KEY THEME[1]
Article 34
Potential victims

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Introduction

Article 34 of the Convention does not allow complaints *in abstracto* alleging a violation of the Convention. The Convention does not provide for the institution of an *actio popularis*, meaning that applicants may not complain against a provision of domestic law, a domestic practice or public acts simply because they appear to contravene the Convention (*Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], 2023, § 106; *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], 2014, § 101). The Court's task is not normally to review the relevant law and practice *in abstracto*, but to determine whether the manner in which they were applied to, or affected, the applicant gave rise to a violation of the Convention (*Roman Zakharov v. Russia* [GC], 2015, § 164, with further references).

Accordingly, in order to be able to lodge a petition by virtue of Article 34, a person, non-governmental organisation or group of individuals must be able to claim to be a "victim" of a violation of the rights set forth in the Convention (*Aksu v. Turkey* [GC], 2012, § 50, and *Michaud v. France*, 2012, § 51). The existence of a victim who was personally affected by an alleged violation of a Convention right is indispensable for putting the protection mechanism of the Convention into motion, although this criterion is not to be applied in a rigid and inflexible way (*Nurcan Bayraktar v. Türkiye*, 2023, § 24; *Bitenc v. Slovenia* (dec.), 2008).

In general, the word "victim" under Article 34 denotes the following categories of persons: those *directly* affected by the alleged violation of the Convention (the direct victims); those *indirectly* affected by the alleged violation of the Convention (the indirect victims); and those *potentially* affected by the alleged violation of the Convention (the potential victims) (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 463). In any event, whether the victim is direct, indirect or potential, there must be a sufficiently direct link between the applicant and the harm which he or she claims to have sustained or will sustain as a result of the alleged violation (*Eliseev and Ruski Elitni Klub* (dec.), 2018, § 32; *Mansur Yalçın and Others v. Turkey*, 2014 § 40; *Akdeniz v. Turkey* (dec.), 2014, § 21).

Principles drawn from the current case-law

Two types of potential victim status may be found in the case-law (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 469). The term "potential" refers, in some circumstances, to victims who claim that they are at present, or have been, affected by the general measure complained of, and, in other circumstances, to those who claim that they might be affected by such a measure in the future. In some instances, these two types of situations may coexist or may not be easily distinguishable and the relevant case-law principles may apply interchangeably (*ibid.*, § 471).

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

Persons affected by a particular general legislative measure:

The first type of potential victim is a person who claim to be presently affected by a particular general legislative measure. The Court has specified that it may accept the existence of victim status where applicants contend that a law violates their rights, in the absence of an individual measure of implementation if: (a) they belong to a class of people who risk being directly affected by the legislation, or (b) they are required either to modify their conduct or risk being prosecuted (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 469; see also *Tănase v. Moldova* [GC], 2010, § 104).

(a) Individuals belonging to a class of persons who risk being directly affected by legislation

- where an applicant was unable to establish that the legislation of which he or she complained had actually been applied to him or her, on account of the secret nature of the measures it authorised (*Klass and Others v. Germany*, 1978, § 34; *Kennedy v. the United Kingdom*, 2010, §§ 124 and 129). The Court has applied this principle in respect of domestic laws and practices permitting secret surveillance (*Centrum för rättvisa v. Sweden* [GC], 2021 § 167; *Pietrzak and Bychawska-Siniarska and Others v. Poland*, 2024, §§ 138-146) and the subsequent access by the domestic authorities to the retained communication data (*Ekimdzhiev and Others v. Bulgaria*, 2022, §§ 376 and 384; *Podchasov v. Russia*, 2024, §§ 53-58). See below for further details.
- where domestic legislation was automatically applicable to persons in the applicants' situation (*Parrillo v. Italy* [GC], 2015, §§ 117-19; *Burden v. the United Kingdom* [GC], 2008, § 35; *Nurcan Bayraktar v. Türkiye*, 2023, §§ 27-29; *Marckx v. Belgium*, 1979, § 27;).
- where an individual was otherwise able to demonstrate that he or she fulfilled the statutory conditions for a domestic law to be applied to him or her (see, for example, *Tănase v. Moldova* [GC], 2010, §§ 108 and 111; *Sejdić and Finci v. Bosnia and Herzegovina* [GC], 2009, §§ 28-29; *Colon v. the Netherlands* (dec.), 2012, §§ 60-61; see, in contrast, *Shortall and Others v. Ireland* (dec.), 2021, §§ 50-59).
- where an individual was capable of demonstrating that he or she ran the risk of being adversely affected by an obligation imposed by the law on another individual (*Open Door and Dublin Well Woman v. Ireland* [Plenary], 1992, § 44; *Kosaitė - Čypienė and Others v. Lithuania*, 2019 § 70).

