Last updated: January 2022

Belgium

Ratified the European Convention on Human Rights in 1955

National Judge: Frédéric Krenc (2021-
Judges' CVs are available on the ECHR Internet site

Previous Judges: Henri Rolin (1959-1973), Walter-Jean Ganshof Van Der Meersch (1973-1986), Jan De Meyer (1986-1998), Françoise Tulkens (1998-2012), Paul Lemmens (2012-2021)

List of judges of the Court since 1959

The Court dealt with 179 applications concerning Belgium in 2021, of which 151 were declared inadmissible or struck out. It delivered 16 judgments (concerning 28 applications), 8 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2019	2020	2021
Applications allocated to a judicial formation	139	124	155
Communicated to the Government	71	27	65
Applications decided:	170	147	179
- Declared inadmissible or struck out (Single Judge)	140	114	124
- Declared inadmissible or struck out (Committee)	20	16	14
- Declared inadmissible or struck out (Chamber)	1	2	13
- Decided by judgment	9	15	28

For information about the Court's judicial formations and procedure, see the ECHR internet site.
Statistics on interim measures can be found here.

Applications pending before the court on 01/01/2022	
Applications pending before a judicial formation:	233
Single Judge	42
Committee (3 Judges)	123
Chamber (7 Judges)	66
Grand Chamber (17 Judges)	2

Belgium and ...

The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **624** Registry staff members.

Noteworthy cases, judgments delivered

Grand Chamber

Cases on Article 3 (prohibition of inhuman or degrading treatment)

M.N. and Others v. Belgium

05.05.2020

The case concerned a couple of Syrian nationals and their two children, who were refused the short-term visas that they had requested from the Belgian Embassy in Beirut with a view to applying for asylum in Belgium.

Application declared inadmissible.

The applicants claimed that there had been a breach of their rights under Articles 3 (prohibition of torture and inhuman or degrading treatment), 13 (right to an effective remedy) and 6 § 1 (right to a fair hearing) of the Convention.

The Court reiterated that Article 1 (obligation to respect human rights) of the Convention limited its scope to persons within the jurisdiction of the States Parties to the Convention. In the present case, it noted that the applicants were not within Belgium's jurisdiction in respect of the circumstances complained of under Articles 3 and 13 of the Convention.

The Court also considered that Article 6 § 1 of the Convention was inapplicable in the present case. The entry to Belgian territory which would have resulted from the visas being issued did not engage a "civil" right within the meaning of Article 6 § 1.

Lastly, the Court noted that this conclusion did not prejudice the endeavours being made by the States Parties to facilitate access to asylum procedures through their embassies and/or consular representations.

Rooman v. Belgium

31.01.2019

The case concerned the question of the psychiatric treatment provided to a sex offender who has been in compulsory confinement since 2004 on account of the danger that he poses and the lawfulness of his detention.

The Court held, by sixteen votes to one, that from the beginning of 2004 until August 2017, there had been a violation of Article 3, and, by fourteen votes to three, that from August 2017 until the present date there had been no violation of Article 3.

The Court also unanimously concluded that from the beginning of 2004 until August 2017, there had been a violation of Article 5 (right to liberty and security), and, by ten votes to seven, that from August 2017 until now there had been no violation of Article 5.

Paposhvili v. Belgium

13.12.2016

The case concerned an order for Mr Paposhvili's deportation to Georgia, issued together with a ban on re-entering Belgium.

Violation of Article 3 if Mr Paposhvili had been removed to Georgia without the Belgian authorities having assessed the risk faced by him in the light of the information concerning his state of health and the existence of appropriate treatment in Georgia

Violation of Article 8 (right to respect for private and family life) if Mr Paposhvili had been removed to Georgia without the Belgian authorities having assessed the impact of removal on the applicant's right to respect for his family life in view of his state of health

V.M. and Others v. Belgium (no. 60125/11)

17.11.2016

The case concerned Serbian applicants of Roma origin who alleged that they had been subjected to inhuman and degrading living conditions in Belgium that had, *inter alia*, caused the death of their eldest daughter. They also alleged that the order for their removal to Serbia or France under the Dublin II Regulation had exposed them to treatment contrary to Article 3.

Application struck out of the list.

The Court found that the applicants had not maintained contact with their lawyer. They had failed to keep her informed of their place of residence or to provide her with any other means of contacting them. The Court considered that it could be concluded that they had lost interest in the

proceedings and no longer intended to pursue the application.

Bouyid v. Belgium

28.09.2015

The case concerned an allegation by two brothers, one of whom was a minor at the time, that two police officers had slapped them in the face while they were under the officers' control at their family's local police station in the district of Saint-Josse-ten-Noode (Brussels).

