



KEY CASES

2023

First, second and third quarters



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

European Court of Human Rights

November 2023



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

NOTE

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 (see Title I, Chapters II and III, of the [Rules of Court](#) about their respective roles). This list contains the selection of key cases for 2023.

Cases are listed by reference to the relevant Convention Articles and keywords, then alphabetically by respondent State and by applicant. They are also listed under the importance level “Key cases” in the [HUDOC](#) case-law database.

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.

Contents

<u>CASES BY ARTICLE</u>	<u>4</u>
<u>CASES BY RESPONDENT STATE</u>	<u>13</u>
<u>CASES BY APPLICANT</u>	<u>15</u>

Cases by Article

ARTICLE 1

JURISDICTION OF STATES

Jurisdiction of Russia over parts of Eastern Ukraine controlled by separatists

***Ukraine and the Netherlands v. Russia (dec.)* [GC], nos. 8019/16 et al., 30 November 2022**

[Decision](#) | [Legal summary](#)

ARTICLE 3

DEGRADING TREATMENT

INHUMAN TREATMENT

POSITIVE OBLIGATIONS

Segregation, humiliation and abuse of prisoners by fellow inmates on account of inferior status in informal prisoner hierarchy tolerated by prison staff; lack of systemic State action: *violation*

***S.P. and Others v. Russia*, nos. 36463/11 et al., 2 May 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 6

Article 6 § 1 (civil)

CIVIL RIGHTS AND OBLIGATIONS

Advisory opinion on the procedural status and rights of a biological parent in proceedings for the adoption of an adult

Advisory opinion requested by the Supreme Court of Finland [GC], request no. P16-2022-001, 13 April 2023

[Opinion](#) | [Legal summary](#)

ACCESS TO COURT

Advisory opinion on the procedural status and rights of a biological parent in proceedings for the adoption of an adult

Advisory opinion requested by the Supreme Court of Finland [GC], request no. P16-2022-001, 13 April 2023

[Opinion](#) | [Legal summary](#)

Domestic courts' failure to examine the merits of a claim, subsuming case facts under relevant law provision under the principle *jura novit curia*, absent arguments to this effect from the claimant: *inadmissible*

FU QUAN, s.r.o. v. the Czech Republic [GC], no. 24827/14, 1 June 2023

[Judgment](#) | [Legal summary](#)

Article 6 § 1 (criminal)

FAIR HEARING

Prejudice to the defence on account of non-disclosure of raw data obtained from ByLock server not counterbalanced by adequate procedural safeguards: *violation*

Yüksel Yalçınkaya v. Türkiye [GC], no. 15669/20, 26 September 2023

[Judgment](#) | [Legal summary](#)

ARTICLE 7

NULLUM CRIMEN SINE LEGE

NULLA POENA SINE LEGE

Conviction for membership of an armed terrorist organisation based decisively on use of encrypted messaging application ByLock, without establishing offence's constituent material and mental elements in an individualised manner: *violation*

Yüksel Yalçınkaya v. Türkiye [GC], no. 15669/20, 26 September 2023

[Judgment](#) | [Legal summary](#)

ARTICLE 8

RESPECT FOR PRIVATE LIFE

Unjustified search of journalists' home and indiscriminate seizure of their personal belongings: *violation*

***Svetova and Others v. Russia*, no. 54714/17, 24 January 2023**

[Judgment](#) | [Legal summary](#)

Refusal by the national authorities to insert the term "neutral" or "intersex", instead of "male", on the birth certificate of an intersex person: *no violation*

***Y v. France*, no. 76888/17, 31 January 2023**

[Judgment](#) | [Legal summary](#)

Unjustified publication of applicant's identifying data, including home address, on tax authority website portal, for failing to fulfil his tax obligations: *violation*

***L.B. v. Hungary* [GC], no. 36345/16, 9 March 2023**

[Judgment](#) | [Legal summary](#)

Legal impossibility for transgender parent's current gender, disconnected from biological reality, to be indicated on birth certificate of child conceived after gender reclassification: *no violation*

***A.H. and Others v. Germany*, no. 7246/20, 4 April 2023**

[Judgment](#) | [Legal summary](#)

Legal impossibility for transgender parent's current gender, disconnected from biological reality, to be indicated on birth certificate of child conceived after gender reclassification: *no violation*

***O.H. and G.H. v. Germany*, nos. 53568/18 and 54741/18, 4 April 2023**

[Judgment](#) | [Legal summary](#)

Unjustified processing of applicant's personal biometric data by using highly intrusive facial recognition technology in administrative offence proceedings to identify, locate and arrest him: *violation*

***Glukhin v. Russia*, no. 11519/20, 4 July 2023**

[Judgment](#) | [Legal summary](#)

