



FLASH NEWS

5/21

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 10/5 TO 4/6/2021

UK / BIG BROTHER WATCH AND OTHERS V United Kingdom [GC]

Right to privacy - Secret surveillance regime - Mass interception of communications and sharing of information - Freedom of expression - Protection of confidential journalistic material targeted by electronic surveillance programmes

Infringement of Articles 8 (right to privacy) and 10 (freedom of expression) of the ECHR due to the mass interception regime and the regime for obtaining communications data from communications service providers.

Non-infringement of Articles 8 and 10 of the ECHR due to the regime for requesting intercepted material from foreign governments and intelligence services.

After Edward Snowden revealed the existence of surveillance and intelligence-sharing programmes operated by the US and UK intelligence services, journalists and human rights organisations complained under Article 8 ECHR about three surveillance regimes in the UK involving the mass interception of communications, the receipt of intelligence from foreign governments and/or intelligence services, and the obtaining of data from communications service providers. In this respect, the applicants considered that, due to the nature of their activities, their electronic communications and/or communications data could have been intercepted or collected. Some applicants had also raised objections in relation to their journalistic activities, under Article 10 ECHR.

Judgment of 25/5/2021 (applications Nos 58170/13, 62322/14 and 24969/15) ([FR](#) / [EN](#))

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

SE / CENTRUM FÖR RÄTTVISA v SWEDEN [GC]

Right to privacy - Secret surveillance regime - Mass collection and sharing of signals intelligence - Difference between targeted and mass interception

Infringement of Article 8 (right to privacy) of the ECHR.

The applicant is a foundation involved in the defence of rights and freedoms, active in particular in litigation against the Swedish State. It believed that its daily communications with clients in Sweden and abroad by email, telephone and fax could be, or had been, intercepted and examined by the National Defence Institute as part of the Institute's signals intelligence activities. These activities are carried out, in particular, after authorisation from the Foreign Intelligence Court. The applicant alleged that Swedish legislation and practice relating to signals intelligence had infringed and continued to infringe its rights under Article 8 ECHR. Moreover, the applicant had not initiated any domestic proceedings because it argued that there was no effective remedy in Sweden for its claims under the Convention.

Judgment of 25/5/2021 (application No 35252/08) ([FR](#) / [EN](#))

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

See also the judgments of the Court (Grand Chamber) of 6 October 2020, Privacy International (C-623/17, EU:C:2020:790) and La Quadrature du Net et al. (joined cases C-511/18, C-512/18 and C-520/18, EU:C:2020:791).

RO / TERHEȘ v ROMANIA

Right to liberty and security - General confinement measure imposed by the authorities to combat the COVID-19 pandemic - 'Unforeseeable exceptional circumstances'

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

The applicant, a Romanian national, complained about the general measures adopted by Romania to combat the coronavirus pandemic. These measures included a restriction on freedom of movement and, except in a number of cases, prohibited any movement outside the home. Any departure from the personal residence required the presentation of a supporting document and offenders were liable to a fine. The applicant argued that the general confinement to which he had been subjected constituted a deprivation of liberty.

Decision communicated on 20/5/2021 (application No 49933/20) ([FR](#))
Press release ([FR](#) / [EN](#))

BG / YOCHEVA and GANEVA v BULGARIA

Prohibition of discrimination - Right to respect for family life - Refusal to grant family allowances to an unmarried mother of children born of an unknown father

Infringement of Article 14 (prohibition of discrimination) in CEDH conjunction with Article 8 (right to respect for family life) of the ECHR.

The applicants, Bulgarian nationals who were single mothers, complained that the competent Bulgarian authorities had refused to grant them family allowances. Since Bulgarian law provides for the granting of such allowances to families 'in which there is only one living parent', these authorities considered that the applicants had not proved that their children had been recognised by their fathers and that the latter had died. The applicants argued that this interpretation discriminated against their families, in which the father of the children is unknown.

Judgment of 11/5/2021 (applications Nos 18592/15 and 43863/15) ([EN](#))
Press release ([FR](#) / [EN](#))

IT / BEG S.P.A. v ITALY

Right to a fair trial - Right to an impartial tribunal - Arbitrator who sat on the Board of Directors and worked as a consultant for a company involved in the dispute - Principle of impartiality

Infringement of Article 6 §1 (right to a fair trial) of the ECHR concerning the right to an independent and impartial tribunal.

The applicant is an Italian company operating in the hydroelectric power sector. It complained about the lack of impartiality of the arbitration panel deciding a dispute over the energy supply agreement it had concluded with a spin-off of the former national electricity company (ENEL). In particular, the applicant argued that one of the arbitrators appointed by the other company had been a member of the Board of Directors of ENEL and had worked as a consultant for that company. The domestic courts had dismissed the applicant company's appeal against the arbitration award on the grounds that the link between this arbitrator and the company concerned, leading to a potential convergence of interests on an issue in the dispute, had not been proven.

Judgment of 20/5/2021 (application No 5312/11) ([EN](#))
Press release ([FR](#) / [EN](#))