Violation of Article 3 in that they had been subjected to degrading treatment

Violation of Article 3 as the applicants had not had the benefit of an effective investigation

S.J. v. Belgium (no. 70055/10)

19.03.2015

The case concerned the threatened expulsion from Belgium of a Nigerian mother suffering from AIDS.

The Court took note of the terms of the friendly settlement and the arrangements for ensuring compliance with the undertakings given, namely the fact that the applicant and her children had been issued with residence permits granting them indefinite leave to remain. The Court further decided by a majority to lift the interim measure under Rule 39 of the Rules of Court staying execution of the order against the applicant to leave the country and to strike the case out of its list of cases.

M.S.S v. Belgium and Greece (no. 30696/09)

21.01.2011

The case concerned the expulsion of an asylum seeker to Greece by the Belgian authorities in application of the EU Dublin Regulation[1].

Violation of Article 3 by Greece both because of the applicant's detention conditions and because of his living conditions in Greece;

Violation of Article 13 (right to an effective remedy) taken together with Article 3 by Greece because of the deficiencies in the asylum procedure followed in the applicant's case

Violation of Article 3 by Belgium both because of having exposed the applicant to risks linked to the deficiencies in the asylum procedure in Greece and because of having exposed him to detention and living conditions in Greece that were in breach of Article 3

Violation of Article 13 taken together with Article 3 by Belgium because of the lack of an effective remedy against the applicant's expulsion order

Article 46 (Binding force and execution of judgments): It was incumbent on Greece, without delay, to proceed with an examination of the merits of the applicant's asylum request that met the requirements of the European Convention on Human Rights and, pending the outcome of that examination, to refrain from deporting the applicant.

See factsheet "Dublin cases".

Cases on Article 5 (right to liberty and security)

Denis and Irvine v. Belgium

01.06.2021

The case concerned two applicants who had been placed in compulsory confinement on the basis of the Social Protection Act of 9 April 1930 after having committed acts classified as theft (Mr Denis, in 2007) and attempted theft (Mr Irvine, in 2002).

No violation of Article 5 § 1 (right to liberty and security)

No violation of Article 5 § 4 (right to a speedy decision on the lawfulness of detention).

Cases on Article 6

Right to a fair trial, right to legal assistance

Beuze v. Belgium

09.11.2018

The case concerned the denial of legal assistance at the pre-trial stage of criminal proceedings.

Violation of Article 6 §§ 1 and 3 (c)

[1] The "Dublin" system serves to determine which European Union (EU) Member State is responsible for examining an asylum application lodged in one of the Member States by a third-country national.
The Dublin Regulation establishes the principle that only one Member State is responsible for examining an asylum application. The objective is to avoid asylum seekers from being sent from one country to another, and also to prevent abuse of the system by the submission of several applications for asylum by one person.

Right to a fair trial

J.C. and Others v. Belgium

12.10.2021

The case raised the question of the immunity of the Holy See from the jurisdiction of domestic courts. It concerned in particular an action for compensation brought by 24 applicants against the Holy See and against a number of leaders of the Catholic Church of Belgium and Catholic associations, claiming that damage had been caused by the structurally deficient manner in which the State had dealt with the problem of sexual abuse in the Church. As the Belgian courts had found that they did not have jurisdiction in respect of the Holy See, the applicants argued that they had been deprived of access to a court and relied on Article 6 § 1 before the European Court of Human Rights.

No violation of Article 6 § 1 (right of access to a court)

Lhermitte v. Belgium

29.11.2016

The case concerned the reasons given by the Assize Court for the conviction of a mother who had killed her five children.

No violation of Article 6 § 1

Taxquet v. Belgium

16.11.2010

The case essentially concerned Mr Taxquet's complaint that his conviction for murder had been based on a guilty verdict which had not included any reasons and could not be appealed against to a body competent to hear all aspects of the case.

Violation of Article 6 § 1

Right to free elections (Article 3 of Protocol No. 1)

Mugemangango v. Belgium

10.07.2020

The case concerned a post-election dispute relating to the elections held on 25 May 2014. Before the Court, Mr Mugemangango complained about the procedure conducted by the Walloon Parliament after he had challenged the election results. He argued that the Walloon Parliament, which was the only body with the power under domestic law to decide on his complaint, had acted as both judge and party in examining it.

Violation of Article 3 of Protocol No. 1

Violation of Article 13 (right to an effective remedy)

Chamber

Cases dealing with the right to life (Article 2)

Jeanty v. Belgium

31.03.2020

The case concerned an individual suffering from a psychological disorder who made several suicide attempts while in pre-trial detention in Arlon Prison.

