then subsequently, during its liquidation.

Ruling of 04.06.2019 (application no. 39757/15) ([EN](#))

TR / DOĞAN and ÇAKMAK v. TURKEY

Right to have a ruling, without undue delay, on the lawfulness of one's detention - Inadmissibility of the appeals due to the examination by an international body

Inadmissibility of the appeals, the latter having already been examined by an international body, i.e. the Working Group on Arbitrary Detention of the United Nations Human Rights Council [article 35 § 2 b) of the ECHR].

Invoking article 5 § 4 (right to have a ruling, without undue delay, on the lawfulness of one's detention), the applicants, Turkish nationals, complained of not having been able to effectively contest the lawfulness of their provisional detention, criticised the legal authorities for having rejected their applications for release without respecting the principle of equality of arms.

Decision communicated on 06.06.2019 (application nos. 28484/10 and 58223/10) ([FR](#))

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

OTHER INFORMATION

First ruling delivered in infringement proceedings concerning the point of knowing whether a State Party complied with a ruling of the ECHR

Delivering its first ruling in infringement proceedings, based on article 46 § 4 of the ECHR, the Grand Chamber of the ECHR concluded that Azerbaijan failed in its obligation to comply with the ruling delivered by the ECHR in 2014 and concerning the political activist Ilgar Mammadov. In fact, it ruled that the Azerbaijani government, by not having unconditionally released Mr Mammadov, had adopted only limited measures to execute this ruling.

As a result, it unanimously held that there was a **violation** of article 46 § 1 (binding force and execution of rulings) of the ECHR.

Ruling of 29.05.2019 (application no. 15172/13) ([FR](#) / [EN](#))

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