



FLASH NEWS

5/23

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 19/6 TO 14/7

PO / TULEYA v POLAND

Right to a fair trial - Right to respect for private life - Freedom of expression - Independence of judges - Disciplinary system in Poland - Waiver of immunity from prosecution and suspension from office of a judge following public statements and following his decision to make a reference to the CJEU for a preliminary ruling - Lack of independence and impartiality of the disciplinary chamber of the Supreme Court

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

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

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

The applicant, a Polish magistrate, alleged that the disciplinary chamber of the Supreme Court, which had decided to waive his immunity and suspend him from his judicial duties, had failed to satisfy the requirements of an 'independent and impartial tribunal established by law', in accordance with Article 6 §1 of the ECHR. He also argued that the measures taken against him constituted legal harassment and had cast doubt on his reputation as a judge, which he considered to be contrary to Article 8 of the ECHR; he added that they had been taken in retaliation for his public criticism of the Polish authorities' infringement of the independence of the judiciary, which he considered to be in breach of Article 10 of the ECHR. In his view, such measures were intended not only to discourage and intimidate, but also to have a 'dissuasive effect' on all judges. Finally, from the point of view of Article 13 (right to an effective remedy) of the ECHR, he said that he had had no legal means of challenging the violation of his right to respect for his private life of which he had complained.

Judgment of 6/7/2023 (applications No 21181/19 and No 51751/20) ([EN](#))

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

On this subject, see also the judgment of the Court handed down by the Grand Chamber on 13 July 2023, Criminal proceedings against YP and others. ([Joined Cases, C-615/20 and C-671/20, ECLI:EU:C:2023:562](#)).

BE / HURBAIN v BELGIUM [GC]

Freedom of expression - Anonymisation of the identity of a rehabilitated convict appearing in an archive document open to online consultation - Circumscription of the scope of the 'right to digital oblivion'

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

The applicant, the editor of the daily newspaper *Le Soir*, complained that he had been ordered, in the name of the right to oblivion, to anonymise an article that mentioned the full name of a driver responsible for a fatal road accident in 1994, even though the driver had served his sentence and had been rehabilitated. In 2008, the newspaper put its archives online on its website, which included the disputed article, which remained available despite a request for anonymity made by the driver. The electronic version of this document had remained freely available for the duration of the internal court proceedings.

Judgment of 4/7/2023 (application No 57292/16) ([FR/EN](#))
Press release ([FR/EN](#))



RU / GLUKHIN v RUSSIA

Freedom of expression - Right to respect for private life - Conviction of a lone peaceful demonstrator - Processing of biometric data using facial recognition technology

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

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

The applicant, who had demonstrated alone and peacefully in the Moscow metro, had been identified and then located by the police using facial recognition technology. He alleged that his administrative conviction and the use of facial recognition technology to process his personal data had violated his rights under Articles 8 and 10 of the ECHR. In addition, he complained of an infringement of Article 6 of the ECHR (right to a fair trial).

Judgment of 4/7/2023 (application No 11519/10) ([EN](#))
Press release ([FR/EN](#))

IE / X and OTHERS v IRELAND

Prohibition of discrimination - Protection of property - Non-discriminatory refusal of family allowance - Failure to satisfy the habitual residence criterion laid down by national law

Non-infringement of Article 14 (prohibition of discrimination) of the ECHR in conjunction with Article 1 of Protocol No 1 (protection of property).

The applicants, two mothers, one of Nigerian nationality and the other of Afghan nationality, had applied for child benefit in Ireland. They were refused universal family benefits on the grounds that the habitual residence criterion established by Irish law was not met. Invoking Article 8 (right to respect for private and family life) and Article 1 of Protocol No 1 to the ECHR, in conjunction with Article 14 of the ECHR, they alleged that the child benefit policy discriminated against families whose parents were lawfully present in Ireland but were the subject of immigration proceedings still pending.

Judgment of 22/6/2023 (applications No 23851/20 and No 24360/20) ([EN](#))
Press release ([FR/EN](#))

CH / B.F. AND OTHERS v SWITZERLAND

Right to respect for private and family life - Wrongful rejection of refugees' applications for family reunification on the grounds of dependence on social assistance - Criteria for application of the condition of non-dependence on social assistance

Infringement of Article 8 (right to respect for private and family life) of the ECHR in the case of three applicants.

Non-infringement of Article 8 (right to respect for private and family life) of the ECHR in the case of one applicant.

The applicants, four refugees with only a provisional residence permit in Switzerland, complained that they had been refused family reunification, which in this case is subject to conditions such as a waiting period and a lack of financial dependence on social assistance. Invoking Article 8 of the ECHR, the applicants complained that they had been refused family reunification. They also complained about the length of the family reunification procedure. Invoking Article 14 of the ECHR (prohibition of discrimination), they also alleged that the rejection of their applications for family reunification was discriminatory.

Judgment of 4/7/2023 (applications No 13258/18, No 15500/18, No 57303/18 and No 9078/20) ([EN](#))
Press release ([FR/EN](#))

EL / MARGARI v GREECE

Right to respect for private life - Publication in the press of photographs and personal data of a defendant in criminal proceedings without his or her knowledge or prior consent - Obligation to provide greater protection for the processing of particularly sensitive personal data

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

The applicant, a Greek national, who had been the subject of criminal proceedings in a case relating to fraud and forgery, complained about the publication in the press and on the internet, following her indictment and after authorisation had been given by the public prosecutor, of her photograph and personal data concerning her. She invoked the infringement of Article 8 of the ECHR.

Judgment of 20/6/2023 (application No 36705/16) ([EN](#))
Press release ([FR/EN](#))