January 2022

Sport and the European Convention on Human Rights

Right to life (Article 2 of the Convention)

Harrison and Others v. the United Kingdom

25 March 2014 (decision on the admissibility)

The applicants, relatives of the 96 supporters who died in the Hillsborough disaster in 1989, complained under Article 2 (right to life) of the European Convention on Human Rights that the original inquest had been inadequate and, that although new inquests had been ordered, they had to wait for over 24 years for an Article 2 compliant investigation into the deaths.

Having regard both to the understandable absence of criticism by the applicants of the prompt and effective measures taken so far by various authorities of the United Kingdom to further investigate the deaths of their relatives following the setting up of the Hillsborough Independent Panel in September 2012 and to the pending inquests and investigations, the European Court of Human Rights found that the applications had to be regarded as premature and declared them **inadmissible** pursuant to Article 35 (admissibility criteria) of the Convention. The Court further noted that, if the applicants became dissatisfied with the progress being made or, upon the conclusion of the investigations and inquests, were not content with the outcome, it would remain open to them to lodge further applications with the Court.

Prohibition of inhuman or degrading treatment (Article 3 of the Convention)

Hentschel and Stark v. Germany

9 November 2017

This case concerned the complaint by two football supporters of having been ill-treated by the police following a match and of the inadequacy of the ensuing investigation.

The Court held that there had been **no violation of Article 3** (prohibition of inhuman or degrading treatment) of the Convention in respect of the applicants' treatment by the police, being unable to establish beyond reasonable doubt that the events had happened as described by the applicants. It held, however, that there had been a **violation of Article 3** of the Convention in respect of the investigation into the applicants' allegations. In that regard, the Court observed in particular that the helmeted police officers of the riot control units had not worn any name tags or other individually identifying signs, but only identification numbers on the back of their helmets. Therefore, other measures to establish the identities of the persons responsible for the alleged ill-treatment had become especially important. However, the difficulties resulting from the lack of identifying insignia had not been sufficiently counter-balanced by other investigative measures. Notably, only excerpts of the video material recorded by the riot units had been provided to the investigating unit and some potentially relevant witnesses had not been identified and questioned.

Pending application

Semenya v. Switzerland (no. 10934/21)

Application communicated to the Swiss Government on 3 May 2021

The applicant, an international athlete specialising in middle-distance races (800 to 3,000 metres), complains about regulations issued by the International Association of Athletics Federations (IAAF), requiring her to lower her natural testosterone levels through hormone treatment in order to be eligible to compete as a woman in international sporting events.

The Court gave notice of the application to the Swiss Government and put questions to the parties under Articles 3 (prohibition of inhuman or degrading treatment) and 8 (right to respect for private life), taken alone and in conjunction with Article 14 (prohibition of discrimination), as well as under Article 6 (right to a fair hearing) and Article 13 (right to an effective remedy) of the Convention.

Right to liberty and security (Article 5 of the Convention)

Ostendorf v. Germany

7 March 2013

The applicant, a football supporter, complained about his four-hour police custody in order to prevent him from organising and taking part in a violent brawl between football hooligans.

The Court held that there had been **no violation of Article 5 § 1** (right to liberty and security) of the Convention, finding that the applicant's police custody had been justified under that Article as detention "in order to secure the fulfilment of an obligation prescribed by law". The Court considered in particular that his custody had served to fulfil the specific and concrete obligation on the applicant to refrain from arranging a brawl between opposing groups of hooligans at a football match.

S., V. and A. v. Denmark (applications nos. 35553/12, 36678/12 and 36711/12)

22 October 2018 (Grand Chamber)

This case concerned the applicants' detention in October 2009 for over seven hours when they were in Copenhagen to watch a football match between Denmark and Sweden. The authorities detained the applicants in order to prevent hooligan violence. The applicants unsuccessfully sought compensation before the Danish courts. They complained in particular that their detention had been unlawful as it had exceeded the time-limit prescribed by domestic law.