(b) Individuals required either to modify their conduct or risk being prosecuted

- where a law against homosexual acts was capable of being applied to a certain category of persons, which included the applicant, who was therefore in a situation either to respect the law and refrain from engaging – even in private and with consenting male partners – in prohibited sexual acts to which he was disposed by reason of his homosexual tendencies, or to commit such acts and thereby become liable to criminal prosecution (*Dudgeon v. the United Kingdom* [Plenary], 1981, § 41; see also *S.L. v. Austria* (dec.), 2001). The Court followed the same approach even when the risk of prosecution was minimal, in the absence of a stated policy on the part of the prosecuting authorities not to enforce the law in this respect. In this regard, it observed that a law which remains on the statute book, even though it is not enforced in a particular class of cases for a considerable time, may be applied again in such cases at any time, if for example there is a change of policy (*Norris v. Ireland* [Plenary], 1988, § 33).
- where a law required lawyers, subject to disciplinary sanctions, to report to the domestic authorities suspicious operations of persons who came to them for advice, in beach of the principles of lawyer-client privilege and professional confidentiality. The Court observed that

the applicant was faced with the dilemma of either applying the rules and relinquishing his concept of the principle of lawyer-client privilege, or deciding not to apply them and expose himself to disciplinary sanctions (*Michaud v. France*, 2012, §§ 52 and 53).

- where a law prohibited wearing the full-face veil in a public space, the Court noted that a woman who wished to wear the full-face veil for religious reasons was confronted with the dilemma of either complying with the ban and thus refraining from dressing in accordance with her approach to religion, or refusing to comply and face prosecution. The Court did not consider necessary for the applicant either to prove that she was a practising Muslim or to show that it was her faith which obliged her to wear the full-face veil: her statements sufficed in this connection (*S.A.S. v. France* [GC], 2014, §§ 56-58).
- where a domestic legislation prevented the expression of opinions on a specific issue, thereby exposing a person willing to express such opinions to an ongoing risk of being subjected to investigation or prosecution (*Altuğ Taner Akçam v. Turkey*, 2011, §§ 65-84).

By contrast, the Court dismissed for lack of victim status cases in which the risk of prosecution alleged by the applicant was found by the Court to be non-existent (see, for example, *T.B.N. v. Romania* (dec.), 2010, § 31; *Arabadjiev and Stavrev v. Bulgaria* (dec.), 2006).

Persons that may be affected at some future point in time:

The second type of potential victim is a person who argues that they may be affected at some future point in time. The Court has made clear that the exercise of the right of individual petition cannot be used to prevent a potential violation of the Convention and that, in theory, the Court cannot examine a violation other than *a posteriori*, i.e., once that violation has occurred. It is only in highly exceptional circumstances that an applicant may nevertheless claim to be a victim of a violation of the Convention owing to the risk of a future violation. In general, the relevant test to examine the existence of such victim status is that the applicant must produce "reasonable and convincing evidence" of the "likelihood" that a violation affecting him or her personally will occur; mere suspicion or conjecture being insufficient in this regard (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 470).

The Court has recognised victim status in this type of situation in a number of cases, for example:

- where an alien's deportation had been ordered but not yet enforced and where enforcement of the order would have exposed him, in the receiving country, to treatment contrary to Article 3 (*Soering v. the United Kingdom* [Plenary], 1989, § 90)
- where a confiscation order had been adopted by the authorities of a Member State and, although it had not been enforced yet, the domestic authorities requested its recognition and enforcement within the legal system of a third State (*The J. Paul Getty Trust and Others v. Italy*, 2024, §§ 230-31);

By contrast, the Court has clarified that it is not possible to claim to be the "victim" of an act which is deprived, temporarily or permanently, of any legal effect (*M.C. v. Türkiye*, 2024, §§ 36-37, and *The J. Paul Getty Trust and Others v. Italy*, 2024, § 226, with further references). Therefore, applicants cannot claim to be victims of a measure which is not enforceable (*Nabid Abdullayev v. Russia*, 2015, § 48).

Selected topics

Abortion:

The Court has examined to what extent, and in which situations, a woman can claim to be a victim of domestic legislation preventing or limiting access to lawful abortion.

In cases concerning applicants who had travelled abroad for an abortion for reasons of health and well-being owing to a prohibition on abortions in their home countries, the Court accepted them to be (direct) victims because they could claim to be "directly affected" by the contested legislation (*A, B and C v. Ireland* [GC], 2010, §§ 124-128; *M.L. v. Poland*, 2023, §§ 100-104).

