



## FLASH NEWS

1/19

# EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 17/12/2018 TO 18/01/2019

### EL / MOLLA SALI v. GREECE [GC]

#### Prohibition of discrimination - Inheritance law - Application of Sharia law to the will of a Greek Muslim

**Violation** of Article 14 (prohibition of discrimination) of the ECHR combined with Article 1 of Protocol No 1 (protection of property) to the ECHR.

The applicant's husband had bequeathed all her property to her through a will drawn up in accordance with Greek civil law. However, according to the national courts, Sharia law had to be applied to the succession because the deceased belonged to the Muslim minority in Greece. Thus deprived of three quarters of her inheritance, the applicant complained of differential treatment on the grounds of religion.

Ruling of 19/12/2018 (application no. 20452/14) ([FR](#) / [EN](#))

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

### ES / SABER AND BOUGHASSAL v. SPAIN

#### Right to respect for private and family life - Immigration - Automatic expulsion following a criminal conviction

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

The applicants, two Moroccan nationals residing in Spanish territory, challenged the expulsion decisions taken against them following their criminal conviction for drug trafficking. They alleged that they had been automatically deported under Spanish law providing for deportation in the event of a criminal conviction for an intentional offence punishable by more than one year's imprisonment, without the authorities having taken into account their personal situations.

Ruling of 18/12/2018 (applications nos. 76550/13 and 45938/14) ([FR](#))

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

### RU / MURTAZALIYEVA v. RUSSIA [GC]

#### Right to a fair trial - Right to summon and examine witnesses

**Non-violation** of Article 6 §§ 1 and 3 b) (right to a fair trial and right to have the time and facilities necessary for the preparation of one's defence) of the ECHR.

**Non-violation** of Article 6 §§ 1 and 3 d.) (right to a fair trial and right to obtain the summons and examination of defence witnesses) of the ECHR.

The applicant, a Russian national of Chechen origin convicted of preparing a terrorist attack, complained of the violation of their rights of defence during their trial, due to the impossibility of challenging one of the elements of proof presented at the hearing and the refusal of the domestic courts to summon two defence witnesses.

Ruling of 18/12/2018 (application no. 36658/05) ([FR](#) / [EN](#))

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

### LV / ĒCIS v. LATVIA

#### Prohibition of discrimination - Exit permits for prisoners - Different prison regimes for men and women

**Violation** of Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life) of the ECHR.

The applicant, a Latvian prisoner, complained that he was not allowed to attend his father's funeral because of the strict prison regime to which male prisoners are automatically subjected, while a prisoner with an identical criminal conviction would have been allowed to do so under the regime for women.

Ruling of 10/01/2019 (application no. 12879/09) ([EN](#))

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

## **HU / J.B. AND OTHERS v. HUNGARY**

**Right to respect for private and family life - Lower retirement age for judges and prosecutors**

**Inadmissibility** of the application on the grounds of its incompatibility *ratione materiae* with the Convention [Article 35 §§ 3 a) and 4 of the ECHR].

In 2013, following criticism from the Hungarian Constitutional Court, the Court of Justice (case [C-286/12](#)) and the Venice Commission, the Hungarian legislator amended a law lowering the retirement age for judges and prosecutors from 70 to 62 years. The amended law provides for compulsory retirement at the age of 65 and the possibility, for persons already affected by retirement at 62 under the previous law, to resume (under certain conditions) a judicial office or to obtain financial compensation. Before the ECHR, judges and prosecutors affected by the previous law complained about the effects of the new measures on their careers and private lives.

Decision communicated on 20/12/2018.  
(Applications nos. 45434/12, 45438/12 and 375/13) ([EN](#))  
Legal summary ([EN](#))

## **OTHER INFORMATION**

**New practice providing for a specific non-contentious phase**

Since 1 January 2019, the ECHR has been experimenting with a new practice providing for a specific non-contentious phase for all contracting States, in order to facilitate the amicable settlement of cases. In practice, the Registry will make a proposal for an amicable settlement when the application is communicated to the respondent State.

## **HU / MERKANTIL CAR ZRT. AND OTHERS v. HUNGARY**

**Right to a fair trial - Protection of property - Consumer credit - Unfair terms**

**Inadmissibility** of the application on the ground that it is manifestly ill-founded [Article 35 §§ 3 a) and 4 of the ECHR].

The applicants, Hungarian banks, claimed that they had not benefited from equality of arms in proceedings under a new law on unfair terms in consumer loans. In addition, they considered that the presumption of unfairness of certain standard terms introduced by this law was, in practice, irrefutable and that Article 1 of Protocol No. 1 to the ECHR had been violated.

Decision communicated on 20/12/2018.  
(Applications nos. 22853/15, 22858/15, 33424/15, 33426/15 and 33737/15) ([EN](#))  
Press release ([FR](#) / [EN](#))

## **DE / WUNDERLICH v. GERMANY**

**Right to respect for family life - Obligation to attend school - Partial deprivation of parental authority after parents' refusal to send their children to school**

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

The applicants, German nationals, complained that they had been temporarily deprived of custody of their four children because of their refusal to send them to school, the domestic authorities considering that such a refusal could lead to a risk of isolation and lack of integration.

Ruling of 10/01/2019 (application no. 18925/15) ([EN](#))