



FLASH NEWS

7/19

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 15/04 TO 03/05/2019

LT / BALTIC MASTER LTD. v. LITHUANIA

Right to a fair hearing - Protection of property - Refusal to refer a reference for a preliminary ruling to the Court of Justice

Violation of article 6 § 1 (right to a fair hearing) of the ECHR.

Inadmissibility of the complaint drawn from article 1 of Protocol no. 1 (protection of property) owing to its clearly unfounded nature [article 35 §§ 3 a) and 4 of the ECHR].

The applicant, a Lithuanian company, complained about the refusal of the Supreme Administrative Court to refer questions referred for a preliminary ruling to the Court of Justice in the context of a dispute as regards customs duties. According to the Supreme Administrative Court, the correct application of the Union law left no place for any reasonable doubt. In addition, the applicant stated that, following this refusal, it had been forced to pay taxes and a fine.

Judgement of 16.04.2019 (application no. 55092/16) ([EN](#))

RO / POP ET AUTRES (AND OTHERS) v. ROMANIA

Protection of property - Right to an effective remedy - Pollution tax concerning second-hand vehicles bought in the Member states of the Union

Inadmissibility of the applications owing to the non-exhaustion of domestic remedies [article 35 §§ 1 and 4 of the ECHR].

The applicants, three Romanian nationals, had to pay a pollution tax to register second-hand vehicles in Romania that were bought in other Member states of the Union. Based on the case-law of the Court of Justice that had deemed it incompatible with the Union law (cases [C-402/09](#) and [C-263/10](#)), they stated that such a tax was discriminatory. They complained, before the ECHR, mainly about the incomplete reimbursement of the said tax.

Decision communicated on 25.04.2019 (application nos. 54494/11, 67699/11 and 21251/12) ([FR](#))
Press release ([FR](#) / [EN](#))

HU / REPCEVIRÁG SZÖVETKEZET v. HUNGARY

Right to a fair hearing - Action relating to liability of the State for violation of the Union law by a court - Refusal to refer a reference for a preliminary ruling to the Court of Justice

Non-violation of article 6 § 1 (right to a fair hearing) of the ECHR.

The applicant, a Hungarian company, complained about the refusal of several Hungarian courts, particularly the Supreme court and the Constitutional Court, to refer questions referred for a preliminary ruling to the Court of Justice in the context of action relating to liability of the State initiated owing to the incorrect application of the Union law during another procedure introduced by the applicant as regards value added tax. According to the Supreme court, the questions were not relevant or went outside the context of the dispute. It had itself responded implicitly to a question pertaining to the necessity of invoking the incorrect application of the Union law already at the stage of proceedings at the beginning of the action relating to liability of the State. As for the Constitutional Court, it had declared the appeal of the applicant to be inadmissible, mainly on the grounds that it was not competent to check the referral or lack thereof with respect to the Court of Justice by the ordinary courts.

Judgement of 30.04.2019 (application no. 70750/14) ([EN](#))
Press release ([EN](#))



FR / A.M. v. FRANCE

Prohibition of torture and inhuman and degrading treatment - Person convicted for participating in acts of terrorism - Deportation to Algeria

Non-violation of article 3 (prohibition of inhuman and degrading treatment and torture) of the ECHR.

The applicant, an Algerian national sentenced by the French courts to imprisonment on account of participation in a criminal association to prepare for an act of terrorism, as well as a definitive ban from the French territory, stated that he would be exposed to inhuman and degrading treatment if deported to Algeria.

Judgment of 29.04.2019 (application no. 12148/18) ([FR](#))

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

IS / BJARNI ÁRMANNSSON v. ICELAND

Ne bis in idem - Aggravated tax offences - Tax and criminal proceedings

Violation of article 4 of Protocol no. 7 (right not to be tried or punished twice) to the ECHR.

The applicant, a former CEO of one of the largest banks of Iceland, had failed to report a significant amount of income obtained from the sale of shares received at the time of leaving his position. Tried and sentenced by a criminal court after the imposition of a tax increase by the tax authorities, the applicant complained to have been tried and punished twice for the same offence.

Judgement of 16.04.2019 (application no. 72098/14) ([EN](#))

RO / B.A.A. v. ROMANIA

Right to liberty and security - Restrictions on rights - European arrest warrant - Escape of a person suspected of corruption

Inadmissibility of the application owing to its clearly unfounded nature [article 35 §§ 3 a) and 4 of the ECHR].

The applicant, a German national, a renowned businessman who had invested in Romania, contested the necessity of the European arrest warrant issued against him by the Romanian authorities for cases of corruption, as well as the severity of this measure. He also stated that his arrest had been ordered to eliminate the companies owned by his family from the market.

Decision communicated on 18.04.2019 (application no. 70621/16) ([EN](#))

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

HR / ADŽIĆ v. CROATIA (no. 2)

Right to a fair trial - Right to respect for private and family life - International child abduction - Procedural guarantees

Violation of article 6 § 1 (right to a fair hearing) of the ECHR.

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

The applicant, an American national residing in the United States, complained about the refusal of the Croatian Constitutional Court to order the return of his son in the context of a procedure initiated in 2011 pursuant to the Hague Convention on the Civil Aspects of International Child Abduction. He mainly stated that the procedure, in the context of which the Constitutional Court had taken a decision only after a ruling of the ECHR concluding its excessive duration, had been unfair on the grounds of absence of hearing.

Judgement of 02.05.2019 (application no. 19601/16) ([EN](#))
Press release ([FR](#) / [EN](#))