No violation of Article 2

Romeo Castaño v. Belgium

09.07.2019

In this case the applicants complained that their right to an effective investigation had been breached as a result of the Belgian authorities' refusal to execute the European arrest warrants issued by Spain in respect of N.J.E., the individual suspected of shooting their father, Lieutenant Colonel Ramón Romeo, who was murdered in 1981 by a commando unit claiming to belong to the terrorist organisation ETA. The Belgian courts had held that N.J.E.'s extradition would infringe her fundamental rights under Article 3 of the Convention.

Violation of Article 2 under its procedural aspect (effective investigation)

Gengoux v. Belgique

17.01.2017

The case concerned the continuing detention of the applicant's seriously ill father.

No violation of Article 2

No violation of Article 3 (prohibition of inhuman or degrading treatment)

De Donder and De Clippel v. Belgium

06.12.2011

Suicide in prison by a mentally disturbed young man placed in the ordinary section of the prison.

Violation of Article 2 concerning the death of Tom De Clippel in prison

No violation of Article 2 concerning the investigation into his death

Violation of Article 5 § 1 (right to liberty and security)

Trévalec v. Belgium

14.06.2011

Gunshot wounds received by journalist filming a special police unit in action.

Violation of Article 2 because the journalist's life was endangered; no violation of Article 2 as regards the effective nature of the investigation

Cases dealing with the prohibition of torture, inhuman and/or degrading treatment (Article 3)

Venken and Others v. Belgium

06.04.2021

The case concerned five applications related to the compulsory confinement of five Belgian nationals in the psychiatric wings of ordinary prisons, and followed on from the pilot judgment *W.D. v. Belgium*. The applicants alleged that they had not received therapeutic care that was appropriate to their mental-health condition and complained of the lack of an effective remedy in order to bring about a change in their situation.

Violation of Articles 3 and 5 § 1 (right to liberty and security)

Violation of Article 5 § 4 (right to a speedy decision on the lawfulness of detention) in respect of three applicants, and a violation of Article 13 (right to an effective remedy) taken together with Article 3 in respect of two of these same applicants.

No violation of Article 5 § 4 (right to a speedy decision on the lawfulness of detention), and of Article 13 (right to an effective remedy) taken together with Article 3, in respect of two applicants who complained about proceedings which were conducted following the entry into force of the 2014 Compulsory Confinement Act.

M.A. v. Belgium

27.10.2020

The case concerned the applicant's removal to Sudan by the Belgian authorities in spite of a court decision ordering the suspension of the measure.

Violation of Article 3

Jeanty v. Belgium

31.03.2020

The case concerned an individual suffering from a psychological disorder who made several suicide attempts while in pre-trial detention in Arlon Prison.

Violation of Article 3

Clasens v. Belgium

28.05.2019

The case concerned the deterioration in Mr Clasen's conditions of detention in Ittre Prison during a strike by prison wardens between April and June 2016.

Violation of Article 3

Violation of Article 13 (right to an effective remedy) taken together with Article 3

B.V. v. Belgium (no. 61030/08)

02.05.2017

The case concerned the investigation carried out by the Belgian authorities after the applicant had lodged a criminal complaint alleging rape and indecent assault.

Violation of the procedural aspect of Article 3

W.D. v. Belgium (no. 73548/13)

06.09.2016

The case concerned a sex offender suffering from mental disorders who was detained indefinitely in a prison psychiatric wing.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 5 § 1 (right to liberty and security)

Violation of Article 5 § 4 (right to speedy review of the lawfulness of detention) and Article 13 (right to an effective remedy), in conjunction with Article 3

Bamouhammad v. Belgium

17.11.2015

Conditions of detention of Farid Bamouhammad and resulting decline in his mental health. This former prisoner suffers from Ganser syndrome (or "prison psychosis").

Violation of Article 3

Violation of Article 13 (right to an effective remedy) taken in conjunction with Article 3

Ouabour v. Belgium

02.06.2015

The case concerned an order for Mr Ouabour's extradition to Morocco, issued after he had been sentenced in 2007 to six years' imprisonment for taking part in the activities of a terrorist organisation and for criminal conspiracy.

Violation of Article 3 – in the event of Mr Ouabour's extradition to Morocco

No violation of Article 13 in conjunction with Article 3
Interim measure (Rule 39 of the Rules of Court) – not to extradite Mr Ouabouar to Morocco – still in force until judgment becomes final or until further order

Vasilescu v. Belgium

25.11.2014
The case mainly concerned Mr Vasilescu's condition of detention in Antwerp and Merksplas Prisons.
Violation of Article 3 as concerns the physical conditions of the applicant's detention

Trabelsi v. Belgium

04.09.2014
The case concerned the extradition, which has been effected despite the indication of an interim measure by the European Court of Human Rights (Rule 39 of the Rules of Court), of a Tunisian national from Belgium to the United States, where he is being prosecuted on charges of terrorist offences and is liable to life imprisonment.
Violation of Article 3
Violation of Article 34 (right of individual application)

Claes v. Belgium

10.01.2013
The case concerned the applicant's detention for over 15 years in a prison psychiatric wing. A court had ruled that he was not criminally responsible for his actions.
Violation of Article 3 (torture)
Violation of Article 5 §§ 1 and 4 (right to liberty and security and right to have the lawfulness of detention decided speedily)
The Court also found violations of the Convention in the cases of Dufoort v. Belgium and Swennen v. Belgium on 10 January 2013.

