

THE ECHR AND FRANCE

facts & figures



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Council of Europe

Accession: 5 May 1949

European Convention on Human Rights

Signed: 4 November 1950

Ratified: 3 May 1974

ECHR judges

Mattias Guyomar (since 2020)

André Potocki (2011-2020)

Jean-Paul Costa (1998-2011)

Louis-Edmond Pettiti (1980-1998)

Pierre-Henri Teitgen (1976-1980)

René Samuel Cassin (1959-1976)

ECHR and France at 1st January 2021

1st judgment: *Bozano v. France* (18 December 1986)

Total number of judgments: 1,048

Judgments finding a violation: 759

Judgments finding no violation: 187

Friendly settlements/strikeout: 64

Other judgments: 38

Applications pending: 610

Applications finished: 33,600

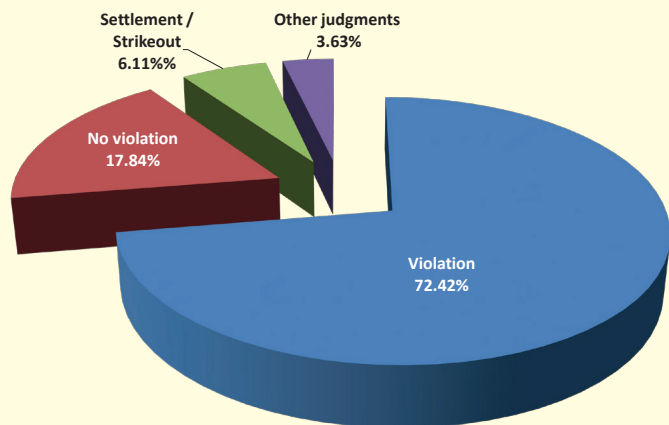
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For more detailed information, please refer to documents issued by the Registry available on the Court's website www.echr.coe.int.

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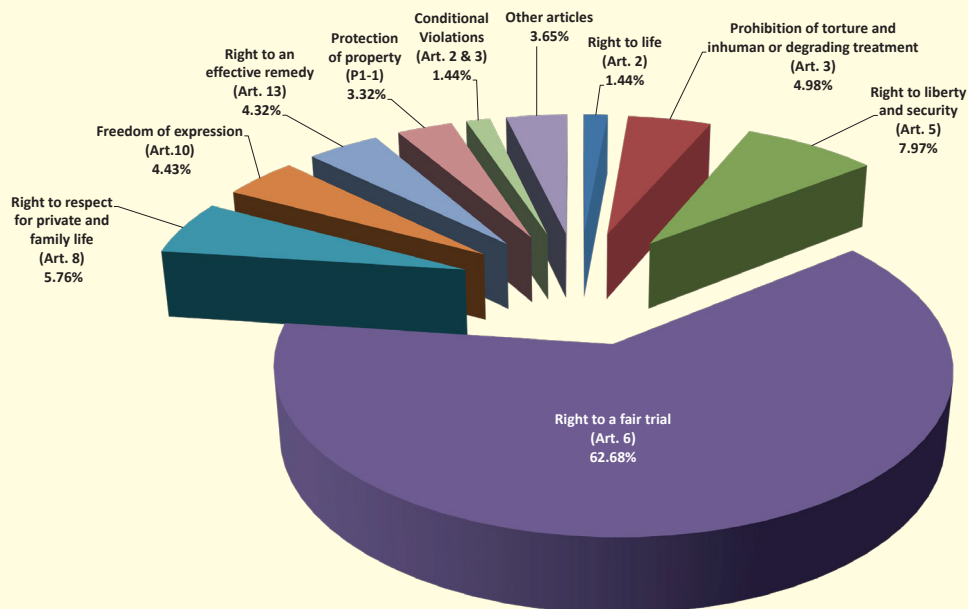
Types of judgments

In more than 70% of the judgments delivered concerning France, the Court has given judgment against the State, finding at least one violation of the Convention.



