



FLASH NEWS

8/24

EUROPEAN COURT OF HUMAN RIGHTS

OVERVIEW FROM 18/11 TO 20/12

BE / EL AROUD and SOUGHIR v BELGIUM

Right to respect for private life - Deprivation of Belgian nationality for terrorism-related offences - Gravity of the terrorist threat to human rights - No subsequent statelessness

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

The case concerned the loss of Belgian nationality of two dual nationals convicted in Belgium of terrorism-related offences.

The European Court of Human Rights (ECtHR) pointed out, first of all, that terrorist violence in itself constituted a serious threat to human rights and, consequently, that it was legitimate for the States Parties not to remain passive with regard to persons who had been convicted and sentenced for offences that directly undermined the values of the ECHR.

It also specified that questions relating to the granting, loss and deprivation of nationality fell within an area in which the Contracting States must be allowed a wide margin of discretion. It pointed out that, in cases involving deprivation of nationality, it would take into account the fact that an appropriate judicial review had been carried out.

The ECtHR also took account of the fact that the applicants had another nationality and that the decision to strip them of their nationality did not have the effect of rendering them stateless. Consequently, it held that the Belgian authorities had not exceeded their wide margin of discretion and that the measures at issue were 'necessary in a democratic society'.

Judgment of 5/12/2024 (application Nos 25491/18 and 27629/18) ([FR](#))

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

EL / GIANNAKOPOULOS v GREECE

Right to respect for family life - Regulation (EC) No 2201/2003 (Brussels IIa) - Jurisdiction in matters of parental responsibility - Concept of habitual residence

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

The case concerned custody proceedings between the applicant, a Greek national, and his ex-wife, a German national. Separate proceedings had been opened in Greece and Germany. In 2017, the Greek courts found that they did not have jurisdiction as the children had already been habitually resident in Germany for more than a year.

The European Court of Human Rights (ECtHR) found in particular that, in applying Article 8 of Regulation (EC) No 2201/2003 (Brussels IIa), the Greek courts had carried out a thorough assessment of all the relevant factors and had taken account of the case-law of the Court of Justice concerning the factors indicating the children's habitual residence.

Judgment of 3/12/2024 (application No 20503/20) ([EN](#))

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



RUS / F.M. and Others v RUSSIA

Prohibition of slavery and forced labour - Trafficking in human beings - Obligation to protect women migrant workers from trafficking and labour exploitation

Infringement of Article 4 (prohibition of slavery and forced labour) of the ECHR.

Infringement of Article 14 (prohibition of discrimination) of the ECHR.

The case concerned the trafficking in human beings and labour exploitation to which three Kazakh and two Uzbek nationals allegedly were subjected in Moscow shops, and the attitude of the authorities to this situation.

The European Court of Human Rights (ECtHR) considered that Russia's legal framework was inadequate, noting in particular that its criminal law did not effectively criminalise trafficking in human beings, forced labour and servitude, and that it did not protect the victims of trafficking. The authorities had failed to take any measures to protect the applicants and, on the contrary, had regarded legitimate efforts to bring the perpetrators to justice as inappropriate and potentially criminal. They had also failed in their duty to open and conduct a criminal investigation into the allegations of which they were aware and to cooperate with the other States concerned.

It found that the State's inaction amounted to repeated approval of trafficking in human beings, labour exploitation and gender-based violence, and that it reflected a discriminatory attitude towards the applicants linked to their status as illegal foreign migrant workers.

Judgment of 10/12/2024 (applications Nos 71671/16 and 40190/18) ([EN](#))

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

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

NL / KUMARI v NETHERLANDS and MARTINEZ ALVARADO v NETHERLANDS

Right to respect for family life - Rejection of applications for family reunification - Concept of 'family life' between adults - Dependency test

Inadmissibility of the application in Kumari v Netherlands on grounds of incompatibility *ratione materiae* with the ECHR [Article 35(3)(a) and (4) of the ECHR].

Infringement of Article 8 (right to respect for private and family life) of the ECHR in Martinez Alvarado v Netherlands.

In both cases, the European Court of Human Rights (ECtHR) reiterated that family life could only exist between parents and their adult children or between adult brothers and sisters if the persons concerned could demonstrate the existence of 'additional elements of dependence, other than normal emotional ties'. It specified that the criterion of dependence required a case-by-case examination of the relationship in question and other relevant circumstances. Additional elements of dependency could relate to health, financial or material conditions, and were often the result of a combination of these factors.

In Kumari v Netherlands, the ECtHR held that the applicant, an Indian national, had not shown that she was dependent on her son, who had Dutch nationality, and that their relationship therefore did not amount to 'family life' within the meaning of the ECHR. The applicant's main argument was that she had health problems that were generally associated with age and that were not so serious that she needed constant care and assistance.

On the other hand, in Martinez Alvarado v Netherlands, the ECtHR found that the applicant, a Peruvian national whose cognitive development was similar to that of an 8-year-old child due to his intellectual disability, had convincingly demonstrated that, following the death of his parents, he was totally dependent on the care and assistance of his four sisters, all of whom resided in the Netherlands, for his daily life. The ECtHR found that the national authorities had erred in focusing mainly on the fact that his sisters had not been involved in his day-to-day care prior to the deaths of their parents. The existence of viable alternatives for people with mental disabilities in Peru, who were generally cared for by relatives, had also not been established.

Decision in Kumari v Netherlands communicated on 10/12/2024 (application No 44051/20) ([EN](#))

Judgment in Martinez Alvarado v Netherlands of 10/12/2024 (application No 4470/21) ([EN](#))

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