The Court held that there had been **no violation of Article 5 § 1** (right to liberty and security) of the Convention, finding that the Danish courts had struck the right balance between the applicants' right to liberty and the importance of preventing hooliganism. In particular, the courts had thoroughly examined the police's strategy to avoid clashes on the day in question, finding that they had: taken into account the six-hour time-limit for preventive detention under national law, even though it had been slightly overrun; engaged proactive dialogue with fans/supporters, before employing more drastic measures such as detention; aimed to only detain those, such as the applicants, who had been identified as a risk to public safety; and, carefully monitored the situation so that the applicants could be released as soon as the situation had calmed down. The authorities had moreover provided concrete evidence specifying the time, place and victims of the offence of hooliganism which the applicants would in all likelihood have been involved in had it not been prevented by their detention. In finding that the applicants' detention had been permissible under the Convention the Court applied a flexible approach so that the police's use of short-term detention to protect the public was not made impracticable. In particular, it clarified and adapted its case-law under Article 5 § 1 (c) of the Convention, finding that the second part of that provision, namely "when it is reasonably considered necessary to prevent committing an offence",

could be seen as a distinct ground for deprivation of liberty, outside the context of criminal proceedings.

Right to a fair trial (Article 6 of the Convention)

FC Mretebi v. Georgia

31 July 2007

This case concerned large sums of money linked to the transfer of a footballer between Georgian and foreign clubs. In that case the applicant club was refused exemption from the payment of court fees by the Supreme Court; as a result, its appeal was not examined. The applicant club complained in particular that it had been denied access to a court.

The Court held that there had been a **violation of Article 6 § 1** (right to a fair trial) of the Convention, finding that there had been an unjustified denial of access to court. It observed in particular that the Supreme Court had failed to secure a proper balance between, on the one hand, the interests of the State in securing reasonable court fees and, on the other hand, the interests of the applicant in vindicating its claim through the courts.

Liga Portuguesa de Futebol Profissional v. Portugal

27 April 2012 (decision on the admissibility)

Relying in particular on Article 6 § 1 (right to a fair trial) of the Convention, the applicant in this case, which organises professional football championships in Portugal, complained, inter alia, that in a case against the Portuguese tax authorities, it had not been provided with the opinion of the prosecution service.

Finding that the applicant had not suffered any significant disadvantage in the exercise of his right to participate adequately in the proceedings at issue, on the ground in particular that the opinion of the prosecution service contained no new elements, and after having found that respect for the human rights secured by the Convention did not require an examination of the application on the merits and that the applicant's case had been examined on the merits at first instance and on appeal, the Court declared **inadmissible** the applicant's complaint under Article 6 of the Convention.

Mutu and Pechstein v. Switzerland

2 October 2018

This case concerned the lawfulness of proceedings brought by professional athletes before the Court of Arbitration for Sport (CAS). The applicants, a professional footballer and a professional speed skater, submitted in particular that the CAS could not be regarded as an independent and impartial tribunal. The second applicant also complained that she had not had a public hearing before the International Skating Union disciplinary board, the CAS or the Swiss Federal Supreme Court, despite her explicit requests to that end.

The Court held that there had been **no violation of Article 6 § 1** (right to a fair trial) of the Convention with regard to the alleged lack of independence of the Court of Arbitration for Sport (CAS). It found that the CAS arbitration proceedings to which the applicants had been parties were required to offer all the safeguards of a fair hearing, and that the second applicant's allegations concerning a structural absence of independence and impartiality in the CAS, like the first applicant's criticisms concerning the impartiality of certain arbitrators, had to be rejected. In contrast, the Court held that there had been a **violation of Article 6 § 1** of the Convention in the case of the second applicant, with regard to the lack of a public hearing before the CAS, finding that the questions concerning the merits of the sanction imposed on her for doping, discussed before the CAS, required a hearing that was subject to public scrutiny.

See also: ***Bakker v. Switzerland***, decision (Committee) on the admissibility of 3 September 2019.

