



FLASH NEWS

06/21

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 7/6 TO 16/7/2021

RO / BIO FARMLAND BETRIEBS S.R.L. v ROMANIA

Right to a fair trial - Application of the Cilfit criteria - Court of appeal ruling at last instance refusing to refer a question to the Court of Justice for a preliminary ruling without reference to the Cilfit criteria

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

The applicant, a Romanian company specialising in agricultural cultivation, brought an administrative appeal following a decision by a national agency to halve aid granted under Regulation (EC) No 1698/2005. It complained that a court of appeal, ruling at last instance, refused to grant its request for a preliminary ruling from the Court of Justice in its appeal. The applicant alleged that the Court of Appeal had rejected its request for a referral to the CJEU for a preliminary ruling without giving any reasons, stating only that 'there was no need to discuss the request to refer to the CJEU'.

Judgment of 13/7/2021 (application No 43639/17) ([FR](#))
Press release ([FR](#) / [EN](#))

PL / BRODA et BOJARA v POLAND

Right of access to a court - Independence of judges - Premature termination of the mandates of heads of court - Absence of judicial review of the legality of dismissals

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

The applicants, two vice presidents of Kielce Regional Court, complained that they had not been provided with remedies to challenge the decisions of the Minister for Justice to terminate their respective mandates prematurely. In particular, they alleged that their dismissal had been arbitrary and unlawful, and complained that there had been no judicial remedy to enable them to challenge it.

Judgment of 29/6/2021 (applications Nos 26691/18 and 27367/18) ([FR](#))
Press release ([FR](#) / [EN](#))

DK / M.A. v DENMARK [GC]

Right to respect for private and family life - Beneficiaries of subsidiary or temporary protection status - Imposition of a time limit for family reunification

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

The applicant, a Syrian national with temporary protection in Denmark, complained that his application for family reunification with his wife had been rejected on the grounds that he had not held a residence permit for the 3 years preceding his application. He also felt that he was being discriminated against in relation to beneficiaries of a protective scheme.

Judgment of 9/7/2021 (application No 6697/18) ([FR](#) / [EN](#))

HU / SHAHZAD v HUNGARY

Prohibition of collective expulsion of aliens - Right to an effective remedy - Absence of an individual decision

Infringement of Article 14 of Protocol No 4 (prohibition of collective expulsions) to the ECHR.

Infringement of Article 13 (right to an effective remedy) of the ECHR in conjunction with Article 4 of Protocol No 4.

The applicant, a Pakistani national, had crossed the border between Serbia and Hungary without authorisation with a group of other people. He and the other members of the group were apprehended by the Hungarian police and taken across the border. The applicant complained that his expulsion from Hungary had been collective in nature and that he had had no recourse to complain about it.

Judgment of 8/7/2021 (application No 12625/17) ([EN](#))
Press release ([FR](#) / [EN](#))



BE / HURBAIN v BELGIUM

Freedom of expression - Protection of the reputation and rights of others - Right to be forgotten - Anonymisation of the identity of a pardoned convict appearing in an archive document open to online consultation

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 be forgotten, 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 2006. In 2008, the newspaper had put its archives since 1989 on its website, including the disputed article, which remained available despite the driver's request for anonymity. The electronic version of this document had remained freely available for the duration of the internal court proceedings.

Judgment of 22/6/2021 (application No 57292/16) ([FR](#))
Press release ([FR](#) / [EN](#))

NO / NORWEGIAN CONFEDERATION OF TRADE UNIONS (LO) AND NORWEGIAN TRANSPORT WORKERS' UNION (NTF) v NORWAY

Freedom of assembly and association - Freedom of establishment in the EEA - Decision declaring a boycott illegal under EEA law - EFTA advisory opinion

Non-infringement of Article 11 (freedom of assembly and association) of the ECHR.

The applicants, Norwegian trade unions, complained about a Supreme Court decision declaring illegal their boycott of a shipping company that employed dockworkers in a port outside a framework collective agreement. In particular, the national court had found that giving priority to certain workers constituted a restriction on the freedom of establishment. The trade unions argued that the court had erred in law when balancing the freedom of association under the ECHR against the freedom of establishment under the EEA Agreement.

Judgment of 10/6/2021 (application No 45487/17) ([EN](#))
Press release ([FR](#) / [EN](#))

TR / MELIKE v TURKEY

Freedom of expression - 'Likes' added to Facebook content - Dismissal without right to compensation

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

The applicant, a Turkish national, a former contract cleaner with the Directorate of National Education, complained that she had been dismissed because of the 'Likes' she had added to certain content posted by others on the Facebook website. Her employer had considered, in view of the content of the latter, that the publications in question were likely to disturb the peace and quiet of the workplace. The applicant argued that the use of 'Likes' on social networks is a common and popular form of exercising freedom of expression online.

Judgment of 15/6/2021 (application No 35786/19) ([FR](#))
Press release ([FR](#) / [EN](#))

RU / A.M. AND OTHERS v RUSSIA

Right to respect for private and family life - Prohibition of discrimination - Abolition of visiting rights of a parent undergoing a sex change

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

Infringement of Article 14 (prohibition of discrimination) of the ECHR in conjunction with Article 8 of the ECHR.

The applicant, a mother who underwent male-to-female transsexual surgery, was denied access to her children while undergoing gender reassignment. She argued that the restriction of her parental rights was not necessary in a democratic society. The applicant also complained that she had been treated differently from other parents in terms of access because of her gender identity.

Judgment of 6/7/2021 (application No 47220/19) ([EN](#))
Press release ([FR](#) / [EN](#))