



FLASH NEWS

17/19

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 25/11 TO 06/12/2019

NO / KONKURRENTEN.NO AS v. NORWAY

Right to a fair trial - Obligation to respect human rights - EFTA Court - Standing - State aid

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

The applicant, a coach operator, had requested the EFTA Surveillance Authority to open a review procedure regarding aid measures to a competing company owned by the Norwegian State, on the grounds of their incompatibility with the EEA Agreement. Following the refusal decision, the applicant brought an action before the EFTA Court. As Norway refused to grant it standing to challenge such decision on the ground that it had not sufficiently established that its market position was substantially affected by the aid measures concerned, the applicant alleged that Norway's liability under the ECHR was engaged in the present case because, on the one hand, Norway had actively participated in the proceedings before the EFTA Court and, on the other hand, the system of judicial protection of fundamental rights provided by the EFTA Court was structurally deficient.

Decision communicated on 28/11/2019
(application no. 47341/15) [\(EN\)](#)
Legal Summary [\(EN\)](#)

CH / I.L. v. SWITZERLAND

Deprivation of liberty - Need for a legal basis - Prohibition of application by analogy in criminal matters

Violation of Article 1 (right to liberty and security) of the ECHR

The applicant, a Swiss national who had been the subject of an institutional therapeutic measure, had been placed in detention on security grounds pending a judgement extending such measure. He alleged that this detention constituted deprivation of liberty without a legal basis, since in accordance with the established jurisprudence of the Swiss Federal Court, the detention had been ordered by analogous application of the provisions of the Code of Criminal Procedure governing pretrial detention.

Judgment of 03/12/2019 (Application no. 72939/16)
[\(FR\)](#)
Press release [\(FR / EN\)](#)

RO / YAŞAR v. ROMANIA

Protection of property - Confiscation of a vessel used for illegal fishing activities - Protection of marine living resources

Non-violation of Article 1 of Protocol no. 1 (protection of property) to the ECHR.

The applicant, a Turkish national who owned a vessel which had been used for illegal fishing activities in the Black Sea, complained that the confiscation of the vessel was disproportionate in view of its high value and the absence of any proven environmental damage.

Judgment of 26/11/2019 (Application no. 64863/13)
[\(EN\)](#)
Press release [\(FR / EN\)](#)

TR / PARMAK AND BAKIR v. TURKEY

Predictability of criminal law - Offence of terrorism - Absence of physical violence - Power of interpretation of the criminal judge

Violation of Article 7 (no punishment without law) of the ECHR.

Violation of Article 8 (right to private life) of the ECHR

The applicants, both Turkish nationals, had been convicted of terrorism, an offence defined in national law as any act "committed with violence and coercion". The conviction was based on their alleged membership of an organisation classified as "terrorist" and on the fact that, because of documents linked to that organisation (in particular leaflets) which were confiscated from their homes, they were to be considered as having exercised moral coercion or intimidation amounting to a form of violence. They argued that the courts had relied on an overly broad interpretation of the definition of terrorism, holding that the concept of violence could be interpreted to include moral coercion.

In addition, one of the applicants, residing and working in Germany, challenged the legality of a travel ban throughout the criminal proceedings.

Judgment of 03/12/2019 (Applications nos. 22429/07 and 25195/07) ([EN](#))

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

AZ / TAGIYEV and HUSEYNOV v. AZERBAIJAN

Freedom of expression - Criminal conviction for publishing an article critical of Islam

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

The applicants, two Azerbaijani nationals, respectively a writer and the editor of an art magazine, had been convicted of incitement to religious hatred and hostility due to their remarks about Islam in an article they had published. This article, entitled "Europe and Us", compared Western and Eastern values. The applicants argued that their conviction was unjustified and excessive.

Judgment of 05/12/2019 (application no. 13274/08) ([EN](#))

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

PT / PETRESCU v. PORTUGAL

Prohibition of inhuman or degrading treatment - Conditions of detention - Structural problem of prison overcrowding

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

The applicant, a Romanian national, complained about his conditions of detention (including overcrowding, lack of hygiene and heating, and unsanitary conditions) in two prisons in Portugal.

Judgment of 03/12/2019 (application no. 23190/17) ([FR](#))

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

TR / PARMAK AND OTHERS v. TURKEY

Respect of domicile and correspondence - Seizure of electronic data protected by lawyer-client privilege

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

The applicants, three lawyers sharing an office with another lawyer who was the subject of criminal proceedings, complained of the seizure of digital files concerning their clients' affairs during a search of said office, in violation of attorney-client privilege.

Judgment of 03/12/2019 (Application no. 14704/12) ([FR](#)) Press Release ([FR](#) / [EN](#))