

The ECHR and Denmark

facts & figures



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Council of Europe

Accession: 5 May 1949

European Convention on Human Rights

Signed: 4 November 1950

Ratified: 13 April 1953

ECHR judges

Jon Fridrik Kjølbro (since 2014)

Peer Lorenzen (1998-2014)

Isi Foighel (1989-1998)

Jørgen Gersing (1982-1988)

Max Sørensen (1980-1981)

Helga Pedersen (1971-1980)

Alf Niels Christian Ross (1959-1971)

ECHR and Denmark at 1 January 2022

1st judgment: Kjeldsen, Busk Madsen and Pedersen v. Denmark
(7 December 1976)

Total number of judgments: 61

Judgments finding a violation: 21

Judgments finding no violation: 28

Friendly settlements/strikeout: 11

Other judgments: 1

Applications pending: 45

Applications finished: 2,003

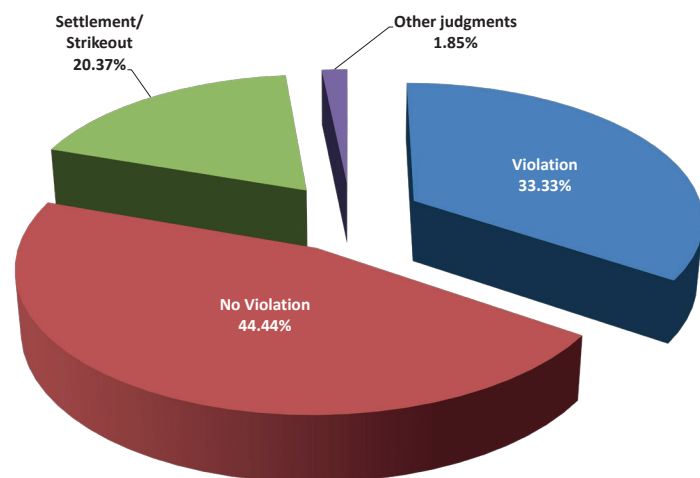
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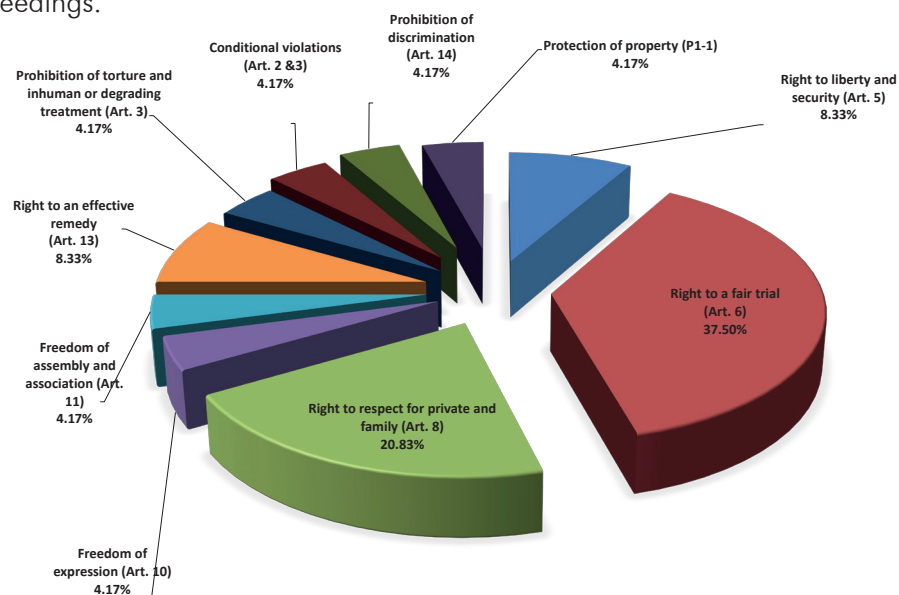
Types of judgments

In over 30% of the judgments delivered concerning Denmark, the Court gave a judgment against the State, finding at least one violation of the Convention.



Subject-matter of judgments finding a violation

Nearly 40 % of the findings of a violation concerned Article 6 of the Convention (right to a fair trial), and almost all of those related to excessive length of proceedings.



Impact of the Court's judgments

The Committee of Ministers, the Council of Europe's executive body, supervises compliance with the Court's judgments and adoption of the remedial measures required in order to prevent similar violations of the Convention in the future.

The Court's judgments have led to various reforms and improvements in Denmark, relating in particular to:

Length of judicial proceedings

Remedial measures have been introduced to expedite proceedings in order to prevent excessive length of proceedings.

Fairness of judicial proceedings

A judge who has taken specific decisions before the trial stage can no longer be involved in the same was as trial or appeal judge.

Freedom of association

Trade union membership cannot be used as a criterion for the recruitment or dismissal of employees. This also applies to the right not to join a trade union.

Selected cases

Case of Hauschildt (24 May 1989)

Mogens Hauschildt was prosecuted on charges of tax evasion, after which he was sentenced to five years' imprisonment in 1984. He complained that the same judges who had ruled on the merits of the case had previously taken pre-trial decisions ordering his detention on remand.

