



# KEY CASES

## 2020



List of cases recommended  
by the Jurisconsult and  
approved by the Bureau

**European Court of  
Human Rights**

April 2021

## NOTE

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A selection of the most important cases dealt with by the Court (also referred to as “key cases”) is made quarterly by the [Bureau](#), upon recommendation by the [Jurisconsult](#). This list contains the selection of key cases for 2020.

Cases are listed by reference to the relevant Convention Articles and alphabetically by applicant and by respondent State.

By default, all references are to Chamber judgments. Grand Chamber cases, whether judgments or decisions, are indicated by “[GC]”. Decisions are indicated by “(dec.)”.

Chamber judgments that are not yet “final” within the meaning of Article 44 of the Convention are marked “(not final)”. In the event that any such judgment is accepted for referral to the Grand Chamber in accordance with Article 43, it will not be included in the present list.

For information on the manner of citing the Court’s case-law, please see [here](#).

### Article 44 § 2 – Final judgments

The judgment of a Chamber shall become final

- (a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or
- (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or
- (c) when the panel of the Grand Chamber rejects the request to refer under Article 43.

### Article 43 – Referral to the Grand Chamber

1. Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber.
2. A panel of five judges of the Grand Chamber shall accept the request if the case raises a serious question affecting the interpretation or application of the Convention or the Protocols thereto, or a serious issue of general importance.
3. If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

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# Cases by Article

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## ARTICLE 1

### JURISDICTION OF STATES

Refusal to grant visa applications submitted to an embassy in a non-member State on the basis of a risk of ill-treatment: *lack of jurisdiction*

**M.N. and Others v. Belgium (dec.) [GC], no. 3599/18, 5 May 2020**

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## ARTICLE 2

### LIFE | POSITIVE OBLIGATIONS (SUBSTANTIVE ASPECT)

Azerbaijan's "approval and endorsement" of crimes committed by its agent in private capacity, without clear and unequivocal "acknowledgement" and "adoption" of crimes "as its own": *no violation*

### POSITIVE OBLIGATIONS (PROCEDURAL ASPECT)

Azerbaijan's unjustified failure to enforce prison sentence for ethnic hate crime, imposed abroad on its officer, who was pardoned, promoted and awarded benefits upon return: *violation*

No failure by Hungary to ensure that Azerbaijani national would continue to serve his prison sentence in home country: *no violation*

**Makuchyan and Minasyan v. Azerbaijan and Hungary, no. 17247/13, 26 May 2020**

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### POSITIVE OBLIGATIONS (SUBSTANTIVE ASPECT)

Authorities' efforts sufficient, despite some delays and omissions, in view of obstructive behaviour of witnesses placed under protection: *no violation*

**A and B v. Romania, no. 48442/16, 2 June 2020**

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Failure to preventively confiscate gun from student whose internet postings prior to committing school killings, while not containing specific threats, cast doubt on his fitness to safely possess firearm: *violation*

**Kotilainen and Others v. Finland, no. 62439/12, 17 September 2020**

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### EFFECTIVE INVESTIGATION

Failure of authorities to react with special diligence in conducting a thorough investigation following acid attack against a woman: *violation*

**Tërshana v. Albania, no. 48756/14, 4 August 2020**

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## ARTICLE 3

### DEGRADING TREATMENT

Asylum-seekers living rough for several months without resources due to administrative delays preventing them from receiving the support provided for by law: *violation, no violation*

**N.H. and Others v. France, nos. 28820/13 and 2 others, 2 July 2020**

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### EFFECTIVE INVESTIGATION | POSITIVE OBLIGATIONS (PROCEDURAL ASPECT)

Failure of the authorities to address a criminal investigation from the angle of domestic violence: *violation*

**Buturugă v. Romania, no. 56867/15, 11 February 2020**

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### EXPULSION

Refusal of border guards to receive asylum applications and summary removal to a third country, with a risk of refoulement to and ill-treatment in the country origin: *violation*

**M.K. and Others v. Poland, nos. 40503/17 and 2 others, 23 July 2020**

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Risk of and availability of protection against ill-treatment of a homosexual by non-State actors in Gambia insufficiently assessed: *deportation would constitute a violation*

**B and C v. Switzerland, nos. 43987/16 and 889/19, 17 November 2020**

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## ARTICLE 4

### EFFECTIVE INVESTIGATION | POSITIVE OBLIGATIONS (PROCEDURAL ASPECT)

Significant flaws in domestic procedural response to arguable claim of human trafficking and forced prostitution, supported by prima facie evidence: *violation*