Ali Riza and Others v. Turkey

28 January 2020

This case concerned football disputes. The applicants – a professional football player, three amateur football players and a football referee – alleged in particular that proceedings before the Arbitration Committee of the Turkish Football Federation ("the TFF") had lacked independence and impartiality. They alleged inter alia that the members of the Committee who had decided on their cases were biased towards football clubs because they had been appointed by the TFF's Board of Directors, which was predominately composed of former members or executives of football clubs.

The Court held that there had been a **violation of Article 6 § 1** (right to a fair trial) of the Convention on account of the lack of independence and impartiality of the TFF in respect of the first and the fifth applicants. The first one's dispute was over his contract, while the second one's concerned his downgrading. The TFF decisions on their cases were not subject to judicial review. The Court found in particular that the executive body of the TFF, the Board of Directors, which had always largely consisted of members or executives of football clubs, had too strong an influence over the organisation and functioning of the Arbitration Committee. Nor did TFF law provide appropriate safeguards to protect members of the Arbitration Committee from any outside pressure. The Court further declared the three amateur football players' complaints **inadmissible**, in particular because Article 6 of the Convention was not applicable in their cases. Lastly, noting that the case revealed a systemic problem as regards the settlement of football disputes in Turkey, the Court indicated under Article 46 (binding force and execution of judgments) of the Convention that the State should take measures to ensure the structural independence of the Arbitration Committee.

See also: ***Sedat Doğan v. Turkey***, ***Naki et Amed Sportif Faaliyetler Kulübü Derneği v. Turkey*** **and** ***Ibrahim Tokmak v. Turkey***, judgments of 18 May 2021.

Platini v. Switzerland

11 February 2020 (decision on the admissibility)

See below, under "Right to respect for private and family life and home (Article 8 of the Convention)".

Ali Rıza v. Switzerland

13 July 2021

This case concerned a dispute between a professional footballer and his former Turkish League club, Trabzonspor. The applicant complained that he had been ordered by the Turkish Football Federation to pay damages for leaving the club without notice before the expiry of his contract. He applied to the Court of Arbitration for Sport (CAS), based in Lausanne, which ruled that it had no jurisdiction to hear the case. That decision was upheld by the Federal Supreme Court. The applicant submitted that he had been unable to bring his case before an impartial and independent tribunal and that his right of access to a court had been infringed as a result. He also complained that he had not been given a hearing and that the principle of equality of arms had not been observed before the Federal Supreme Court.

The Court held that there had been **no violation of Article 6 § 1** (right to a fair trial) of the Convention as regards the right of access to a court. It found, in particular, that the CAS had given a convincing explanation, in a detailed and reasoned decision, as to why it was unable to deal with the dispute and, in particular, why the dispute had no international element. That being so, the applicant had applied to a court that did not have jurisdiction to examine his complaints. The judgment of the Federal Supreme Court likewise contained reasons, addressing all the grounds of appeal raised by the applicant. The decisions of both courts were neither arbitrary nor manifestly unreasonable. In the present case, the Court held, in view of the above considerations, the extremely tenuous link between the applicant's dispute and Switzerland, and the specific nature of proceedings before the CAS and the Federal Supreme Court, that the restriction of the right of access to a court had not been disproportionate to the aim pursued, namely the

proper administration of justice and the effectiveness of domestic court decisions. The Court further declared **inadmissible** the complaints concerning the failure to hold a hearing and the alleged non-compliance with the principle of equality of arms, holding that those complaints were manifestly ill-founded.

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

Friend and Others v. the United Kingdom

24 November 2009 (decision on the admissibility)

These applications concerned statutory bans introduced in the United Kingdom by the Protection of Wild Mammals (Scotland) Act 2002 and the Hunting Act 2004 on the traditional practice of hunting with dogs. The applicants, a non-governmental organisation, and eleven private individuals, challenged the legislation in the domestic courts but their appeals to the House of Lords were dismissed. The applicants complained in particular of a violation of their right to respect for their private life and, in some instances, of their homes.

