



FLASH NEWS

3/25

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 31/3 TO 11/4

NL / SHIPS WASTE OIL COLLECTOR B.V. AND OTHERS v. NETHERLANDS [GC]

Right to respect for correspondence - Transfer and use, in proceedings under competition law, of data lawfully obtained by means of telephone tapping carried out in the context of a criminal investigation - Proportionality

Non-infringement of Article 8 (right to respect for correspondence) of the ECHR.

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

The case concerns the transfer of 'accidentally intercepted' data from one law enforcement authority to another (namely the Competition Authority). These data had been legally obtained as part of a criminal investigation by means of telephone tapping. The Competition Authority had used these data for the purposes of a parallel administrative investigation opened against the applicant companies for their alleged involvement in price-fixing practices.

The European Court of Human Rights (ECtHR) finds, in particular, that the data transfers at issue were lawful, that the procedural safeguards provided by domestic law were sufficient, that the Dutch courts struck a fair balance between the interests of the applicant companies and those of the State, and that the transfers in question were necessary for the enforcement of competition law. It concludes that the Netherlands did not exceed the latitude ('margin of discretion') available to it.

Judgment of 1/4/2025 (applications Nos 2799/16, 2800/16, 3124/16 and 3205/16) ([FR/EN](#))

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

Legal summary ([FR/EN](#))

See also, on this subject, related pending cases, *Imagens Médicas Integradas* (C-258/23 to C-260/23).

BG / DOYNOV v. BULGARIA

Right to a fair trial - Alleged lack of impartiality of the Supreme Administrative Court in ruling on its own responsibility for alleged violation of EU law - Respect for the principle of independence of judges

Non-infringement of Article 6 §1 (right to a fair trial) of the ECHR.

The case concerns an allegation of a lack of independence and impartiality on the part of the Supreme Administrative Court in an action for damages for a clear breach of EU law brought against that court.

With regard to situations in which a court may be seised of an action for liability brought against itself, the European Court of Human Rights (ECtHR) notes that Article 7 of the State Liability Act expressly provides that such a court must decline jurisdiction in such cases, with the exception of the two supreme courts of the State.

With regard to the applicant's concerns about the impartiality of the judges, given their professional connection to the Supreme Administrative Court, which was the respondent in the proceedings he had brought, the ECtHR first noted that the judges who ruled on the applicant's action were not the same as those who had taken the decision on his detention.

The ECtHR notes that the status of judges in Bulgaria is governed by the Constitution and the law, which provide numerous guarantees to ensure their independence. Therefore, it does not appear that there was any hierarchical or financial link between the judges who examined the applicant's action and the Supreme Administrative Court, which, as a legal person, was a party to the proceedings, that could call into question their impartiality. Furthermore, it does not appear that a conviction by the Supreme Administrative Court was likely to have any impact on the remuneration of judges, their working conditions or the functioning of that court.

Judgment of 1/4/2025 (application No 27455/22) ([FR](#))

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

Legal summary ([FR/EN](#))

OTHER INFORMATION

New joint ECtHR/FRA fact sheet: Mass surveillance

On 8 April 2025, the European Court of Human Rights (ECtHR) published a third joint ECtHR/FRA fact sheet. This sheet summarises the case-law of the ECtHR and the Court of Justice concerning mass surveillance.

Recent technological and social developments in electronic communications have led the ECtHR and the Court of Justice to consider the risks that mass surveillance measures – systems that use technical means to collect electronic communications or information related to such communications on a large scale – pose to human rights.

In today's increasingly digital world, the vast majority of communications are in digital form and are routed through global telecommunications networks in such a way as to take the fastest and cheapest combination of paths, with no significant connection to national borders. Surveillance that is not directly targeted at individuals is therefore likely to have a very broad scope, both within and outside the territory of the State conducting it.

Mass surveillance may target the content of electronic communications and/or related communication data, including personal data of subscribers and registered users, as well as traffic data and location data. The gathering of communications data is not inherently less intrusive than the collection of content data, as traffic data and location data, taken together, are likely to allow very precise conclusions to be drawn about the private lives of the persons whose data are stored, such as daily habits, permanent or temporary places of residence, daily movements, activities, social relationships and social circles. With regard to the content of electronic communications, particular issues may arise where the mass interception and retention of communications and the possibility of accessing them enable authorities to decrypt encrypted electronic messages.

Joint ECtHR/FRA fact sheet: 'Mass surveillance' ([FR/EN](#))

The first two joint ECtHR/FRA thematic fact sheets focus, respectively, on the [European Arrest Warrant and fundamental rights](#) and the [right to be forgotten](#). The fact sheets can also be accessed on the [ECtHR/EU](#) page of the ECtHR's de knowledge-sharing platform ([ECHR-KS](#)).