



# Switzerland

## Ratified the European Convention on Human Rights in 1974

### National Judge: Helen Keller

[Judges' CVs](#) are available on the ECHR Internet site

Previous Judges: Antoine Favre (1963-1974), Denise Bindschedler-Robert (1975-1991), Luzius Wildhaber (1991-2006), Giorgio Malinverni (2007-2011)

The Court dealt with 238 applications concerning Switzerland in 2016, of which 228 were declared inadmissible or struck out. It delivered 10 judgments (concerning 10 applications), 5 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2015	2016	2017*
Applications allocated to a judicial formation	318	258	144
Communicated to the Government	19	15	10
Applications decided:	332	238	143
- Declared inadmissible or struck out (Single Judge)	315	219	130
- Declared inadmissible or struck out (Committee)	1	4	3
- Declared inadmissible or struck out (Chamber)	5	5	2
- Decided by judgment	11	10	8
Interim measures:	78	81	39
- Granted	3	6	3
- Refused (including out of scope)	75	75	36

\* January to July 2017

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#).

Applications pending before the court on 01/07/2017	including joined
Total pending applications*	294
Applications pending before a judicial formation:	148
Single Judge	61
Committee (3 Judges)	5
Chamber (7 Judges)	81
Grand Chamber (17 Judges)	1

\*including applications for which completed application forms have not yet been received

### Switzerland and ...

#### Its contribution to the Court's budget

For 2017 the Court's budget amounted to approximately 71 million euros. That budget is financed by contributions from the 47 member States of the Council of Europe in accordance with scales based on population and GDP; the 2017 contribution of Switzerland to the Council of Europe's (EUR 328 million) budget was **EUR 8,334,383**.

#### The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **672** Registry staff members of whom **2** are Swiss.

## Noteworthy cases, judgments delivered

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### Grand Chamber

#### **Tarakhel v. Switzerland**

04.11.2014

Refusal of the Swiss authorities to examine the asylum application of an Afghan couple and their six children and decision to send them back to Italy.

Violation of Article 3 (prohibition of inhuman or degrading treatment) if the Swiss authorities were to send the applicants back to Italy under the Dublin Regulation<sup>1</sup> without having first obtained individual guarantees from the Italian authorities that the applicants would be taken charge of in a manner adapted to the age of the children and that the family would be kept together.

#### **Gross v. Switzerland**

30.09.2014

The case concerned the complaint of an elderly woman – who had wished to end her life but had not been suffering from a clinical illness – that she had been unable to obtain the Swiss authorities' permission to be provided with a lethal dose of a drug in order to commit suicide.

In its Chamber [judgment](#) in the case on 14 May 2013, the Court held that there had been a violation of Article 8 (right to respect for private and family life) of the Convention. It found in particular that Swiss law was not clear enough as to when assisted suicide was permitted. The case was subsequently [referred](#) to the Grand Chamber at the request of the Swiss Government.

In January 2014 the Swiss Government informed the Court that it had learned that the applicant had died in November 2011.

In its Grand Chamber [judgment](#) of 30 September 2014, the Court came to the conclusion that the applicant had intended to mislead the Court on a matter concerning the very core of her complaint. In particular, she had taken special

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<sup>1</sup> The Dublin system is designed to determine the Member State responsible for examining an asylum application lodged in one of the European Union Member States by a third-country national.

precautions to prevent information about her death from being disclosed to her counsel, and thus to the Court, in order to prevent the latter from discontinuing the proceedings in her case. The Court therefore found that her conduct had constituted an abuse of the right of individual application (Article 35 §§ 3 (a) and 4 of the Convention). As a result of the Grand Chamber judgment, the findings of the Chamber judgment of 14 May 2013, which had not become final, are no longer legally valid.

#### Fair trial

#### **Al-Dulimi and Montana Management Inc. v. Switzerland**

21.06.2016

The case concerned the freezing of the assets in Switzerland of Mr Al-Dulimi and the company Montana Management Inc. pursuant to UN Security Council Resolution 1483 (2003), which provided for sanctions against the former Iraqi regime.

