



## KEY THEME<sup>1</sup>

### Article 14

### Prisoners and discrimination

(Last updated: 31/08/2024)

#### Introduction

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Discrimination in the context of imprisonment has come before the Court in two different ways. On the one hand, the Court has examined cases of alleged discrimination on the ground of being a prisoner as an aspect of a personal status, including cases of alleged discrimination between different types of persons deprived of liberty. On the other hand, it has scrutinised a number of cases in an imprisonment-related context raising issues of discrimination on different grounds.

#### Prisoner status as grounds for discrimination

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- Being a prisoner is an aspect of personal status and amounts to “other status” for the purposes of Article 14 (*Stummer v. Austria* [GC], 2011, § 90; *P.C. v. Ireland*, 2022, § 80 and other references cited therein);
- Being a detainee in a remand prison also falls within the concept of “other status” under Article 14 of the Convention (*Chaldeyev v. Russia*, 2019, § 72);
- From the perspective of the right to respect for private and family life, detainees are in an analogous position to convicted prisoners (*Laduna v. Slovakia*, 2011, § 58; *Varnas v. Lithuania*, 2013, § 114; *Chaldeyev v. Russia*, 2019, § 75). Whereas, in the context of old-age pension payments, convicted prisoners are not considered to be in an analogous or relevantly similar position to remand prisoners (*P.C. v. Ireland*, 2022, §§ 87-92; see also §§ 81-86 for the comparison between the situation of a convicted prisoner and that of a person detained for the treatment of a mental illness).

#### Noteworthy examples

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- *Stummer v. Austria* [GC], 2011: Refusal to take work performed in prison into account in the calculation of pension rights;
- *Clift v. the United Kingdom*, 2010: Differences in procedural requirements for early release depending on the length of the sentence; and
- Difference in treatment of remand prisoners compared to convicted prisoners as regards visiting rights (*Laduna v. Slovakia*, 2011; *Chaldeyev v. Russia*, 2019; *Vool and Toomik v. Estonia*, 2022) and as regards conjugal visits (*Varnas v. Lithuania*, 2013);
- *P.C. v. Ireland*, 2022: Disqualification of convicted prisoner from old-age pension payments while incarcerated;
- *Stott v. the United Kingdom*, 2023: Difference in treatment in early release eligibility between the applicant and other prisoners convicted under different sentencing regimes.

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<sup>1</sup> Prepared by the Registry. It does not bind the Court.

## Discrimination in prison-related context

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- *Khamtokhu and Aksenchik v. Russia* [GC], 2017: Exemption of female offenders from life imprisonment;
- *Petrov v. Bulgaria*, 2008: Prisoner’s inability to make telephone calls to his partner because they were not married;
- *Rangelov v. Germany*, 2012: Refusal of social therapy or relaxation of conditions of preventive detention due to the applicant’s foreign nationality;
- *X v. Turkey*, 2012: Total isolation of homosexual prisoner for more than eight months, allegedly to protect him from fellow prisoners;
- *Martzaklis and Others v. Greece*, 2015: Poor physical and sanitary conditions of HIV-positive prisoners without adequate treatment in the prison psychiatric wing;
- *Alexandru Enache v. Romania*, 2017: Deferral of prison sentence for mothers, but not fathers, of young children;
- *Aleksandr Aleksandrov v. Russia*, 2018: Refusal to impose a non-custodial sentence as a result of the applicant’s place of residence;
- *Ēcis v. Latvia*, 2019: Blanket ban on prison leave for male prisoners in closed prisons;
- *Dikaïou and Others v. Greece*, 2020: Placement of HIV/AIDS suffering prisoners in a collective cell within the prison wing also housing ordinary prisoners;
- *Bechi v. Romania*, 2024: Placement of a HIV positive prisoner in separate wings of the prison hospitals without the possibility of coming into contact with other prisoners or of undertaking any work.

## Further references

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### **Case-law guides:**

- [Guide on Prisoners’ Rights](#)

### **Other key themes:**

- [Health care in prison \(Prisoners’ rights\)](#)

### **Other:**

- [Handbook on European non-discrimination law](#), 2018 edition, published by the Court and the European Union Agency for Fundamental Rights (FRA)

## KEY CASE-LAW REFERENCES

### Leading cases:

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- *Stummer v. Austria* [GC], no. 37452/02, ECHR 2011 (no violation of Article 14 in conjunction with Article 1 of Protocol No. 1);
- *Khamtokhu and Aksenchik v. Russia* [GC], nos. 60367/08 and 961/11, 24 January 2017 (no violation of Article 14 in conjunction with Article 5).

### Other cases:

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- *Petrov v. Bulgaria*, no. 15197/02, 22 May 2008 (violation of Article 14 in conjunction with Article 8);
- *Clift v. the United Kingdom*, no. 7205/07, 13 July 2010 (violation of Article 14 in conjunction with Article 5);
- *Laduna v. Slovakia*, no. 31827/02, ECHR 2011 (violation of Article 14 in conjunction with Article 8);
- *Rangelov v. Germany*, no. 5123/07, 22 March 2012 (violation of Article 14 in conjunction with Article 5);
- *X v. Turkey*, no. 24626/09, 9 October 2012 (violation of Article 3 and Article 14 in conjunction with Article 3);
- *Varnas v. Lithuania*, no. 42615/06, 9 July 2013 (violation of Article 14 in conjunction with Article 8);
- *Martzaklis and Others v. Greece*, no. 20378/13, 9 July 2015 (violation of Article 3 and Article 14 in conjunction with Article 3);
- *Alexandru Enache v. Romania*, no. 16986/12, 3 October 2017 (no violation of Article 14 in conjunction with Article 8);
- *Aleksandr Aleksandrov v. Russia*, no. 14431/06, 27 March 2018 (violation of Article 14 in conjunction with Article 5);
- *Ēcis v. Latvia*, no. 12879/09, 10 January 2019 (violation of Article 14 in conjunction with Article 8);
- *Chaldayev v. Russia*, no. 33172/16, 28 May 2019 (violation of Article 8 and Article 14 in conjunction with Article 8);
- *Dikaiou and Others v. Greece*, no. 77457/13, 16 July 2020 (no violation of Article 3; no violation of Article 3 in conjunction with Article 14);
- *Vool and Toomik v. Estonia*, nos. 7613/18 and 12222/18, 29 March 2022 (violation of Article 14 in conjunction with Article 8);
- *P.C. v. Ireland*, no. 26922/19, 1 September 2022 (no violation of Article 14 in conjunction with Article 1 of Protocol No. 1);
- *Stott v. the United Kingdom*, no. 26104/19, 31 October 2023 (no violation of Article 14 in conjunction with Article 5);
- *Bechi v. Romania*, no. 45709/20, 25 June 2024 (no violation of Article 3 in conjunction with Article 14).