



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Information Note on the Court's case-law

No. 148

January 2012



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

The Information Note, compiled by the Court's Case-Law Information and Publications Division, contains summaries of cases examined during the month in question which the Registry considers as being of particular interest. The summaries are not binding on the Court. In the provisional version the summaries are normally drafted in the language of the case concerned, whereas the final single-language version appears in English and French respectively. The Information Note may be downloaded at <www.echr.coe.int/echr/NoteInformation/en>. A hard-copy subscription is available for 30 euros (EUR) or 45 United States dollars (USD) per year, including an index, by contacting the publications service via the on-line form at <www.echr.coe.int/echr/contact/en>.

The HUDOC database is available free-of-charge through the Court's Internet site (<www.echr.coe.int/ECHR/EN/hudoc>). It provides access to the full case-law and materials on the European Convention on Human Rights, namely the decisions, judgments and advisory opinions of the Court, the reports of the European Commission of Human Rights and the resolutions of the Committee of Ministers.

European Court of Human Rights
(Council of Europe)
67075 Strasbourg Cedex
France
Tel: 00 33 (0)3 88 41 20 18
Fax: 00 33 (0)3 88 41 27 30
www.echr.coe.int
publishing@echr.coe.int

ISSN 1996-1545

© Council of Europe / European Court of Human Rights, 2012

TABLE OF CONTENTS

ARTICLE 2

Positive obligations

Life

Failure adequately to vet police officer before issuing him with a firearm he subsequently used in fatal shooting: *violation*

Gorovenky and Bugara v. Ukraine - 36146/05 and 42418/05..... 9

Killing by convicted murderer following his release on licence: *no violation*

Choreftakis and Choreftaki v. Greece - 46846/08..... 9

ARTICLE 3

Torture

Allegations of rendition to a State not Party to the Convention, followed by torture: *relinquishment in favour of the Grand Chamber*

El-Masri v. "the former Yugoslav Republic of Macedonia" - 39630/09 10

Rape of illegal immigrant by coastguard responsible for supervising him: *violation*

Zontul v. Greece - 12294/07..... 11

Inhuman treatment

Wheelchair-bound prisoner required to go up and down four flights of stairs in order to undergo life-supporting medical treatment: *violation*

Arutyunyan v. Russia - 48977/09..... 12

Inhuman treatment

Degrading treatment

Ill-treatment of conscientious objector, a Jehovah's Witness, in military prison on account of his refusal to serve in the army: *violation*

Feti Demirtaş v. Turkey - 5260/07 13

Inhuman punishment

Degrading punishment

Extradition

Proposed extradition to United States where applicants faced trial on charges carrying whole life sentences without parole: *extradition would not constitute a violation*

Harkins and Edwards v. the United Kingdom - 9146/07 and 32650/07..... 14

Inhuman punishment

Degrading punishment

Imprisonment for life with release possible only in the event of terminal illness or serious incapacitation: *no violation*

Vinter and Others v. the United Kingdom - 66069/09, 130/10 and 3896/10..... 15

Degrading treatment

Living conditions in a social care home for persons with mental disorders: *violation*

Stanev v. Bulgaria [GC] - 36760/06..... 17

Failure to provide prisoner with adequate orthopaedic footwear: <i>violation</i> <i>Vladimir Vasilyev v. Russia - 28370/05</i>	17
Effective investigation	
Inadequacy of redress afforded by State to detainee victim of torture: <i>violation</i> <i>Zontul v. Greece - 12294/07</i>	18
Expulsion	
Detailed assurances from receiving State that high-profile Islamist would not be ill-treated if returned to Jordan: <i>deportation would not constitute a violation</i> <i>Othman (Abu Qatada) v. the United Kingdom - 8139/09</i>	18
ARTICLE 5	
Article 5 § 1	
Liberty of person	
Allegations of rendition to a State not Party to the Convention, followed by torture: <i>relinquishment in favour of the Grand Chamber</i> <i>El-Masri v. "the former Yugoslav Republic of Macedonia" - 39630/09</i>	18
Deprivation of liberty	
Procedure prescribed by law	
Lawfulness of placement in a social care home for persons with mental disorders: <i>violation</i> <i>Stanev v. Bulgaria [GC] - 36760/06</i>	18
Article 5 § 4	
Take proceedings	
Lack of remedies to challenge lawfulness of placement in a social care home for persons with mental disorders: <i>violation</i> <i>Stanev v. Bulgaria [GC] - 36760/06</i>	18
Inability of minor children, placed in administrative detention with their parents pending expulsion, to challenge lawfulness of this measure: <i>violation</i> <i>Popov v. France - 39472/07 and 39474/07</i>	18
ARTICLE 6	
Article 6 § 1 (civil)	
Access to court	
Lack of direct access to court for person seeking restoration of his legal capacity: <i>violation</i> <i>Stanev v. Bulgaria [GC] - 36760/06</i>	19
Failure to duly inform applicant, who was neither present nor represented at hearing, of procedure for challenging a court order withdrawing his parental authority: <i>violation</i> <i>Assunção Chaves v. Portugal - 61226/08</i>	21