By contrast, in *A.M. and Others v. Poland* (dec.), 2023, the applicants had argued that they belonged to a group of persons, namely "women of child-bearing age", who risked being directly affected by the Constitutional Court's judgment reducing access to abortion. The Court noted that, in a similar situation, the applicants had to produce reasonable and convincing evidence to be able to claim to be victims of a violation (§ 79). In the specific circumstances of the case, the Court observed that: the applicants, who claimed to have medical conditions which allegedly caused a higher risk of foetal malformation, had not provided any medical evidence substantiating their claims (§ 80); the applicants who were pregnant at the time of lodging their applications had not adduced that their foetuses had been diagnosed with any abnormalities nor any evidence as to their state of health or their potentially running a higher risk of foetal malformation (§ 81); and the other applicants had merely stated that they were planning pregnancy and that the impugned Constitutional Court's judgment had caused them stress and anguish (§§ 82-83). The Court observed that the applicants failed to advance any convincing evidence that they were at a real risk of being directly affected by the amendments introduced by the Constitutional Court's judgment and concluded that the restrictions resulting from those amendments could only have hypothetical consequences for the applicants' personal situations and that such consequences seemed too remote and abstract for the applicants to arguably claim to be "victims" within the meaning of Article 34 (§ 86; compare and contrast *Kosaitė - Čypienė and Others v. Lithuania*, 2019, §§ 68-70).

Climate change:

The Court has examined how and to what extent allegations of harm, linked to State actions and/or omissions in the context of climate change affecting individuals' Convention rights can be examined without undermining the exclusion of *actio popularis* from the Convention system and without ignoring the nature of the Court's judicial function, which is by definition reactive rather than proactive (*Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], 2024, § 481). It observed, in this regard, that although the lack of or insufficient State action to combat climate change does entail a situation with general effect, the Court does not consider that the case-law concerning "potential" victims, under which victim status could be claimed by a "class of people" who have "a legitimate personal interest" in seeing the impugned situation being brought to an end, could be applied here. In the context of climate change, this could cover virtually anybody and would therefore not work as a limiting criterion. Everyone is concerned by the actual and future risks, in varying ways and to varying degrees, and may claim to have a legitimate personal interest in seeing those risks disappear (*ibid.*, § 485).

Accordingly, the Court found that in order to claim victim status under Article 34 of the Convention in the context of complaints concerning harm or risk of harm resulting from alleged failures by the State to combat climate change, an applicant needs to show that he or she was personally and directly affected by the impugned failures. This would require the Court to establish the following as regards the applicant's situation:

- the applicant must be subject to a high intensity of exposure to the adverse effects of climate change, that is, the level and severity of (the risk of) adverse consequences of governmental action or inaction affecting the applicant must be significant; and
- there must be a pressing need to ensure the applicant's individual protection, owing to the absence or inadequacy of any reasonable measures to reduce harm.

The threshold for fulfilling these criteria is especially high. In view of the exclusion of *actio popularis* under the Convention, whether an applicant meets that threshold will depend on a careful assessment of the concrete circumstances of the case. In this connection, the Court will have due regard to circumstances such as the prevailing local conditions and individual specificities and vulnerabilities. The Court's assessment will also include, but will not necessarily be limited to, considerations relating to: the nature and scope of the applicant's Convention complaint, the actuality/remoteness and/or probability of the adverse effects of climate change in time, the specific impact on the applicant's life, health or well-being, the magnitude and duration of the harmful effects, the scope of the risk (localised or general), and the nature of the applicant's vulnerability (*ibid.*, §§ 487-488).

Extradition and/or expulsion/deportation of aliens:

Where an applicant claims that a decision to extradite him would, if implemented, be contrary to Article 3 of the Convention by reason of its foreseeable consequences in the requesting country, a departure from the original principle is necessary, in view of the serious and irreparable nature of the alleged suffering risked, in order to ensure the effectiveness of the safeguard provided by that Article (*Soering v. the United Kingdom* [Plenary], 1989, § 90). In similar cases, it must be established that, in the particular circumstances of the case, there is a real risk that the applicant would suffer treatment contrary to Article 3 in the event of extradition (*Shamayev and Others v. Georgia and Russia*, 2005, § 339).

The lack of a formal decision on extradition does not prevent the Court from finding that the applicant enjoys victim status: as long as the extradition proceedings are still pending, and the applicant remains at risk of being extradited in the absence of any domestic remedy offering a review of the decision on extradition *and* which is suspensive of the extradition, he or she does not need to await the final decision on his or her extradition to lodge his or her application with the Court (*Puzan v. Ukraine*, 2010, § 29). Similarly, where an expulsion order is final and enforceable, it continues to have full legal effect and there is no indication that the authorities have suspended its enforcement or that it is possible to challenge its enforcement, the applicant has victim status (*Auad v. Bulgaria*, 2011, § 92, with further references).

