



# Belgium

## Ratified the European Convention on Human Rights in 1955

### National Judge: Paul Lemmens (2012-2021)

[Judges' CVs](#) are available on the ECHR Internet site

Previous Judges: Henri Rolin (1959-1973), Walter-Jean Ganshof Van Der Meersch (1973-1986), Jan De Meyer (1986-1998), Françoise Tulkens (1998-2012)

[List of judges of the Court since 1959](#)

The Court dealt with 147 applications concerning Belgium in 2020, of which 132 were declared inadmissible or struck out. It delivered 9 judgments (concerning 15 applications), which found at least one violation of the European Convention on Human Rights.

Applications processed in	2018	2019	2020
Applications allocated to a judicial formation	177	139	124
Communicated to the Government	43	71	27
Applications decided:	192	170	147
- Declared inadmissible or struck out (Single Judge)	159	140	114
- Declared inadmissible or struck out (Committee)	16	20	16
- Declared inadmissible or struck out (Chamber)	7	1	2
- Decided by judgment	10	9	15

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#).  
Statistics on interim measures can be found [here](#).

Applications pending before the court on 01/01/2021	
Total pending applications*	296
Applications pending before a judicial formation:	255
Single Judge	2
Committee (3 Judges)	126
Chamber (7 Judges)	125
Grand Chamber (17 Judges)	2

\*including applications for which completed application forms have not yet been received

## Belgium and ...

### The Registry

The task of the Registry is to provide legal and administrative support to the Court in the exercise of its judicial functions. It is composed of lawyers, administrative and technical staff and translators. There are currently **641** Registry staff members.

## Noteworthy cases, judgments delivered

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### Grand Chamber

#### **Cases on Article 3 (prohibition of inhuman or degrading treatment)**

##### **M.N. and Others v. Belgium**

05.05.2020

The case concerned a couple of Syrian nationals and their two children, who were refused the short-term visas that they had requested from the Belgian Embassy in Beirut with a view to applying for asylum in Belgium.

Application declared inadmissible.

The applicants claimed that there had been a breach of their rights under Articles 3 (prohibition of torture and inhuman or degrading treatment), 13 (right to an effective remedy) and 6 § 1 (right to a fair hearing) of the Convention.

The Court reiterated that Article 1 (obligation to respect human rights) of the Convention limited its scope to persons within the jurisdiction of the States Parties to the Convention. In the present case, it noted that the applicants were not within Belgium's jurisdiction in respect of the circumstances complained of under Articles 3 and 13 of the Convention.

The Court also considered that Article 6 § 1 of the Convention was inapplicable in the present case. The entry to Belgian territory which would have resulted from the visas being issued did not engage a "civil" right within the meaning of Article 6 § 1.

Lastly, the Court noted that this conclusion did not prejudice the endeavours being made by the States Parties to facilitate access to asylum procedures through their embassies and/or consular representations.

##### **Rooman v. Belgium**

31.01.2019

The case concerned the question of the psychiatric treatment provided to a sex offender who has been in compulsory confinement since 2004 on account of the danger that he poses and the lawfulness of his detention.

The Court held, by sixteen votes to one, that from the beginning of 2004 until August 2017, there had been a violation of Article 3, and, by fourteen votes to three, that from August 2017 until the present date there had been no violation of Article 3.

The Court also unanimously concluded that from the beginning of 2004 until August 2017, there had been a violation of Article 5 (right to liberty and security), and, by ten votes to seven, that from August 2017 until now there had been no violation of Article 5.

##### **Paposhvili v. Belgium**

13.12.2016

The case concerned an order for Mr Paposhvili's deportation to Georgia, issued together with a ban on re-entering Belgium.

Violation of Article 3 if Mr Paposhvili had been removed to Georgia without the Belgian authorities having assessed the risk faced by him in the light of the information concerning his state of health and the existence of appropriate treatment in Georgia

Violation of Article 8 (right to respect for private and family life) if Mr Paposhvili had been removed to Georgia without the Belgian authorities having assessed the impact of removal on the applicant's right to respect for his family life in view of his state of health

##### **V.M. and Others v. Belgium (no. 60125/11)**

17.11.2016

The case concerned Serbian applicants of Roma origin who alleged that they had been subjected to inhuman and degrading living conditions in Belgium that had, *inter alia*, caused the death of their eldest daughter. They also alleged that the order for their removal to Serbia or France under the Dublin II Regulation had exposed them to treatment contrary to Article 3.

Application struck out of the list.

The Court found that the applicants had not maintained contact with their lawyer. They had failed to keep her informed of their place of residence or to provide her with any other means of contacting them. The Court considered that it could be concluded that they had lost interest in the

proceedings and no longer intended to pursue the application.