Article 6 § 1 (criminal)

Fair hearing

Expulsion

Real risk of evidence obtained by torture of third parties being admitted at the applicant's retrial:
deportation would constitute a violation

Othman (Abu Qatada) v. the United Kingdom - 8139/09..... 22

Article 6 § 2

Presumption of innocence

Judicial findings concerning criminal liability of a deceased suspect: *violation*

Vulakh and Others v. Russia - 33468/03 24

ARTICLE 8

Positive obligations

Local population informed by authorities of potential risks of living in region contaminated with uncollected waste: *no violation*

Di Sarno and Others v. Italy - 30765/08..... 25

Respect for private life

Respect for home

Prolonged failure by authorities to ensure collection, treatment and disposal of rubbish: *violation*

Di Sarno and Others v. Italy - 30765/08..... 25

Respect for family life

Expulsion

Administrative detention of foreign parents and their infant children for fifteen days, pending expulsion: *violation*

Popov v. France - 39472/07 and 39474/07 26

ARTICLE 10

Freedom of expression

Obligation to pay compensation to child victim of sexual abuse for revealing her identity in a newspaper article: *no violation*

Kurier Zeitungsverlag und Druckerei GmbH v. Austria - 3401/07..... 27

Newspaper and former jury member found guilty of contempt of court and fined for breach of secrecy of jury deliberations: *inadmissible*

Seckerson and Times Newspapers Limited v. the United Kingdom (dec.) - 32844/10 and 33510/10..... 28

ARTICLE 11

Freedom of peaceful assembly

Retroactive removal of legal basis of a ban on demonstration: *violation*

Patyi v. Hungary - 35127/08..... 29

Freedom of association

Refusal to register a trade union of church employees: <i>violation</i> <i>Sindicatul “Păstorul cel Bun” v. Romania - 2330/09</i>	29
--	----

ARTICLE 13

Effective remedy

Lack of remedies to obtain compensation for poor living conditions in a social care home for persons with mental disorders: <i>violation</i> <i>Stanev v. Bulgaria [GC] - 36760/06</i>	30
Allegations of rendition to a State not Party to the Convention, followed by torture: <i>relinquishment in favour of the Grand Chamber</i> <i>El-Masri v. “the former Yugoslav Republic of Macedonia” - 39630/09</i>	30

ARTICLE 35

Article 35 § 1

Effective domestic remedy – Republic of Moldova

Claim for compensation under Law no. 87 in length of proceedings and non-enforcement cases: <i>effective remedy</i> <i>Balan v. the Republic of Moldova (dec.) - 44746/08</i>	31
--	----

Article 35 § 3 (a)

Abuse of the right of petition

Failure to respect duty of confidentiality in friendly-settlement negotiations: <i>inadmissible</i> <i>Mandil v. France (dec.) - 67037/09</i>	31
--	----

ARTICLE 46

Pilot judgment – General measures

Respondent State required to take general measures to alleviate conditions of detention in remand prisons <i>Ananyev and Others v. Russia - 42525/07 and 60800/08</i>	32
--	----

General measures

Respondent State required to take general measures to ensure effective access to court for persons seeking restoration of their legal capacity <i>Stanev v. Bulgaria [GC] - 36760/06</i>	33
---	----

ARTICLE 1 OF PROTOCOL No. 1

Peaceful enjoyment of possessions

Reduction of applicants’ pensions due to changes in their pension scheme: <i>inadmissible</i> <i>Torri and Others v. Italy (dec.) - 11838/07 and 12302/07</i>	33
--	----

ARTICLE 2 OF PROTOCOL No. 4

Article 2 § 1

Freedom of movement

Order prohibiting French national leaving Poland during criminal proceedings lasting for over five years: *violation*

Miażdżyk v. Poland - 23592/07 34

RELINQUISHMENT IN FAVOUR OF THE GRAND CHAMBER 35

COURT NEWS 35

RECENT COURT PUBLICATIONS 35

1. *Annual Report 2011 of the European Court of Human Rights*
2. *Statistics for 2011*
3. *Human rights factsheets by country*
4. *Research reports*