RESPECT FOR FAMILY LIFE

Refusal of family reunification requests, for not fulfilling financial independence requirement, of provisionally admitted refugees fearing persecution because of their illegal exit from their country of origin: *violation; no violation*

***B.F. and Others v. Switzerland*, nos. 13258/18 et al., 4 July 2023**

[Judgment](#) | [Legal summary](#)

RESPECT FOR PRIVATE AND FAMILY LIFE

Advisory opinion on the procedural status and rights of a biological parent in proceedings for the adoption of an adult

Advisory opinion requested by the Supreme Court of Finland [GC], request no. P16-2022-001, 13 April 2023

[Opinion](#) | [Legal summary](#)

RESPECT FOR HOME

Unjustified search of journalists' home and indiscriminate seizure of their personal belongings: *violation*

***Svetova and Others v. Russia*, no. 54714/17, 24 January 2023**

[Judgment](#) | [Legal summary](#)

POSITIVE OBLIGATIONS

Absence of any form of legal recognition and protection for same-sex couples: *violation*

***Fedotova and Others v. Russia* [GC], nos. 40792/10 et al., 17 January 2023**

[Judgment](#) | [Legal summary](#)

Refusal of family reunification requests, for not fulfilling financial independence requirement, of provisionally admitted refugees fearing persecution because of their illegal exit from their country of origin: *violation; no violation*

***B.F. and Others v. Switzerland*, nos. 13258/18 et al., 4 July 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 10

FREEDOM OF EXPRESSION

No legitimate aim for temporary suspension of children’s fairy tale book depicting same-sex relationships and its subsequent labelling as harmful to children under the age of 14: *violation*

***Macatè v. Lithuania* [GC], no. 61435/19, 23 January 2023**

[Judgment](#) | [Legal summary](#)

Criminal fine of EUR 1,000 for disclosing to the media confidential documents from a private-sector employer concerning the tax practices of multinational companies (“Luxleaks”): *violation*

***Halet v. Luxembourg* [GC], no. 21884/18, 14 February 2023**

[Judgment](#) | [Legal summary](#)

Elected politician fined in criminal proceedings for failing to delete, from his publicly accessible Facebook “wall” used for his election campaign, Islamophobic comments by third parties also convicted: *no violation*

***Sanchez v. France* [GC], no. 45581/15, 15 May 2023**

[Judgment](#) | [Legal summary](#)

Newspaper publisher ordered to anonymise the online archived version of a lawful article published twenty years earlier, on grounds of the “right to be forgotten” of the individual responsible for a fatal accident: *no violation*

***Hurbain v. Belgium* [GC], no. 57292/16, 4 July 2023**

[Judgment](#) | [Legal summary](#)

Unjustified administrative offence conviction of a peaceful solo demonstrator, using a life-size cardboard figure of a political activist with a banner, for failure to submit prior notification: *violation*

***Glukhin v. Russia*, no. 11519/20, 4 July 2023**

[Judgment](#) | [Legal summary](#)

FREEDOM TO IMPART INFORMATION

No legitimate aim for temporary suspension of children’s fairy tale book depicting same-sex relationships and its subsequent labelling as harmful to children under the age of 14: *violation*

***Macatè v. Lithuania* [GC], no. 61435/19, 23 January 2023**

[Judgment](#) | [Legal summary](#)

Criminal fine of EUR 1,000 for disclosing to the media confidential documents from a private-sector employer concerning the tax practices of multinational companies (“Luxleaks”): *violation*

***Halet v. Luxembourg* [GC], no. 21884/18, 14 February 2023**

[Judgment](#) | [Legal summary](#)

Newspaper publisher ordered to anonymise the online archived version of a lawful article published twenty years earlier, on grounds of the “right to be forgotten” of the individual responsible for a fatal accident: *no violation*

***Hurbain v. Belgium* [GC], no. 57292/16, 4 July 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 33

INTER-STATE APPLICATION

Alleged administrative practices by Russia in eastern Ukraine under separatist control resulting in multiple Convention violations: *partly admissible*

Downing of Malaysian Airlines flight MH17: *admissible*

***Ukraine and the Netherlands v. Russia (dec.)* [GC], nos. 8019/16 et al., 30 November 2022**

[Decision](#) | [Legal summary](#)

ARTICLE 34

PETITION

Recharacterisation of applicant’s complaint by Chamber extending scope of case beyond that initially referred to it in the application form

***Grosam v. the Czech Republic* [GC], no. 19750/13, 1 June 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 35

ARTICLE 35-3-A

RATIONE TEMPORIS

Limits of Court's jurisdiction with respect to acts or omissions spanning across the date on which a respondent State ceased to be a Party to the Convention: *communicated ; remainder inadmissible*

