



## FLASH NEWS

8/22

# EUROPEAN COURT OF HUMAN RIGHTS

## OVERVIEW FROM 14/11 TO 16/12/2022

### RO / SPASOV v ROMANIA

**Right to a fair trial - Protection of property - Conviction for unlawful fishing in European waters - Application of national law manifestly contrary to directly applicable EU regulations - Denial of justice**

**Infringement** of Article 6 §1 (right to a fair trial) of the ECHR.

**Infringement** of Article 1 of Protocol No 1 (protection of property) to the ECHR.

The applicant, the master and owner of a vessel flying the Bulgarian flag, claimed that his conviction by the Romanian courts for illegal fishing in Romania's exclusive economic zone in the Black Sea was contrary to the rules of the Common Fisheries Policy. In this case, the provisions of the Romanian legislation adopted under the United Nations Convention on the Law of the Sea had been considered applicable despite the principle of the primacy of Union law. He was therefore accused of having fished in this area without holding a Romanian fishing licence and of having used fishing gear that did not comply with Romanian legislation. Furthermore, prior to his conviction, the European Commission had indicated to the Romanian authorities that these proceedings were contrary to the rules of the Common Fisheries Policy.

Judgment of 6.12.2022 (application No 27122/14) ([FR](#))  
Press release ([FR/EN](#))

### PT / FLORINDO DE ALMEIDA VASCONCELOS GRAMAXO v PORTUGAL

**Right to privacy - Right to a fair trial - Dismissal on the basis of GPS data - Use of GPS mileage data on the company car of a medical representative**

**Non-infringement** of Article 8 (right to privacy) of the ECHR.

**Non-infringement** of Article 6 §1 (right to a fair trial) of the ECHR.

The applicant, a Portuguese national, alleged that the processing of geolocation data obtained from the GPS system installed in his company car and the use of such data as a basis for his dismissal had infringed his right to privacy. He also complained about a lack of fairness in the proceedings before the national courts, arguing that they had relied almost exclusively on illegal evidence gathered through the GPS system installed in his company car.

Judgment of 13/12/2022 (application No 26968/16) ([FR](#))  
Press release ([FR/EN](#))

### SI / RUTAR ET RUTAR MARKETING D.O.O. v SLOVENIA

**Right to a fair trial - Consumer protection - Refusal of a request for referral for a preliminary ruling - Failure to state reasons**

**Infringement** of Article 6 §1 (right to a fair trial) of the ECHR.

The applicants, an Austrian national and a company based in Ljubljana, claimed that their rights had been adversely affected by the failure to examine their request for a preliminary ruling from the Court of Justice.

Judgment of 15/12/2022 (application No 21164/20) ([EN](#))  
Press release ([FR/EN](#))

#### AL / NIKËHASANI v ALBANIA

**Right to privacy - Removal of a prosecutor from office - Lifetime ban on re-entering the judicial system following an investigation - Existence of serious irregularities concerning her financial assets - Serious breaches of ethics**

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

The applicant, an Albanian prosecutor, claimed that the dismissal and lifetime ban on practising law, imposed following an asset verification procedure, was not in accordance with Albanian law, had damaged her reputation and career and had stigmatised her. In the course of these proceedings, she was unable to prove convincingly that half of the assets she declared were in order.

Judgment of 13/12/2022 (application No 58997/18) ([EN](#))  
Press release ([FR/EN](#))

#### AL / SEVDARI v ALBANIA

**Right to privacy - Removal of a prosecutor from office - Lifetime ban on re-entering the judicial system following an investigation - Non-payment by her husband of taxes due on a small part of his income - No bad faith or deliberate offences**

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

The applicant, an Albanian prosecutor, claimed that the dismissal and lifetime ban on practising law, imposed on the basis of isolated professional misconduct and her husband's failure to pay taxes due on a small part of his income, was not in accordance with Albanian law, had damaged her reputation and career and had stigmatised her.

Judgment of 13/12/2022 (application No 40662/19) ([EN](#))  
Press release ([FR/EN](#))

#### FR / M.K. AND OTHERS v. FRANCE

**Right of access to a court - Asylum seekers without accommodation - Refusal of administrative authorities to enforce summary orders requiring the State to provide urgent accommodation**

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

The applicants, asylum seekers and their children without accommodation, complained about the non-enforcement of orders issued by the interim relief judge of an administrative court ordering them to be taken into emergency accommodation and the absence of an effective emergency procedure for the enforcement of an interim relief order.

Judgment of 8/12/2022 (applications Nos 34349/18, 34638/18 and 35047/18) ([FR](#))  
Press release ([FR/EN](#))

#### OTHER INFORMATION

**Interim measure - Non-consenting transfers of Polish judges to another chamber - Decisions having taken effect despite their appeals**

On 6 December 2022, the ECtHR decided to indicate an interim measure in the cases of Leszczyńska-Furtak v Poland (application No 39471/22), Gregajtys v Poland (No 39477/22) and Piekarska-Drażek v Poland (No 44068/22). It orders the Polish State, under Article 39 of the Rules of Procedure of the Court of Human Rights, to suspend the effects of the decisions to transfer the applicants, member judges of the Warsaw Court of Appeal, from the Criminal Division to the Social Division of the same court and to ensure that no decision to transfer the applicants against their will is taken until the Court has given a final decision.

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

**Temporary measure - Asylum seekers without accommodation - Refusal of reception place due to saturation of the reception network for asylum seekers in Belgium**

On 15 November 2022, the ECtHR decided to indicate an interim measure in the case of Msallem and 147 others v Belgium (application No 48987/22 and 147 others), under Article 39 of the Rules of Procedure of the Court of Human Rights. It decided to order the Belgian State to enforce the orders of the Brussels Labour Court for each of the applicants for international protection and to provide them with accommodation and material assistance to meet their basic needs for the duration of the proceedings. In a similar case, Camara v Belgium (application No 49255/22), the ECtHR had already indicated a first interim measure on 31 October 2022.

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