Subject-matter of judgments finding a violation

Over 60% of violations found concern Article 6 (right to a fair hearing), specifically the length or fairness of proceedings.



Impact of the Court's judgments

The Committee of Ministers, the Council of Europe's executive organ, supervises compliance with the Court's judgments and adoption of the remedial measures required in order to prevent similar violations of the Convention in the future.

The Court's judgments have led to various reforms and improvements in France, relating in particular to:

Amendment to the legislation on telephone tapping

Telephone tapping ordered by the judicial authorities is closely regulated by law.

Equality of children with regard to inheritance rights

The law makes no distinction between legitimate children and adulterine children in terms of inheritance rights.

Introduction of preventive and compensatory remedies for length of proceedings

Reforms have been introduced to ensure that trials are held within a reasonable time, but also to provide compensation for excessively lengthy proceedings.

Abolition of the offence of insulting a head of State

The offences of insulting a foreign head of State or the President of the Republic have been abolished.

Strengthening of the guarantees of a fair trial

Reforms to the Criminal Code mean, among other things, that reasons are now provided for assize court judgments and there is increased protection against self-incrimination.

Introduction of a remedy against searches by the tax authorities

A remedy now exists to challenge, before a court, searches carried out by the tax authorities.

Abolition of the prohibition of trade unions for members of the armed forces

The law permits military personnel to set up or join trade-union-type professional associations.

Recognition of the parent-child relationship for children born from gestational surrogacy

French law recognises the legal parent-child relationship, lawfully established abroad, between children born from gestational surrogacy and the couples having recourse to it.

Selected cases

Case of Fressoz and Roire (21 January 1999)

Roger Fressoz, former publication director of the weekly satirical newspaper *Le Canard enchaîné*, and Claude Roire, journalist, were both convicted of handling stolen goods following the publication in 1989 of photocopies of the tax assessments of Jacques Calvet, the then chairman of Peugeot. The Court noted, in particular, that neither the applicants' account of the events nor their good faith had been called into question and that the journalist had acted in accordance with the standards governing his profession.

Violation of Article 10 (freedom of expression)

Case of Selmouni (28 July 1999)

Ahmed Selmouni complained that he had been ill-treated while in police custody in 1991. The Court held that the physical and mental violence to which the applicant had been subjected, considered as a whole, had caused "severe" pain and suffering and had been particularly serious and cruel.

Violation of Article 3 (prohibition of torture)

Violation of Article 6 § 1 (right to a hearing within a reasonable time)

Case of Mazurek (1 February 2000)

The case concerned the halving of Claude Mazurek's share of his mother's estate in relation to a legitimate child on account of his status as an adulterine child. The Court considered that an adulterine child could not be blamed for circumstances for which he or she was not responsible.

Violation of Article 1 of Protocol No. 1 (protection of property) taken together with Article 14 (prohibition of discrimination)

Case of Koua Poirrez (30 September 2003)

The case concerned the French authorities' refusal to award a disabled adult's allowance to Ettien Laurent Koua Poirrez, who was resident in France, on the ground that he was not a French national and there was no reciprocity agreement in respect of that benefit between France and the Ivory Coast, the State of which he was a national. The Court held that, when ratifying the Convention, France had undertaken to secure to everyone within its jurisdiction, as the applicant was, the rights and freedoms defined in the Convention.

No violation of Article 6 § 1 (right to a fair hearing)

Violation of Article 14 (prohibition of discrimination) taken together with Article 1 of Protocol No. 1 (protection of property)

Case of Editions Plon (18 May 2004)

The case concerned the continued prohibition on the distribution of a book entitled *Le Grand Secret*, co-authored by Dr Gubler, a former private physician to President Mitterrand, which discussed the difficulties he had encountered in concealing the head of State's illness.