**Bouyid v. Belgium**

28.09.2015

The case concerned an allegation by two brothers, one of whom was a minor at the time, that two police officers had slapped them in the face while they were under the officers' control at their family's local police station in the district of Saint-Josse-ten-Noode (Brussels).

Violation of Article 3 in that they had been subjected to degrading treatment

Violation of Article 3 as the applicants had not had the benefit of an effective investigation

**S.J. v. Belgium (no. 70055/10)**

19.03.2015

The case concerned the threatened expulsion from Belgium of a Nigerian mother suffering from AIDS.

The Court took note of the terms of the friendly settlement and the arrangements for ensuring compliance with the undertakings given, namely the fact that the applicant and her children had been issued with residence permits granting them indefinite leave to remain. The Court further decided by a majority to lift the interim measure under Rule 39 of the Rules of Court staying execution of the order against the applicant to leave the country and to strike the case out of its list of cases.

**M.S.S v. Belgium and Greece**  
**(no. 30696/09)**

21.01.2011

The case concerned the expulsion of an asylum seeker to Greece by the Belgian authorities in application of the EU Dublin Regulation<sup>1</sup>.

Violation of Article 3 by Greece both because of the applicant's detention conditions and because of his living conditions in Greece;

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<sup>1</sup> The "Dublin" system serves to determine which European Union (EU) Member State is responsible for examining an asylum application lodged in one of the Member States by a third-country national.

The Dublin Regulation establishes the principle that only one Member State is responsible for examining an asylum application. The objective is to avoid asylum seekers from being sent from one country to another, and also to prevent abuse of the system by the submission of several applications for asylum by one person.

Violation of Article 13 (right to an effective remedy) taken together with Article 3 by Greece because of the deficiencies in the asylum procedure followed in the applicant's case

Violation of Article 3 by Belgium both because of having exposed the applicant to risks linked to the deficiencies in the asylum procedure in Greece and because of having exposed him to detention and living conditions in Greece that were in breach of Article 3

Violation of Article 13 taken together with Article 3 by Belgium because of the lack of an effective remedy against the applicant's expulsion order

Article 46 (Binding force and execution of judgments): It was incumbent on Greece, without delay, to proceed with an examination of the merits of the applicant's asylum request that met the requirements of the European Convention on Human Rights and, pending the outcome of that examination, to refrain from deporting the applicant.

See factsheet "[Dublin cases](#)".

**Cases on Article 6**

Right to a fair trial, right to legal assistance

**Beuze v. Belgium**

09.11.2018

The case concerned the denial of legal assistance at the pre-trial stage of criminal proceedings.

Violation of Article 6 §§ 1 and 3 (c)

Right to a fair trial

**Lhermitte v. Belgium**

29.11.2016

The case concerned the reasons given by the Assize Court for the conviction of a mother who had killed her five children.

No violation of Article 6 § 1

**Taxquet v. Belgium**

16.11.2010

The case essentially concerned Mr Taxquet's complaint that his conviction for murder had been based on a guilty verdict which had not included any reasons and could not be appealed against to a body competent to hear all aspects of the case.

Violation of Article 6 § 1

**Right to free elections  
(Article 3 of Protocol No. 1)**

**Mugemangango v. Belgium**

10.07.2020

The case concerned a post-election dispute relating to the elections held on 25 May 2014. Before the Court, Mr Mugemangango complained about the procedure conducted by the Walloon Parliament after he had challenged the election results. He argued that the Walloon Parliament, which was the only body with the power under domestic law to decide on his complaint, had acted as both judge and party in examining it.

[Violation of Article 3 of Protocol No. 1](#)

[Violation of Article 13 \(right to an effective remedy\)](#)

Chamber

**Cases dealing with the right to life  
(Article 2)**

**Jeanty v. Belgium**

31.03.2020

The case concerned an individual suffering from a psychological disorder who made several suicide attempts while in pre-trial detention in Arlon Prison.

[No violation of Article 2](#)

**Romeo Castaño v. Belgium**

09.07.2019

In this case the applicants complained that their right to an effective investigation had been breached as a result of the Belgian authorities' refusal to execute the European arrest warrants issued by Spain in respect of N.J.E., the individual suspected of shooting their father, Lieutenant Colonel Ramón Romeo, who was murdered in 1981 by a commando unit claiming to belong to the terrorist organisation ETA. The Belgian courts had held that N.J.E.'s extradition would infringe her fundamental rights under Article 3 of the Convention.

[Violation of Article 2 under its procedural aspect \(effective investigation\)](#)

**Gengoux v. Belgique**

17.01.2017

The case concerned the continuing detention of the applicant's seriously ill father.

