



## FLASH NEWS

6/22

# EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 18/7 TO 30/9/2022

### FR / H.F. AND OTHERS v. FRANCE [GC]

**Right of nationals to enter national territory - Refusal to repatriate nationals detained in Kurdish-controlled camps after the fall of the 'Islamic State' - No general right to repatriation - Positive procedural obligations on States arising from exceptional circumstances**

**Infringement** of Article 3 §2 of Protocol No 4 (right of nationals to enter national territory) to the ECHR.

The applicants, French nationals, are the parents of young women who travelled to Syria with their partners in order to reach the territory controlled by the Islamic State in Iraq and the Levant (ISIS). They are also grandparents of children born there. Following the recapture of this territory by the Syrian Democratic Forces (SDF), the applicants' daughters were allegedly arrested and taken to Al-Hol camp between December 2018 and March 2019. The applicants then asked the French authorities to organise the repatriation of their daughters and grandchildren. However, their applications were refused. The applicants alleged that the French authorities' persistent refusal to repatriate their relatives exposes them to inhuman and degrading treatment, and violates their right to enter the territory of which they are nationals as well as the right to respect for their family life. They also complained that they did not have an effective domestic remedy by which to challenge this refusal.

Judgment of 14/9/2022 (applications Nos 24384/19 and 44234/20) ([FR/EN](#))

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

### IE / P.C. v. IRELAND

**Prohibition of discrimination - Protection of property - Concept of 'property' - Prohibition on a convicted person receiving a State pension during detention - No discrimination**

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

The applicant, an Irish national, complained that his pension payments had been suspended due to his imprisonment. He claimed to have been discriminated against on the basis of his age, source or level of income and status as a convicted prisoner.

Judgment of 1/9/2022 (application No 26922/19) ([EN](#))

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

### FR / DRELON v. FRANCE

**Respect for privacy - Collection and storage of personal data relating to the sexual practices of a potential blood donor - Requirement for accuracy of data - Excessive storage time**

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

The applicant, a French national, complained about the collection and storage by the Établissement français du sang (EFS) of personal data reflecting his alleged sexual orientation and the excessive length of time they were being stored, which was scheduled to end in 2278. During a blood donation, he had refused to answer questions about his sexual practices. The EFS had therefore informed him of the restriction on donation that was then in place for men who had had homosexual relations.

Judgment of 8/9/2022 (applications Nos 3153/16 and 27758/18) ([FR](#))

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

## IT / DARBOE AND CAMARA v. ITALY

**Prohibition of inhuman and degrading treatment - Right to respect for private life - Unaccompanied minor asylum-seeker - Detention in a reception centre for adult migrants - Age determination procedure**

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

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

**Infringement** of Article 13 (right to an effective remedy) of the ECHR.

Mr Darboe, a Gambian national, alleged that the Italian authorities had disregarded his rights as an unaccompanied minor asylum-seeker and complained that he had been accommodated in an adult reception centre where he had not been provided with assistance and protection measures appropriate to his age. He also claimed that he had been considered an adult on the basis of an age assessment procedure that did not comply with domestic and international law. Finally, he complained that he did not have an effective remedy for his grievances.

Judgment of 21/7/2022 (application No 5797/17) ([EN](#))

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

## RO / C. v. ROMANIA

**Right to privacy - Sexual harassment in the workplace - Seriously flawed investigation - Failure to comply with the obligation to take measures to protect against secondary victimisation**

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

The applicant, a Romanian national who worked as a cleaner, had lodged a complaint of sexual harassment against the manager of the station where she worked. Arguing that the Romanian State had failed in its obligation to address the issue, she complained, inter alia, about the reaction of the authorities, the Prosecutor's Office and the courts to what she considered to be a humiliating and embarrassing situation, as well as the review that had been carried out in this regard. She alleged that this had deprived her of the opportunity to obtain a fair resolution of her grievances and adversely affected her private life, her relationships with her colleagues and her health.

Judgment of 30/8/2022 (application No 47358/20) ([EN](#))

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

## OTHER INFORMATION

### **Election of a President and Vice-Presidents of the ECtHR**

On 19 September 2022, the ECtHR elected its President, **Síofra O'Leary** (Ireland). Síofra O'Leary is the first female president of this court. Her mandate will begin on 1 November 2022.

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

On the same day, Judges **Georges Ravarani** (Luxembourg) and **Marko Bošnjak** (Slovenia) were elected Vice-Presidents of the Court. They will take office on 1 November 2022.

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

### **Judicial reform in Poland - Judges appointed on the recommendation of the National Council of the Judiciary ('NCJ') - Disciplinary proceedings against judges**

On 25 July 2022, the ECtHR notified the Polish government of 37 applications and asked it to submit its observations in this respect. The majority of the cases concern judicial decisions of different chambers of the Supreme Court in civil and criminal matters, appeals against applications for judicial vacancies, disciplinary sanctions against lawyers, and decisions of the NCJ.

It is alleged that the judicial panels dealing with these cases were not 'independent and impartial tribunals established by law' since they had judges who had been appointed by the new NCJ.

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

See, in particular, pending cases: [C-615/20](#), YP and others (Waiver of immunity and suspension of a judge), [C-181/21](#), G. (Appointment of ordinary judges in Poland) and [C-204/21](#), Commission v. Poland (Independence and privacy of judges).