***Pivkina and Others v. Russia (dec.)*, nos. 2134/23 et al., 6 June 2023**

[Decision](#) | [Legal summary](#)

Article 35 § 1

EXHAUSTION OF DOMESTIC REMEDIES

No effective remedy available in Russia to relatives of victims of Malaysian Airlines flight MH17: *admissible*

International investigation into downing of flight MH17 and use of international-law remedies before applying to the Court (six years after the incident): *application within time-limit*

***Ukraine and the Netherlands v. Russia (dec.) [GC]*, nos. 8019/16 et al., 30 November 2022**

[Decision](#) | [Legal summary](#)

FOUR-MONTH PERIOD (FORMER SIX-MONTH)

Final domestic decision arrived at before, but notified after, entry into force on 1 February 2022 of new time-limit under Protocol No. 15: *six-month rule applicable*

***Orhan v. Türkiye (dec.)*, no. 38358/22, 6 December 2022**

[Decision](#) | [Legal summary](#)

No effective remedy available in Russia to relatives of victims of Malaysian Airlines flight MH17: *admissible*

International investigation into downing of flight MH17 and use of international-law remedies before applying to the Court (six years after the incident): *application within time-limit*

***Ukraine and the Netherlands v. Russia (dec.) [GC]*, nos. 8019/16 et al., 30 November 2022**

[Decision](#) | [Legal summary](#)

Later addition by applicant of new complaint, after initial communication of the case to the respondent Government, not within the six-month time-limit: *inadmissible*

***Grosam v. the Czech Republic* [GC], no. 19750/13, 1 June 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 41

JUST SATISFACTION

Award of non-pecuniary damages to applicant Government, for benefit of identified victims, based only on evidence submitted by it in view of respondent Government's failure to participate in proceedings

***Georgia v. Russia (II) (just satisfaction)* [GC], no. 38263/08, 28 April 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 46

Article 46 § 2

EXECUTION OF JUDGMENT

GENERAL MEASURES

Respondent state required to take general measures to address systemic problem regarding domestic courts' approach to use of ByLock

***Yüksel Yalçınkaya v. Türkiye* [GC], no. 15669/20, 26 September 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 1 OF PROTOCOL No. 1

ARTICLE 1 PARA. 2 OF PROTOCOL NO. 1

CONTROL OF THE USE OF PROPERTY

Company's failure to duly raise before domestic courts complaints of authorities' failure to take good care of its seized property and undue delay in lifting the seizure: *inadmissible*

***FU QUAN, s.r.o. v. the Czech Republic* [GC], no. 24827/14, 1 June 2023**

[Judgment](#) | [Legal summary](#)

ARTICLE 2 OF PROTOCOL No. 4

FREEDOM OF MOVEMENT

Sufficient procedural safeguards attaching to thirteen-month preventive curfew imposed on radicalised Islamist during state of emergency following terrorist attacks: *no violation*

***Pagerie v. France*, no. 24203/16, 19 January 2023**

[Judgment](#) | [Legal summary](#)

PROTOCOL No. 16

ADVISORY OPINION

Advisory opinion on the procedural status and rights of a biological parent in proceedings for the adoption of an adult

Advisory opinion requested by the Supreme Court of Finland [GC], request no. P16-2022-001, 13 April 2023

[Opinion](#) | [Legal summary](#)

RULE 44C OF THE RULES OF COURT

FAILURE TO PARTICIPATE EFFECTIVELY

Respondent State's failure to engage with the proceedings after the cessation of its membership of the Council of Europe not an obstacle *per se* for the Court's examination of the case

***Svetova and Others v. Russia*, no. 54714/17, 24 January 2023**

[Judgment](#) | [Legal summary](#)

Cases by respondent State

BELGIUM

Hurbain v. Belgium [GC], no. 57292/16,
4 July 2023

[Judgment](#) | [Legal summary](#)

CZECH REPUBLIC

FU QUAN, s.r.o. v. the Czech Republic [GC],
no. 24827/14, 1 June 2023

[Judgment](#) | [Legal summary](#)

Grosam v. the Czech Republic [GC],
no. 19750/13, 1 June 2023

[Judgment](#) | [Legal summary](#)

FRANCE

Pagerie v. France, no. 24203/16,
19 January 2023

[Judgment](#) | [Legal summary](#)

Sanchez v. France [GC], no. 45581/15,
15 May 2023

[Judgment](#) | [Legal summary](#)

Y v. France, no. 76888/17, 31 January 2023

[Judgment](#) | [Legal summary](#)

GERMANY

A.H. and Others v. Germany, no. 7246/20,
4 April 2023

[Judgment](#) | [Legal summary](#)

O.H. and G.H. v. Germany, nos. 53568/18 and
54741/18, 4 April 2023

[Judgment](#) | [Legal summary](#)