[No violation of Article 2](#)

[No violation of Article 3 \(prohibition of inhuman or degrading treatment\)](#)

**De Donder and De Clippel v. Belgium**

06.12.2011

Suicide in prison by a mentally disturbed young man placed in the ordinary section of the prison.

[Violation of Article 2 concerning the death of Tom De Clippel in prison](#)

[No violation of Article 2 concerning the investigation into his death](#)

[Violation of Article 5 § 1 \(right to liberty and security\)](#)

**Trévalec v. Belgium**

14.06.2011

Gunshot wounds received by journalist filming a special police unit in action.

[Violation of Article 2 because the journalist's life was endangered; no violation of Article 2 as regards the effective nature of the investigation](#)

**Cases dealing with the prohibition of  
torture, inhuman and/or degrading  
treatment (Article 3)**

**M.A. v. Belgium**

27.10.2020

The case concerned the applicant's removal to Sudan by the Belgian authorities in spite of a court decision ordering the suspension of the measure.

[Violation of Article 3](#)

**Jeanty v. Belgium**

31.03.2020

The case concerned an individual suffering from a psychological disorder who made several suicide attempts while in pre-trial detention in Arlon Prison.

[Violation of Article 3](#)

**Clasens v. Belgium**

28.05.2019

The case concerned the deterioration in Mr Clasen's conditions of detention in Ittre Prison during a strike by prison wardens between April and June 2016.

[Violation of Article 3](#)

[Violation of Article 13 \(right to an effective remedy\) taken together with Article 3](#)

**B.V. v. Belgium (no. 61030/08)**

02.05.2017

The case concerned the investigation carried out by the Belgian authorities after

the applicant had lodged a criminal complaint alleging rape and indecent assault.

[Violation of the procedural aspect of Article 3](#)

**[W.D. v. Belgium](#) (no. 73548/13)**

06.09.2016

The case concerned a sex offender suffering from mental disorders who was detained indefinitely in a prison psychiatric wing.

[Violation of Article 3 \(prohibition of inhuman or degrading treatment\)](#)

[Violation of Article 5 § 1 \(right to liberty and security\)](#)

[Violation of Article 5 § 4 \(right to speedy review of the lawfulness of detention\) and Article 13 \(right to an effective remedy\), in conjunction with Article 3](#)

**[Bamouhammad v. Belgium](#)**

17.11.2015

Conditions of detention of Farid Bamouhammad and resulting decline in his mental health. This former prisoner suffers from Ganser syndrome (or "prison psychosis").

[Violation of Article 3](#)

[Violation of Article 13 \(right to an effective remedy\) taken in conjunction with Article 3](#)

**[Ouabour v. Belgium](#)**

02.06.2015

The case concerned an order for Mr Ouabour's extradition to Morocco, issued after he had been sentenced in 2007 to six years' imprisonment for taking part in the activities of a terrorist organisation and for criminal conspiracy.

[Violation of Article 3 – in the event of Mr Ouabour's extradition to Morocco](#)

[No violation of Article 13 in conjunction with Article 3](#)

[Interim measure \(Rule 39 of the Rules of Court\) – not to extradite Mr Ouabour to Morocco – still in force until judgment becomes final or until further order](#)

**[Vasilescu v. Belgium](#)**

25.11.2014

The case mainly concerned Mr Vasilescu's condition of detention in Antwerp and Merksplas Prisons.

[Violation of Article 3 as concerns the physical conditions of the applicant's detention](#)

**[Trabelsi v. Belgium](#)**

04.09.2014

The case concerned the extradition, which has been effected despite the indication of an interim measure by the European Court of Human Rights (Rule 39 of the Rules of Court), of a Tunisian national from Belgium to the United States, where he is being prosecuted on charges of terrorist offences and is liable to life imprisonment.

[Violation of Article 3](#)

[Violation of Article 34 \(right of individual application\)](#)

**[Claes v. Belgium](#)**

10.01.2013

The case concerned the applicant's detention for over 15 years in a prison psychiatric wing. A court had ruled that he was not criminally responsible for his actions.

[Violation of Article 3 \(torture\)](#)

[Violation of Article 5 §§ 1 and 4 \(right to liberty and security and right to have the lawfulness of detention decided speedily\)](#)

The Court also found violations of the Convention in the cases of [Dufoort v. Belgium](#) and [Swennen v. Belgium](#) on 10 January 2013.

**[Singh and Others v. Belgium](#)**

02.10.2012

The case concerned a family of asylum seekers who claimed to belong to the Sikh minority in Afghanistan. Their asylum application was dismissed by the Belgian authorities, which did not believe them to be Afghan nationals. They alleged that their removal to Moscow had entailed a real risk of *refoulement* to Afghanistan, where they would face treatment in violation of Article 3 (prohibition of inhuman or degrading treatment), and that they had not had an effective remedy before the Belgian authorities in respect of that complaint (Article 13).

