



## FLASH NEWS

1/25

# EUROPEAN COURT OF HUMAN RIGHTS

## OVERVIEW FROM 6/1 TO 14/2

### FR / A.C. v FRANCE

**Right to respect for private life - Taking in of an unaccompanied minor - Challenge of his minority by the authorities - Reversal of the presumption of minority in specific circumstances having deprived the interested party of sufficient procedural guarantees**

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

**Non-infringement** of Article 13 (right to an effective remedy) in conjunction with Article 8 of the ECHR.

The case concerns a Guinean national who declared himself to be a minor in an isolated situation on his arrival on French territory and who is complaining that, because the internal authorities disputed his minority, he did not benefit from the care provided for by the provisions relating to child protection.

The European Court of Human Rights (ECtHR) notes that throughout the process of determining his age, the applicant was able to benefit from temporary emergency accommodation, in accordance with the presumption of minority. The results of the administrative checks and medical examinations led to the presumption of minority being overturned and, consequently, to the end of the applicant's protection as an unaccompanied minor before his minority was finally recognised by the judicial authority. After noting the existence of an internal legal framework containing, in principle, the minimum required procedural guarantees, the ECtHR considered that, in the case in question, due to gaps in the information, which was both incomplete and imprecise, which were brought to the applicant's attention even though his minority was at stake, the presumption of minority from which he benefited was reversed in conditions that deprived him of sufficient procedural guarantees. It concluded that, in the circumstances of the case, the competent authorities had not acted with due diligence and had failed in their positive obligation to guarantee the applicant's right to respect for his private life.

Judgment of 16/1/2025 (application No 15457/20) ([FR](#))  
Press release ([FR/EN](#))  
Legal summary ([FR/EN](#))

### IT / CANNAVACCIUOLO AND OTHERS v ITALY

**Right to life - Positive obligations of the State - Failure to fulfil the obligation to react diligently to the phenomenon of systematic, persistent, widespread and large-scale pollution - Inadmissibility with regard to the applicant associations and individual applicants not residing in the municipalities officially recognised as affected**

**Infringement** of Article 2 (right to life) of the ECHR.

The case concerns the dumping, burying and incineration of waste on private land, often by organised criminal groups, in the parts of the Campania region known as *Terra dei Fuochi* ('Land of Fires'), where approximately 2.9 million people live. Increased rates of cancer and groundwater pollution have been observed in the area concerned.

The European Court of Human Rights (ECtHR) declared inadmissible the complaints of the applicant associations (*ratione personae*, given that they are not directly concerned as victims, the criterion being applicable only in the very specific context of climate change), as well as those of some of the individual applicants, in particular those who do not reside in a municipality included on the official list of affected municipalities (*incompatibility ratione personae*).

With regard to the other applicants, the ECtHR ruled in particular that, even though it had been aware of the problem for many years, the Italian State had failed to respond to this extremely serious situation with the requisite diligence and speed, particularly with regard to assessing the problem, preventing it from continuing and communicating with the affected population.

Judgment of 30/1/2025 (applications No 51567/14 and 3 others) ([EN](#))  
Press release ([FR/EN](#))  
Legal summary ([FR/EN](#))

## FR / H.W. v FRANCE

**Right to respect for private and family life - Divorce on the grounds of fault granted solely against the applicant for not having fulfilled her conjugal duty by refusing to have intimate relations with her husband - Narrow margin of discretion - Conjugal duty not including consent to sexual relations**

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

The case concerns a divorce on the grounds of fault, granted solely against the applicant on the grounds that she had ceased to have intimate relations with her husband. The applicant is not complaining about the divorce, which she had also requested, but about the grounds on which it was granted. The European Court of Human Rights (ECtHR) notes that 'conjugal duty', as set out in the domestic legal system and reaffirmed in the present case, does not in any way take into consideration consent to sexual relations. Refusal to submit to conjugal duty may, under the conditions provided for in Article 242 of the Civil Code, be considered a fault justifying the granting of a divorce. It may also have financial consequences and give rise to a claim for compensation in certain circumstances.

The ECtHR concludes that the very existence of such a matrimonial obligation is contrary to sexual freedom, the right to bodily autonomy and the positive obligation of prevention incumbent on the Contracting States in the fight against domestic and sexual violence.

In the present case, the ECtHR cannot find any grounds that might justify the interference of the public authorities in the sphere of sexuality. It notes that the applicant's husband had the option of filing for divorce on the principal grounds of irretrievable breakdown of the marriage, rather than on subsidiary grounds, as he did in this case. The ECtHR concluded that the reaffirmation of the conjugal duty and the granting of the divorce on the grounds solely against the applicant were not based on relevant and sufficient grounds and that the domestic courts did not strike a fair balance between the competing interests at stake.

Judgment of 23/1/2025 (application No 13805/21) ([FR](#))

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

Legal summary ([FR/EN](#))

## OTHER INFORMATION

### The European Court of Human Rights establishes an Ethics Council

On 16 December 2024, the European Court of Human Rights (ECtHR) decided to set up an Ethics Council to advise the President of the ECtHR on questions of judicial ethics. The Plenary Court has decided that its president will now have the option of consulting an Ethics Council whenever he or she deems it necessary to give guidance on compliance with ethical standards in a given situation to a judge who requests it.

The Ethics Council will be responsible for providing guidance on serving judges, ad hoc judges and former judges. Guidance may also be given regarding the ECtHR itself as an institution. The Ethics Council will be composed of five members: the most senior vice-president of the ECtHR, the most senior division president and the three most senior judges in office.

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

Resolution of the European Court of Human Rights ([FR/EN](#))