Violation of Article 6 § 1

#### Private and family life

#### **Nada v. Switzerland**

12.09.2012

Restrictions on the applicant's cross-border movement and inclusion of his name to a list annexed to a federal Ordinance, in the context of the implementation by Switzerland of United Nations Security Council counter-terrorism resolutions.

Violation of Article 8

Violation of Article 8 taken together with Article 13 (right to an effective remedy)

#### **Neulinger and Shuruk v. Switzerland**

06.07.2010

In this case, the applicant complained about the Swiss authorities' decision that the return of her child to Israel could be envisaged and was in the child's interests.

Violation of Article 8 if the return order were enforced

#### Freedom of expression

#### **Bédat v. Switzerland**

29.03.2016

The case concerned the fining of a journalist for having published documents

covered by investigative secrecy in a criminal case.

[No violation of Article 10](#)

### [Perinçek v. Switzerland](#)

15.10.2015

The case concerned the criminal conviction of a Turkish politician for publicly expressing the view, in Switzerland, that the mass deportations and massacres suffered by the Armenians in the Ottoman Empire in 1915 and the following years had not amounted to genocide.

[Violation of Article 10](#)

### [Mouvement Raëlien Suisse v. Switzerland](#)

13.07.2012

The case concerned the authorities' refusal to allow the association *Mouvement raëlien suisse* (Swiss Raelian Movement) to put up posters featuring extraterrestrials and a flying saucer on the ground that it engaged in activities that were considered immoral.

[No violation of Article 10](#)

### [Verein gegen Tierfabriken \(no. 2\) v. Switzerland](#)

30.06.2009

The case concerned the Swiss authorities' continued prohibition on broadcasting a television commercial despite the finding by the European Court of Human Rights of a violation of freedom of expression (judgment of 28 June 2001).

[Violation of Article 10](#)

### [Stoll v. Switzerland](#)

10.12.2007

The case concerned the applicant's conviction for publishing a "strategy paper" drawn up by an ambassador on negotiations between parties including the World Jewish Congress and Swiss banks, concerning compensation due to Holocaust victims.

[No violation of Article 10](#)

## Noteworthy cases, judgments delivered

### Chamber

#### Right to life

### [N.A. v. Switzerland \(no. 50364/14\)](#)

### [A.I. v. Switzerland \(no. 23378/15\)](#)

30.05.2017

The cases concerned the decisions of the Swiss authorities to deport the applicants to Sudan after rejecting their applications for asylum.

In *N.A. v. Switzerland* the Court held in particular that the applicant's political activities in exile, which were limited to merely participating in the activities of the opposition organisations in exile, were not reasonably liable to attract the attention of the intelligence services and found accordingly that the applicant did not run a risk of ill-treatment or torture in the event of his return to Sudan.

[No violation of Article 2 or Article 3 \(prohibition of inhuman or degrading treatment\)](#)

In *A.I. v. Switzerland* the Court held in particular that, on account of his political activities in exile, it was possible that the applicant had attracted the attention of the Sudanese intelligence services. It found that there were therefore reasonable grounds for believing that the applicant ran the risk of being detained, interrogated and tortured on his arrival at Khartoum Airport.

[Violation of Article 2 and of Article 3 \(prohibition of inhuman or degrading treatment\)](#)

### [Scavuzzo-Hager and Others v. Switzerland](#)

07.02.2006

The case concerned the death of a young drug addict who, when arrested by two cantonal police officers, was in a state of extreme intoxication and lost consciousness. He died two days later in Bellinzona Hospital.

[Violation of Article 2 \(first finding against Switzerland under this Article\)](#)

### **Inhuman or degrading treatment**

#### **M.O. v. Switzerland** (no. 41282/16)

20.06.2017

The case concerned the complaint brought by an Eritrean asylum seeker that he would be at risk of ill-treatment if deported from Switzerland to his country of origin. The applicant essentially claimed before the Swiss authorities that he was a deserter from military service and, following a period of imprisonment, had escaped and left Eritrea illegally. The authorities found that his asylum claim was not credible and ordered his removal.

The Court decided that there would be no violation of Article 3 of the European Convention if the expulsion order against the applicant, Mr M.O, were implemented.

