



Judgments of 12 November 2024

The European Court of Human Rights has today notified in writing 16 judgments¹:

seven Chamber judgments are summarised below;

a separate press release has been issued for the Chamber judgment in the case of *Associated Newspapers Limited v. the United Kingdom* (application no. 37398/21);

eight Committee judgments, concerning issues which have already been examined by the Court, can be consulted on [Hudoc](#) and do not appear in this press release.

The judgment in French below is indicated with an asterisk ().*

[Al-Habeeb v. Denmark](#) (application no. 14171/23)

[Savuran v. Denmark](#) (no. 3645/23)

[Sharafane v. Denmark](#) (no. 5199/23)

[Winther v. Denmark](#) (no. 9588/21)

All four cases concern expulsion orders against settled migrants in the context of criminal proceedings.

The applicant in the first case, Hamza Azeem Thamer Al-Habeeb, is an Iraqi national who was born in 1991 and currently lives in Sweden. He entered Denmark in 1998 at the age of seven.

The applicant in the second case, İlhan Savuran (now Savran), is a Turkish national who was born in Denmark in 1991 and now lives in Türkiye.

The applicant in the third case, Zana Sharafane, is an Iraqi national who was born in Denmark in 1997 and lived in Aalborg (Denmark). His current whereabouts are unknown.

The applicant in the fourth case, Martin Treesh Winther, is a Syrian national who currently lives in Aalborg (Denmark). He entered Denmark in 2014 at the age of 20.

Mr Al-Habeeb and Mr Winther were convicted of assault; Mr Savuran and Mr Sharafane of drugs offences. They were all given prison sentences and issued with expulsion orders.

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, the applicants complain of the decisions to expel them, with re-entry bans ranging from six to 12 years. They allege in particular that the courts failed to weigh in the balance certain personal circumstances, such as strong ties with Denmark – including a wife/partner and children – and none with their country of origin, and/or insignificant or no criminal pasts. Three of the applicants also allege that the re-entry ban amounted in effect to a permanent ban since the prospect of them being readmitted to Denmark was purely theoretical.

¹ Under Articles 43 and 44 of the Convention, Chamber judgments are not final. During the three-month period following a Chamber judgment's delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Under Article 28 of the Convention, judgments delivered by a Committee are final.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

In the cases of *Al-Habeeb v. Denmark* (no. 14171/23), *Savuran v. Denmark* (no. 3645/23), and *Winther v. Denmark* (no. 9588/21):

No violation of Article 8

In the case of *Sharafane v. Denmark* (no. 5199/23):

Violation of Article 8

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant.

R.F. and Others v. Germany (no. 46808/16)*

The applicants are two German nationals (R.F. and C.F., who were born in 2013 and 1975 respectively) and a French national (M.-C. A.-F., who was born in 1966). They live in Germany.

M.-C. A.-F. and C.F., two women, are a couple who have had their partnership registered with the Cologne registrar since 2010. In 2013 M.-C. A.-F. gave birth to R.F. in Cologne. According to the applicants, R.F. had been conceived by *in vitro* fertilisation using one of C.F.'s eggs and sperm from an anonymous donor. The embryo had then been transferred to M.-C. A.-F.'s uterus. C.F. and M.-C. A.-F. had had these procedures performed in a clinic in Belgium, before returning to Germany. Genetic testing carried out in 2013 confirms that C.F. is R.F.'s genetic mother with a probability of almost 100%.

In the birth register and on R.F.'s birth certificate, M.-C. A.-F. was listed as the child's mother and the father's name was left blank. The applicants brought civil-status proceedings to have C.F. added as the child's (second) mother in the birth register, but their request was rejected at last instance by the Cologne Court of Appeal in 2014. The applicants then lodged a constitutional complaint with the Constitutional Court, which was dismissed.

M.-C. A.-F. and C.F. subsequently brought proceedings to have R.F. adopted by C.F. The Cologne Family Court granted the adoption in October 2015.

In this case, the three applicants complain about the family courts' refusal to acknowledge that R.F., to whom M.-C. A.-F. gave birth, is also the son of C.F., who is his genetic mother and M.-C. A.-F.'s partner.

They rely on Article 8 (right to respect for private and family life) of the European Convention, along with Article 14 (prohibition of discrimination). In particular, they complain about the German authorities' refusal to recognise C.F. as one of R.F.'s parents, even though she is his genetic mother, and claim that C.F.'s adoption of the child has not remedied the damage they have suffered. They also allege that they have been treated in a discriminatory manner compared with heterosexual couples who give birth using donated eggs and sperm.

No violation of Article 8

E.T. v. the Republic of Moldova (no. 25373/16)

The applicant, Ms E.T., is a Moldovan national who was born in 1961 and lives in Cocieri (the Republic of Moldova).

Diagnosed with chronic paranoid schizophrenia in the late 1990s, Ms E.T. was declared totally incapacitated in 2002. The case concerns her complaint that she could not bring a court action to restore her legal capacity.

In 2015 she had contacted a non-governmental organisation and its lawyer who had brought an action in court aimed at re-establishing her legal capacity. The lawyer had argued that Ms E.T.'s mental health had improved and that she had a strained relationship with her guardian. The action

was unsuccessful because Ms E.T., as an incapacitated person, could not authorise the lawyer to bring a court action.

Relying on Article 6 § 1 (right of access to court) of the Convention, Ms E.T. complains that Moldovan law only allowed her to apply for restoration of her legal capacity through her guardian or certain officials. Also relying on Articles 8 (right to respect for private and family life) and 14 (prohibition of discrimination), she alleges that she was discriminated against as compared with other persons temporarily unable to understand their actions but whose legal capacity remained intact, such as persons who had suffered a stroke or had abused drugs.

Violation of Article 6 § 1

Violation of Article 14 taken in conjunction with Article 8

Just satisfaction:

non-pecuniary damage: EUR 5,000 euros (EUR)

M.I. v. Switzerland (no. 56390/21)

The applicant, Mr M.I., is an Iranian national who was born in 1990 and lives in Zurich.

Mr M.I. is a homosexual and alleges that he had to leave Iran when his family found out about his sexuality. The case concerns the Swiss authorities' rejection of his asylum application. They concluded that he would not be at risk if expelled to Iran provided that he continued to live his private life there in a discreet manner upon his return.

His expulsion was stayed in November 2022 pending the proceedings before the European Court, following its granting his request for interim measures under Rule 39 of the Rules of Court.

Relying on Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment), the applicant alleges that he would face a real and imminent risk of arrest, ill-treatment or death at the hands of the authorities, of his family or of society at large. He argues in particular that the Swiss authorities failed to carry out a comprehensive assessment of the risks of his expulsion to a country where homophobia and discrimination against LGBTI persons was widespread. He also relies on Articles 13 (right to an effective remedy) and 14 (prohibition of discrimination).

Violation of Article 3 – should the applicant be returned to Iran without a fresh assessment of the risk of ill treatment

Interim measure (Rule 39 of the Rules of Court): still in force until the present judgment becomes final or until further decision is made;

Just satisfaction: The Court held that the finding of a violation constituted in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant and that the respondent State was to pay him EUR 7,000 for costs and expenses.

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Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

We are happy to receive journalists' enquiries via either email or telephone.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.