By contrast, where the applicant's extradition had been refused and the extradition proceedings were discontinued, the Court considered that there was nothing suggesting a risk to being extradited and, accordingly, dismissed the case for lack of victim status (*M.C. v. Türkiye*, 2024, § 36; *Khodzhamberdiyev v. Russia*, 2012, § 74; *Svetlorusov v. Ukraine*, 2009, §§ 37-38). It has adopted the same stance in cases where the execution of the deportation or extradition order had been stayed indefinitely or otherwise deprived of legal effect and where any decision by the authorities to proceed with deportation could be appealed against before the relevant courts (*A.D. and Others v. Turkey*, 2014, § 80; *Karimov v. Russia*, 2010, § 89; *Nabid Abdullayev v. Russia*, 2015, § 48, with further references).

Electoral issues:

Where domestic law provided for the ineligibility to stand for elections on the ground of racial origin, the Court considered sufficient for the purpose of victim status the applicant's "active participation in public life" (*Sejdić and Finci v. Bosnia and Herzegovina* [GC], 2009, § 29). Similarly, where domestic law prohibited individuals holding other nationalities from sitting as members of the parliament following their elections, the Court considered it sufficient that the applicant had expressed an intention to run in the next elections knowing that if elected, he would be required to take steps to renounce his Romanian nationality; the Court therefore considered that, even in the absence of a specific measure of implementation, the applicant was directly affected by the contested legislation (*Tănase v. Moldova* [GC], 2010, § 108).

By contrast, in a case of a domestic law imposing an oath with a religious element to be made by the President of Ireland upon being elected and by persons appointed to be members of the Council of State, the Court considered that the applicants had to demonstrate that their appointment to the Council of State was a realistic possibility, that they had a real intention of seeking the office of the President, and that they had some realistic prospects in that regard (*Shortall and Others v. Ireland* (dec.), 2021, §§ 50 and 53). In this context, the Court observed that the applicants were seeking to have their victim status accepted, not in the context of a clear, immediate and compelling factual matrix which would allow them to adduce reasonable and convincing evidence that they were at a real risk of being adversely affected by the impugned measure, but rather as a hypothetical outcome, without addressing the very many challenges they would potentially have to overcome to secure that office (*ibid.*, § 58).

Likewise, in *Kovačević v. Bosnia and Herzegovina* [GC], 2025, the applicant alleged that he had been discriminated against on account of the inability to vote for candidates of one's choice in legislative and presidential elections due to a combination of ethnic and territorial requirements in Bosnia and Herzegovina. The Court found that rather than alleging a violation of any of his individual rights protected under the Convention, the applicant's complaints were intended to effect fundamental and conceptual changes to the constitutional structure and electoral legislation in the respondent State in general. It concluded that the applicant lacked victim status as his claims amounted to an abstract critique of the "state of the law", of an *actio popularis* nature (§§ 210 and 214-15).

In *Dimirtas and Others v. Greece* (dec.), 2017, the Court considered that the mere fact of being a Greek citizen who was eligible to vote did not suffice in order to complain of domestic legislation which prevented the dissemination of opinion polls (§ 31).

Inheritance issues:

In *Marckx v. Belgium*, 1979, the applicants, a single mother and her five-year old daughter, were found to be directly affected by, and thus victims of, legislation which would, *inter alia*, limit the child's right to inherit property from her mother upon the mother's eventual death, since the law automatically applied to all children born out of wedlock (§ 27). Similarly, in *Burden v. the United Kingdom* [GC], 2008, concerning the ineligibility to exemption from inheritance tax of cohabiting sisters, the Court found that given the applicants' age, their respective wills that would leave all estate to the other, and the value of the property each owns, it was established that there is a real risk that, in the not too distant future, one of them will be required to pay substantial inheritance tax on the property inherited. They were thus directly affected by the legislation (§ 35).

In contrast, in *Willis v. the United Kingdom*, 2002, the risk to the applicant of being refused a widow's pension on grounds of sex at a future date was found to be hypothetical, since it was not certain that the applicant would otherwise fulfil the statutory conditions for the payment of the benefit at the date when a woman in his position would become entitled (§ 49).

Measures affecting the right to receive information:

The Court has applied the notion of potential victim in a number of cases concerning measures affecting the right to receive information under Article 10 of the Convention.

In *Open Door and Dublin Well Woman v. Ireland* [Plenary], 1992, the interference in question was an injunction against the provision by the applicant non-governmental organisations of, *inter alia*, information to women about abortion services abroad. The Court recognised the victim status of Mrs X and Mrs Geraghty – two applicants whose beliefs had encouraged them to join the application lodged by the corporate applicants – on the grounds that it was not disputed that they belonged to a class of women of child-bearing age which may be adversely affected by the restrictions imposed and

that they were not seeking to challenge *in abstracto* the compatibility of Irish law with the Convention since they run a risk of being directly prejudiced by the measure complained of (§ 44).