HUNGARY

L.B. v. Hungary [GC], no. 36345/16,
9 March 2023

[Judgment](#) | [Legal summary](#)

LITHUANIA

Macatė v. Lithuania [GC], no. 61435/19,
23 January 2023

[Judgment](#) | [Legal summary](#)

LUXEMBOURG

Halet v. Luxembourg [GC], no. 21884/18,
14 February 2023

[Judgment](#) | [Legal summary](#)

RUSSIA

Fedotova and Others v. Russia [GC],
nos. 40792/10 et al., 17 January 2023

[Judgment](#) | [Legal summary](#)

Georgia v. Russia (II) (just satisfaction) [GC],
no. 38263/08, 28 April 2023

[Judgment](#) | [Legal summary](#)

Glukhin v. Russia, no. 11519/20, 4 July 2023

[Judgment](#) | [Legal summary](#)

Pivkina and Others v. Russia (dec.),
nos. 2134/23 et al., 6 June 2023

[Decision](#) | [Legal summary](#)

S.P. and Others v. Russia, nos. 36463/11 et al.,
2 May 2023

[Judgment](#) | [Legal summary](#)

Svetova and Others v. Russia, no. 54714/17,
24 January 2023

[Judgment](#) | [Legal summary](#)

Ukraine and the Netherlands v. Russia (dec.)
[GC], nos. 8019/16 et al., 30 November 2022

[Decision](#) | [Legal summary](#)

SWITZERLAND

B.F. and Others v. Switzerland, nos. 13258/18
et al., 4 July 2023

[Judgment](#) | [Legal summary](#)

TÜRKİYE

Orhan v. Türkiye (dec.), no. 38358/22,
6 December 2022

[Decision](#) | [Legal summary](#)

Yüksel Yalçınkaya v. Türkiye [GC],
no. 15669/20, 26 September 2023

[Judgment](#) | [Legal summary](#)

Cases by applicant

A

A.H. and Others v. Germany, no. 7246/20,
4 April 2023

[Judgment](#) | [Legal summary](#)

B

B.F. and Others v. Switzerland, nos. 13258/18
et al., 4 July 2023

[Judgment](#) | [Legal summary](#)

F

Fedotova and Others v. Russia [GC],
nos. 40792/10 et al., 17 January 2023

[Judgment](#) | [Legal summary](#)

FU QUAN, s.r.o. v. the Czech Republic [GC],
no. 24827/14, 1 June 2023

[Judgment](#) | [Legal summary](#)

G

Georgia v. Russia (II) (just satisfaction) [GC],
no. 38263/08, 28 April 2023

[Judgment](#) | [Legal summary](#)

Glukhin v. Russia, no. 11519/20, 4 July 2023

[Judgment](#) | [Legal summary](#)

Grosam v. the Czech Republic [GC],
no. 19750/13, 1 June 2023

[Judgment](#) | [Legal summary](#)

H

Halet v. Luxembourg [GC], no. 21884/18,
14 February 2023

[Judgment](#) | [Legal summary](#)

Hurbain v. Belgium [GC], no. 57292/16,
4 July 2023

[Judgment](#) | [Legal summary](#)

L

L.B. v. Hungary [GC], no. 36345/16,
9 March 2023

[Judgment](#) | [Legal summary](#)

M

Macatė v. Lithuania [GC], no. 61435/19,
23 January 2023

[Judgment](#) | [Legal summary](#)

O

O.H. and G.H. v. Germany, nos. 53568/18 and
54741/18, 4 April 2023

[Judgment](#) | [Legal summary](#)

Orhan v. Türkiye (dec.), no. 38358/22,
6 December 2022

[Decision](#) | [Legal summary](#)

P

Pagerie v. France, no. 24203/16,
19 January 2023

[Judgment](#) | [Legal summary](#)

Pivkina and Others v. Russia (dec.),
nos. 2134/23 et al., 6 June 2023

[Decision](#) | [Legal summary](#)

S

Sanchez v. France [GC], no. 45581/15,
15 May 2023

[Judgment](#) | [Legal summary](#)

S.P. and Others v. Russia, nos. 36463/11 et al.,
2 May 2023

[Judgment](#) | [Legal summary](#)

Svetova and Others v. Russia, no. 54714/17,
24 January 2023

[Judgment](#) | [Legal summary](#)

U

Ukraine and the Netherlands v. Russia (dec.)
[GC], nos. 8019/16 et al., 30 November 2022

[Decision](#) | [Legal summary](#)

Y

Y v. France, no. 76888/17, 31 January 2023

[Judgment](#) | [Legal summary](#)

Yüksel Yalçınkaya v. Türkiye [GC],
no. 15669/20, 26 September 2023

[Judgment](#) | [Legal summary](#)