



## Judgments of 28 July 2020

The European Court of Human Rights has today notified in writing two judgments<sup>1</sup>:

one Chamber judgment is summarised below;

a separate press release has been issued for one other Chamber judgment in the case of *Monica Macovei v. Romania* (application no. 53028/14).

*The judgment summarized below is available only in English.*

### Pormes v. the Netherlands (application no. 25402/14)

The applicant, Hein Pormes, is an Indonesian national who was born in 1987.

The case concerned his complaint about the Dutch authorities' refusal to grant him a residence permit, despite him living in the Netherlands since he was almost four years' old.

Mr Pormes arrived in the Netherlands in 1991 after his mother, who was Indonesian, died. He was brought to the country by his presumed father, a Dutch national, who also died in 1999. He was brought up by an uncle and aunt, who are Dutch nationals and whom he considers to be his foster parents.

In 2004, when he turned 17, he found out that, contrary to what he had always assumed, he might not have Dutch nationality. He learned that he had arrived in the country on a tourist visa which had expired several months after his arrival and that neither his presumed father nor his foster parents had taken any steps to regularise his stay.

In 2006 he thus applied for a temporary residence permit. However, in 2007 the Deputy Minister of Justice rejected his application, because he represented a danger to the public following a recent conviction for indecent assault and four counts of attempted indecent assault. Balancing his ties to the Netherlands and the difficulties he would face adjusting to life in Indonesia against the seriousness of his criminal offences, the Deputy Minister emphasised that his stay in the Netherlands had never been lawful.

In 2008 the Deputy Minister rejected Mr Pormes's objection, maintaining her position and observing that he had in the meantime been convicted again for the same offences.

He appealed against the decision in the courts, but the Administrative Jurisdiction Division of the Council of State ultimately in 2013 held that the Deputy Minister had rightly attached great weight to the offences he had committed given their nature and seriousness and the fact that he was a recidivist. The ruling also pointed out that Mr Pormes was an adult and was aware that he did not have a residence permit when he had committed the offences.

Mr Pormes voluntarily left the Netherlands for Indonesia in 2016, signing a declaration with the International Organization for Migration agreeing to discontinue all proceedings aimed at obtaining a residence permit in the Netherlands in exchange for financial aid.

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

Relying on Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Mr Pormes alleged that the domestic authorities had attached too much weight to his criminal record, omitting to include in the balance his family life with his foster parents and strong social and cultural ties with the Netherlands, when deciding to refuse him a residence permit.

### No violation of Article 8

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#### Press contacts

[echrpess@echr.coe.int](mailto:echrpess@echr.coe.int) | tel: +33 3 90 21 42 08

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)

Patrick Lannin (tel: + 33 3 90 21 44 18)

**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.