Violation of Article 10 (freedom of expression)

Case of Vo (8 July 2004)

Following a mix-up caused by the fact that two patients shared the same surname, a doctor examined Thi-Nho Vo, who was six months pregnant at the time, and pieced her amniotic sac, making a therapeutic abortion necessary. The applicant complained about the authorities' refusal to classify the unintentional killing of her unborn child as involuntary homicide. The Court considered that it was neither desirable, nor even possible as matters stood, to answer in the abstract the question whether the unborn child is a "person" for the purposes of Article 2 of the Convention.

No violation of Article 2 (right to life)

Case of Siliadin (26 July 2005)

Siwa-Akofa Siliadin complained that French criminal law had not afforded her sufficient and effective protection against the "servitude" in which she had been held, or at the very least, against the "forced and compulsory" labour she had been required to perform, which in practice had made her a domestic slave. The Court found that the French criminal legislation in force at the relevant time had not afforded the applicant specific and effective protection against the actions of which she had been a victim.

Violation of Article 4 (prohibition of servitude)

Case of Ramirez Sanchez (4 July 2006)

Ilich Ramirez Sanchez, better known as "Carlos the Jackal", was prosecuted following investigations into a series of terrorist attacks carried out in France and was sentenced to life imprisonment in 1997. He complained about his prolonged solitary confinement.

No violation of Article 3 (prohibition of inhuman or degrading treatment)

Violation of Article 13 (right to an effective remedy)

Case of Dogru and Kervanci (4 December 2008)

The applicants, both Muslims enrolled in the first year of a State secondary school, had refused to remove their headscarves in physical education and sports classes. They complained about their expulsion from school for breaching the duty of assiduity.

The Court held that the French authorities' decision that the wearing of a veil, such as the Islamic headscarf, was incompatible with sports classes for reasons of health or safety had not been unreasonable. In the Court's view, the penalty imposed was merely the consequence of the applicants' refusal to comply with the rules applicable on the school premises, of which they had been properly informed.

No violation of Article 9 (freedom of thought, conscience and religion)

serious mental disturbance and to pose a suicide risk required special measures which took their condition into account.

Violation of Article 2 (right to life)

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Case of Gas and Dubois (15 March 2012)

The case concerned the refusal to allow a woman to adopt the child of the same-sex partner with whom she was in a civil partnership. The Court considered that there had been no discrimination on the grounds of the applicants' sexual orientation, since opposite-sex couples who had entered into a civil partnership were likewise prohibited from obtaining a simple adoption order.

No violation of Article 14 (prohibition of discrimination) taken together with Article 8 (right to respect for private and family life)

Case of Lagardère (12 April 2012)

Arnaud Lagardère, son of Jean-Luc Lagardère, the former chairman of Matra and Hachette, complained that he had been ordered to pay damages on account of his father's criminal guilt, which was not established until after the father's death. In the Court's view, a court could not

find an accused person guilty after his death and thus engage the liability of his successors.

Violation of Article 6 § 1 (fair hearing) and 6 § 2 (presumption of innocence)

Case of Flamenbaum and Others (13 December 2012)

The case concerned the extension of the main runway at Deauville Airport and the resulting disturbance affecting the properties of local residents. The Court held that it had not been established that the extension of the runway would result in a substantial increase in air traffic and noted that measures had been taken to limit the impact of noise pollution for people living nearby. In addition, it held that the applicants had not shown that the market value of their property had fallen.

No violation of Article 8 (right to respect for private and family life)

No violation of Article 1 of Protocol No. 1 (protection of property)

Case of Mennesson and Labassee (26 June 2014)

The two cases concerned the refusal to grant legal recognition in France to parent-child relationships that had been legally established in the United States between a father and his biological children

born as a result of surrogacy treatment abroad. The Court held that this situation undermined the children's identity within French society.

No violation of Article 8 (right to respect for private and family life) with regard to the applicants

Violation of Article 8 with regard to the children's right to respect for their private life

Case of S.A.S. (1 July 2014)

The applicant, a French national who is a Muslim, complained that she was no longer allowed to wear the full-face veil in public following the entry into force, in 2011, of a law prohibiting the concealment of one's face in public places.