Singh and Others v. Belgium

02.10.2012
The case concerned a family of asylum seekers who claimed to belong to the sikh minority in Afghanistan. Their asylum application was dismissed by the Belgian authorities, which did not believe them to be Afghan nationals. They alleged that their removal to Moscow had entailed a real risk of *refoulement* to Afghanistan, where they would face treatment in violation of Article 3 (prohibition of inhuman or degrading treatment), and that they had not had an effective remedy before the Belgian authorities in respect of that complaint (Article 13).
Violation of Article 13 taken together with Article 3

Yoh-Ekale Mwanje v. Belgium

20.12.2011
Threatened deportation of alien at advanced stage of HIV infection to country of origin without certainty that appropriate medical treatment was available.
No violation of Article 3 (in case of deportation)
Violation of Article 3 (conditions of detention)
Violation of Article 13 (right to an effective remedy) in conjunction with Article 3
Violation of Article 5 § 1 (f)
The Court decided to continue to indicate to the Government under Rule 39 of the Rules of Court that it is desirable in the interests of the proper conduct of the proceedings not to remove the applicant until the present judgment becomes final or further order.

Kanagaratnam and Others v. Belgium

13.12.2011
Detention of a mother and her three children, who were asylum seekers, in a closed centre for illegal aliens pending their removal.
Violation of Article 3 concerning the three children
No violation of Article 3 concerning the mother
Violation of Article 5 § 1 (right to liberty and security) concerning the mother and her three children

Muskhadzhiyeva and Others v. Belgium

19.01.2010
The case concerned the administrative detention for one month of a woman and her four small children, who were Russians of Chechen origin and had sought asylum in Belgium, and their expulsion to Poland, a country through which they had travelled en route to Belgium.
Violation of Articles 3 and 5 § 1 (right to liberty and security)

Cakir v. Belgium

10.03.2009
Ill-treatment inflicted on the applicant, who was of Turkish origin, at the time of his

arrest (during a brawl) and while in police custody. The proceedings brought by the applicant before the Belgian courts lasted five years, with the result that the prosecution was time-barred. The Minister of Justice publicly apologised, emphasising that this was an isolated incidence of malfunctioning, which had not been intended to protect the police officers concerned.
Violation of Article 3 on account of the violence inflicted and the ineffectiveness of the investigation into the incident
Violation of Article 3 in combination with Article 14 (prohibition of discrimination), in that the authorities failed to investigate whether the violence had been racially motivated

Cases dealing with the right to liberty and security (Article 5)

Venet v. Belgium
22.10.2019
The case concerned proceedings in which Mr Venet unsuccessfully challenged his pre-trial detention.
He complained that he had been unable to attend the Court of Cassation's hearing on his appeal against his pre-trial detention or to respond to the submissions of the advocate-general, as he had not been given sufficient advance notice.
Violation of Article 5 § 4 (right to a speedy decision on the lawfulness of detention)

K.G. v. Belgium (no. 52548/15)
06.11.2018
The case concerned an asylum-seeker (K.G.) who was placed and kept in detention under four decisions, for security reasons, while his asylum application was pending. In particular, he was "placed at the Government's disposal" and held on that basis for approximately 13 months.
No violation of Article 5 § 1

Paci v. Belgium
17.04.2018
The case concerned criminal proceedings conducted in Belgium which had led to the conviction of an Italian national (Mr Paci) for international arms trafficking.
No violation of Article 5 § 1 and Article 6 § 1 (right to a fair hearing)

Pirozzi v. Belgium
17.04.2018
The case concerned Mr Pirozzi's detention by the Belgian authorities and his surrender to the Italian authorities under a European arrest warrant (EAW) with a view to enforcing a criminal conviction imposing 14 years' imprisonment for drug trafficking.
No violation of Articles 5 § 1 and 6 § 1 (right to a fair trial)

Thimothawes v. Belgium
04.04.2017
The case concerned the five-month detention of an Egyptian asylum-seeker at the Belgian border.
No violation of Article 5 § 1

L.B. v. Belgium (no. 22831/08)
02.10.2012
The case concerned the virtually continuous detention of a man suffering from mental health problems in psychiatric wings of two Belgian prisons between 2004 and 2011.
Violation of Article 5 § 1