In *Cengiz and Others v. Turkey*,2015, the Court held that the answer to the question whether an applicant can claim to be the victim of a measure blocking access to a website depends on an assessment of the circumstances of each case, in particular the way in which the person concerned uses the website and the potential impact of the measure on him. It is also relevant that the Internet has now become one of the principal means by which individuals exercise their right to freedom to receive and impart information and ideas, providing as it does essential tools for participation in activities and discussions concerning political issues and issues of general interest (§ 49).

The Court subsequently clarified that "purely hypothetical risks" are insufficient in this regard (*Akdeniz and Others v. Turkey*, 2021, § 57, with further references).

Secret measures:

The Court has accepted that an individual may, under certain conditions, claim to be the victim of a violation occasioned by the mere existence of secret measures or of legislation permitting secret measures, without having to allege that such measures were in fact applied to him or her (*Klass and Others v. Germany*, 1978, § 34).

The Court has subsequently clarified the conditions under which an applicant can claim to be the victim of a violation of Article 8 without having to prove that secret surveillance measures had in fact been applied to him or her (*Kennedy v. the United Kingdom*, 2010, § 124). In particular, the Court has accepted that an applicant can claim to be the victim of a violation in this context, if the following conditions are satisfied (see, more extensively, *Roman Zakharov v. Russia* [GC], 2015, § 171).

- Firstly, the Court will take into account the scope of the legislation permitting secret surveillance measures by examining whether the applicant can possibly be affected by it, either because he belongs to a group of persons targeted by the contested legislation or because the legislation directly affects all users of communication services by instituting a system where any person can have his communications intercepted.
- Secondly, the Court will take into account the availability of remedies at the national level and will adjust the degree of scrutiny depending on the effectiveness of such remedies.

Where the domestic system does not afford an effective remedy to the person who suspects that he was subjected to secret surveillance, widespread suspicion and concern among the general public that secret surveillance powers are being abused cannot be said to be unjustified. In such circumstances the threat of surveillance can be claimed in itself to restrict free communication through the postal and telecommunication services, thereby constituting for all users or potential users a direct interference with the right guaranteed by Article 8. There is therefore a greater need for scrutiny by the Court, and an exception to the rule denying individuals the right to challenge a law *in abstracto* is justified. In such cases the individual does not need to demonstrate the existence of any risk that secret surveillance measures were applied to him. By contrast, if the national system provides for effective remedies, a widespread suspicion of abuse is more difficult to justify. In such cases, the individual may claim to be a victim of a violation occasioned by the mere existence of secret measures or of legislation permitting secret measures only if he is able to show that, due to his personal situation, he is potentially at risk of being subjected to such measures (*ibid.*, § 171).

The same principles have been more recently reiterated and applied in *Big Brother Watch and Others v. the United Kingdom*, 2018, §§ 249-268, *Centrum för rättvisa v. Sweden* [GC] 2021, § 167, *Ekimdzhiev and Others v. Bulgaria*, 2022, §§ 262-277, and *Pietrzak and Bychawska-Siniarska and Others v. Poland*, 2024, §§ 139-146.

By contrast, the Court held that those principles could not be applied in a case in which the applicant was complaining of the alleged failure of the domestic authorities to protect his personal data stored in a database managed by the tax authorities from abuse and misuse, as the Court considered that that similar situation could not be compared to that of secret surveillance (*Casarini v. Italy* (dec.), 2024, § 58).

Statutory restrictions on visits in detention:

The Court has also applied the above principles to complaints under Article 8 of the Convention concerning restrictions to family visits in detention.

In the case of *Khoroshenko v. Russia* [GC], 2015, the Court was satisfied that the applicant could claim to be a victim of the violation alleged because he had convincingly demonstrated that he had relatives and friends with whom he wished to maintain contact whilst in detention (§ 19), that he had used his right to family visits as frequently as had been permitted under the domestic law, and that he had received visits from his mother, his father and his brother, and is friends had also tried, and failed to visit him (§§ 24, 26, 89-91). In the case of *Daktaras v. Lithuania* [Committee] (dec.), 2018, by contrast, it declared the application inadmissible (incompatible *ratione personae* with the provisions of the Convention) because the applicant had failed to submit evidence showing that he had sought particular visits whilst in detention (§§ 60-61).

Subsequently, the Court in *Chernenko and Others v. Russia* (dec.), 2019, clarified that, where an applicant alleges a breach of the right to respect for private and family life on account of statutory restrictions on visits from family members and other persons, in order to claim to be the victim of the alleged violation he or she should demonstrate at least (§ 45):

- that he or she has relatives or other persons with whom he or she genuinely wishes and attempts to maintain contact in detention (the applicant should specify them and provide an account of their attempted or actual visits), and
- that he or she has used his right to visits as frequently as was permitted under domestic law (at least in the period immediately preceding the application).

