



## FLASH NEWS

3/22

# EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 21/3 TO 29/4/2022

### MD / NIT S.R.L. v. REPUBLIC OF MOLDOVA [GC]

**Freedom of expression - Revocation of the broadcasting licence of a television channel - Serious and repeated breaches of the obligation to ensure political balance and pluralism**

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

**Non-infringement** of Article 1 of Protocol No 1 (protection of property).

**Inadmissibility** of the complaints alleging violation of Article 6 §1 (right to a fair trial) and Article 14 (prohibition of discrimination) of the ECHR on the basis that they are manifestly ill-founded [Article 35 §§3 and 4 of the ECHR].

As of 2009, the applicant, a company incorporated under Moldovan law and owner of a private television channel, was the main voice of the only opposition party in Moldova. Its broadcasting licence had been withdrawn in 2012 due to its lack of pluralism, the broadcasting of unbiased news bulletins and for favouring the opposition political party. According to the applicant, the withdrawal of its licence was for being too critical of the government and was inherently punitive and therefore infringed its editorial independence. Before the ECtHR, the applicant alleged that the withdrawal of this licence violated its right to freedom of expression and its right to property. It also argued that the procedure for revoking its licence had not been fair.

Judgment of 5/4/2022 (application No 28470/12) ([FR/EN](#))  
Press release ([FR/EN](#))

### ADVISORY OPINION UNDER PROTOCOL No 16 TO THE ECHR

**Right to free elections - Impeachment proceedings - Prohibition from holding parliamentary office - Proportionality**

In the opinion delivered on 8 April 2022, the ECtHR answered the questions put to it by the Lithuanian Supreme Administrative Court under Protocol No 16 to the ECHR on how to assess the compatibility of impeachment legislation with Article 3 of Protocol No 1 (right to free elections) to the ECHR. The ECtHR concluded that any decision on whether a ban on exercising a parliamentary mandate has exceeded what is acceptable under that provision should be based on criteria that are objective in nature and allow for transparent consideration of the circumstances relating not only to the events leading to the removal of the person concerned but also to the functions that he or she intends to exercise in the future, from the point of view of the constitutional system and democracy as a whole in the State concerned.

Opinion of 8/4/2022 (request No P16-2020-002) ([FR/EN](#))  
Press release ([FR/EN](#))

### ADVISORY OPINION UNDER PROTOCOL No 16 TO THE ECHR

**Principle of legality of penalties - Applicability of the statute of limitations to prosecutions, convictions and sanctions for acts of torture**

In the opinion delivered on 26 April 2022, the ECtHR answered the questions posed by the Armenian Constitutional Court concerning the relationship between the prohibition of torture and the obligation to punish such acts, on the one hand, and the importance of complying with the requirements of Article 7 (no punishment without law) of the ECHR on the other. The court concluded that where an offence is subject to limitation under domestic law and the limitation period has expired, this provision prevents the prosecution of the time-barred offence from being resumed. In this respect, it is for the national court to determine whether the rules of international law having normative value in the domestic legal order can constitute a sufficiently clear and foreseeable legal basis within the meaning of Article 7 to conclude that there is no statute of limitations on the offence in question.

Opinion of 26/4/2022 (request No P16-2021-001) ([FR/EN](#))  
Press release ([FR / EN](#))

## RU / KHASANOV AND RAKHMANOV v. RUSSIA [GC]

**Prohibition of inhuman or degrading treatment - Extradition of ethnic Uzbeks to Kyrgyzstan - No real individual risk of ill-treatment - No justification for the total ban on extradition to Kyrgyzstan**

**Non-infringement** of Article 3 (prohibition of torture and inhuman or degrading treatment) of the ECHR if the applicants were to be extradited to Kyrgyzstan.

The applicants, Kyrgyz nationals, arrived in Russia in 2010 and 2011. They were arrested there in 2013 and 2014, after the Kyrgyz authorities issued international arrest warrants, seeking them for several crimes. The applicants argued that their extradition to Kyrgyzstan would expose them to a real risk of ill-treatment because of their membership of the Uzbek ethnic minority, which they claimed had been persecuted by the authorities since the inter-ethnic clashes in 2010. They also claimed that the assurances given by the Kyrgyz authorities were not reliable.

Judgment of 29/4/2022 (applications Nos 28492/15 and 49975/15) ([FR/EN](#))

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

## FR / N.B. AND OTHERS v. FRANCE

**Prohibition of inhuman or degrading treatment - Removal - Fourteen-day administrative detention of an 8-year-old child in an unsuitable centre**

**Infringement** of Article 3 (prohibition of torture and inhuman or degrading treatment) of the ECHR in respect of a minor child, and non-infringement of Article 3 in respect of its parents

**Infringement** of Article 34 (right of individual petition) of the ECHR.

In 2019, the applicants, a Georgian couple and their then 8-year-old child, entered France illegally. Their asylum applications having been rejected, they were placed in the administrative detention centre of Metz-Queuleu for 14 days. The applicants claimed that their being placed in administrative detention constituted inhuman and degrading treatment. They also criticised the French authorities for not releasing them following the decision of the ECtHR granting their request for interim measures to end their detention, under Article 39 of its Rules of Procedure.

Judgment of 31/3/2022 (application No 49775/20) ([FR](#))

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

## INTERIM MEASURES

### LT / T.K. AND OTHERS v. LITHUANIA

**Prohibition of inhuman or degrading treatment - Removal to Tajikistan - Membership of an organisation prohibited in that country - Failure to assess serious risk of being exposed to ill-treatment**

**Infringement** of Article 3 (prohibition of torture and inhuman or degrading treatment) of the ECHR if the applicants were to be returned to Tajikistan without further assessment of existing ill-treatment practices in that country.

One of the applicants, belonging to a family of Tajik nationals with four children, was a member of an opposition organisation banned in Tajikistan. After arriving in Lithuania in 2019, their applications for asylum had been rejected twice on the grounds that he was not a sufficiently active member of that organisation to justify the applications. They alleged that their return to Tajikistan would expose them to the risk of ill-treatment and that the Lithuanian authorities had not properly assessed this risk. According to them, the documents requested by the Lithuanian authorities to confirm the existence of this risk were practically impossible to obtain.

Judgment of 22/3/2022 (application No 55978/20) ([EN](#))

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

### Judicial reform in Poland - Disciplinary proceedings against judges

On 24 and 31 March 2022, the ECtHR decided, under Article 39 of the [Rules of Procedure](#) of the ECtHR, to indicate interim measures in five cases in which the applicants are judges who are at risk of being suspended from office for having applied the case-law of the ECtHR and the case-law of the CJEU on the Disciplinary Chamber of the Supreme Court and the National Council of the Judiciary in their judicial decisions. The ECtHR asked the Polish Government to notify it and the applicants, at least 72 hours in advance, of the date of any public or closed hearing in the proceedings against the applicants before the Disciplinary Chamber of the Supreme Court.

Press releases for the cases **Synakiewicz v. Poland** (application No 46453/21), **Niklas-Bibik v. Poland** (No 8687/22), **Piekarska-Drażek v. Poland** (No 8076/22), **Hetnarowicz-Sikora v. Poland** (No 9988/22) ([FR/EN](#)) and for the case **Głowacka v. Poland** (application No 15928/22) ([FR/EN](#)). In this context, see also the interim measure taken on 14 April 2022 in the case **Stępka v. Poland** (application No 18001/22), press release ([FR/EN](#))

See also ECHR Flash No 2/2022