Violation of Article 6 (right to a fair trial)

Case of Jersild (23 September 1994)

Jens Olaf Jersild, a journalist, was fined in 1987 for allowing a youth group to make racist comments on a television programme. The Court found a violation of the journalist's right to freedom of expression.

Violation of Article 10 (freedom of expression)

Case of A. and Others (8 February 1996)

The applicants were 10 haemophiliacs and relatives of deceased haemophiliacs who had been contaminated with HIV virus during blood transfusions. They complained about the length of time taken by the Danish courts to provide compensation.

Violation of Article 6 (right to a fair trial within a reasonable time) for family life)

Case of Vasileva (25 September 2003)

Sofiika Vasileva, who was 67 at the material time, spent a night in police custody after an altercation in a bus with a ticket inspector because she did not have a valid ticket and refused to disclose her identity. The Court held that the applicant's placement in custody had been justified, but not the length of time she had been held.

Violation of Article 5 (right to liberty and security)

Case of Sørensen and Rasmussen (11 January 2006)

The applicants claimed that pre-recruitment closed-shop agreements in Denmark, and the way in which they had been applied in their case had amounted to a violation of their right to freedom of association. The Court found that both the applicants had been forced to join a trade union, and that such coercion had undermined the very substance of their freedom of association.

Violation of Article 11 (freedom of assembly and association)

Case of Custers, Deveaux and Turk (3 May 2007)

A number of Greenpeace activists who had taken part in a campaign at Thule airbase (Greenland) had been convicted of intrusion. They submitted that they had been convicted of an act which, at the material time, had not been a criminal offence under Danish law.

No violation of Article 7 (no punishment without law)

Case of Osman (14 June 2011)

The case concerned the non-renewal of the residence permit of a Somali girl who had been raised with her family in Denmark, after she had spent more than 2 years in Kenya, allegedly against her will. The right to family reunion for children of her age (15 to 17 years) had been abolished during her stay in Kenya.

Violation of Article 8 (right to respect for private and family life)

Case of Biao (25 May 2016)

The case concerned the refusal of the Danish authorities to grant a Danish national and his Ghanaian wife entitlement to family reunion. The applicants complained about the discrimination in national law between persons who were born Danish and those who, like Mr Biao, had acquired Danish nationality later in life.

Violation of Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life)

Case of S., V. and A. (22 October 2018)

In 2009 the applicants were detained for over 7 hours when they were in Copenhagen to watch a football match between Denmark and Sweden. The authorities arrested the applicants in order to prevent hooligan violence. The Court found, in particular, that less stringent measures would not have sufficed to prevent the serious offence of a hooligan brawl.

No violation of Article 5 § 1 (right to liberty and security)

Case of Aggerholm (15 September 2020)

Suffering from paranoid schizophrenia, Niels Lund Aggerholm had been committed to a psychiatric hospital for several years on account of his violent behaviour. In February 2013, on account of his aggressive attitude and at the doctor's request, the applicant had been strapped to a restraint bed in the psychiatric hospital for almost 23 hours. The Court held that the decision to strap the applicant to the bed had been the only means available to prevent immediate or imminent harm to hospital staff and the other patients. However, the Danish courts had not given sufficient reasons for maintaining the measure, which was the longest period of immobilisation by a belt which the Court had ever dealt with.

Violation of Article 3 (prohibition of inhuman or degrading treatment)

Case of M.A. (9 July 2021)

The case concerned a delay of three years imposed in 2016 pursuant to Danish law on the applicant's right to family reunification owing to his temporary protection status.

Violation of Article 8 (right to respect for private and family life)

Case of Savran (7 December 2021)

In this case, the applicant, a Turkish national who suffers from a psychiatric illness, was convicted in Denmark and an order was made for his expulsion. He complains that, owing to his mental health, his rights would be violated if he were to be returned to Turkey.

No violation of Article 3 (prohibition on inhuman and degrading treatment)

Violation of Article 8 (right to respect for private life)

Selected measures to execute judgments

General measures

Case of A. and Others (8 February 1996)

Length of proceedings for determining compensation for persons contaminated by HIV virus during blood transfusions.

Adaptation of Danish judicial practice in civil cases in order to improve monitoring of compliance with reasonable length of proceedings. Introduction of a special compensation fund.

Case of Sørensen and Rasmussen (11 January 2006)

Compulsory membership of a trade union as a precondition for recruitment.

Legislative extension of the negative freedom of association, that is to say the right not to join a trade union.

Individual measures

Case of Jersild (23 September 1994)

Reopening of domestic proceedings against the applicant, a journalist who had been convicted of broadcasting racist comments. The journalist was acquitted after the retrial.

Biao (24 May 2016)

More favourable conditions for family reunification solely for persons having held Danish nationality for at least 28 years.

Following the Court's judgment, the Danish Aliens Authority reopened the applicants' application for family reunification and referred the case back to the Danish Immigration Service for review at first instance.



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