#### **N.A. v. Switzerland** (no. 50364/14)

#### **A.I. v. Switzerland** (no. 23378/15)

30.05.2017

See cases regarding Article 2

#### **X v. Switzerland** (no. 16744/14)

26.01.2017

The case concerned the deportation of a Sri Lankan Tamil man and his subsequent ill-treatment while imprisoned in Sri Lanka (which included beatings).

Violation of Article 3

#### **A.S. v. Switzerland** (no. 39350/13)

30.06.2015

Concerned an asylum seeker's impending removal from Switzerland to Italy.

No violation of Article 3 and no violation of Article 8 (right to respect for private and family life) if A.S. were removed to Italy

#### **Perrillat-Bottonet v. Switzerland**

20.11.2014

The case concerned an identity check and arrest by the Geneva police during which Mr Perrillat-Bottonet claimed to have been subjected to a disproportionate use of force.

No violation of Article 3 regarding the injury to the applicant observed after his arrest

No violation of Article 3 regarding the investigation carried out into the applicant's allegations

### **Right to liberty and security**

#### **Derungs v. Switzerland**

10.05.2016

The case concerned the length and conduct of the judicial proceedings brought by a Swiss national to end his preventive detention, which had been imposed by a judge for psychiatric reasons.

Violation of Article 5 § 4 (right to a speedy decision on the lawfulness of detention)

No violation of Article 5 § 4 with regard to the requirement to hold a hearing

#### **Ruiz Rivera v. Switzerland**

18.02.2014

The case concerned the refusal by the Swiss authorities, relying on two medical expert reports diagnosing paranoid and schizoid disorders, to release a person placed in psychiatric detention for having killed and decapitated his wife.

Violation of Article 5 § 4 (right to have lawfulness of detention decided speedily) on account of the refusal by the courts to order a further psychiatric report and hold an adversarial hearing before the Zürich Administrative Court

#### **Adamov v. Switzerland**

21.06.2011

The case concerned the detention in Switzerland of a former Russian energy minister, who was arrested while in Bern visiting his daughter and on business, and was eventually extradited to Russia.

No violation of Article 5 § 1

### **Cases concerning Article 6**

#### **Right of access to a court**

#### **Schmid-Laffer v. Switzerland**

16.06.2015

The case concerned Ms Schmid-Laffer's conviction and prison sentence for attempted premeditated murder, putting a person's life in danger and bringing false accusations.

No violation of Article 6 § 1

#### **Howald Moor and Others v. Switzerland**

11.03.2014

The case concerned a worker who was diagnosed in May 2004 with malignant pleural mesothelioma (a highly aggressive malignant tumour) caused by his exposure to asbestos in the course of his work in the

1960s and 1970s. He died in 2005. The Swiss courts dismissed the claims for damages brought by his wife and two children against Mr Moor's employer and the Swiss authorities, on the grounds that they were time-barred.

[Violation of Article 6 § 1](#)

#### **Family and private life**

##### **Vukota-Bojić v. Switzerland**

18.10.2016

Following an accident on a pedestrian passage, the applicant was admitted to hospital and, soon afterwards, declared unfit to work. The case concerned the monitoring of the applicant by detectives employed by the medical insurance company which paid for the disability benefits.

[Violation of Article 8](#)

[No violation of Article 6 \(right to a fair trial\)](#)

##### **Z. H. and R. H. v. Switzerland**

(no. 60119/12)

08.12.2015

The case concerned the asylum applications of two Afghan nationals, Ms. Z.H. and Mr. R.H., who married in a religious ceremony in Iran when Ms Z.H. had been a child, and which were considered separately – the couple not being considered legally married by the Swiss authorities – resulting in the expulsion of Mr R.H. to Italy. In the proceedings before the European Court, the couple alleged that the expulsion of Mr R.H. had breached their right to respect for their family life.

[No violation of Article 8](#)

##### **M.P.E.V. and others v. Switzerland**

(no. 3910/13)

08.07.2014

It concerned the impending expulsion to Ecuador of a father whose asylum application has been rejected by the Swiss authorities and whose wife and minor daughter have been granted temporary residence in Switzerland.