The Court emphasised that the preservation of the conditions of "living together" was a legitimate aim of the contested restriction and that, having regard in particular to the broad margin of appreciation enjoyed by the State in this area of general policy, on which opinions differed widely, the ban imposed by French law had not been contrary to the Convention.

No violation of Article 8 (right to respect for private life)

No violation of Article 9 (right to freedom of thought, conscience and religion)

No violation of Article 14 (prohibition of discrimination)

Case of Lambert and Others (5 June 2015)

The applicants were the parents of Vincent Lambert. He had sustained a head injury in a road-traffic accident in 2008, as a result of which he was tetraplegic.

The ECHR concluded that there would be no violation of the Convention should the judgment of the Conseil d'État, authorising the withdrawal of Vincent Lambert's artificial nutrition and hydration, be implemented. In particular, it noted that there was no consensus among the member States of the Council of Europe in the area of end-of-life care.

No violation of Article 2 (right to life)

Case of Les Authentiks and Supras Auteuil 91 (27 October 2016)

The case concerned the dissolution of two Paris-Saint-Germain supporters' associations following scuffles in which some of their members were involved in February 2010, leading to the death of a supporter. The Court held that in view of the extent of the margin of appreciation in matters of incitement to violence and of the particular circumstances of the case, the dissolution orders had been necessary and proportional to the aim pursued.

No violation of Article 11 (freedom of assembly and association)

No violation of Article 6 (right to a fair hearing)

Case of A. P., Garçon and Nicot (6 April 2017)

The applicants, three transgender persons, complained about the fact that they were compelled to undergo an operation or sterilising treatment in order to have their forenames and the indication of their gender amended on their birth certificates. The Court held, in particular, that making recognition of the gender identity of transgender persons conditional on their undergoing an operation or sterilising treatment to which they did not wish to submit amounted to making the full exercise of one's right to respect for private life conditional on relinquishing full exercise of the right to respect for one's physical integrity.

Violation of Article 8 (right to respect for private life) with regard to the obligation to establish the irreversible nature of the change in appearance

No violation of Article 8 in respect of the obligation to prove the reality of gender identity disorder and in respect of the obligation to undergo a medical examination

Case of Aycaguer (22 June 2017)

The case concerned the applicant's conviction for refusing to undergo biological testing, the result of which was to be included in the national computerised DNA database (FNAEG). The Court considered that, owing both to its duration and to the lack of possibility for deletion, the current regulations on the storage of DNA profiles in the FNAEG did not provide sufficient protection.

Violation of Article 8 (right to respect for private life)

Case of Libert (22 February 2018)

The applicant, an SCNF employee, had been dismissed in 2008 after the seizure of his work computer had revealed the storage of pornographic files and forged certificates drawn up for third persons. The Court held that an employer could consult an employee's files on his or her professional computer where these were not duly identified as being of a private nature.

No violation of Article 8 (right to respect for private and family life)

Case of Petithory Lanzmann (5 December 2019)

Dominique Petithory Lanzmann, widow of Claude Lanzmann, the journalist, writer and director, complained that she had been unable to have her deceased son's sperm transferred to an establishment capable of arranging medically assisted reproduction or gestational surrogacy.

The Court found that the right for an individual to decide how and when to become a parent was a non-transferable right and that Article 8 did not guarantee a right to become a grandparent.

Inadmissible

Case of Association Innocence en Danger and Association Enfance et Partage (4 June 2020)

The case concerned the death in 2009 of an eight-year-old girl following ill-treatment by her parents. The applications were lodged by two child protection associations. The Court found that the measures taken by the authorities between the "report of suspected ill-treatment" and the child's death had not been sufficient to protect the child from serious abuse by her parents.

Violation of Article 3 (prohibition of torture and inhuman treatment)

Selected measures to execute judgments

General measures

Case of Kruslin and Huvig (24 April 1990)

Lack of clarity in the French law on telephone tapping.