De Schepper v. Belgium
13.10.2009
Medical detention of a paedophile at the end of his prison sentence, justified by the danger he posed. He alleged that the minister's decision had been based on the lack of adequate medical treatment.
No violation of Article 5 § 1

Cases dealing with Article 6

Right to a fair trial

Karrar v. Belgium
31.08.2021
The case concerned criminal proceedings instituted against Mr Karrar, following which he was convicted of the murder of his two children and sentenced to life imprisonment.
Before the Court, the applicant complained of the lack of impartiality of the president of the Assize Court, particularly in connection with a meeting between the president and the children's mother in the week before the trial.
Violation of Article 6

Hussein and Others v. Belgium
16.03.2021
The case concerned ten Jordanian applicants who lodged a civil-party

application with the Brussels investigating judge with a view to the institution of criminal proceedings against high-ranking Kuwaiti officials for crimes under international humanitarian law, in respect of acts linked to the first Gulf War (1990-1991.
No violation of Article 6 § 1

Democratic Republic of the Congo v. Belgium
29.10.2020
The Democratic Republic of the Congo complained about the reasoning given in judgments of the Brussels Court of Appeal and the Court of Cassation in determining the starting point of the limitation period for civil actions. It relied on Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy) of the Convention.
Application declared inadmissible

Van Wesenbeeck v. Belgium
23.05.2017
The case concerned the use of special methods of searching, observation and infiltration during an investigation against the applicant.
No violation of Article 6 § 1 on account of a lack of access to a confidential case file
No violation of Article 6 §§ 1 and 3 (d) (right to examine witnesses) on account of the applicant's inability to examine undercover officers, or have them examined.

Habran and Dalem v. Belgium
17.01.2017
The case concerned the applicants' criminal conviction for banditry, based on the statements of individuals with a criminal background acting as informers and protected witnesses.
No violation of Article 6 § 1 with regard to the fairness and length of the proceedings

El Haski v. Belgium
25.09.2012
The case concerned the applicant's arrest and conviction for participating in the activities of a terrorist group.
Violation of Article 6

Ullens de Schooten and Rezabek v. Belgium
20.09.2011
Refusal of the Belgian Court of Cassation and the *Conseil d'Etat* to refer questions relating to the interpretation of European Union (EU) law to the Court of Justice for a preliminary ruling.
No violation of Article 6 § 1

Lee Davies v. Belgium
28.07.2009
Unlawful obtaining by the police, without a search warrant, of evidence used as the basis of a conviction and sentencing for drug trafficking.
No violation of Article 6 § 1

Anakomba Yula v. Belgium
10.03.2009
Refusal to grant legal aid to a Congolese woman, unlawfully resident in Belgium, to bring an action to contest paternity against her husband.
Violation of Article 6 § 1 in conjunction with Article 14 (prohibition of discrimination)

Right to a fair trial within a reasonable time

Panju v. Belgium
28.10.2014
The case concerned the length of criminal proceedings, which had remained at the judicial investigation stage after more than eleven years.
Violation of Article 13 (right to an effective remedy) taken together with Article 6 § 1, finding that there was no remedy by which to complain about the length of a pending judicial investigation in criminal proceedings
Violation of Article 6 § 1 on account of the length of the proceedings, which had lasted for more than eleven years to date

Right of access to a court

Loquifer v. Belgium
20.07.2021
The case concerned a former judge who was appointed to the High Judicial Council ("the CSJ") in 2012. The CSJ suspended her from her duties within that body from May 2013 to March 2015, on the grounds that she was facing criminal prosecution. Following her acquittal in 2015 the CSJ found that the criteria for her reinstatement were satisfied.
Violation of Article 6 § 1

Ronald Vermeulen v. Belgium
17.07.2018
The case concerned an administrative dispute relating to the results obtained by

Mr Vermeulen in a competitive examination for admission to the civil service.
Violation of Article 6 § 1

C.M. v. Belgium (no. 67957/12)
13.03.2018
The case concerned the failure to enforce judicial decisions ordering C.M.'s neighbour to carry out rehabilitation work in order to comply with the urban planning regulations.
Violation of Article 6 § 1

Radiotélévision belge de la communauté française (RTBF) v. Belgium
29.03.2011
Temporary injunction preventing the RTBF from broadcasting a programme on, among other things, patients' rights with regard to doctors, pending a final judgment in a dispute between the RTBF and the doctor who was the subject of the broadcast. The RTBF complained about the refusal by the Court of Cassation to take into consideration the second limb of its appeal concerning its freedom of expression and about the interim injunction preventing the broadcasting of the programme.
Violation of Article 6 § 1
Violation of Article 10 (freedom of expression)

