

**Press release issued by the Registrar**

**CHAMBER JUDGMENT  
FERET v. BELGIUM**

The European Court of Human Rights has today notified in writing its Chamber judgment<sup>1</sup> in the case of *Féret v. Belgium* (application no. 15615/07). The Court held by 4 votes to 3 that there had been **no violation of Article 10 (freedom of expression)** of the European Convention on Human Rights in respect of the conviction of the applicant, chairman of the political party “Front National”, for publicly inciting discrimination or hatred, following complaints concerning leaflets distributed by that party during election campaigns. ([The judgment is available only in French.](#))

**1. Principal facts**

The applicant, Mr Daniel Féret, is a Belgian national who was born in 1944 and lives in Brussels. As chairman of the political party “Front National-Nationaal Front” (the “Front National”) he is the editor in chief of the party’s publications and owner of its website. He was a member of the Belgian House of Representatives at the relevant time.

Between July 1999 and October 2001 the distribution of leaflets and posters by his party, in connection with the election campaigns of the Front National, led to complaints by individuals and associations for incitation of hatred, discrimination and violence, filed under a law of 30 July 1981 which penalised certain acts inspired by racism or xenophobia.

On 19 February 2002 Mr Féret was interviewed by the police in connection with those complaints.

The applicant’s parliamentary immunity was waived on the request of the Principal Public Prosecutor at the Brussels Court of Appeal. In November 2002 criminal proceedings were brought against him as author and editor-in-chief of the offending leaflets and owner of the website.

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<sup>1</sup> Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

On 4 June 2003, in order to be able to rule on the merits, the Brussels Criminal Court reopened the proceedings. An appeal by Mr Féret concerning the jurisdiction of that first-instance court was declared inadmissible in June 2003 and in March 2004 the Court of Cassation dismissed his appeal on points of law against the Court of Appeal's decision.

On 13 June 2004 the applicant was elected to the Bruxelles-Capitale Regional Council and to the Parliament of the French Community, both positions affording him new parliamentary immunity.

The public prosecutor reactivated the proceedings on 23 June 2004. On 20 February 2006 the Brussels Court of Appeal held a complete trial and on 18 April 2006 sentenced Mr Féret to 250 hours of community service related to the integration of immigrants, together with a 10-month suspended prison sentence. It declared him ineligible for ten years. Lastly, it ordered him to pay one euro to each of the civil parties.

The court found that the offending conduct on the part of Mr Féret had not fallen within his parliamentary activity and that the leaflets contained passages that represented a clear and deliberate incitation of discrimination, segregation or hatred, and even violence, for reasons of race, colour or national or ethnic origin.

An appeal on points of law by Mr Féret was dismissed on 4 October 2006.

## **2. Procedure and composition of the Court**

The application was lodged with the European Court of Human Rights on 29 March 2007. It was decided that the admissibility and merits would be examined at the same time.

Judgment was given by a Chamber of seven judges, composed as follows:

Ireneu **Cabral Barreto** (Portugal), *President*,  
Françoise **Tulkens** (Belgium),  
Vladimiro **Zagrebelky** (Italy),  
Danutė **Jočienė** (Lithuania),  
Dragoljub **Popović** (Serbia),  
András **Sajó** (Hungary),  
Nona **Tsotsoria** (Georgia), *judges*,

and also Françoise Elens-Passos, Deputy Section Registrar.

## **3. Summary of the judgment<sup>2</sup>**

### **Complaint**

Relying on Article 10 (freedom of expression), the applicant alleged that his conviction for the content of his political party's leaflets represented an excessive restriction on his right to freedom of expression.

### **Decision of the Court**

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<sup>2</sup> This summary by the Registry does not bind the Court.

The interference with Mr Féret's right to freedom of expression had been provided for by law (law of 30 July 1981 on racism and xenophobia) and had the legitimate aims of preventing disorder and of protecting the rights of others.

The Court observed that the leaflets presented the communities in question as criminally-minded and keen to exploit the benefits they derived from living in Belgium, and that they also sought to make fun of the immigrants concerned, with the inevitable risk of arousing, particularly among less knowledgeable members of the public, feelings of distrust, rejection or even hatred towards foreigners.

While freedom of expression was important for everybody, it was especially so for an elected representative of the people: he or she represented the electorate and defended their interests. However, the Court reiterated that it was crucial for politicians, when expressing themselves in public, to avoid comments that might foster intolerance.

The impact of racist and xenophobic discourse was magnified in an electoral context, in which arguments naturally became more forceful. To recommend solutions to immigration-related problems by advocating racial discrimination was likely to cause social tension and undermine trust in democratic institutions. In the present case there had been a compelling social need to protect the rights of the immigrant community, as the Belgian courts had done.

With regard to the penalty imposed on Mr Féret, the Court noted that the authorities had preferred a 10-year period of ineligibility rather than a penal option, in accordance with the Court's principle of restraint in criminal proceedings.

The Court thus found that there had been no violation of Article 10.

The Court added that the remainder of the application was inadmissible.

Judges Sajó, Zagrebelsky and Tsotsoria expressed a joint dissenting opinion, which is annexed to the judgment.

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The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

#### **Press contacts**

**Céline Menu-Lange (telephone : 00 33 (0)3 90 21 58 77)**

Stefano Piedimonte (telephone : 00 33 (0)3 90 21 42 04)

Tracey Turner-Tretz (telephone : 00 33 (0)3 88 41 35 30)

Kristina Pencheva-Malinowski (telephone : 00 33 (0)3 88 41 35 70)

Frédéric Dolt (telephone : 00 33 (0)3 90 21 53 39)

*The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.*