



## FLASH NEWS

01/26

# EUROPEAN COURT OF HUMAN RIGHTS

## OVERVIEW FROM 5/1 TO 18/3

### PL / BILIŃSKI v. POLAND

**Right to a fair trial – Right of access to a court – Independence of judges from the executive – Lack of effective review of the decision to transfer a judge against his will from one division to another within the same court**

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

The case concerns the decision to transfer a judge, Mr Biliński, against his will from one division to another within the same court, as well as the appeal he lodged against that decision.

The European Court of Human Rights (ECtHR) has ruled, in particular, that the right of judges to be protected against arbitrary transfers between different courts also applies to arbitrary transfers between divisions dealing with different areas of law within the same court.

Particularly in view of the fact that Mr Biliński had been criticised by politicians for decisions he had handed down in politically sensitive cases, and that his transfer had been ordered by a judge – who had previously been seconded to the then Minister for Justice and who had been appointed by that Minister to the post of President of the court in which the applicant served, it was legitimate for Mr Biliński to suspect that there was an element of arbitrariness in his transfer.

The decision concerning Mr Biliński's transfer was not reviewed by any body exercising judicial functions or by an ordinary court; consequently, the applicant's right of access to a court was impeded.

Judgment of 15.1.2026 (application No 13278/20) ([EN](#))  
Press release ([FR/EN](#))

### BG / GREEN ALLIANCE v. BULGARIA

**Right to respect for private and family life – Respect for correspondence – Respect for the home – Shortcomings in the legal framework allowing undercover agents to infiltrate private organisations or the liberal professions – Lack of minimum safeguards against arbitrariness and abuse**

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

The case concerns legislation, adopted in 2008 and amended in 2018, which allows the Bulgarian National Security Agency (the Agency) to place informants (known as 'undercover agents' – служители на прикритие) within private organisations or among members of the 'liberal professions'. These agents conceal their activities on behalf of the Agency but are not authorised to use covert surveillance techniques or equipment, and are regarded in Bulgaria as distinct from undercover agents ('agents under cover' – служители под прикритие). In 2018, Green Alliance challenged this legislation in the Bulgarian courts, but to no avail.

In this judgment, the European Court of Human Rights (ECtHR) held that the regulations governing the use of 'undercover agents' do not provide the minimum safeguards against arbitrariness and abuse required by Article 8 of the European Convention on Human Rights.

In particular, the grounds on which these agents may be deployed and the areas in which they may operate are broad; there are no time limits governing the use of these agents; the deployment procedure does not ensure that their use will be limited to what is 'necessary in a democratic society'; there are no provisions allowing for effective oversight of these agents; and there is no remedy available against their unlawful or unjustified use.

Judgment of 17.2.2026 (application No 6580/22) ([EN](#))  
Press release ([FR/EN](#))

**Right to respect for private and family life – Previous conviction while a minor – Automatic rehabilitation – Disproportionate refusal to admit an applicant to the School for the Judiciary**

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

The case concerns the refusal, in December 2020, to admit the applicant to a prosecutor training course at the School for the Judiciary on the grounds of a conviction handed down against him whilst he was a minor, for which he was automatically rehabilitated. All the appeals lodged by the individual against this decision were dismissed on the grounds that, according to the national courts, the law prohibited anyone who had been convicted by a final judgment from becoming a public prosecutor.

The European Court of Human Rights (ECtHR) emphasised in particular that the refusal to admit Mr Manjani to the School for the Judiciary was in no way linked to a lack of professional qualifications. The sole reason for this refusal was the applicant's previous conviction for an offence committed whilst he was a minor, despite the fact that he had been automatically rehabilitated. The absolute and permanent ban preventing his admission to the profession – and thus his ability to pursue a career as a prosecutor at an early stage of his professional development – has had a clear and serious impact on his professional and private life.

The ECtHR considers that, by limiting themselves to examining the question of whether national law should be interpreted as precluding access to the profession of public prosecutor for persons who have been rehabilitated following a criminal conviction for a serious offence, the national authorities failed to carry out a thorough and individualised analysis of the relevant circumstances in order to bar Mr Manjani from admission to the School for the Judiciary, and thus from a career as a judge. They failed to take into account the fact that the individual in question was only 15 years old at the time of the offence for which he was convicted, and treated him in the same way as they would have treated an adult offender. Furthermore, they neglected to consider other relevant circumstances, such as the non-violent and impulsive nature of the offence. The refusal to admit Mr Manjani to the School for the Judiciary was therefore disproportionate.

## RELEVANT INFORMATION

**The European Court of Human Rights has agreed to issue an advisory opinion at the request of the Supreme Court of Ukraine regarding a dispute over the proportionality of a tax penalty whose amount is fixed at a flat rate by law**

On 12 February 2026, the European Court of Human Rights (ECtHR) accepted, under Protocol No 16 to the European Convention on Human Rights, a request for an advisory opinion (No P16-2026-001) submitted by the Supreme Court of Ukraine on 7 January 2026.

In its request, the Supreme Court asks the ECtHR for guidance on issues relating to the ECHR that have arisen in a case pending before it, concerning a dispute between a private company and the tax authorities regarding the proportionality of a penalty whose amount is fixed at a flat rate by law.

The request raises questions concerning, on the one hand, whether a national court may impose a more lenient penalty on a taxpayer that is not provided for by law and, on the other hand, the criteria to be taken into account when assessing the proportionality of a penalty.

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