Hakimi v. Belgium
29.06.2010
The applicant complained that his application to have set aside a judgment convicting him in his absence had been rejected as being out of time. He stressed that he had not been informed by the prison authorities of the time-limit for applying to have the judgment set aside. He had been sentenced to seven years' imprisonment and a fine of 2,500 euros for his participation in the activities of a terrorist group.
Violation of Article 6 § 1

L'Erablière ASBL v. Belgium
24.02.2009
The applicant association complained about the *Conseil d'Etat*'s decision to declare inadmissible its application for judicial review of planning permission to extend a waste collection site, on the ground that the application did not contain a statement of the facts explaining the background to the case.
Violation of Article 6 § 1

Presumption of innocence

Poncelet v. Belgium
30.03.2010
Criminal proceedings against a senior civil servant at the Ministry for Public Works.
Violation of Article 6 § 2

Rights of the defence and right to question witnesses

Guerni v. Belgium
23.10.2018
The case concerned criminal proceedings under which Mr Guerni had been convicted of drug trafficking. In the framework of their investigations, the police had been authorised to call on the services of an informer and an undercover agent posing as a purchaser.
No violation of Article 6 § 1 as regards the use of the undercover investigative method
No violation of Article 6 §§ 1 and 3 (d) owing to the applicant's inability to examine the informer or the undercover agent or to have them examined

Cases concerning private and family life (Article 8)

Belcacemi and Oussar v. Belgium
11.07.2017
The case concerned the ban on the wearing in public of clothing that partly or totally covers the face under the Belgian law of 1 June 2011.
No violation of Articles 8 and 9 (freedom of thought, conscience and religion)
No violation of Article 14 (prohibition of discrimination), taken together with Articles 8 and 9

Dakir v. Belgium
11.07.2017
The case concerned a by-law adopted in June 2008 by three Belgian municipalities (Pepinster, Dison and Verviers) concerning a ban on the wearing in public places of clothing that conceals the face, and the subsequent proceedings before the *Conseil d'État*.
No violation of Articles 8 and 9 (right to freedom of thought, conscience and religion)
No violation of Article 14 (prohibition of discrimination), taken together with Articles 8 and 9

Violation of Article 6 § 1 (right of access to a court)

Kalnėnienė v. Belgium

31.01.2017

The case concerned a search carried out at Ms Kalnėnienė's home and the use of evidence thus obtained in the criminal trial which resulted in her conviction.

Violation of Article 8 (right to respect for private and family life)

No violation of Article 6 § 1 (right to a fair trial)

No violation of Article 13 (right to an effective remedy) taken together with Article 8

Chbihi Loudoudi and Others v. Belgium

16.12.2014

The case concerned a refusal by the Belgian authorities to grant an application by Mr Chbihi Loudoudi and Ms Ben Said for the adoption of their Moroccan niece, for whom they were caring on the basis of *kafala,* an institution under Islamic law, defined as a voluntary undertaking to provide for a child's welfare, education and protection.

No violation of Article 8 concerning the refusal to grant the adoption

No violation of Article 8 concerning the child's residence status

B. v. Belgium (no. 4320/11)

10.07.2012

The case concerned the decision to order the return to the United States of a child whose mother had taken her to Belgium without the agreement or her father or of the American courts.

Violation of Article 8 if the order to return the applicant's daughter to the United States were enforced

Freedom of thought, conscience and religion (Article 9)

Lachiri v. Belgium

18.09.2018

The case concerned Mrs Lachiri's exclusion from a courtroom on account of her refusal to remove her *hijab*.

Violation of Article 9

Freedom of expression cases (Article 10)

Radiotélévision belge de la communauté française (RTBF) v. Belgium

29.03.2011

Temporary injunction preventing the RTBF from broadcasting a programme on, among other things, patients' rights with regard to doctors, pending a final judgment in a dispute between the RTBF and the doctor who was the subject of the broadcast. The RTBF complained about the refusal by the Court of Cassation to take into consideration the second limb of its appeal concerning its freedom of expression and about the interim injunction preventing the broadcasting of the programme.

Violation of Article 6 § 1 (right of access to a court)

Violation of Article 10

Féret v. Belgium

16.07.2009

Conviction of a Member of Parliament, president of a political party, who was sentenced to 250 hours' work and declared ineligible to hold office, for public incitement to discrimination or hatred, on the basis of a 1981 Law which penalised certain acts inspired by racism or xenophobia.

No violation of Article 10

For the first time, the Court accepted interference in the freedom of expression of a member of parliament outside the Parliament building, giving weight to the fact that the distribution of the leaflets in question took place during electoral campaigns, when the impact of racist and xenophobic discourse was more harmful.

Inadmissibility decision

Mahi v. Belgium

03.09.2020

The case concerned the disciplinary transfer of a teacher of Islamic religion (Mr Mahi) on account of remarks which he had made in an open letter to the press concerning, among other topics, the January 2015 attacks in Paris on the newspaper *Charlie Hebdo*.

