



FLASH NEWS

5/22

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 13/6 TO 15/7/2022

PL / ŻUREK v. POLAND

Right of access to a court - Freedom of expression - Judicial reform in Poland - Premature termination of the mandate of a member of the National Council of the Judiciary (NCJ) and of the spokesperson of this body - Measures having a dissuasive effect on the participation of judges in the public debate on reforms of the judicial system

Infringement of Article 6 §1 (right of access to a court) of the ECHR.

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

In 2014, the applicant, a Polish judge, was re-elected to the NCJ for a second 4-year term and appointed as its spokesperson, a position he also held in Kraków Regional Court. After the entry into force of a new law on the reform of the Polish judicial system, his mandate had been shortened prematurely, without any notification, and a number of other measures had been taken against him by the Polish authorities. The applicant complained that he had no effective remedy by which to challenge the premature termination of his mandate. He also alleged that the termination of his position as spokesperson for the regional court, as well as the tax audit and the Judicial Inspectorate's investigation against him, were intended to punish him for criticising the legislative reforms and to dissuade other judges from doing the same.

Judgment of 16/6/2022 (application No 39650/18) ([EN](#))

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

See the judgment of the Court of 6 October 2021, W.Ż. (Chamber of Extraordinary Control and Public Affairs of the Supreme Court – Appointment) ([C-487/19](#), [EU:C:2021:798](#)).

EL / SAFI AND OTHERS v. GREECE

Right to life - Prohibition of inhuman or degrading treatment - Sinking of a migrant boat - Failure to fulfil a positive obligation in the conduct of a rescue operation - Lack of effective investigation - Unjustified body search

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

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

The case concerns the sinking of a fishing boat carrying 27 foreign nationals on 20 January 2014 in the Aegean Sea off the island of Farmakonisi, resulting in the death of 11 people, including relatives of the applicants. The latter claimed that due to the acts and/or omissions of the coastguard, their lives were endangered when the boat sank. Some of them also complained about the death of their relatives in the sinking. In addition, the applicants considered that they had been subjected to inhuman and/or degrading treatment following their transfer by the coastguard to the island of Farmakonisi.

Judgment of 7/7/2022 (application No 5418/15) ([FR](#))

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

FR / ROUILLAN v. FRANCE

Freedom of expression - Debate in the public interest - Indirect incitement to the use of terrorist violence in murderous attacks - Disproportionate prison sentence imposed

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

The applicant, a French national and former member of a terrorist group, referring to those responsible for the terrorist attacks in Paris and Seine-Saint-Denis in 2015, had stated in an interview broadcast by several media: 'I thought they were very brave, they fought bravely [...].' He had been sentenced to 18 months' imprisonment for public defence of an act of terrorism through the press. The applicant alleged that his criminal conviction was based primarily on considerations relating to his personality, and in particular the fact that he had spent 25 years in prison for acts of murder of a terrorist nature. According to him, his remarks did not involve incitement to violence, but were part of a debate of ideas of a political nature.

Judgment of 23/6/2022 (application No 28000/19) ([FR](#))

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

Prohibition of inhuman or degrading treatment - Right to liberty and security - Forced and unlawful deportation to Syria of a holder of a valid residence permit in Turkey and beneficiary of 'temporary protection' under the guise of voluntary return

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

Infringement of Article 13 (right to an effective remedy) in conjunction with Article 3 of the ECHR.

Infringement of Article 5 §§ 1, 2, 4 and 5 (right to liberty and security) of the ECHR.

In 2014, the applicant, a Syrian national, fled Syria to Turkey, where he was granted an alien's identity card and 'temporary protection'. In June 2018, he was arrested near the Greek border while trying to leave Turkey and join his father in Germany. He alleged that he had been illegally deported to Syria by the Turkish authorities and forced to wear handcuffs almost constantly during his transfer. He also complained that he was not given the opportunity to challenge the legality of his detention and deportation and that he was not informed of the real reasons for his detention from the time of his arrest.

Judgment of 21/6/2022 (application No 1557/19) ([FR](#))

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

Freedom to leave a country - Formal and non-individualised refusal to issue a new alien passport to a permanent resident - Failure to examine the situation in the country of origin

Infringement of Article 2 of Protocol No 4 (freedom of movement) to the ECHR.

In 2018, the applicant, a Russian national of Chechen origin and a permanent resident of Lithuania, had, as he had done on numerous previous occasions, applied for a new foreigner's passport which, according to domestic law, is required to leave the country. However, this time his application was rejected on the grounds that he should have obtained it from the authorities in his country of origin by presenting a Russian identity document. However, the applicant had thrown away his temporary Russian identity certificate on Belarus territory, before coming to Lithuania in 2001, for fear of possible deportation to Russia. Identifying himself as a former Chechen fighter, he claimed that any contact with the Russian authorities would require him to reveal his identity and place of residence, which would put him at risk of persecution by the Russian authorities. The applicant also claimed that he could not enjoy freedom of movement and visit his children in the UK.

Judgment of 14/6/2022 (application No 38121/20) ([EN](#))

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

INTERIM MEASURES

Prohibition of inhuman or degrading treatment - Right to a fair trial - European arrest warrant issued for the purpose of enforcing a prison sentence - Surrender to Romania

On 14 June 2022, the ECtHR decided to reject a request for interim measures in the case of **Udrea v. Bulgaria** (application No 20918/22).

The case concerns a former Romanian minister who is currently in Bulgaria and is the subject of a European arrest warrant (EAW) issued by the Romanian authorities. She asked the ECtHR to instruct the Bulgarian authorities to suspend the execution of the EAW and not to extradite her to Romania.

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

Russian military aggression against Ukraine - Foreign members of the Ukrainian armed forces sentenced to death

On 16 and 30 June 2022, the ECtHR decided, under Article 39 of the [Rules](#) of the ECtHR, to indicate interim measures in cases concerning two British nationals and a Moroccan national, members of the Ukrainian armed forces who had been sentenced to death in the self-proclaimed 'Donetsk People's Republic' ('DPR') after surrendering to Russian forces. In particular, the ECtHR ordered the Russian government to ensure that the death penalty imposed on the applicants was not carried out, to ensure that they had proper conditions of detention and to provide them with the necessary medical care and treatment. The court also ordered the Ukrainian government to ensure that the applicants' treaty rights are respected.

Press releases for the cases of **Pinner v. Russia and Ukraine** and **Aslin v. Russia and Ukraine** (applications Nos 31217/22 and 31233/22) ([FR/EN](#)) and for the case of **Saadoune v. Russia and Ukraine** (application No 28944/22) ([FR/EN](#)). In this context, see also the interim measure taken on 1 July 2022 in the case of **Oliynichenko v. Russia and Ukraine** (application No 31258/22) and concerning, more generally, Ukraine POWs, press release ([FR/EN](#)).