[Violation of Article 13 taken together with Article 3](#)

**[Yoh-Ekale Mwanje v. Belgium](#)**

20.12.2011

Threatened deportation of alien at advanced stage of HIV infection to country of origin without certainty that appropriate medical treatment was available.

[No violation of Article 3 \(in case of deportation\)](#)

[Violation of Article 3 \(conditions of detention\)](#)

[Violation of Article 13 \(right to an effective remedy\) in conjunction with Article 3](#)

[Violation of Article 5 § 1 \(f\)](#)

The Court decided to continue to indicate to the Government under Rule 39 of the Rules of Court that it is desirable in the interests of the proper conduct of the proceedings not to remove the applicant until the present judgment becomes final or further order.

#### **Kanagaratnam and Others v. Belgium**

13.12.2011

Detention of a mother and her three children, who were asylum seekers, in a closed centre for illegal aliens pending their removal.

[Violation of Article 3 concerning the three children](#)

[No violation of Article 3 concerning the mother](#)

[Violation of Article 5 § 1 \(right to liberty and security\) concerning the mother and her three children](#)

#### **Muskhadzhiyeva and Others v. Belgium**

19.01.2010

The case concerned the administrative detention for one month of a woman and her four small children, who were Russians of Chechen origin and had sought asylum in Belgium, and their expulsion to Poland, a country through which they had travelled en route to Belgium.

[Violation of Articles 3 and 5 § 1 \(right to liberty and security\)](#)

#### **Cakir v. Belgium**

10.03.2009

Ill-treatment inflicted on the applicant, who was of Turkish origin, at the time of his arrest (during a brawl) and while in police custody. The proceedings brought by the applicant before the Belgian courts lasted five years, with the result that the prosecution was time-barred. The Minister of Justice publicly apologised, emphasising that this was an isolated incidence of malfunctioning, which had not been intended to protect the police officers concerned.

[Violation of Article 3 on account of the violence inflicted and the ineffectiveness of the investigation into the incident](#)

[Violation of Article 3 in combination with Article 14 \(prohibition of discrimination\), in](#)

[that the authorities failed to investigate whether the violence had been racially motivated](#)

#### **Cases dealing with the right to liberty and security (Article 5)**

##### **Venet v. Belgium**

22.10.2019

The case concerned proceedings in which Mr Venet unsuccessfully challenged his pre-trial detention.

He complained that he had been unable to attend the Court of Cassation's hearing on his appeal against his pre-trial detention or to respond to the submissions of the advocate-general, as he had not been given sufficient advance notice.

[Violation of Article 5 § 4 \(right to a speedy decision on the lawfulness of detention\)](#)

##### **K.G. v. Belgium (no. 52548/15)**

06.11.2018

The case concerned an asylum-seeker (K.G.) who was placed and kept in detention under four decisions, for security reasons, while his asylum application was pending. In particular, he was "placed at the Government's disposal" and held on that basis for approximately 13 months.

[No violation of Article 5 § 1](#)

##### **Paci v. Belgium**

17.04.2018

The case concerned criminal proceedings conducted in Belgium which had led to the conviction of an Italian national (Mr Paci) for international arms trafficking.

[No violation of Article 5 § 1 and Article 6 § 1 \(right to a fair hearing\)](#)

##### **Pirozzi v. Belgium**

17.04.2018

The case concerned Mr Pirozzi's detention by the Belgian authorities and his surrender to the Italian authorities under a European arrest warrant (EAW) with a view to enforcing a criminal conviction imposing 14 years' imprisonment for drug trafficking.

[No violation of Articles 5 § 1 and 6 § 1 \(right to a fair trial\)](#)

##### **Thimothawes v. Belgium**

04.04.2017

The case concerned the five-month detention of an Egyptian asylum-seeker at the Belgian border.

[No violation of Article 5 § 1](#)

**L.B. v. Belgium** (no. 22831/08)

02.10.2012

The case concerned the virtually continuous detention of a man suffering from mental health problems in psychiatric wings of two Belgian prisons between 2004 and 2011.

[Violation of Article 5 § 1](#)

**De Schepper v. Belgium**

13.10.2009

Medical detention of a paedophile at the end of his prison sentence, justified by the danger he posed. He alleged that the minister's decision had been based on the lack of adequate medical treatment.

[No violation of Article 5 § 1](#)

**Cases dealing with Article 6**

Right to a fair trial

**Democratic Republic of the Congo v. Belgium**

29.10.2020

The Democratic Republic of the Congo complained about the reasoning given in judgments of the Brussels Court of Appeal and the Court of Cassation in determining the starting point of the limitation period for civil actions. It relied on Article 6 § 1 (right to a fair hearing) and Article 13 (right to an effective remedy) of the Convention.