The Court declared the applicants complaints under Article 8 (right to respect for private life and home) of the Convention **inadmissible** as being manifestly ill-founded. It observed in particular that, although private life was a broad concept, that did not mean that it protected every activity a person might seek to engage in with other human beings in order to establish and develop relationships with them. Despite the obvious sense of enjoyment and personal fulfilment the applicants derived from it and the interpersonal relations they developed through it, hunting was too far removed from the applicants' personal autonomy and the interpersonal relations they relied on were too broad and indeterminate in scope for the hunting bans to amount to an interference with their rights under Article 8. As further regards those applicants who had alleged that the inability to hunt on their land amounted to interference with their homes, the Court noted in particular that the concept of home did not include land over which the owner permitted or caused a sport to be conducted and it would strain the meaning of home to extend it in that way.

Fédération Nationale des Syndicats Sportifs (FNASS) and Others v. France (see also below, under "Freedom of movement")

18 January 2018

This case concerned the requirement for a targeted group of sports professionals to notify their whereabouts for the purposes of unannounced anti-doping tests. The applicants alleged in particular that the mechanism requiring them to file complete quarterly information on their whereabouts and, for each day, to indicate a sixty-minute time-slot during which they would be available for testing, amounted to unjustified interference with their right to respect for their private and family life and their home.

The Court held that there had been **no violation of Article 8** (right to respect for private and family life and home) of the Convention in respect of the complaint of 17 of the individual applicants[1], finding that the French State had struck a fair balance between the various interests at stake. In particular, taking account of the impact of the whereabouts requirement on the applicants' private life, the Court nevertheless took the view that the public interest grounds which made it necessary were of particular importance and justified the restrictions imposed on their Article 8 rights. The Court also found that the reduction or removal of the relevant obligations would lead to an increase in the dangers of doping for the health of sports professionals and of all those who practise sports, and would be at odds with the European and international consensus on the need for unannounced testing as part of doping control.

[1]. In so far as the other applicants were concerned, the Court rejected the application as being incompatible *ratione personae*, pursuant to Article 35 (admissibility criteria) of the Convention.

Platini v. Switzerland

11 February 2020 (decision on the admissibility)

Disciplinary proceedings had been brought against the applicant, a former professional football player, president of UEFA and vice president of FIFA, in respect of a salary "supplement" of 2 million Swiss francs (CHF), received in 2011 in the context of a verbal contract between him and FIFA's former President. He was suspended from any football-related professional activity for four years and fined CHF 60,000. He submitted in particular that the four-year suspension was incompatible with his freedom to exercise a professional activity.

The Court declared the application **inadmissible**. It found in particular that, having regard to the seriousness of the misconduct, the senior position held by the applicant in football's governing bodies and the need to restore the reputation of the sport and of FIFA, the sanction did not appear excessive or arbitrary. The domestic bodies had taken account of all the interests at stake in confirming the measure taken by FIFA, subsequently reduced by the Court of Arbitration for Sport. The Court also noted that the applicant had been afforded the domestic institutional and procedural safeguards allowing him to challenge FIFA's decision and submit his arguments in his defence.

Athletics South Africa v. Switzerland

5 October 2021 (decision on the admissibility)

This application was closely linked to the case of Semenya v. Switzerland (no. 10934/21), currently pending before the Court. The applicant association, the regulatory authority of athletics in South Africa, argued in particular that the new Regulations issued by the International Association of Athletics Federations (IAAF), governing the eligibility requirements for classification as a female for athletes with differences of sex development (the so-called DSD Regulations), imposed an unjustified and disproportionate interference with the core of the right to the physical, moral and psychological integrity of the athlete. The applicant association also argued that M.C. Semenya suffered from an unjustified restriction on exercising her profession due to the DSD Regulations that precluded her from competing at an international level.

The Court declared the application **inadmissible** as being incompatible *ratione personae* with the provisions of the Convention. It observed in particular that, although the applicant association was recognised by the Swiss Federal Tribunal as having standing to challenge the DSD Regulations, this was not sufficient to be considered as victim for the purposes of Article 34 (individual applications) of the Convention. The applicant association, as a legal entity, was not a direct and personal victim of the alleged violations.