Other noteworthy examples

- *Ada Rossi and Others v. Italy* (dec.), 2008: the applicants (several individuals and an association) complained of a judicial decision authorising the father of E.E. (a third individual with whom they had no connection) to discontinue his daughter's artificial nutrition and hydration. The Court examined whether the applicants could claim to be potential victims of the alleged violations of Articles 2 and 3 on account of the outcome of domestic courts proceedings relating to a third party. Although noting that the applicants found themselves in a similar situation (they depended on artificial nutrition and hydration), the Court observed that the decisions whose effects the applicants feared were delivered in relation to a specific set of circumstances concerning a third party. The competent national authorities, if called to rule on the applicants' situation, would not have been bound by the finding in the case of E.E., and the Court therefore concluded that the individual applicants could not claim to be victims of a breach by the State of its obligation to protect the rights invoked by them under Articles 2 and 3 of the Convention.
- *Ligue des musulmans de Suisse and Others v. Switzerland* (dec.), 2011: the applicants complained of domestic legislation prohibiting the construction of minarets, arguing that it constituted an unjustified interference with their freedom of religion and a discrimination grounded on religion. The Court noted that the applicants had not manifested their intention to build a minaret nor had they argued that the impugned legislation had effects on the applicant association's functioning, by producing a loss of members or prestige. The Court

therefore concluded that, in the absence of any measure implementing the contested legislation, the applicants' complaint constituted "simple conjectures" which could not have justified the recognition of their victim status (see also *Quardiri v. Switzerland* (dec.), 2011).

- *Colon v. the Netherlands* (dec.), 2012, § 61: the applicant complained about the designation of a security area which enabled a public prosecutor to conduct random searches of people without any judicial review. The Court noted that the applicant was engaged in lawful pursuits for which he might reasonably wish to visit the part of Amsterdam city centre designated as a security risk area and that this made him liable to be subjected to search orders should these happen to coincide with his visits there and concluded that he could therefore claim potential victim status.
- *Parrillo v. Italy* [GC], 2015, §§ 117-18: domestic legislation continuously and directly prevented the applicant from donating embryos to research. The Court found it sufficient for the purpose of victim status that the applicant wanted to donate her embryos to research at the time of lodging her application with the Court.
- *Kosaitė - Čypienė and Others v. Lithuania*, 2019, § 70: the applicants complained under Article 8 that Lithuanian law had dissuaded healthcare professionals from assisting them when giving birth at home. The Court noted that the fourth applicant was not pregnant when the application had been lodged. However, it considered that she belonged to a category of women – those of child-bearing age – that could have been adversely affected by the restriction and, accordingly, considered that she ran a risk of being directly prejudiced by the measure complained of (see also *Ternovszky v. Hungary*, 2010, § 21, where the Court relied on the fact that the applicant was pregnant at the time of the introduction of the application and inclined to give birth at home).
- *Nurcan Bayraktar v. Türkiye*, 2023, §§ 27-29: the applicant complained of domestic legislation imposing on women a statutory 300-day waiting period from the date of the divorce in order to remarry. The Court noted that the applicant had failed to provide any evidence that she had had a plan to marry or that she had actually entered into a marriage thereafter. However, the Court considered that the fact that the applicant was subjected to a waiting period before being able to remarry and that it was necessary, in order to have that period waived, for her to bring proceedings specifically to that end, in the course of which it was required that she produce a medical certificate proving she was not pregnant, sufficed for her to have victim status as a person "directly affected" by the contested legislation, even in the absence of a specific measure of implementation.
- *Djeri and Others v. Latvia*, 2024, § 125: the applicant alleged that Russian-speaking pupils in the second stage of pre-schools were treated differently from Latvian-speaking pupils following the adoption of legislative amendments. As regards one of the applicants, the Court noted that she was not at pre-school when the application had been lodged and, while she was at pre-school when the Court decided the case, she was not yet in the second stage, which was the one affected by the contested legislation. The Court therefore considered that the applicant was not directly affected by the contested legislation and, accordingly, could not claim to be a victim.

Related (but different) topics

Potential victims must be distinguished from victims that, although not "personally targeted" by a specific or general domestic measure, are "directly affected" or "directly concerned" by it or by its consequences and, accordingly, are qualified by the Court as "direct victims":

- *Otto-Preminger-Institut v. Austria*, 1994, § 40: the applicant association complained under Article 10 of the seizure and forfeiture of a film. The Court observed that, although the association was not the owner of either the copyright or the forfeited copy of the film, it was

directly affected by the decision on forfeiture, which had the effect of making it impossible for it ever to show the film in its cinema in Innsbruck or, indeed, anywhere in Austria.

