



## FLASH NEWS

09/21

# EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 15/11 TO 17/12/2021

### DK / SAVRAN v DENMARK [GC]

**Prohibition of inhuman and degrading treatment - Right to respect for private life - Expulsion of a foreign national suffering from a mental disorder - Permanent ban on return to the territory**

**Non-infringement** of Article 3 (prohibition of inhuman or degrading treatment) of the ECHR.

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

The applicant, a schizophrenic Turkish national, had been expelled from Denmark, where he had resided most of his life, following criminal convictions. He alleged that his removal to Turkey had infringed Article 3 of the ECHR as he was unable to receive appropriate psychiatric treatment there that was necessary for his recovery. He also complained about the refusal of the Danish authorities to revoke the deportation order against him and the enforcement of the order, which entailed a permanent ban on his return to the territory.

Judgment of 7/12/2021 (application No 57467/15) ([FR](#) / [EN](#))

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

See in this respect the pending case E. D. L. ([C-699/21](#)).

### LU / GHRENASSIA v LUXEMBOURG

**Right of access to a court - Inadmissibility of a plea in cassation alleging failure to state adequate reasons - Failure to strike a fair balance between compliance with the procedural requirements of domestic law and the right of access to a court**

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

The applicant, a French national, complained about the excessive formality of the Luxembourg Court of Cassation, in that it had declared inadmissible a plea in law that he had submitted in the context of a dispute between him and a bank that had been put into compulsory liquidation, and in which he had proposed that the CJEU be asked for a preliminary ruling.

Judgment of 7/12/2021 (application No 27160/19) ([FR](#))

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

### AT / STANDARD VERLAGSGESELLSCHAFT MBH v AUSTRIA (No 3)

**Freedom of expression - Obligation for a media organisation to disclose the details of anonymous authors of offensive comments on its news website - No absolute right to anonymity online**

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

The applicant complained about court decisions ordering it to disclose the personal details of anonymous authors of comments on its newspaper's website. It argued, among other things, that user details constituted journalistic sources and were protected by editorial secrecy, in the same way as the details of the authors of readers' letters published in a newspaper.

Judgment of 7/12/2021 (application No 39378/15) ([EN](#))

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

### SK / MUCHA v SLOVAKIA

**Right to a fair trial - Impartiality of the court and respect for the presumption of innocence - Court that also convicted the accused's accomplices after plea bargains**

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

The applicant, a Slovak national, had been sentenced to a heavy prison term for various criminal activities. He complained that he had been denied a hearing by an independent tribunal and the right to be presumed innocent. He argued that his conviction, which was based in particular on evidence provided by his accomplices, had been pronounced by the same court that had ruled on the conviction of those accomplices following plea bargains.

Judgment of 25/11/2021 (application No 63703/19) ([EN](#))

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

## NL / WILLEMS v NETHERLANDS

**Right to respect for private life and freedom of movement - Collection of biometric data for an identity card - Proportionality - Application of the presumption of equivalent protection of fundamental rights conferred by EU law ('Bosphorus' presumption)**

**Inadmissibility** of the application on the grounds that it is manifestly unfounded [Article 35, §3(a) and §4 of the ECHR].

The applicant, a Dutch national, claimed that the requirement to provide fingerprints when applying for a passport and the subsequent storage of fingerprints on an RFID chip in the passport violated his right to respect for his private life and the right to freedom of movement. In this regard, following the delivery of a judgment by the CJEU in a related case (judgment of 17 October 2013, Schwarz, [C-291/12, ECLI:EU:C:2013:670](#)), the applicant also complained that the national court had withdrawn from its referral order the first question for a preliminary ruling, which corresponded to the question for a preliminary ruling that gave rise to the Schwarz judgment, originally submitted in the context of Willems and others, C-446/12, and that he was unable to challenge this decision. Finally, the applicant criticised the national court for ignoring the observations of an expert on the security of the RFID chip.

Decision communicated on 2/12/2021 (application No 57294/16) ([EN](#))

See also, in this respect, the judgment of the Court of 16 April 2015, Willems and others ([C-446/12 to C-449/12, EU:C:2015:238](#)).

## IT / BIANCARDI v ITALY

**Freedom of expression - Right to be forgotten - Civil judgment against journalist for not de-indexing information published on the internet**

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

The applicant, the editor-in-chief of an online newspaper, considered that his civil conviction for keeping an article about a fight in a restaurant on his newspaper's website constituted an unjustified interference with his freedom of expression. The article in question, which was readily available for 8 months, gave sensitive information about the criminal proceedings in this case, even though the restaurant owner had formally asked him to remove the article from the website. The applicant also complained about the excessive nature of the sanction imposed on him and the amount of compensation awarded by way of reparation.

Judgment of 25/11/2021 (application No 77419/16) ([EN](#))  
Press release ([FR](#) / [EN](#))

## FR / ALVES DE OLIVEIRA v FRANCE

**Protection of property - Right not to be tried or punished twice - Cumulation of criminal and fiscal penalties - Proportionate nature of penalties**

**Inadmissibility** of the application on the grounds that it is manifestly unfounded [Article 35, §3(a) and §4 of the ECHR].

The applicant, a Portuguese national detained in France for procuring and money laundering, complained that he had been dispossessed of his property and that the amount of the confiscation was not proportionate to the benefit derived. In addition, he claimed that he had been punished several times for more or less the same facts, and that he had already been sentenced to 4 years' imprisonment, confiscation of EUR 100 000 from his bank accounts, and a tax adjustment. Finally, he felt he had been discriminated against because of his nationality and wealth.

Decision communicated on 16/12/2021 (application No 23612/20) ([FR](#))  
Press release ([FR](#) / [EN](#))