Pending application

Semenya v. Switzerland (no. 10934/21)

Application communicated to the Swiss Government on 3 May 2021

See above, under "Prohibition of inhuman or degrading treatment".

Freedom of thought, conscience and religion (Article 9 of the Convention)

Dogru v. France and Kervanci v. France

4 December 2008

The applicants, both Muslims, were enrolled in the first year of a state secondary school in 1998-1999. On numerous occasions they attended physical education classes wearing their headscarves and refused to take them off, despite repeated requests to do so by their teacher. The school's discipline committee decided to expel them from school for breaching the duty of assiduity by failing to participate actively in those classes, a decision that was upheld by the courts.

The Court held that there had been **no violation of Article 9** (freedom of thought, conscience and religion) of the Convention in both cases, finding in particular that the conclusion reached by the national authorities that the wearing of a veil, such as the Islamic headscarf, was incompatible with sports classes for reasons of health or safety was not unreasonable. It accepted that the penalty imposed was the consequence of the applicants' refusal to comply with the rules applicable on the school premises – of which they had been properly informed – and not of their religious convictions, as they alleged.

Osmanoğlu and Kocabaş v. Switzerland

10 January 2017

This 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.

The Court held that there had been **no violation of Article 9** (freedom of thought, conscience and religion) of the Convention, finding that by giving precedence to the children's obligation to follow the full school curriculum and their successful integration over the applicants' private interest in obtaining an exemption from mixed swimming lessons for their daughters on religious grounds, the Swiss authorities had not exceeded the considerable margin of appreciation afforded to them in the present case, which concerned compulsory education. The Court noted in particular that the children's interest in a full education, thus facilitating their successful social integration according to local customs and mores, prevailed over the parents' wish to have their children exempted from mixed swimming lessons. Sports education, of which swimming was an integral part in the school attended by the applicants' children, was of special importance for children's development and health. A child's interest in attending those lessons was not just to learn to swim and to take physical exercise, but above all to take part in that activity with all the other pupils, with no exception on account of the child's origin or the parents' religious or philosophical convictions. Moreover, the authorities had offered the applicants very flexible arrangements: their daughters had been allowed to wear a burkini during the swimming lessons and to undress with no boys present. Those arrangements had been such as to reduce the impact of the children's attendance at mixed swimming classes on their parents' religious convictions.

Freedom of expression (Article 10 of the Convention)

Hachette Filipacchi Presse Automobile and Dupuy v. France
Société de conception de presse et d'édition et Ponson v. France

5 March 2009

These cases concerned the conviction of the publishers of two magazines and their publication directors for indirectly or unlawfully publishing tobacco advertising, in particular after they had published in the magazines *Action Auto Moto* and *Entrevue* in 2002 photographs of the Formula 1 driver Michael Schumacher wearing the logo of a cigarette brand. The applicants also complained of a difference in treatment in relation to motor sport broadcasts put out by the audiovisual media in a country where tobacco advertising is not forbidden.

The Court held that there had been **no violation of Article 10** (freedom of expression of the Convention). Bearing in mind how important it was to protect public health, the pressing need to take steps to protect our societies from the scourge of smoking, and the existence of a consensus at the European level regarding the prohibition of advertising in respect of tobacco products, it found that the restrictions imposed on the applicants' freedom of expression in the instant case had answered a pressing social need and had not been disproportionate to the legitimate aim pursued. The Court also held that there had been **no violation of Article 14** (prohibition of discrimination) **taken in conjunction with Article 10**, finding that the audiovisual media and the print media were not placed in similar or comparable situations. The Court observed in particular that, as the French courts had found, it was not at the time feasible, by

technical means, to hide lettering, logos or advertisements on footage used by broadcasters. However, it was possible to refrain from taking photographs of such signs, or to conceal or blur them, on the pages of magazines. The Court further noted that, in connection with a dispute concerning footage of sports events shown several hours or days after it was recorded, the French Court of Cassation had confirmed that the live broadcasting of a race constituted the sole exception to the ban on the indirect advertising of tobacco products.