- *Grande Oriente d'Italia di Palazzo Giustiniani v. Italy*, 2001 § 15: the applicant association complained under Article 11 about legislation which obliged individuals, aiming to occupy public office at regional level, to declare that they were not Freemasons. The Court noted that the legislation did not apply to the applicant association as such, but considered that it could have caused it damage in terms of loss of members and prestige. It therefore concluded that it could claim victim status (see also *Grande Oriente d'Italia di Palazzo Giustiniani v. Italy (no. 2)*, 2007, §§ 20-21, where the applicant association complained about the discriminatory nature of the obligation imposed on its members; see also *Enerji Yapı-Yol Sen v. Turkey*, 2009, § 24, where the Court considered that the prohibition on public officials participating in a strike directly affected the applicant's association trade union freedom).
- *Aksu v. Turkey* [GC], 2012, § 53: the applicant, of Roma origin, complained about remarks and expressions included in a book which allegedly debased the Roma community. The Court observed that, although the applicant had not been personally targeted, he could, however, have felt offended by the remarks concerning the ethnic group to which he belonged.
- *Vallianatos and Others v. Greece* [GC], 2013 § 49: the applicants alleged that the fact that the civil unions introduced in Greece were designed only for heterosexual couples infringed their right to respect for their private and family life and amounted to unjustified discrimination. The Court noted that that the applicants were individuals of full age, who were in same-sex relationships and in some cases cohabited. To the extent that, as a result of the provision which excluded same-sex couples from the scope of the Law, they could not enter into a civil union, the Court considered that they were directly concerned by the situation and had a legitimate personal interest in seeing it brought to an end, and concluded the applicants should be considered victims.
- *Kosaitė - Čypienė and Others v. Lithuania*, 2019, §§ 68-69: due to legislation that prohibited health professionals to provide healthcare assistance during births at home, the applicant had given birth at home without qualified healthcare assistance. The Court therefore accepted that she could claim to be victim of the contested measure, notably the legislation directed towards healthcare professionals (see also *Pojatina v. Croatia*, 2018, § 46).
- *M.A. and Others v. France* (dec.), 2023, §§ 43-44: where a law criminalised the purchase of sexual relations, the Court recognised that the applicants, individuals who engaged in prostitution, were victims within the meaning of Article 34 noting that the criminalisation of clients forced prostitutes to work in a clandestine and isolated manner, which exposed them to increased risks.

Further references

Case-law guides:

- Guide on Article 34/35 (Admissibility)

Other key themes:

- The locus standi of relatives (indirect victims) to bring a case to the Court when the direct victim has died

KEY CASE-LAW REFERENCES

Leading case:

- *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [GC], no. 53600/20, 9 April 2024 (victim status excluded in respect of the individual applicants, and accepted in respect of the applicant association).

Other cases under Article 34:

- *Marckx v. Belgium*, no. 6833/74, 13 June 1979, Series A no. 31 (victim status accepted);
- *Dudgeon v. the United Kingdom*, no. 7525/76, 22 October 1981, Series A no. 45 (victim status accepted);
- *Norris v. Ireland*, 26 October 1988, Series A no. 142 (victim status accepted);
- *Soering v. the United Kingdom*, no. 14038/88, 7 July 1989, Series A no. 161 (victim status accepted);
- *Open Door and Dublin Well Woman v. Ireland*, 29 October 1992, Series A no. 246-A (victim status accepted);
- *Shamayev and Others v. Georgia and Russia*, no. 36378/02, ECHR 2005-III (victim status excluded in respect of some of the applicants);
- *Arabadjiev and Stavrev v. Bulgaria* (dec.), no. 7380/02, 14 February 2006 (victim status excluded);
- *Burden v. the United Kingdom* [GC], no. 13378/05, ECHR 2008 (victim status accepted);
- *Bitenc v. Slovenia* (dec.), no. 32963/02, 18 March 2008 (victim status excluded);
- *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, ECHR 2009 (victim status accepted);
- *Svetlorusov v. Ukraine*, no. 2929/05, 12 March 2009 (victim status excluded in respect of the complaint concerning the risk of being subjected to ill-treatment and an unfair trial by the Belarus authorities in case of extradition);
- *T.B.N. v. Romania* (dec.), no. 34644/02, 5 January 2010 (victim status excluded);
- *Puzan v. Ukraine*, no. 51243/08, 18 February 2010 (victim status accepted);
- *Karimov v. Russia*, no. 54219/08, 29 July 2010 (victim status accepted);
- *Tănase v. Moldova* [GC], no. 7/08, ECHR 2010 (victim status accepted);
- *A, B and C v. Ireland* [GC], no. 25579/05, ECHR 2010 (victim status accepted);
- *Ternovszky v. Hungary*, no. 67545/09, 14 December 2010 (victim status accepted);
- *Ligue des musulmans de Suisse and Others v. Switzerland* (dec.), no. 66274/09, 28 June 2011 (victim status excluded);
- *Quardiri v. Switzerland* (dec.), no. 65840/09, 28 June 2011 (victim status excluded);
- *Auad v. Bulgaria*, no. 46390/10, 11 October 2011 (victim status accepted);
- *Altuğ Taner Akçam v. Turkey*, no. 27520/07, 25 October 2011 (victim status accepted);
- *S.L. v. Austria* (dec.), no. 45330/99, 22 November 2011 (victim status accepted);
- *Aksu v. Turkey* [GC], nos. 4149/04 and 41029/04, ECHR 2012 (victim status accepted);
- *Colon v. the Netherlands* (dec.), no. 49458/06, 15 May 2012 (victim status accepted);
- *Khodzhamberdiyev v. Russia*, no. 64809/10, 5 June 2012 (victim status accepted);
- *Michaud v. France*, no. 12323/11, ECHR 2012 (victim status accepted);

