COURT OF JUSTICE OF THE EUROPEAN UNION
RESEARCH AND DOCUMENTATION DIRECTORATE

Funded by the European Union

EUROPEAN COURT OF HUMAN RIGHTS

FLASH NEWS

02/26

OVERVIEW FROM 19/3 TO 30/4

SE / D.M. v. SWEDEN

Prohibition of inhuman or degrading treatment - Deportation to Afghanistan - Deportation not fully assessed - Risk assessment - Obligation to take all relevant factors into account cumulatively

Infringement of Article 3 (prohibition of inhuman or degrading treatment) of the ECHR.

The case concerns a deportation order issued against an Afghan national in Sweden. This decision was taken because, following the rejection of several asylum applications since 2015, the applicant had not been granted a residence permit in Sweden.

The European Court of Human Rights (ECtHR) considers that the question of whether there is a real risk of ill-treatment must be assessed on the basis of all the relevant factors, taken together and viewed in the context of the general situation in the country concerned. The national decisions in the applicant's case do not take into account all these relevant factors, considered cumulatively, when assessing the risks.

The ECtHR finds that, although the general security and human rights situation in Afghanistan is a cause for concern, this alone is not sufficient to conclude that any return to that country would necessarily entail a violation of Article 3 of the ECHR. Furthermore, although the situation of the Hazaras in Afghanistan is dire, the ECtHR is not convinced that this group is systematically exposed to treatment contrary to Article 3 of the ECHR.

The applicant nevertheless faces an increased risk because of his Hazara ethnic background. It is also argued that, over the last 10 years, he has adapted to a Western lifestyle in Sweden, and that the repressive regime currently in place in Afghanistan severely punishes any breach of the rules and restrictions in force. During the period in question, the individual concerned also engaged in behaviour that could be perceived as contravening the religious and moral standards enforced in Afghanistan. The ECtHR concludes that, in the context of the general human rights situation in Afghanistan, the cumulative effect of the applicant's specific circumstances creates a real risk that he would be subjected to ill-treatment if deported.

Judgment of 26.3.2026 (application No 32694/23) (EN)
Press release (FR/EN)

BE / M.V. and OTHERS v. BELGIUM

Prohibition of degrading treatment - Right to a fair trial - Obligation to provide accommodation and material assistance to applicants for international protection - Unreasonable delays in the enforcement of final orders and interim measures - Obstruction of the right of appeal

Infringement of Article 3 (prohibition of degrading treatment) of the ECHR.
Infringement of Article 6 § 1 (right to a fair trial) of the ECHR.
Infringement of Article 34 (right of individual petition) of the ECHR.

The case concerns four applicants for international protection who were denied accommodation and material assistance for several months in Belgium, despite final orders from the Brussels Labour Court requiring the Belgian State to provide them with such assistance in accordance with its legal obligations.

The European Court of Human Rights (ECtHR) finds that the living conditions of the applicants, who were forced to live on the streets for several months and were unable to meet their basic needs, even during the winter, exceeded the required threshold of severity. The applicants were therefore victims of degrading treatment that demonstrated a lack of respect for their dignity.

Although aware of the difficult situation facing the Belgian State, the ECtHR considers that the time taken to enforce the court decisions concerning the applicants cannot be regarded as reasonable. In particular, the court orders were partially enforced by accommodating the applicants between 67 and 262 days after the order issued by the employment tribunal in their case had become final.

The ECtHR also finds that the Belgian authorities failed to fulfil their obligations under Article 34 (right of individual petition) of the ECHR, as the time elapsed between the ordering of the interim measures and their implementation by the authorities was unreasonable.

Judgment of 9.4.2026 (application No 52836/22) (FR)
Press release (FR/EN)
Legal summary (FR/EN)

BG / KANEV AND BULGARIAN HELSINKI COMMITTEE v. BULGARIA

Right to respect for private and family life - Processing of data by intelligence services - Refusal to disclose information concerning the gathering of intelligence on applicants or the storage of such information in databases - 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 the processing of data by the Bulgarian intelligence services.

In 2021, Mr Kanev, chair of the Bulgarian Helsinki Committee, asked the Bulgarian State Agency for National Security whether it had gathered intelligence on him or on the Committee. The Agency refused to disclose this information, and the appeals lodged by Mr Kanev to challenge this refusal were dismissed. To safeguard national security, states undoubtedly need laws that empower the relevant domestic authorities to collect and record information about individuals in secret files.

However, the European Court of Human Rights considers that none of the potential safeguards against arbitrariness or abuse were effective in this regard. In particular, the courts that reviewed the decision not to disclose the requested information did not examine the information in question, did not assess whether its disclosure would actually harm the public interest, and relied entirely on the Agency's assessment in this regard.

Furthermore, there is no evidence to suggest that the Commission for the Protection of Personal Data ever checked how the Agency processed operational data, in particular whether it was complying with the relevant legislation and administrative regulations. Furthermore, the Agency has never been required to report on these activities to the Bulgarian parliament or government.

Judgment of 28.4.2026 (application No 45864/22) (EN)
Press release (FR/EN)

HR / MLINAREVIĆ v. CROATIA and SANADER v. CROATIA

Right to a fair trial - Impartial tribunal - Lack of objective impartiality - Son of the presiding judge employed by the law firm representing one of the co-defendants - Judge's former law firm taken over, upon his appointment to the Constitutional Court, by lawyers from the same firm - Failure to inform the President of the Constitutional Court of these circumstances

Infringement of Article 6 § 1 (right to a fair trial) of the ECHR in the case of Mlinarević v. Croatia.
Inadmissibility of the application in the case of Sanader v. Croatia on the grounds of lack of jurisdiction ratione materiae under the ECHR [Article 35(3)(a) and (4) of the ECHR].

The cases relate to criminal proceedings for corruption (commonly known as the 'Planinska case'). The defendants in these trials, Mladen Mlinarević and Ivo Sanader (former Croatian prime minister), argued that the judge who had presided over their cases before the Constitutional Court was biased.

The European Court of Human Rights (ECtHR) finds that Mr Mlinarević had legitimate grounds to doubt the impartiality of the presiding judge, R.M., who had ruled on his case. Once R.M. had been appointed a judge at the Constitutional Court, the law firm representing Mr Mlinarević's co-defendant had taken over R.M.'s practice and assumed responsibility for representing clients in the majority of cases in which he had been the lead counsel. R.M.'s son was also a trainee solicitor at that firm.

By contrast, the argument regarding bias put forward by Mr Sanader was based on the role played by the presiding judge as a defence lawyer in separate criminal proceedings against Mr Sanader. However, these two proceedings were completely unrelated and had taken place four years apart. No suspicion of bias could be justified from an objective point of view and, in its judgment concerning Mr Sanader, the ECtHR unanimously declared the application inadmissible. This decision is final.

Judgment (EN) and decision (EN) of 30.4.2026 (applications Nos 24406/21 and 27577/21)