



## FLASH NEWS

04/21

# EUROPEAN COURT OF HUMAN RIGHTS

## OVERVIEW FROM 23/03 TO 07/05/2021

### PL / XERO FLOR W POLSCE SP. Z O.O. v POLAND

**Right to a fair trial - Court established by law - Changes in the Polish judicial system - Serious irregularities in the appointment of a judge to the Constitutional Court**

**Infringement** of Article 6 §1 (right to a fair trial) of the ECHR concerning the right to a fair trial.

**Infringement** of Article 6 §1 of the ECHR concerning the right to a court established by law.

In 2012, the applicant, a turf company, brought an action against the Treasury for damages caused by wild animals on its turf. The domestic courts had only partially granted its request. Accordingly, before the ECtHR, firstly, the applicant complained about the refusal of the domestic courts to refer objections of unconstitutionality to the Constitutional Court. Secondly, it alleged that its material damage had not been fully compensated. Thirdly, it alleged that the composition of the five-judge panel of the Constitutional Court that considered the case was not in accordance with the Constitution. In this respect, it added that one of the judges of this committee had been elected by the Sejm (the lower house of Parliament), whereas the post had already been allocated to another judge, elected by the previous Sejm.

Judgment of 7/5/2021 (application No 4907/18) ([EN](#))

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

### CZ / VAVŘIČKA AND OTHERS v CZECH REPUBLIC [GC]

**Right to privacy - Legal obligation to vaccinate children - Fine and refusal of admission to nursery school for non-compliance with this obligation**

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

The applicants, Czech nationals, challenged the obligation under national law to vaccinate children and the consequences of non-compliance with this obligation. In particular, one of the applicants complained that he had been fined for not having his children vaccinated, while the others complained that their children had been refused admission to nursery school on similar grounds.

Judgment of 8/4/2021 (applications Nos 47621/13, 3867/14, 73094/14, 19298/15, 19306/15 and 43883/15) ([FR](#) / [EN](#))

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

### MD / E.G. v REPUBLIC OF MOLDOVA

**Right to privacy - Prohibition of inhuman or degrading treatment - Non-enforcement of the sentence of a sex offender**

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

**Infringement** of Article 8 (right to respect for private life) of the ECHR.

The applicant, a Moldovan-Romanian national, had been the victim of a sexual assault. Following the conviction of her three attackers, one of them was the subject of a wanted notice. After the annulment of a decision exonerating him from his sentence, in application of an amnesty law, no further wanted notices had been issued and no measures had been taken to find him. The applicant complained that the State had not fulfilled certain positive obligations to effectively enforce the sentence.

Judgment of 13/4/2021 (application No 37882/13) ([FR](#))

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

## FR / K.I. v FRANCE

### **Prohibition of inhuman or degrading treatment – Expulsion of a foreign national – Revocation of refugee status – Distinction between refugee status and qualification as a refugee**

**Infringement** of Article 3 (prohibition of inhuman or degrading treatment) of the ECHR (procedural aspect) in the case of the applicant's return to his country of origin, after revocation of his refugee status, in the absence of a prior assessment by the French authorities of the reality and actuality of the risk he claims to run when the expulsion order is enforced.

The applicant, a Russian national of Chechen origin, was granted refugee status in France in 2013. In 2016, this refugee status was revoked due to his conviction for terrorism offences. As a result, a deportation order to Russia was issued against him. The applicant alleged that, in view of the persecution to which he had been subjected prior to his departure from Russia and his conviction for acts of terrorism in France, he ran a real and serious risk of being exposed to inhuman and degrading treatment if returned to his country of origin.

Judgment of 15/4/2021 (application No 5560/19) ([FR](#))  
Press release ([FR](#) / [EN](#))

See also the judgment of the Court of 14 May 2019, M (Revocation of refugee status) ([C-391/16](#), [C-77/17](#) and [C-78/17](#), [EU:C:2019:403](#)).

## TR / CASE OF MURAT AKSOY v TURKEY

### **Right to liberty and security – Freedom of expression – Preliminary detention of a journalist without plausible reasons**

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

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

**Non-infringement** of Article 5 §4 (inability to access the investigation file) of the ECHR.

The applicant, a Turkish journalist, had been temporarily detained a few weeks after the attempted coup d'état of 15 July 2016, because of articles and publications in newspapers and social media, in which he criticised the government. He was suspected of belonging to a terrorist organisation and of attempting to overthrow the government and the constitutional order. He alleged that his detention was arbitrary, not based on concrete evidence, and also complained about the length of the proceedings before the Constitutional Court.

Judgment of 13/4/2021 (application No 80/17) ([FR](#))  
Press release ([FR](#) / [EN](#))

## BG / RIBCHEVA AND OTHERS v BULGARIA

### **Right to life – Officer killed during an anti-terrorist operation – Obligation to conduct an effective investigation into the operation**

**Infringement** of Article 2 (right to life) of the ECHR concerning the investigation.

**Non-infringement** of Article 2 (right to life) of the ECHR concerning the measures taken by the authorities to protect the life of the person concerned.

The applicants, Bulgarian nationals, are the mother, widow and daughter of an officer of the Ministry of the Interior's anti-terrorist squad who was killed during an anti-terrorist operation. They complained that the authorities had neither adequately investigated the preparation and conduct of the operation nor sufficiently protected the life of the officer.

Judgment of 30/3/2021 (applications Nos 37801/16, 39549/16 and 40658/16) ([EN](#))

## BG / CASE OF HANDZHIYSKI v BULGARIA

### **Freedom of expression – Fine imposed for putting a Father Christmas hat on the controversial statue of a politician**

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

The applicant, a Bulgarian national, challenged the fine imposed on him after he had placed a Father Christmas hat on the head of a controversial statue of a politician and a sack at its feet. A banner calling for the resignation of the politician was attached to the sack.

Judgment of 6/4/2021 (application No 10783/14) ([EN](#))  
Press release ([FR](#) / [EN](#))

## RO / TÓKÉS v ROMANIA

### **Freedom of expression – Display of national minority flags – Lack of scrutiny of all significant elements**

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

The applicant, a Romanian national belonging to the Hungarian minority in that Member State, elected as a Member of the European Parliament on behalf of Hungary, was sanctioned by the Romanian authorities for displaying, without obtaining a publicity release, the flags of the Székely Land and Partium on the building housing his work office. He challenged the warning sanctions imposed on him.

Judgment of 27/4/2021 (applications Nos 15976/16 and 50461/17) ([FR](#))  
Press release ([FR](#) / [EN](#))