



FLASH NEWS

01/21

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 15/12 TO 15/01/2021

IS / GESTUR JÓNSSON AND RAGNAR HALLDÓR HALL v ICELAND [GC]

Right to a fair trial - Proceedings against lawyers for non-appearance at the hearing of their clients - Penalty for an offence that is not qualified as 'criminal' in domestic law

Inadmissibility of applications on grounds of incompatibility *ratione materiae* with the Convention [Article 35 §§ 3a) and 4 of the ECHR].

The applicants, two Icelandic lawyers, complained, on the basis of Article 6 §§ 1 and 3 of the ECHR, that they had been tried and sentenced in their absence by a court of first instance for contempt of court because they had not appeared at the hearing to represent their clients. Furthermore, they argued that the Icelandic Supreme Court had failed to remedy the defects that, in their view, had marred the proceedings before that court. Finally, they considered, invoking Article 7(1) of the ECHR, that they had been convicted of an offence that was not a criminal offence under domestic law and that the penalty imposed on them was not foreseeable.

Judgment of 22/12/2020 (applications Nos 68273/14 and 68271/14) ([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))

DK / KHAN v DENMARK and MUNIR JOHANA v DENMARK

Right to privacy - Migrants who have lived in the host country from a young age - Expulsion - Repeated convictions for various criminal offences

Non-infringement of Article 8 (right to privacy) of the ECHR.

The applicants, an Iraqi national residing in Denmark since the age of four and a Pakistani national born in Denmark, contested the expulsion decisions concerning them, taken following repeated convictions for various criminal offences, on the grounds that they violated their rights. They argued that, with regard to their offences, the national authorities had failed to take account of the relevant circumstances when balancing their rights against the public interest. They also alleged that their expulsions and bans on return set at six years were too severe in view of the custodial sentences already imposed.

Judgments of 12/01/2021 [application No 56803/18 ([EN](#)) and application No 26957/19 ([EN](#))]
Press release ([FR](#) / [EN](#))

SI, HR / SLOVENIA v CROATIA [GC]

Inter-State cases - Defence of the rights of a legal person that cannot be qualified as a 'non-governmental organisation'

Lack of competence of the Court to hear the application of a government to defend the rights of a legal person that cannot be qualified as a 'non-governmental organisation' (Article 33 of the ECHR).

The applicant government complained that the Croatian authorities had prevented and continued to prevent the Bank of Ljubljana from enforcing and recovering its claims against its Croatian debtors in Croatia. It alleged multiple violations of the ECHR and also claimed an amount corresponding to the losses allegedly suffered by the Bank of Ljubljana as a result of the alleged violations.

Decision communicated on 16/12/2020 (application No 54155/16) ([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))



TR / SELAHATTIN DEMIRTAŞ v TURKEY (No 2) [GC]

Right to liberty and security - Waiver of immunity and pre-trial detention of a Member of Parliament based on terrorism charges related to political speeches - Examination of the merits of the charges

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

Infringement of Article 5 §§ 1 and 3 (right to liberty and security) of the ECHR.

Non-infringement of Article 5 §4 (right to a prompt decision on the lawfulness of detention) of the ECHR.

Infringement of Article 3 of Protocol No 1 (right to free elections) to the ECHR.

Infringement of Article 18 (limitation of the application of restrictions of rights) in conjunction with Article 5 of the ECHR.

The applicant, a Turkish national, was president of a left-wing pro-Kurdish party and had been elected as a Member of Parliament. Following the parliamentary elections of 2015, several terrorist attacks, allegedly committed by the Kurdistan Workers' Party and ISIS, had hit Turkey. He had then been remanded in custody for membership of an armed terrorist organisation and public incitement to commit a crime. He denounced a violation of his right to freedom of expression. He further maintained that there was no evidence of any plausible grounds for suspecting him of having committed a criminal offence. According to him, the proceedings before the Constitutional Court had not complied with the requirements of the ECHR and he complained about the failure to comply with the requirement of 'promptness'. Finally, he alleged that he had been detained for expressing opinions critical of political power and claimed that the purpose of his pre-trial detention was to silence him.

Judgment of 22/12/2020 (application No 14305/17) ([ER](#) / [EN](#)) Press release ([FR](#) / [EN](#))

FR / SOCIÉTÉ ÉDITRICE DE MEDIAPART AND OTHERS v FRANCE

Freedom of expression - Online news information site - Order to remove unlawful recordings of private conversations from the said site - Sensitivity of information prejudicial to privacy

Non-infringement of Article 10 (freedom of expression) of the ECHR.

The applicants, a publishing company, its director and a journalist, claimed that the court injunction requiring them to remove from the site of the newspaper Mediapart the publication of extracts of the unlawful recordings made at the home of a vulnerable public figure infringed their right to freedom of expression.

Judgment of 14/01/2021 (applications Nos 281/15 and 34445/15) ([ER](#))

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

HR / SABALIĆ v CROATIA

Prohibition of inhuman and degrading treatment - Prohibition of discrimination - Homophobic assault - Conviction of the assailant for a minor offence

Infringement of Article 3 (prohibition of inhuman or degrading treatment) in conjunction with Article 14 (prohibition of discrimination) of the ECHR.

The applicant, a Croatian national who was the victim of a violent attack, complained that the official response to the attack, consisting of proceedings for a minor offence, had failed to address the element of hate crime and had led to the impunity of her attacker. She felt that the response of the domestic authorities to the violent homophobic attack against her had been inadequate.

Judgment of 14/01/2021 (application No 50231/13) ([EN](#))

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