[Violation of Article 8 if Mr E.V. was expelled to Ecuador](#)

##### **Berisha v. Switzerland**

30.07.2013

The case concerned the Swiss authorities' refusal to grant residence permits to the applicants' three children, who were born in

Kosovo and entered Switzerland illegally, and the authorities' decision to expel the children to Kosovo.

[No violation of Article 8](#)

##### **Udeh v. Switzerland**

16.04.2013

This case concerned the expulsion of a Nigerian national following criminal proceedings brought against him by Swiss authorities. The applicant claimed that if the decision refusing him a residence permit was enforced it would be impossible for him to have regular contact with his children, thus ruining his family life.

[Violation of Article 8 \(in the event of the applicant's expulsion to Nigeria\)](#)

##### **Khelili v. Switzerland**

18.10.2011

The case concerned the classification of a French woman as a "prostitute" in the computer database of the Geneva police for five years.

[Violation of Article 8](#)

##### **Emre v. Switzerland (n° 2)**

11.10.2011

The case concerned a Turkish national's complaint about a ten-year exclusion order to which he was made subject by the Swiss authorities

[A violation of Article 8 taken in conjunction with Article 46 \(binding force and execution of judgments\)](#)

##### **Haas v. Switzerland**

20.01.2011

Suffering from a serious bipolar affective disorder, the applicant has attempted suicide on two occasions. He complained of the conditions that must be met – and which he does not meet – to obtain a substance, the administration of which in a sufficient quantity would end his life.

[No violation of Article 8](#)

##### **Schwizgebel v. Switzerland**

10.06.2010

The case concerned the unsuccessful application by an unmarried woman aged 47 to foster a child with a view to adopting it. She complained that the Swiss authorities discriminated against her on the basis of her age.

[No violation of Article 14 \(prohibition of discrimination\) in conjunction with Article 8](#)



### **Glor v. Switzerland**

30.04.2009

The case concerned the requirement for the applicant, a diabetes sufferer, to pay the military-service exemption tax although he had been declared unfit for service by an army doctor.

[Violation of Article 14 \(prohibition of discrimination\), in conjunction with Article 8](#)

### **Schlumpf v. Switzerland**

09.1.2009

The case concerned the applicant's health insurers' refusal to pay the costs of her sex-change operation.

[Violation of Article 8](#)

### **Hadri-Vionnet v. Switzerland**

14.2.2008

The case concerned the conditions in which the municipal authorities conducted the burial of the applicant's stillborn child without consulting her on the matter.

[Violation of Article 8](#)

### **Emonet and Others v. Switzerland**

13.12.2007

The case concerned the undesired termination of the parent-child relationship between an adult and her biological mother as a result of her adoption by the mother's partner.

[Violation of Article 8](#)

### **Jäggi v. Switzerland**

13.07.2006

The case concerned the Swiss authorities' refusal to allow the applicant, whose father was unknown at the time of his birth, to obtain a DNA analysis of his putative biological father's remains.

[Violation of Article 8](#)

## **International child abduction**

### **Rouiller v. Switzerland**

22.07.2014

The case concerned the removal of two children from France to Switzerland by their mother, who had been granted residence after her divorce.

[No violation of Article 8 \(right to respect for private and family life\)](#)

### **Carlson v. Switzerland**

06.11.2008

The case concerned procedural errors committed by a Swiss court in proceedings

to secure the return of a child from Switzerland (where he was living with his Swiss mother) to the United States (his American father's country of residence).

[Violation of Article 8 \(right to respect for private and family life\)](#)

### **Bianchi v. Switzerland**

22.06.2006

The case concerned the abduction of a child from his Italian father by his Swiss mother. The Lucerne cantonal authorities bore at least some of the responsibility for the situation.

[Violation of Article 8 \(right to respect for private and family life\)](#)

## **Freedom of thought, conscience and religion**

### **Osmanoğlu and Kocabaş v. Switzerland**

10.01.2017

The case concerned the refusal of Muslim parents to send their daughters, who had not reached the age of puberty, to compulsory mixed swimming lessons as part of their schooling and the authorities' refusal to grant them an exemption.