Ressiot and Others v. France

28 June 2012

This case concerned investigations carried out at the premises of *L'Equipe* and *Le Point* newspapers and at the homes of journalists accused of breaching the confidentiality of a judicial investigation. The authorities wanted to identify the source of the leaks in an investigation into possible doping in cycle racing. The applicants complained that the investigations against them had been carried out in violation of their right to freedom of expression.

The Court held that there had been a **violation of Article 10** (freedom of expression) of the Convention, finding that the French Government had not shown that a fair balance had been struck between the various interests involved and that the measures taken had not been reasonably proportionate to the legitimate aim pursued, having regard to the interest of a democratic society in ensuring and maintaining the freedom of the press. It noted in particular that the subject of the articles concerned – doping in professional sport, in this case cycle racing, – and related problems concerned a matter of public interest. Moreover, the articles answered a growing and legitimate public demand for information about doping in sport – particularly in cycle racing.

Šimunić v. Croatia

22 January 2019 (decision on the admissibility)

The applicant, a football player, was convicted of a minor offence of addressing messages to spectators of a football match, the content of which expressed or enticed hatred on the basis of race, nationality and faith. He submitted in particular that his right to freedom of expression had been violated.

The Court declared the applicant's complaint under Article 10 (freedom of expression) of the Convention **inadmissible** as being manifestly ill-founded, finding that the interference with his right to freedom of expression had been supported by relevant and sufficient reasons and that the Croatian authorities, having had regard to the relatively modest nature of the fine imposed on the applicant and the context in which he had shouted the impugned phrase, had struck a fair balance between his interest in free speech, on the one hand, and society's interests in promoting tolerance and mutual respect at sports events as well as combating discrimination through sport on the other hand, thus acting within their margin of appreciation. The Court noted in particular that the applicant, being a famous football player and a role-model for many football fans, should have been aware of the possible negative impact of provocative chanting on spectators' behaviour, and should have abstained from such conduct.

Sedat Doğan v. Turkey, Naki et Amed Sportif Faaliyetler Kulübü Derneği v. Turkey and Ibrahim Tokmak v. Turkey

18 May 2021

These three cases concerned sports sanctions and financial penalties imposed on the applicants[2] by the Turkish Football Federation (TFF) on account of statements to the media or messages posted or shared on social media, and the appeal proceedings lodged against those sanctions by the applicants before the Federation's Arbitration Committee. All the applicants called into question, in particular, the independence and impartiality of

[2]. In the first case, the applicant was a member of the management board of Galatasaray football club at the relevant time; in the second case, the applicants were a professional footballer and a Turkish association operating as a sports club; and, in the third case, the applicant was a football referee at the time of the events in question.

the Arbitration Committee, from both an organisational and a financial perspective. They also alleged that the sanctions imposed on them had breached their right to freedom of expression.
In these cases, the Court held that there had been a **violation of Article 6 § 1** (right to a fair trial) of the Convention, on account of the Federation's Arbitration Committee's lack of independence and impartiality. Referring to its case-law in the *Ali Rıza and Others v. Turkey* judgment (see above, under "Right to a fair trial"), it noted structural deficiencies in the Arbitration Committee and the lack of adequate safeguards to protect the members of the Committee from outside pressure. In these cases, the Court also held that there had been a **violation of Article 10** (freedom of expression) of the Convention. In particular, it noted, in each of the three cases, that the reasoning given by the national bodies in their decisions to impose sanctions on the applicants demonstrated a failure to carry out an adequate balancing exercise between, on the one hand, the applicants' right to freedom of expression and, on the other, the right of the TFF's leadership to respect for their private lives and the other interests at stake, such as maintaining order and peace in the football community. In each of these cases, the Court considered that the national authorities had not carried out an appropriate analysis, having regard to all the criteria laid down and applied by the Court in its case-law concerning freedom of expression. In the Court's view, the Turkish Government had not shown that the reasons given by the national authorities to justify the contested measures had been relevant and sufficient, and that those measures had been necessary in a democratic society.