Application declared inadmissible as manifestly ill-founded.

Belkacem v. Belgium

20.07.2017

The case concerned the conviction of Mr Belkacem, the leader and spokesperson of the organization "Sharia4Belgium", which was dissolved in 2012, for incitement to discrimination, hatred and violence on account of remarks he made in YouTube videos concerning non-Muslim groups and Sharia.

The Court rejected the application, finding that it was incompatible with the provisions of the Convention and that Mr Belkacem had attempted to deflect Article 10 of the Convention from its real purpose by using his right to freedom of expression for ends which were manifestly contrary to the spirit of the Convention.

Protection of property cases (Article 1 of Protocol No. 1)

S.A. Bio d'Ardennes v. Belgium

12.11.2019

The case concerned the Belgian authorities' refusal to compensate the applicant company for the compulsory slaughter of 253 head of cattle infected with brucellosis.

No violation of Article 1 of Protocol No. 1

Right to free elections cases (Article 3 of Protocol No. 1)

G.K. v. Belgium (no. 58302/10)

21.05.2019

The case concerned a former Belgian senator who alleged that she had been unlawfully deprived of her seat after being forced to resign under pressure from members of her party. She withdrew her resignation several days later, arguing that her consent was invalid, but the Senate took formal note of her resignation and ratified her successor's credentials.

Violation of Article 3 of Protocol No. 1

Noteworthy cases, decisions delivered

Aarrass v. Belgium

30.09.2021

The case concerned a Belgian and Moroccan national who alleged that the Belgian State had failed to provide consular protection in order to defend him from the serious breaches of his physical and psychological integrity to which he had been subjected while imprisoned in Morocco. He relied on Articles 1 (obligation to respect human rights) and 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights.

Application declared inadmissible.

Zschüschen v. Belgium

01.06.2017

The case concerned criminal proceedings which led to Mr Zschüschen's conviction for money laundering. He had opened an account in a Belgian bank and, within two months, paid a total of 75,000 euros (EUR) into it. Questioned by the authorities about the origin of the money, he remained silent throughout the proceedings.

Application declared inadmissible.

Muzamba Oyaw v. Belgium

04.04.2017

The case concerned the administrative detention of a Congolese national with a view to his expulsion while his partner, a Belgian national, had been pregnant.

Application declared inadmissible as manifestly ill-founded.

Bodet v. Belgium

26.01.2017

The case concerns statements made to the press by a member of the jury in an assize court following that court's conviction of Mr Bodet.

Application declared inadmissible as manifestly ill-founded.

D. and Others v. Belgium (no. 29176/13)

08.07.2014

The case concerned the Belgian authorities' initial refusal to authorise the arrival on its national territory of a child who had been born in Ukraine from a surrogate pregnancy, as resorted to by the applicants, two Belgian nationals.

Application struck out of the Court's list of cases as concerns the Belgian authorities' refusal to issue a travel document for the child, A.. The Court also declared inadmissible the remainder of the application.

Chapman v. Belgium

05.03.2013

The case concerned a dispute between NATO and one of its former staff members concerning his contract of employment.

Application declared inadmissible: The Court, relying on its previous case-law, found that the recognition by the domestic courts of NATO's jurisdictional immunity was compatible with Article 6 § 1 of the European Convention on Human Rights. In the present case, the international organisation's internal procedure would have given sufficient safeguards for the applicant to have his complaints examined.

Simons v. Belgium

28.08.2012

The applicant complained in particular under Article 5 § 1 (right to liberty and security) that, owing to deficiencies in Belgian law, she had not been assisted by a lawyer while in police custody and during her police interview, or during her initial questioning by the investigating judge.

Application declared inadmissible - manifestly ill-founded: although the impossibility in law for accused persons placed in detention to be assisted by a lawyer from the start of their detention had a bearing on the fairness of the criminal proceedings, this did not imply that the detention in question was in breach of Article 5 § 1.

H.K. v. Belgium (no. 22738/08)

12.01.2010

The applicant is a Lebanese national and one of the suspects in a judicial investigation opened in November 1990 concerning the textile group Beaulieu. He complained of the length of the proceedings, which he considered excessive, and alleged that he had not been informed in detail in a language which he understood of the accusation against him.

Application declared inadmissible – manifestly ill-founded.

Noteworthy pending cases

Grand Chamber

Hurbain v. Belgium (no. 57292/16)

The case concerned a civil judgment against Mr Hurbain, in his capacity as publisher of the daily newspaper Le Soir – one of Belgium's leading French-language newspapers – ordering him to anonymise an article in its electronic archive which mentioned the full name of a driver who had been responsible for a deadly road accident in 1994. The order was based on the individual's right to be forgotten.