[Application declared inadmissible](#)

**Van Wesenbeeck v. Belgium**

23.05.2017

The case concerned the use of special methods of searching, observation and infiltration during an investigation against the applicant.

[No violation of Article 6 § 1 on account of a lack of access to a confidential case file](#)

[No violation of Article 6 §§ 1 and 3 \(d\) \(right to examine witnesses\) on account of the applicant's inability to examine undercover officers, or have them examined.](#)

**Habran and Dalem v. Belgium**

17.01.2017

The case concerned the applicants' criminal conviction for banditry, based on the statements of individuals with a criminal background acting as informers and protected witnesses.

[No violation of Article 6 § 1 with regard to the fairness and length of the proceedings](#)

**El Haski v. Belgium**

25.09.2012

The case concerned the applicant's arrest and conviction for participating in the activities of a terrorist group.

[Violation of Article 6](#)

**Ullens de Schooten and Rezabek v. Belgium**

20.09.2011

Refusal of the Belgian Court of Cassation and the *Conseil d'Etat* to refer questions relating to the interpretation of European Union (EU) law to the Court of Justice for a preliminary ruling.

[No violation of Article 6 § 1](#)

**Lee Davies v. Belgium**

28.07.2009

Unlawful obtaining by the police, without a search warrant, of evidence used as the basis of a conviction and sentencing for drug trafficking.

[No violation of Article 6 § 1](#)

**Anakomba Yula v. Belgium**

10.03.2009

Refusal to grant legal aid to a Congolese woman, unlawfully resident in Belgium, to bring an action to contest paternity against her husband.

[Violation of Article 6 § 1 in conjunction with Article 14 \(prohibition of discrimination\)](#)

Right to a fair trial within a reasonable time

**Panju v. Belgium**

28.10.2014

The case concerned the length of criminal proceedings, which had remained at the judicial investigation stage after more than eleven years.

[Violation of Article 13 \(right to an effective remedy\) taken together with Article 6 § 1, finding that there was no remedy by which to complain about the length of a pending judicial investigation in criminal proceedings](#)  
[Violation of Article 6 § 1 on account of the length of the proceedings, which had lasted for more than eleven years to date](#)

Right of access to a court

**Ronald Vermeulen v. Belgium**

17.07.2018

The case concerned an administrative dispute relating to the results obtained by

Mr Vermeulen in a competitive examination for admission to the civil service.

[Violation of Article 6 § 1](#)

**[C.M. v. Belgium](#) (no. 67957/12)**

13.03.2018

The case concerned the failure to enforce judicial decisions ordering C.M.'s neighbour to carry out rehabilitation work in order to comply with the urban planning regulations.

[Violation of Article 6 § 1](#)

**[Radiotélévision belge de la communauté française \(RTBF\) v. Belgium](#)**

29.03.2011

Temporary injunction preventing the RTBF from broadcasting a programme on, among other things, patients' rights with regard to doctors, pending a final judgment in a dispute between the RTBF and the doctor who was the subject of the broadcast. The RTBF complained about the refusal by the Court of Cassation to take into consideration the second limb of its appeal concerning its freedom of expression and about the interim injunction preventing the broadcasting of the programme.

[Violation of Article 6 § 1](#)

[Violation of Article 10 \(freedom of expression\)](#)

**[Hakimi v. Belgium](#)**

29.06.2010

The applicant complained that his application to have set aside a judgment convicting him in his absence had been rejected as being out of time. He stressed that he had not been informed by the prison authorities of the time-limit for applying to have the judgment set aside. He had been sentenced to seven years' imprisonment and a fine of 2,500 euros for his participation in the activities of a terrorist group.

[Violation of Article 6 § 1](#)

**[L'Erablière ASBL v. Belgium](#)**

24.02.2009

The applicant association complained about the *Conseil d'Etat's* decision to declare inadmissible its application for judicial review of planning permission to extend a waste collection site, on the ground that the application did not contain a statement of the facts explaining the background to the case.

[Violation of Article 6 § 1](#)

**[Presumption of innocence](#)**

**[Poncelet v. Belgium](#)**

30.03.2010

Criminal proceedings against a senior civil servant at the Ministry for Public Works.

[Violation of Article 6 § 2](#)

**[Rights of the defence and right to question witnesses](#)**

**[Guerni v. Belgium](#)**

23.10.2018

The case concerned criminal proceedings under which Mr Guerni had been convicted of drug trafficking. In the framework of their investigations, the police had been authorised to call on the services of an informer and an undercover agent posing as a purchaser.