Freedom of assembly and association (Article 11 of the Convention)

Association Nouvelle Des Boulogne Boys v. France

7 March 2011 (decision on the admissibility)
This case concerned the dissolution by Prime Ministerial decree of a Paris Saint Germain (PSG) football team supporters' club after they unfurled an offensive banner in the stands at the French League Cup final between Lens, a team from North-West France, and PSG at the Stade de France stadium on 29 March 2008, which was broadcast live on television. The applicant association complained in particular of interference with its freedom of association.
The Court declared the application **inadmissible** as manifestly ill-founded. It noted in particular that the dissolution measure constituted an interference with the applicant's right to freedom of association which was prescribed by the Sporting Code and which pursued the legitimate aim of preventing disorder or crime. The Court further considered that the offences of which the applicant association was accused were particularly serious and prejudicial to public order. Moreover, the wording on the banner unfurled at the Stade de France stadium on 29 March 2008 had been particularly insulting towards a certain section of the population. The Court therefore found that the dissolution measure had been proportionate to the aim pursued.

"Les Authentiks" v. France and "Supras Auteuil 91" v. France

27 October 2016
This case concerned the dissolution of two Paris-Saint-Germain football team supporters' associations, following scuffles in which some of their members were involved on 28 February 2010, leading to the death of one supporter. The applicant associations submitted in particular that their dissolution had amounted to a disproportionate interference with their rights to freedom of assembly and association.
The Court held that there had been **no violation of Article 11** (freedom of assembly and association) of the Convention. As regards in particular the context in which the impugned measures had been decided, the Court accepted that the national authorities had justifiably considered that there was a "pressing social need" to impose drastic

restrictions on the groups of supporters, namely the measures impugned in the present case. The dissolution orders had therefore been necessary, in a democratic society, for the prevention of disorder and crime. The Court also emphasised that associations with the official aim of promoting a football club were less important than political parties in terms of democracy. Furthermore, it accepted that the scope of the margin of appreciation in matters of incitement to violence was particularly broad. In that regard, and in view of the context, the Court found that the dissolution orders could be considered proportionate to the aim pursued. The Court also held that there had been **no violation of Article 6** (right to a fair trial) of the Convention in the present case.

Prohibition of discrimination (Article 14 of the Convention and Article 1 of Protocol No. 12 to the Convention)

Hachette Filipacchi Presse Automobile and Dupuy v. France
Société de conception de presse et d'édition et Ponson v. France

5 March 2009

See above, under "Freedom of expression".

Negovanović and Others v. Serbia

25 January 2021[3]

This case concerned alleged discrimination by the Serbian authorities against blind chess players, its own nationals, who had won medals at major international events, notably in the Blind Chess Olympiad. Unlike other Serbian athletes with disabilities and sighted chess players who had attained the same or similar sporting results, the applicants had been denied certain financial benefits and awards for their achievements as well as formal recognition through an honorary diploma which, they alleged, had had a negative effect on their reputations.

The Court held that there had been a **violation of Article 1** (general prohibition of discrimination) **of Protocol No. 12** to the Convention, finding that there had been no objective and reasonable justification for treating the applicants differently on the basis of their disability. It noted, in particular, that while it was legitimate for the Serbian authorities to focus on the highest sporting achievements and the most important competitions in its award system, they had not shown why the high accolades won by the applicants, as blind chess players, were less significant than similar medals won by sighted chess players. The prestige of a game or a sport should not depend on whether it is practised by persons with or without a disability. Indeed, the Court pointed out that the Sporting Achievements Recognition and Rewards Decree itself, introduced by Serbia in 2016, which provided for a national recognition and rewards system consisting of an honorary diploma, a lifetime monthly cash benefit, and a one-off cash payment, had placed the Olympics and the Paralympics on an equal footing and thus regarded the achievements of disabled sportsmen and sportswomen as meriting equal recognition. Moreover, the distinction between Olympic and non-Olympic sports which had been used as an argument by the Serbian Government was of no relevance since the Chess Olympiad for sighted chess players, which was among the listed competitions in the decree, was neither part of the Olympic nor the Paralympic Games.