Relying on Article 10 (freedom of expression), Mr Hurbain complained that he had been ordered to anonymise the archived version of an article on his newspaper's website.

In its Chamber judgment of 22 June 2021, the Court, by a majority (6 votes to 1), held that there had been no violation of Article 10 (freedom of expression) of the European Convention.

On 11 October 2021 the Grand Chamber panel decided to refer the case to the Grand Chamber.

A Grand Chamber hearing will take place on 9 March 2022

Vegotex International S.A. v. Belgium (no. 49812/09)

The case concerns tax-assessment proceedings in which the applicant company was ordered to pay approximately 298,813 euros (EUR) together with a 10% surcharge.

The applicant company complains in particular about the retrospective application of section 49 of the Financial Planning Act of 9 July 2004, which entered into force during the appeal proceedings. It argues that if this provision had not been applied retrospectively to its case, its tax debt would have become time-barred in accordance with the case-law of the Court of Cassation as established in a judgment of 10 October 2002.

In the present case the proceedings began in October 1995, when the tax authorities informed the applicant company of their intention to rectify the company's tax return and impose a surcharge.

They ended in March 2009, when the Court of Cassation dismissed an appeal on points of law lodged by the applicant company.

Relying on Article 6 § 1 (right to a fair hearing within a reasonable time), the applicant company complains in particular about the legislature's intervention during the proceedings. It further alleges a breach of its right to adversarial proceedings before the Court of Cassation and of its right to have its case heard within a reasonable time.

In its Chamber judgment of 10 November 2020, the Court unanimously held that there had been a violation of violation of Article 6 § 1 (length of proceedings) of the European Convention.
At the same time, the Chamber unanimously also said that there had been no violation of Article 6 § 1 – concerning the legislature's intervention during the proceedings and the right to adversarial proceedings before the Court of Cassation.

On 8 March 2021 the Grand Chamber Panel accepted the applicant's request that the case be referred to the Grand Chamber.

A Grand Chamber hearing took place on 7 July 2021.

Chamber

Schurmans v. Belgium (no. 33075/09)

Application communicated to the Government on 31 August 2020

The application concerns the Fortisgate scandal.

Mortier v. Belgium (no. 78017/17)

Application communicated to the Government on 3 December 2018

The application concerns the death by euthanasia of the applicant's mother, who was suffering from chronic depression, without the knowledge of the applicant or his sister. Relying on Article 2 (right to life) of the Convention, Mr Mortier alleges that the State failed in its positive obligation to protect his mother's life as the procedure provided for by the Law of 28 May 2002 was not followed properly. Mr Mortier also alleges a violation of Article 2 owing to a lack of independence on the part of the Federal Council for Monitoring and Evaluation and to a lack of a thorough and effective investigation into the alleged facts.
Relying on Article 8 of the Convention, the applicant alleges that the violation of his mother's right to life led to a breach of her right to respect for her mental integrity and of her right to a family life.

El Aroud v. Belgium (no. 25491/18) and Soughir v. Belgium (no. 27629/18)

Application communicated to the Government on 5 November 2018

The applications concern the removal of the applicants' Belgian nationality following their conviction for acts related to terrorism.
Relying mainly on Article 2 of Protocol No. 7 to the Convention, the two applicants complain that they were deprived of two levels of jurisdiction relating to the decision to strip them of their citizenship.

Malika El Aroud v. Belgium (n° 25491/18) and Bilal Soughir v. Belgium (n° 27629/18)

Applications communicated to the Belgian Government on 5 November 2018

These applications concern a Moroccan national and a Tunisian national. They both acquired Belgian nationality by declaration. They were convicted by the Belgian criminal courts in 2010 and 2008, respectively, for acts related to terrorism. The applicants were deprived of their Belgian nationality by separate judgments of 30 November 2017 of the Brussels Court of Appeal on the basis of Article 23 of the Belgian Nationality Code. Having regard to the wording of Article 23 § 6 of the Belgian Nationality Code, the first applicant did not appeal to the Court of Cassation. The second applicant has taken steps in this direction, in particular by obtaining legal aid, but these have not been successful.
Relying on Article 2 of Protocol No. 7 to the Convention, both applicants complain that they have been denied the right to appeal against the decision to deprive them of their nationality. Relying on Article 8 of the Convention, the applicants submit that the revocation of their nationality infringes their right to respect for private and family life.

RTBF v. Belgium (no. 417/15)

Application communicated to the Government on 7 September 2018

The application concerns a finding of liability under Article 1382 of the Civil Code against the applicant company, the publicly owned television and radio company of the Belgian French community, for violating a couple's right to respect for their private life and to the presumption of innocence after a documentary about them. The couple were subsequently convicted for activities mentioned in the report.
The applicant company relies on Article 10 (freedom of expression) of the Convention.

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