**S.M. v. Croatia [GC], no. 60561/14, 25 June 2020**

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## ARTICLE 5

### ARTICLE 5 § 1 (f)

### EXTRADITION

Authorities' lack of diligence in determining admissibility of extradition of applicant to his country of origin despite refugee status granted by another EU member State: *violation*

**Shiksaitov v. Slovakia, nos. 56751/16 and 33762/17, 10 December 2020**

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# ARTICLE 6

## ARTICLE 6 § 1 (CRIMINAL)

### CRIMINAL CHARGE

EUR 6,200 fine without possible imprisonment for defence counsels' non-attendance at hearing not "criminal", despite absence of an upper statutory limit on its amount: *inadmissible*

**Gestur Jónsson and Ragnar Halldór Hall v. Iceland [GC], nos. 68271/14 and 68273/14, 22 December 2020**

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### FAIR HEARING

Non-exclusion of evidence linked to direct and indirect police incitement to commit drug offences: *violation*

**Akbay and Others v. Germany, nos. 40495/15 and 2 others, 15 October 2020**

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Admission of evidence obtained through ill-treatment of a third party by private individuals, without involvement or acquiescence of State actors: *violation*

**Ćwik v. Poland, no. 31454/10, 5 November 2020**

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### TRIBUNAL ESTABLISHED BY LAW

Participation of judge whose appointment was vitiated by undue executive discretion without effective domestic court review and redress: *violation*

**Guðmundur Andri Ástráðsson v. Iceland [GC], no. 26374/18, 1 December 2020**

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## ARTICLE 6 § 1 (ENFORCEMENT)

### CIVIL RIGHTS AND OBLIGATIONS

Non-enforcement of judicial decision concerning administrative refusals to grant visas: *article 6 not applicable*

**M.N. and Others v. Belgium (dec.) [GC], no. 3599/18, 5 May 2020**

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## ARTICLE 6 § 2

### PRESUMPTION OF INNOCENCE

Applicant, neither charged nor aware of criminal investigation until after its discontinuation, ordered to pay compensation for "crime" in civil proceedings brought shortly thereafter: *Article 6 applicable; violation*

**Farzaliyev v. Azerbaijan, no. 29620/07, 28 May 2020**

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## ARTICLE 7

### **NULLUM CRIMEN SINE LEGE**

Existence of a case-law precedent rendering a criminal conviction foreseeable: *no violation*

**Baldassi and Others v. France, nos. 15271/16 and 6 others, 11 June 2020**

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### **NULLUM CRIMEN SINE LEGE | RETROACTIVITY**

Use of the “blanket reference” or “legislation by reference” technique in the definition of an offence and standards of comparison between the criminal law in force at the time of the commission of the offence and the amended criminal law

**Advisory opinion requested by the Armenian Constitutional Court [GC], no. P16-2019-001, 29 May 2020**

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### **RESPECT FOR PRIVATE AND FAMILY LIFE**

Deprivation of nationality of respondent State on the basis of a conviction for a terrorism offence committed over ten years earlier: *no violation*

**Ghoumid and Others v. France, nos. 52273/16 and 4 others, 25 June 2020**

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### **RESPECT FOR PRIVATE LIFE**

Legal obligation on service providers to store personal data of users of pre-paid mobile-telephone SIM-cards and make them available to authorities upon request: *no violation*

**Breyer v. Germany, no. 50001/12, 30 January 2020**

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Unjustified dismissal of Serbian ethnic origin teacher for failing to use standard Croatian in class, considered unable to adapt due to pre-retirement age: *violation*

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### **RESPECT FOR PRIVATE LIFE | POSITIVE OBLIGATIONS**

Allegedly insufficient measures to ensure access to safe drinking water and sanitation for Roma communities: *no violation*

**Hudorovič and Others v. Slovenia, nos. 24816/14 and 25140/14, 10 March 2020**

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### **RESPECT FOR CORRESPONDENCE | POSITIVE OBLIGATIONS**

Failure of the courts to examine the merits of a complaint of cyberbullying closely linked to a complaint about domestic violence: *violation*

**Buturugă v. Romania, no. 56867/15, 11 February 2020**

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### MANIFEST RELIGION OR BELIEF

Birth certificate revealing parents' choice not to christen their child: *violation*