[No violation of Article 6 § 1 as regards the use of the undercover investigative method](#)

[No violation of Article 6 §§ 1 and 3 \(d\) owing to the applicant's inability to examine the informer or the undercover agent or to have them examined](#)

**Cases concerning private and family life (Article 8)**

**[Belcacemi and Oussar v. Belgium](#)**

11.07.2017

The case concerned the ban on the wearing in public of clothing that partly or totally covers the face under the Belgian law of 1 June 2011.

[No violation of Articles 8 and 9 \(freedom of thought, conscience and religion\)](#)

[No violation of Article 14 \(prohibition of discrimination\), taken together with Articles 8 and 9](#)

**[Dakir v. Belgium](#)**

11.07.2017

The case concerned a by-law adopted in June 2008 by three Belgian municipalities (Pepinster, Dison and Verviers) concerning a ban on the wearing in public places of clothing that conceals the face, and the subsequent proceedings before the *Conseil d'État*.

[No violation of Articles 8 and 9 \(right to freedom of thought, conscience and religion\)](#)

No violation of Article 14 (prohibition of discrimination), taken together with Articles 8 and 9

Violation of Article 6 § 1 (right of access to a court)

#### **Kalnėnienė v. Belgium**

31.01.2017

The case concerned a search carried out at Ms Kalnėnienė's home and the use of evidence thus obtained in the criminal trial which resulted in her conviction.

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

No violation of Article 6 § 1 (right to a fair trial)

No violation of Article 13 (right to an effective remedy) taken together with Article 8

#### **Chbihi Loudoudi and Others v. Belgium**

16.12.2014

The case concerned a refusal by the Belgian authorities to grant an application by Mr Chbihi Loudoudi and Ms Ben Said for the adoption of their Moroccan niece, for whom they were caring on the basis of *kafala*, an institution under Islamic law, defined as a voluntary undertaking to provide for a child's welfare, education and protection.

No violation of Article 8 concerning the refusal to grant the adoption

No violation of Article 8 concerning the child's residence status

#### **B. v. Belgium (no. 4320/11)**

10.07.2012

The case concerned the decision to order the return to the United States of a child whose mother had taken her to Belgium without the agreement of her father or of the American courts.

Violation of Article 8 if the order to return the applicant's daughter to the United States were enforced

#### **Freedom of thought, conscience and religion (Article 9)**

#### **Lachiri v. Belgium**

18.09.2018

The case concerned Mrs Lachiri's exclusion from a courtroom on account of her refusal to remove her *hijab*.

Violation of Article 9

#### **Freedom of expression cases (Article 10)**

#### **Radiotélévision belge de la communauté française (RTBF) v. Belgium**

29.03.2011

Temporary injunction preventing the RTBF from broadcasting a programme on, among other things, patients' rights with regard to doctors, pending a final judgment in a dispute between the RTBF and the doctor who was the subject of the broadcast. The RTBF complained about the refusal by the Court of Cassation to take into consideration the second limb of its appeal concerning its freedom of expression and about the interim injunction preventing the broadcasting of the programme.

Violation of Article 6 § 1 (right of access to a court)

Violation of Article 10

#### **Féret v. Belgium**

16.07.2009

Conviction of a Member of Parliament, president of a political party, who was sentenced to 250 hours' work and declared ineligible to hold office, for public incitement to discrimination or hatred, on the basis of a 1981 Law which penalised certain acts inspired by racism or xenophobia.

No violation of Article 10

For the first time, the Court accepted interference in the freedom of expression of a member of parliament outside the Parliament building, giving weight to the fact that the distribution of the leaflets in question took place during electoral campaigns, when the impact of racist and xenophobic discourse was more harmful.

#### **Inadmissibility decision**

#### **Mahi v. Belgium**

03.09.2020

The case concerned the disciplinary transfer of a teacher of Islamic religion (Mr Mahi) on account of remarks which he had made in an open letter to the press concerning, among other topics, the January 2015 attacks in Paris on the newspaper *Charlie Hebdo*.

Application declared inadmissible as manifestly ill-founded.

### **Belkacem v. Belgium**

20.07.2017

The case concerned the conviction of Mr Belkacem, the leader and spokesperson of the organization "Sharia4Belgium", which was dissolved in 2012, for incitement to discrimination, hatred and violence on account of remarks he made in YouTube videos concerning non-Muslim groups and Sharia.

The Court rejected the application, finding that it was incompatible with the provisions of the Convention and that Mr Belkacem had attempted to deflect Article 10 of the Convention from its real purpose by using his right to freedom of expression for ends which were manifestly contrary to the spirit of the Convention.