[No violation of Article 9](#)

## **Freedom of expression**

### **Y. v. Switzerland** (no. 22998/13)

06.06.2017

The case concerned the fining of a journalist for reporting information covered by the secrecy of a judicial investigation.

[No violation of Article 10](#)

### **Haldimann and Others v. Switzerland**

24.02.2015

The case concerned the conviction of four journalists for having recorded and broadcast an interview of a private insurance broker using a hidden camera, as part of a television documentary intended to denounce the misleading advice provided by insurance brokers.

[In this case, the Court was for the first time called on to examine an application concerning the use of hidden cameras by journalists to provide public information on a subject of general interest, whereby the person filmed was targeted not in any personal capacity but as a representative of a particular professional category.](#)

[Violation of Article 10](#)

**[Schweizerische Radio- und Fernsehgesellschaft SRG v. Switzerland](#)**

21.06.2012

The case concerned the refusal to allow a television station to carry out a televised interview inside a prison with a prisoner serving a sentence for murder. The applicant company had intended to broadcast the interview in one of the longest-running programmes on Swiss television.

[Violation of Article 10](#)

**[Gsell v. Switzerland](#)**

08.10.2009

The case concerned a journalist who was denied access to the World Economic Forum in Davos.

[Violation of Article 10](#)

**[Foglia v. Switzerland](#)**

13.12.2007

The case concerned a judicial decision against a lawyer on account of statements he had made to the press in connection with pending criminal proceedings (concerning the alleged embezzlement of significant amounts by the former president of Lugano Football Club, who had been found dead in Lake Lugano).

[Violation of Article 10](#)

**[Monnat v. Switzerland](#)**

21.09.2006

The case concerned the sanctions imposed on a journalist and the restrictions on the sale of a television report produced by him, following a judgment in which the Swiss Federal Court upheld viewers' complaints about the broadcasting of the report, which concerned Switzerland's role during the Second World War.

[Violation of Article 10](#)

**[Dammann v. Switzerland](#)**

25.04.2006

The case concerned a journalist's conviction for "incitement to disclose an official secret" after attempting to obtain information from the public prosecutor's office by telephone concerning a spectacular robbery.

[Violation of Article 10](#)

**Freedom of assembly and association**

**[Association Rhino and Others v. Switzerland](#)**

11.10.2011

The case concerned the dissolution of a squatters' association whose aims had been found to be unlawful.

**It is the first violation of the freedom of association by Switzerland.**

[Violation of Article 11](#)

**Discrimination**

**[di Trizio v. Switzerland](#)**

02.02.2016

The case concerned the refusal of the Swiss Disability Insurance Office to continue paying a 50% disability allowance to the applicant, Ms di Trizio, after the birth of her twins.

[Violation of Article 14 taken in conjunction with Article 8 \(right to respect for private and family life\)](#)

**Forced labour**

**[Meier v. Switzerland](#)**

09.02.2016

The case concerned the requirement for a prisoner to work beyond the retirement age.

[No violation of Article 4 § 2](#)

**Right not to be tried or punished twice**

**[Rivard v. Switzerland](#)**

04.10.2016

The case concerned the fact that Mr Rivard had been penalised twice (payment of a fine and withdrawal of licence) for the same facts (exceeding the motorway speed limit) by two different Swiss authorities.

[No violation of Article 4 of Protocol No. 7 \(right not to be tried or punished twice\)](#)

**Noteworthy cases, decisions delivered**

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**[Tabbane v. Switzerland](#)**

24.03.2016

The case concerned a challenge to a decision settling a dispute before the International Court of Arbitration in Geneva.

Application declared inadmissible as manifestly ill-founded.

### **Spycher v. Switzerland**

10.12.2015

The case concerned the rejection of an application for an invalidity pension made by a person suffering from an illness not covered by the invalidity insurance scheme.

Application declared inadmissible as manifestly ill-founded.

### **Macalin Moxamed Sed Dahir v. Switzerland**

15.09.2015

The case concerned the applicant's request to change her surname on the grounds that the Swiss pronunciation of the name produced words with an offensive meaning in her mother tongue, Somali.

Application declared inadmissible as manifestly ill-founded.