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### FREEDOM OF EXPRESSION

Militant action to boycott products from Israel was considered as a discriminatory crime without relevant and sufficient reasons: *violation*

**Baldassi and Others c. France, nos. 15271/16 and 6 others, 11 June 2020**

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Conviction for defamation on account of statements made in the context of defence in another set of criminal proceedings and accusing a third party of witness tampering: *violation*

**Miljević v. Croatia, no. 68317/13, 25 June 2020**

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Unforeseeable lifting member of parliament's immunity and pre-trial detention on terrorist charges for political speeches: *violation*

**Selahattin Demirtaş v. Turkey (no. 2) [GC], no. 14305/17, 22 December 2020**

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### FREEDOM OF EXPRESSION | FREEDOM TO IMPART INFORMATION

Insufficiently foreseeable legal basis for a fine on political party for making available a mobile application allowing voters to share anonymous photographs of their ballot papers: *violation*

**Magyar Kétfarkú Kutya Párt v. Hungary [GC], no. 201/17, 20 January 2020**

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### FREEDOM OF ASSOCIATION

Dissolution of a paramilitary-type far-right association following violence and public-order disturbances by its members: *no violation*

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**Beizaras and Levickas v. Lithuania, no. 41288/15, 14 January 2020**

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Failure to provide effective remedy by which to challenge election results and seek recount: *violation*

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Azerbaijan's failure to enforce prison sentence for hate crime against Armenian victims, imposed abroad on its officer, who was glorified as hero, promoted and awarded benefits upon return: *violation*

**Makuchyan and Minasyan v. Azerbaijan and Hungary, no. 17247/13, 26 May 2020**

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### DISCRIMINATION (ARTICLE 8) | POSITIVE OBLIGATIONS

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**Beizaras and Levickas v. Lithuania, no. 41288/15, 14 January 2020**

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### PROHIBITION OF ABUSE OF RIGHTS

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**Ayoub and Others v. France, nos. 77400/14 and 2 others, 8 October 2020**

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### RESTRICTIONS FOR UNAUTHORISED PURPOSES

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### INTER-STATE APPLICATION

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**Slovenia v. Croatia (dec.) [GC], no. 54155/16, 18 November 2020**

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Relative of convict possessing moral interest in a potential Article 6 violation based on police incitement: *preliminary objection dismissed*

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### FREE EXPRESSION OF THE OPINION OF THE PEOPLE

Member of parliament excluded from parliamentary proceedings as a result of his prolonged pre-trial detention without sufficient justification: *violation*

**Selahattin Demirtaş v. Turkey (no. 2) [GC], no. 14305/17, 22 December 2020**

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### STAND FOR ELECTION

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### PROHIBITION OF COLLECTIVE EXPULSION OF ALIENS

Immediate and forcible return of aliens from a land border, following an attempt by a large number of migrants to cross it in an unauthorised manner and en masse: *no violation*

**N.D. and N.T. v. Spain [GC], nos. 8675/15 and 8697/15, 13 February 2020**

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Refusal of border guards to receive asylum applications and summary removal to a third country, with a risk of refoulement to and ill-treatment in the country origin: *violation*

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## ARTICLE 1 OF PROTOCOL No. 7

### PROCEDURAL SAFEGUARDS RELATING TO EXPULSION OF ALIENS

Expulsion on national security grounds decided by court on the basis of classified information not disclosed to applicants, without sufficient counterbalancing safeguards: *violation*

**Muhammad and Muhammad v. Romania [GC], no. 80982/12, 15 October 2020**

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### RIGHT OF APPEAL IN CRIMINAL MATTERS

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**Saqueti Iglesias v. Spain, no. 50514/13, 30 June 2020**

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## ARTICLE 4 OF PROTOCOL No. 7

### RIGHT NOT TO BE TRIED OR PUNISHED TWICE

Deprivation of nationality of respondent State on the basis of old terrorism conviction: *inadmissible*

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## ARTICLE 1 OF PROTOCOL No. 12

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Alleged discrimination in final high school exams of pupils belonging to national minorities studying in their mother tongue: *no violation*

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Justified necessity of recalling applicant from diplomatic post abroad after announcing pregnancy: *no violation*

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Use of the “blanket reference” or “legislation by reference” technique in the definition of an offence and standards of comparison between the criminal law in force at the time of the commission of the offence and the amended criminal law

**Advisory opinion requested by the Armenian Constitutional Court [GC], no. P16-2019-001, 29 May 2020**

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