Pending application

Semenya v. Switzerland (no. 10934/21)

Application communicated to the Swiss Government on 3 May 2021

See above, under "Prohibition of inhuman or degrading treatment".

[3]. This judgment will become final in the circumstances set out in Article 44 § 2 (final judgments) of the European Convention on Human Rights.

Protection of property (Article 1 of Protocol No. 1)

Herrmann v. Germany

26 June 2012 (Grand Chamber)

This case concerned a landowner's complaint about being forced to accept hunting on his premises, even though he was morally opposed to hunting. In his view such obligation amounted in particular to a violation of his right to the peaceful enjoyment of his possessions.

The Court held that there had been a **violation of Article 1** (protection of property) **of Protocol No. 1** to the Convention, finding that the obligation to tolerate hunting on their property imposed a disproportionate burden on landowners who were opposed to hunting for ethical reasons.

See also: ***Chassagnou and Others v. France***, judgment (Grand Chamber) of 29 April 1999; ***Schneider v. Luxembourg***, judgment of 10 July 2007.

Freedom of movement (Article 2 of Protocol No. 4)

Fédération Nationale des Syndicats Sportifs (FNASS) and Others v. France (see also above, under "Right to respect for private and family life and home")

18 January 2018

This case concerned the requirement for a targeted group of sports professionals to notify their whereabouts for the purposes of unannounced anti-doping tests. The applicants submitted in particular that the whereabouts requirement was incompatible with their freedom of movement.

The Court held that Article 2 (freedom of movement) of Protocol No. 4 was inapplicable in the present case and declared the complaint **inadmissible** as being incompatible *ratione materiae*. It noted in particular that the applicants were obliged to notify the French Anti-Doping Agency of a daily time slot of sixty minutes in a precise location where they would be available for an unannounced test. The location was freely chosen by them and the obligation was more of an interference with their privacy than a surveillance measure. The Court took note of the domestic courts' decisions not to characterise the whereabouts requirement as a restriction on freedom of movement and to distinguish between the ordinary and administrative courts in terms of the jurisdiction for such testing. The Court thus took the view that the measures at issue could not be equated with the electronic tagging that was used as an alternative to imprisonment or to accompany a form of house arrest. Lastly, the Court found that the applicants had not been prevented from leaving their country of residence but had merely been obliged to indicate their whereabouts in the destination country for the purposes of testing.

Right not to be tried or punished twice (Article 4 of Protocol No. 7)

Seražin v. Croatia

9 October 2018 (decision on the admissibility)

This case concerned the measures used in Croatia to fight against hooliganism. The applicant complained more precisely that he had been prosecuted and convicted twice for causing disorder at a football match in 2012, first in minor offence proceedings and then in proceedings banning him from attending sports events.

The Court declared the application **inadmissible**, finding that Article 4 (right not to be tried or punished twice) of Protocol No. 7 did not apply in the applicant's case because he had not faced a criminal charge in the second set of proceedings. The measure applied in those proceedings had not involved a fine or his being deprived of his liberty, and had essentially been to prevent him from committing further violence, rather than to punish him a second time for the offence of hooliganism.

Velkov v. Bulgaria

21 July 2020

This case concerned the applicant's complaint that he had been convicted twice of the same offence of breaching the peace during a football match, in the context of administrative and criminal proceedings.

The Court held that there had been a **violation of Article 4** (right not to be tried or punished twice) **of Protocol no. 7**, finding that, given the lack of a sufficiently close connection in substance between the administrative and criminal proceedings against the applicant, he had been prosecuted and punished twice for the same offence, in breach of the *ne bis in idem* principle. The Court noted in particular that, while there had been a close connection in time between the administrative and criminal proceedings against the applicant, there had not been a sufficiently close connection in substance between the two sets of proceedings.

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