#### **Protection of property cases (Article 1 of Protocol No. 1)**

### **S.A. Bio d'Ardennes v. Belgium**

12.11.2019

The case concerned the Belgian authorities' refusal to compensate the applicant company for the compulsory slaughter of 253 head of cattle infected with brucellosis.  
[No violation of Article 1 of Protocol No. 1](#)

#### **Right to free elections cases (Article 3 of Protocol No. 1)**

### **G.K. v. Belgium (no. 58302/10)**

21.05.2019

The case concerned a former Belgian senator who alleged that she had been unlawfully deprived of her seat after being forced to resign under pressure from members of her party. She withdrew her resignation several days later, arguing that her consent was invalid, but the Senate took formal note of her resignation and ratified her successor's credentials.  
[Violation of Article 3 of Protocol No. 1](#)

## **Noteworthy cases, decisions delivered**

### **Zschüschen v. Belgium**

01.06.2017

The case concerned criminal proceedings which led to Mr Zschüschen's conviction for money laundering. He had opened an account in a Belgian bank and, within two

months, paid a total of 75,000 euros (EUR) into it. Questioned by the authorities about the origin of the money, he remained silent throughout the proceedings.

[Application declared inadmissible.](#)

### **Muzamba Oyaw v. Belgium**

04.04.2017

The case concerned the administrative detention of a Congolese national with a view to his expulsion while his partner, a Belgian national, had been pregnant.

[Application declared inadmissible as manifestly ill-founded.](#)

### **Bodet v. Belgium**

26.01.2017

The case concerns statements made to the press by a member of the jury in an assize court following that court's conviction of Mr Bodet.

[Application declared inadmissible as manifestly ill-founded.](#)

### **D. and Others v. Belgium (no. 29176/13)**

08.07.2014

The case concerned the Belgian authorities' initial refusal to authorise the arrival on its national territory of a child who had been born in Ukraine from a surrogate pregnancy, as resorted to by the applicants, two Belgian nationals.

[Application struck out of the Court's list of cases as concerns the Belgian authorities' refusal to issue a travel document for the child, A.. The Court also declared inadmissible the remainder of the application.](#)

### **Chapman v. Belgium**

05.03.2013

The case concerned a dispute between NATO and one of its former staff members concerning his contract of employment.

[Application declared inadmissible: The Court, relying on its previous case-law, found that the recognition by the domestic courts of NATO's jurisdictional immunity was compatible with Article 6 § 1 of the European Convention on Human Rights. In the present case, the international organisation's internal procedure would have given sufficient safeguards for the applicant to have his complaints examined.](#)

### **[Simons v. Belgium](#)**

28.08.2012

The applicant complained in particular under Article 5 § 1 (right to liberty and security) that, owing to deficiencies in Belgian law, she had not been assisted by a lawyer while in police custody and during her police interview, or during her initial questioning by the investigating judge.

[Application declared inadmissible - manifestly ill-founded: although the impossibility in law for accused persons placed in detention to be assisted by a lawyer from the start of their detention had a bearing on the fairness of the criminal proceedings, this did not imply that the detention in question was in breach of Article 5 § 1.](#)

### **[H.K. v. Belgium \(no. 22738/08\)](#)**

12.01.2010

The applicant is a Lebanese national and one of the suspects in a judicial investigation opened in November 1990 concerning the textile group Beaulieu. He complained of the length of the proceedings, which he considered excessive, and alleged that he had not been informed in detail in a language which he understood of the accusation against him.

[Application declared inadmissible - manifestly ill-founded.](#)

## **[Noteworthy pending cases](#)**

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### **Grand Chamber**

#### **[Denis and Irvine v. Belgium \(nos. 62819/17 and 63921/17\)](#)**

The case concerns the refusal by the Belgian courts to order the release of the applicants, both being held in compulsory confinement.

The applicants allege, in particular, that their continued compulsory confinement since the entry into force of the 2014 Law is contrary to Article 5 § 1 (e) (right to liberty and security) and 5 § 4 (right to a speedy decision on the lawfulness of detention) of the European Convention on Human Rights. In its Chamber [judgment](#) of 8 October 2019, the Court found, unanimously, that there had been no violation of Article 5 § 1 of the Convention. The Court also held, unanimously, that there had been no violation of Article 5 § 4 of the Convention.

On 24 February 2020 the Grand Chamber Panel accepted the applicants' request that the case be [referred](#) to the Grand Chamber. A Grand Chamber [hearing](#) took place on 21 October 2020.

### **Chamber**

#### **[Schurmans v. Belgium \(no. 33075/09\)](#)**

Application [communicated](#) to the Government on 31 August 2020

The application concerns the Fortisgate scandal.