- *Akdeniz v. Turkey* (dec.), no. 20877/10, 11 March 2014 (victim status excluded);
- *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, ECHR 2014 (victim status accepted);
- *A.D. and Others v. Turkey*, no. 22681/09, 22 July 2014 (victim status excluded in respect of the complaint concerning the risk of being executed or subjected to incommunicado detention, torture or other inhuman or degrading treatment in case of deportation to China);
- *Mansur Yalçın and Others v. Turkey*, no. 21163/11, 16 September 2014 (victim status accepted in respect of some of the applicants, and excluded in respect of the others);
- *Khoroshenko v. Russia*, [GC], no. 41418/04, ECHR 2015 (victim status excluded in respect of the complaint concerning the lack of conjugal visits during the applicant's detention in the special-regime correctional colony);
- *Nabid Abdullayev v. Russia*, no. 8474/14, 15 October 2015 (victim status accepted);
- *Cengiz and Others v. Turkey*, nos. 48226/10 and 14027/11, ECHR 2015 (extracts) (victim status accepted);
- *Roman Zakharov v. Russia* [GC], no. 47143/06, ECHR 2015 (victim status accepted);
- *Dimirtas and Others v. Greece* (dec.), nos. 59573/09 and 65211/09, 4 July 2017 (victim status excluded);
- *Daktaras v. Lithuania*, [Committee] (dec.), no. 78123/13, 3 July 2018 (victim status excluded);
- *Eliseev and Ruski Elitni Klub* (dec.), no. 8144/07, 10 July 2018 (victim status excluded in respect of the first applicant);
- *Chernenko and Others v. Russia* (dec.), no. 4246/14, 5 February 2019 (victim status excluded);
- *Kosaitė - Čypienė and Others v. Lithuania*, no. 69489/12, 4 June 2019 (victim status accepted);
- *Akdeniz and Others v. Turkey*, nos. 41139/15 and 41146/15, 4 May 2021 (victim status accepted in respect of some applicants, and excluded in respect of the others);
- *Centrum för rättvisa v. Sweden* [GC], no. 35252/08, 25 May 2021 (victim status accepted);
- *Ekimdzhiev and Others v. Bulgaria*, no. 70078/12, 11 January 2022 (victim status accepted);
- *A.M. and Others v. Poland* (dec.), nos. 4188/21 and 7 others, 16 May 2023 (victim status excluded);
- *Nurcan Bayraktar v. Türkiye*, no. 27094/20, 27 June 2023 (victim status accepted);
- *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, 27 November 2023 (victim status excluded);
- *M.L. v. Poland*, no. 40119/21, 14 December 2023 (victim status accepted);
- *Podchasov v. Russia*, no. 33696/19, 13 February 2024 (victim status accepted);
- *The J. Paul Getty Trust and Others v. Italy*, no. 35271/19, 2 May 2024 (victim status accepted in respect of the applicant Trust, and excluded in respect of the members of its board of trustees);
- *Pietrzak and Bychawska-Siniarska and Others v. Poland*, nos. 72038/17 and 25237/18, 28 May 2024 (victim status accepted);
- *M.C. v. Türkiye*, no. 31592/18, 4 June 2024 (victim status accepted);
- *Djeri and Others v. Latvia*, no. 50942/20, 18 July 2024 (victim status accepted in respect of all applicants except one);
- *Casarini v. Italy* (dec.), no. 25578/11, 5 November 2024 (victim status accepted in respect of the complaint concerning the failure of the State to protect the applicant's personal data

from abuse and misuse by the Revenue Police, and excluded in respect of the complaint concerning the failure to protect those data from abuse and misuse from third entities);

- *Kovačević v. Bosnia and Herzegovina* [GC], no. 43651/22, 25 June 2025 (victim status excluded).