



FLASH NEWS

7/17

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 15/07 TO 15/09/2017

RO / BĂRBULESCU v. ROMANIA [GC]

Personal data protection – Monitoring of an employee's electronic communications – Absence of prior notice – Dismissal

Violation of Article 8 (Right to respect for private and family life, the home and correspondence) of the Convention.

The applicant, an employee in the private sector, alleged that his employer's decision to terminate his contract after monitoring his electronic communications and accessing their contents amounted to a breach of his right to private life and correspondence and that the domestic courts had failed in their obligation to protect that right.

Judgement of 05.09.2017 (application no. 61496/08)
([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))

HU / FÁBIÁN v. HUNGARY [GC]

Equal treatment in employment and occupation – Suspension of the old-age pension of seniors continuing to work in the public sector

No violation of Article 1 of Protocol No. 1 (Protection of property) to the Convention.

No violation of Article 14 (Prohibition of discrimination) of the Convention taken in conjunction with Article 1 of Protocol No. 1 to the Convention.

The applicant complained about the suspension of disbursement of his old-age pension on the grounds that he continued to be employed in the civil service, when the disbursement of old-age pensions did not apply to persons employed at the same time in the public sector.

Judgement of 05.09.2017 (application no. 78117/13)
([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))

HU / KÁROLY NAGY v. HUNGARY [GC]

Access to court – Dismissed pastor of the Hungarian Reformed Church – Action against employers – Lack of jurisdiction

Application declared inadmissible due to its incompatibility *ratione materiae* with the provisions of the Convention [Article 35 §§ 3 a) and 4 of the Convention], Article 6 (Right of access to a court) of the Convention not being applicable in the present case.

The applicant, a pastor, was dismissed by the Hungarian Reformed Church following comments reported in a local newspaper. In his complaint to the European Court of Human Rights, he criticised the refusal by the domestic labour and civil courts to settle a pecuniary claim arising from his employment as a pastor on the grounds that they could not enforce any such claims as he was employed under ecclesiastical law not civil law.

Judgement of 14.09.2017 (application no. 56665/09)
([FR](#) / [EN](#))
Press release ([FR](#) / [EN](#))

GB / NDIDI v. THE UNITED KINGDOM

Immigration – Foreign national with a residence permit – Commission of offences – Possibility of deportation

No violation of Article 8 (Right to respect for private and family life) of the Convention.

The applicant, a Nigerian national who lives in the UK, complained that the requirements of the new Immigration Rules were incompatible with the right to respect for private and family life and that his deportation would constitute a disproportionate interference with that right. The Rules provided that the deportation of foreign criminals would be conducive to the public good if they were sentenced to four or more years' imprisonment, except in exceptional circumstances.

Judgement of 14.09.2017 (application no. 41215/14)
([EN](#))
Press release ([FR](#) / [EN](#))

PT / CARVALHO PINTO DE SOUSA MORAIS v. PORTUGAL

Prohibition of discrimination based on sex and age – Court decision to reduce compensation awarded for a medical error

Violation of Article 14 (Prohibition of discrimination) taken in conjunction with Article 8 (Right to respect for private and family life) of the Convention.

The applicant, a 50-year-old mother of two, complained about the decision of the Supreme Administrative Court to reduce the amount of compensation awarded to her as a result of a medical error causing gynaecological complications. She alleged that the decision had disregarded the importance of a sex life for her as a woman.

Judgement of 25.07.2017 (application no. 17484/15) [\(EN\)](#)

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

LT / MOCKIENĖ v. LITHUANIA

Equal treatment in employment and occupation – Measures applied in times of economic crisis – Reduction in service pension

Application declared inadmissible due to its manifestly ill-founded nature [Article 35 §§ 3 a) and 4 of the Convention].

The applicant, a former officer for the Prisons Department, complained that her service pension had been reduced without compensation when new legislation was introduced during a time of global financial crisis. She further complained that she had been discriminated against because those who received retirement pensions had been entitled to compensation for their reduced benefits whereas she had not.

Decision communicated on 27.07.2017 [\(EN\)](#) (application no. 75916/13)

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

BE / BELKACEM v. BELGIUM

Freedom of expression – Hate speech by the leader of a radical Salafist organisation

Application declared inadmissible due to its incompatibility *ratione materiae* with the provisions of the Convention [Article 35 §§ 3 a) and 4 of the Convention], the remarks in question being excluded from the protection of Article 10 (Freedom of expression) by Article 17 (Prohibition of abuse of rights).

The applicant argued that his conviction for incitement to discrimination, hatred and violence was an unjustified infringement of his freedom of expression. He maintained that his hateful remarks on non-Muslims had merely been a manifestation of his freedom of expression and religion and had not been apt to constitute a threat to public order.

Decision communicated on 20.07.2017 [\(FR\)](#) (application no. 34367/14)

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

NEW CASES BEFORE THE COURT

Two cases on the refusal to allow asylum seekers to enter Poland

The applicants, Russian nationals who have lived in the Chechen Republic and currently reside in Belarus, complained about the Polish authorities' refusal to allow them to enter the country and lodge an application for international protection, as well as the lack of an effective avenue for appeal against that decision. The European Court of Human Rights also adopted interim measures to stop the applicants being removed to Belarus, which Poland disregarded.

Cases *M. A. and others v. Poland* and *M. K. and others v. Poland*, respectively introduced on 16.06.2017 (application no. 42902/17) and 20.06.2017 (application no. 43643/17) and communicated on 3.08.2017 [\(EN\)](#) and 21.07.2017 [\(EN\)](#)