#### **[Mortier v. Belgium \(no. 78017/17\)](#)**

Application [communicated](#) to the Government on 3 December 2018

The application concerns the death by euthanasia of the applicant's mother, who was suffering from chronic depression, without the knowledge of the applicant or his sister. Relying on Article 2 (right to life) of the Convention, Mr Mortier alleges that the State failed in its positive obligation to protect his mother's life as the procedure provided for by the Law of 28 May 2002 was not followed properly. Mr Mortier also alleges a violation of Article 2 owing to a lack of independence on the part of the Federal Council for Monitoring and Evaluation and to a lack of a thorough and effective investigation into the alleged facts.

Relying on Article 8 of the Convention, the applicant alleges that the violation of his mother's right to life led to a breach of her right to respect for her mental integrity and of her right to a family life.

#### **[El Aroud v. Belgium \(no. 25491/18\) and Soughir v. Belgium \(no. 27629/18\)](#)**

Application [communicated](#) to the Government on 5 November 2018

The applications concern the removal of the applicants' Belgian nationality following their conviction for acts related to terrorism.

Relying mainly on Article 2 of Protocol No. 7 to the Convention, the two applicants complain that they were deprived of two levels of jurisdiction relating to the decision to strip them of their citizenship.

**Malika El Aroud v. Belgium (n° 25491/18) and Bilal Soughir v. Belgium (n° 27629/18)**

Applications [communicated](#) to the Belgian Government on 5 November 2018

These applications concern a Moroccan national and a Tunisian national. They both acquired Belgian nationality by declaration. They were convicted by the Belgian criminal courts in 2010 and 2008, respectively, for acts related to terrorism. The applicants were deprived of their Belgian nationality by separate judgments of 30 November 2017 of the Brussels Court of Appeal on the basis of Article 23 of the Belgian Nationality Code. Having regard to the wording of Article 23 § 6 of the Belgian Nationality Code, the first applicant did not appeal to the Court of Cassation. The second applicant has taken steps in this direction, in particular by obtaining legal aid, but these have not been successful.

Relying on Article 2 of Protocol No. 7 to the Convention, both applicants complain that they have been denied the right to appeal against the decision to deprive them of their nationality. Relying on Article 8 of the Convention, the applicants submit that the revocation of their nationality infringes their right to respect for private and family life.

**Hurbain v. Belgium (no. 57292/16)**

Application [communicated](#) to the Government on 7 September 2018

The application concerns a civil court order that the applicant, responsible for publishing the newspaper *Le Soir*, had to provide anonymity in its online archive to a driver who had been responsible for a 1994 road accident, based on the right to be forgotten.

Relying on Article 10 (freedom of expression) of the Convention, the applicant alleges that the interference in question, based on Article 1382 of the Civil Code, was unclear and not foreseeable.

**RTBF v. Belgium (no. 417/15)**

Application [communicated](#) to the Government on 7 September 2018

The application concerns a finding of liability under Article 1382 of the Civil Code against the applicant company, the publicly owned television and radio company of the Belgian French community, for violating a couple's right to respect for their private life and to the presumption of innocence after a

documentary about them. The couple were subsequently convicted for activities mentioned in the report.

The applicant company relies on Article 10 (freedom of expression) of the Convention.

**Aarrass v. Belgium (no. 16371/18)**

Application [communicated](#) to the Government on 18 June 2018

The application concerns a Belgian-Moroccan national who was arrested on 1 April 2008 in Melilla (Spain) following an international arrest warrant issued by the Moroccan authorities. Mr Aarrass is wanted by the Moroccan authorities in order to be tried for the following offences: association and collaboration with terrorists groups or organisations, and carrying out terrorist attacks that would undermine public order. Before the Court, Mr Aarrass complains under Article 3 (prohibition of inhuman and / or degrading treatment) of the Convention.

**J.C. and Others v. Belgium (no. 11625/17)**

Application [communicated](#) to the Belgian Government on 12 February 2018

This application concerns a civil action brought by twenty-four applicants complaining of the sexual abuse of which they had been victims within the Catholic Church in Belgium.

Relying on Article 6 § 1 of the Convention, the applicants complain before the European Court of a violation of their right of access to a tribunal, given that they had been prevented under the "State immunity theory" from lodging civil-law complaints against the Holy See.

**[Van de Cauter v. Belgium \(no. 18918/15\)](#) and [Verzin and Others v. Belgium \(no. 77940/14\)](#)**

Applications communicated to the Belgian Government on 27 November 2017

The applications concern the alleged lack of remedies in Belgian legislation before an independent and impartial body in cases of post-electoral disputes.

The applicants primarily rely on Articles 3 of Protocol No. 1 (right to free elections) to the Convention and Article 13 (right to an effective remedy) of the Convention.

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