



Belgium

Ratified the European Convention on Human Rights in 1955

National Judge: Paul Lemmens

[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)

The Court dealt with 193 applications concerning Belgium in 2017, of which 177 were declared inadmissible or struck out. It delivered 13 judgments (concerning 16 applications), 7 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2015	2016	2017
Applications allocated to a judicial formation	202	184	153
Communicated to the Government	26	8	35
Applications decided:	217	169	193
- Declared inadmissible or struck out (Single Judge)	177	148	153
- Declared inadmissible or struck out (Committee)	20	8	11
- Declared inadmissible or struck out (Chamber)	1	2	13
- Decided by judgment	19	11	16
Interim measures:	40	42	12
- Granted	0	2	1
- Refused (including out of scope)	40	40	11

For information about the Court's judicial formations and procedure, see the [ECHR internet site](#).

Applications pending before the court on 01/01/2018	
Total pending applications*	386
Applications pending before a judicial formation:	321
Single Judge	14
Committee (3 Judges)	72
Chamber (7 Judges)	233
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 **668** Registry staff members of whom **8** are Belgian.

Noteworthy cases, judgments delivered

Grand Chamber

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 (prohibition of inhuman or degrading treatment) 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

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 (right to a fair trial)

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 (prohibition of inhuman or degrading treatment) 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 Regulation¹.

¹ 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 3 (prohibition of inhuman or degrading treatment or punishment) by Greece both because of the applicant's detention conditions and because of his living conditions in Greece; 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](#)".

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 a fair trial)

The Court held that it could not call into question the lay jury system in itself but that, in Mr Taxquet's specific case, there had been insufficient safeguards in the proceedings for him to be able to understand why he had been found guilty.

Chamber

Cases dealing with the right to life (Article 2)

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)

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)

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](#)

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

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

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)

Kalnéniené v. Belgium

31.01.2017

The case concerned a search carried out at Ms Kalnéniené'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 or 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

Cases dealing with freedom of expression (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.

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

Noteworthy cases, decisions delivered

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.

Application declared inadmissible.

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

Grand Chamber

Rooman v. Belgium (no. 18052/11)

The case concerns proceedings brought by Mr Rooman on account of the lack of psychiatric care in the facility in which he was being detained.

Relying on Article 3 (prohibition of inhuman or degrading treatment) and Article 5 § 1 (right to liberty and security) of the Convention, Mr Rooman complains of the lack of psychiatric care in the social protection facility where he is detained.

In its Chamber [judgment](#) of 18 July 2017, the Court held, unanimously, that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) of the Convention.

Case [referred](#) to the Grand Chamber on 11 December 2017

Beuze v. Belgium (no. 71409/10)

16.06.2017

The applicant, sentenced to life imprisonment for intentional homicide, complains that the Belgian legislation in force when he was questioned did not provide for assistance by a lawyer at the initial stage of proceedings and that, in consequence, he did not receive the assistance of a lawyer during this preliminary phase.

[Relinquishment](#) in favour of the Grand Chamber on 13 June 2017

Grand Chamber [hearing](#) on 20 December 2017

Chamber

[Clasens v. Belgium \(no. 26564/16\) and six other applications](#)

Application communicated to the Belgian Government on 15 June 2017

These applications concern the conditions of detention in a number of prisons during the prison staff strike which affected Belgium in 2016.

The applicants rely on Articles 3 (prohibition of inhuman or degrading treatment), 6 § 1 (right to a fair trial), 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the Convention.

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