KEY THEME[1]
Article 14
Discrimination and immigration

(Last updated: 31/08/2026)

Introduction

Discrimination in the immigration context has come before the Court in two different ways. On the one hand, the Court has examined complaints of alleged discrimination on grounds of immigration status of an individual. On the other hand, it has scrutinised cases raising issues of discrimination on different grounds in an immigration-related context.

Discrimination on grounds of immigration status

- The fact that immigration status is a status conferred by law, rather than one which is inherent to the individual, does not preclude it from amounting to "other status" for the purposes of Article 14. A wide range of legal and other effects flow from a person's immigration status (*Bah v. the United Kingdom*, 2011, § 46; *M.T. and Others v. Sweden*, 2022, § 96).
- The argument in favour of refugee status amounting to "other status" is even stronger, as unlike immigration status refugee status does not entail an element of choice (*Hode and Abdi v. the United Kingdom*, 2012, § 47).
- Given the element of choice involved in immigration status, the scope of the margin of appreciation accorded to the Contracting States is wider and the justification required not as weighty (*Bah v. the United Kingdom*, 2011, § 47).
- While there are factual and legal arguments in favour of saying that the situation of persons fleeing a general situation in their country of origin (subsidiary protection status) and that of persons who have fled their home country owing to an individualised risk of persecution or ill-treatment (refugee status) is not analogous or relevantly similar, for the purposes of Article 14, an assessment of the specific circumstances of each case, with particular regard to the right invoked, is required (*M.T. and Others v. Sweden*, 2022, §§ 97-111).

Noteworthy examples:

- *Anakomba Yula v. Belgium*, 2009 – refusal to grant an unlawfully resident alien legal aid for contesting paternity;
- *Bah v. the United Kingdom*, 2011 – refusal by the local authority to grant an unintentionally homeless person with a minor child priority for the purpose of social housing entitlement on the account that the minor was subject to immigration control;
- *Ponomaryovi v. Bulgaria*, 2011 – requirement on aliens without permanent residence permits to pay secondary-school fees;

[1] Prepared by the Registry. It does not bind the Court.

- *Hode and Abdi v. the United Kingdom*, 2012 – inability of immigrants with limited leave to remain as refugees to be joined by post-flight spouses;
- *M.T. and Others v. Sweden*, 2022 - temporary three-year suspension period for family reunification to persons with subsidiary protection status in contrast to those with refugee status.

Other immigration-related discrimination cases

- The Convention does not guarantee the right of an alien to enter or to settle in a particular country (*Ibrogimov v. Russia*, 2018*; Pajić v. Croatia*, 2016; *Novruk and Others v. Russia*, 2016). However, in cases concerning family reunion or the maintenance of the link between adult children and their parents, the case may fall "within the ambit" of one or more provisions of the Convention or its Protocols.
- Even if Article 8 does not impose general family reunification obligations (*Jeunesse v. the Netherlands* [GC], 2014), an immigration control measure compatible with Article 8 could amount to discrimination and a breach of Article 14 (*Abdulaziz, Cabales and Balkandali v. the United Kingdom*, 1985; *Biao v. Denmark* [GC], 2016).
- An applicant cannot rely on the existence of "family life" in relation to adults who do not belong to his or her core family and who have not been shown to be or to have been dependent on him or her. However, the link between adult children and their parents falls under the head of "private life" within the meaning of Article 8 of the Convention (*Novruk and Others v. Russia*, 2016, §§ 88-89) and accordingly Article 14 in conjunction with Article 8 may apply in such cases.

Noteworthy examples:

- *Biao v. Denmark* [GC], 2016: refusal to grant family reunion based on existing ties with another country whereas more favourable conditions for family reunion applied to persons who had held Danish citizenship for at least 28 years;
- *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, 1985: refusal to grant family reunion to the husbands of the applicants lawfully and permanently settled in the United Kingdom because it was easier for a man settled in the United Kingdom than for a woman so settled to obtain permission for his or her non-national spouse to enter or remain in the country for settlement;
- *Kiyutin v. Russia*, 2011 and *Novruk and Others v. Russia*, 2016: discrimination of HIV-positive aliens with respect to their application for residence permit and/or permanent ban on re-entering Russia on grounds of their health status;
- *Pajić v. Croatia*, 2016: refusal to grant a residence permit for family reason to a same-sex foreign partner, given that the relevant domestic law excluded such a possibility for same-sex couples whereas it allowed it for unmarried different-sex couples;
- *Taddeucci and McCall v. Italy*, 2016: refusal to grant a residence permit for family reason to a same-sex foreign partner, given that only heterosexual couples could get married and acquire the status of "spouse" in view of a family reunification.

Further references

Case-law guides:

- Guide on Immigration
- Guide on Rights of LGBTI persons

Other:

- Handbook on European non-discrimination law, 2018 edition, published by the Court and the European Union Agency for Fundamental Rights (FRA)
- Handbook on European law relating to asylum, borders and immigration, 2020 edition, published by the Court and the FRA

KEY CASE-LAW REFERENCES

Leading cases:

- *Bah v. the United Kingdom*, no. 56328/07, ECHR 2011 (no violation of Article 14 in conjunction with Article 8);
- *Ponomaryovi v. Bulgaria*, no. 5335/05, ECHR 2011 (violation of Article 14 in conjunction with Article 2 of Protocol No. 1).

Other cases on discrimination on grounds of immigration status:

- *Anakomba Yula v. Belgium*, no. 45413/07, 10 March 2009 (violation of Article 14 in conjunction with Article 6 § 1);
- *Hode and Abdi v. the United Kingdom*, no. 22341/09, 6 November 2012 (violation of Article 14 in conjunction with Article 8);
- *M.T. and Others v. Sweden*, no. 22105/18, 20 October 2022 (no violation of Article 8; no violation of Article 14 in conjunction with Article 8).

Other immigration-related discrimination cases:

- *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, 28 May 1985, Series A no. 94 (no violation of Article 8; violation of Article 14 in conjunction with Article 8);
- *Kiyutin v. Russia,* no. 2700/10, ECHR 2011 (violation of Article 14 in conjunction with Article 8);
- *Pajić v. Croatia*, no. 68453/13, 23 February 2016 (violation of Article 14 in conjunction with Article 8);
- *Novruk and Others v. Russia*, nos. 31039/11 and 4 others, 15 March 2016 (violation of Article 14 in conjunction with Article 8);
- *Biao v. Denmark* [GC], no. 38590/10, 24 May 2016 (violation of Article 14 in conjunction with Article 8);
- *Taddeucci and McCall v. Italy*, no. 51362/09, 30 June 2016 (violation of Article 14 in conjunction with Article 8);
- *Ibrogimov v. Russia,* no. 32248/12, ECHR 2018 (violation of Article 14 in conjunction with Article 8).