Amendments to the legislation on telephone tapping with regard to interceptions ordered by the judicial authorities.

Case of B. (25 March 1992)

Lack of legal recognition of the new gender identity of a post-operative transsexual.

Change in national practice concerning the possibility for the civil status of transgender persons to match their new gender identity.

Case of Mazurek (1 February 2000)

Legal discrimination against adulterine children with regard to inheritance rights.

Legislative amendment removing the existing forms of discrimination between children born of an adulterous relationship and other children regarding inheritance rights.

Case of Etcheveste and Bidart (21 March 2002)

Excessive length of criminal proceedings.

Reforms to avoid, in particular, the excessive length of the investigation phase and of criminal proceedings as a whole, and introduction of an effective domestic remedy in respect of their length.

Case of Colombani and Others (25 June 2002)

Judgment ordering the daily newspaper *Le Monde*, its publication director and a journalist to pay damages for having published an article on drug trafficking in Morocco implicating members of the King of Morocco's entourage.

Abolition of the offence of insulting a foreign head of State.

Case of Ravon and Others (21 February 2008)

No access to an effective remedy in order to challenge searches and seizures by the tax authorities in professional premises and the homes of individuals suspected of tax fraud.

Introduction of a remedy for challenging, before a court, the lawfulness of searches carried out by the tax authorities.

Case of Mennesson and Labassee (26 June 2014)

Refusal to grant legal recognition to the parent-child relationship between a father and his biological children born as a result of surrogacy treatment abroad.

Legislation granting recognition in France of the legal parent-child relationship, lawfully established abroad, between children born from gestational surrogacy and the couples having recourse to it.

Case of Matelly (2 October 2014)

Absolute prohibition on trade unions within the French gendarmerie.

Entitlement of military personnel to set up or join trade-union-type professional associations.

Individual measures

Case of Motais de Narbonne (2 July 2002)

Excessive burden imposed on the applicants as a result of the lack of any development on land expropriated from them nineteen years previously.

The applicants were awarded compensation for the pecuniary damage sustained, taking into account the current market value of the land and the compensation already paid to them for the expropriation.

Case of Mayali (14 June 2005)

Conviction of the applicant without being given an adequate and sufficient opportunity to challenge the victim's assertions on which the conviction was based.

The applicant's case was referred back for re-examination following the Court's findings that the criminal proceedings against him had been unfair.

Case of Sud Est Réalisations (2 December 2010)

Refusal, over a long period, to provide police assistance for the eviction of the former owner, who was illegally occupying the applicant company's property.

The former owner was evicted.

Case of Brunet (18 September 2014)

No real possibility of requesting the deletion of data recorded in a crime database, in spite of the discontinuance of the criminal proceedings against the applicant.

The applicant's details were deleted from the "STIC" database (recorded crimes database).

Case of Helhal (19 February 2015)

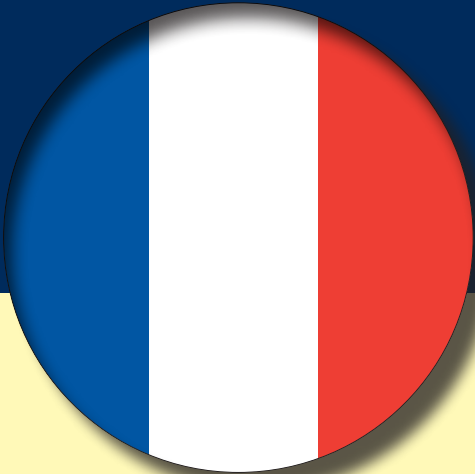
Lack of appropriate access to sanitary facilities for severely disabled prisoners.

The applicant was transferred to a prison that was adapted to prisoners with reduced mobility.

Case of Olivieri (11 July 2019)

Lack of assistance by a lawyer and failure to notify the right to remain silent during police custody.

French law allows the applicant to seek re-examination of his criminal conviction on account of the Court's judgments.



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