### **Rappaz v. Switzerland**

Declared inadmissible 26.03.2013

The applicant, who had been imprisoned for various offences, embarked on a hunger strike in an attempt to secure his release. In this case the Court held that the Swiss authorities had not failed in their obligation to protect the applicant's life and to provide him with conditions of detention compatible with his state of health.

Application declared inadmissible as manifestly ill-founded.

### **Complaints concerning the ban on the construction of minarets**

#### **Association Ligue des Musulmans de Suisse and Others v. Switzerland (no. 66274/09) and Ouardiri v. Switzerland (no. 65840/09)**

28.06.2011

The applicants, a former spokesman for the Geneva Mosque in the first case and three associations and a foundation in the second, complained that the constitutional amendment in Switzerland prohibiting the building of minarets was incompatible with the Convention. The Court declared their applications inadmissible, on the ground that they could not claim to be the "victims" of a violation of the Convention.

Application declared inadmissible as manifestly ill-founded.

[See also press release in German](#)

## **Noteworthy pending cases**

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### **Grand Chamber**

#### **Naït-Liman v. Switzerland (no. 51357/07)**

The case concerns the refusal of the Swiss civil courts to examine Mr Naït-Liman's civil claim for compensation in respect of the non-pecuniary damage caused by his alleged torture in Tunisia.

Relying on Article 6 § 1 (right to a fair trial - right of access to a court), Mr Naït-Liman complains of the fact that the Swiss courts declined jurisdiction to examine the substance of his claim for damages in respect of the acts of torture to which he alleged that he had been subjected in Tunisia.

In its Chamber [judgment](#) of 21 June 2016, the Court held, by four votes to three, that there had been no violation of Article 6 § 1 concerning both the action against Tunisia and the action against A.K., the then Tunisian Minister of the Interior.

Case [referred to the Grand Chamber on 28 November 2016](#)

Grand Chamber [hearing on 14 June 2017](#)

### **Chamber**

#### **B. v. Switzerland (no. 78630/12)**

Application [communicated](#) to the Government in November 2016

The case concerns the refusal of the Swiss authorities to continue paying a widower's pension to the applicant once his daughter reached full age, under the terms of the Federal Old-Age and Survivors' Insurance Act.

Relying on Article 14 of the Convention (prohibition of discrimination), the applicant claims that he has been discriminated against compared with mothers bringing up children on their own.

#### **Lăcătuș v. Switzerland (no. 14065/15)**

Application [communicated](#) to the Government in February 2016

The applicant, a Romanian national of Roma origin, was ordered to pay a fine, under the cantonal criminal legislation on begging, for begging on the streets of Geneva.

Ms Lăcătuș alleges violations of Articles 8 (right to respect for private life), 10 (freedom of expression) and 14 (prohibition



of discrimination) of the Convention, and also of Article 6 (right to a fair trial), on the grounds that the police confiscated CHF 16.75 from her during a search without issuing a seizure order as required by domestic law.

**Adrian Mutu v. Switzerland  
(no. 40575/10)**

Application [communicated](#) to the Government in February 2013

Following a positive drugs test, the professional footballer Adrian Mutu was ordered by FIFA to pay about 17 million euros in damages to Chelsea Football Club for unilateral breach, without just cause, of the employment contract that he had concluded the previous year. In 2010 Mr Mutu's application for judicial review was dismissed by the Swiss Federal Court. Before the Court, he alleges violations of Article 6 § 1 (right to a fair hearing), Article 8 (right to respect for private life) of the Convention and of Article 1 of Protocol No.

1 (protection of property) to the Convention.

**Claudia Pechstein v. Switzerland  
(no. 67474/10)**

Application [communicated](#) to the Government in February 2013

In 2009, following positive drugs tests, the world-renowned figure skater Claudia Pechstein was given a two-year ban by the Disciplinary Commission of the International Skating Union. The Court of Arbitration for Sport upheld that decision, and Ms Pechstein's application to the Swiss Federal Court for judicial review was dismissed in 2010. The applicant alleges a violation of Article 6 § 1 (right to a fair hearing) and Article 6 § 2 (presumption of innocence) of the Convention.

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