



Ban on voting in 2019 European Parliament Elections did not breach rights of prisoner serving life-sentence for serious crimes

In today's **Chamber** judgment¹ in the case of [Kalda v. Estonia \(no. 2\)](#) (application no. 14581/20) the European Court of Human Rights held, by 5 votes to 2, that there had been:

no violation of Article 3 of Protocol 1 (right to free elections) to the European Convention on Human Rights.

The case concerned the blanket ban on prisoners' voting in Estonia. As a result of the ban, the applicant, a prisoner serving a life sentence for various serious crimes, had been prevented from voting in the 2019 European Parliament Elections.

The Court found that the Estonian courts had carefully examined the circumstances of the applicant's case, including the seriousness and the number of crimes he had committed, as well as his subsequent criminal behaviour in prison and the fact that he had been imprisoned for life. It therefore concluded that the courts had not exceeded the leeway given to them when assessing the voting ban in respect of the applicant and finding it proportionate.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Romeo Kalda, is an Estonian national who was born in 1974. He has been serving a life sentence since 1996 for numerous offences, including: two murders (one of a police officer); two counts of illegal possession, use, storage and transfer of a firearm or ammunition; two counts of escaping from custody or from the place of serving a sentence; and two robberies. He is currently detained in Viru Prison.

Since being sentenced to life imprisonment, he has also been convicted of inciting the murder of another prisoner in a cruel manner. According to a 2019 internal prison report, he was considered highly dangerous.

The domestic courts dismissed his request for parole in 2020, taking into account his character, the circumstances of his crimes, his earlier life and the risk assessment reports.

Estonian law states that a person who has been convicted of a criminal offence by a court and is serving a prison sentence does not have the right to vote in the European Parliament Elections. In 2019, the applicant nevertheless requested to vote in the Elections taking place that year. His request was dismissed by the local authorities.

He challenged this decision in the courts. The Court of Appeal ultimately found no reason to depart from earlier Supreme Court judgments in his previous applications to vote, ruling that the ban had been proportionate in his specific case, given his criminal record and sentence.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its 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.

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.

Complaints, procedure and composition of the Court

Relying on Article 3 of Protocol No. 1 (right to free elections), Mr Kalda complained that the ban had breached his right to vote in the 2019 European Parliament Elections.

The application was lodged with the European Court of Human Rights on 12 March 2020.

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

Pere **Pastor Vilanova** (Andorra), *President*,
Georgios A. **Serghides** (Cyprus),
Yonko **Grozev** (Bulgaria),
Jolien **Schukking** (the Netherlands),
Darian **Pavli** (Albania),
Peeter **Roosma** (Estonia),
Andreas **Zünd** (Switzerland),

and also Milan **Blaško**, *Section Registrar*.

Decision of the Court

The Court emphasised that the right to vote was crucial in establishing and maintaining an effective and meaningful democracy, and that universal suffrage had become the basic principle. The rights contained in Article 3 of Protocol No. 1 were not, on the other hand, absolute. The leeway (“margin of appreciation”) given to States in this matter was wide, as there were many ways of organising electoral systems, and there were historical, cultural and political differences between European States.

The Court went on to note that the statutory ban in Estonia had been automatically applicable to all convicts in detention, which on the surface was similar to previous cases where it had found a violation of the right to vote. However, the Court considered that its task was to examine the manner in which the domestic legislation was applied to the specific applicant in his particular circumstances, taking into account, among other things, the findings of the domestic courts.

In the applicant’s specific case the courts had carried out a thorough assessment of the circumstances at hand to determine the proportionality of the measure. In particular, the courts had considered that the voting ban had been proportionate in respect of the applicant, given the number, gravity and nature of his crimes, his continued criminal behaviour while in prison, as well as his life sentence.

The Court also pointed out that although the Estonian Supreme Court had taken an overall critical stance against the blanket ban on prisoners’ voting rights, that court had found the voting ban to be constitutional in respect of the applicant.

The Court concluded that there was no basis to find that the domestic courts had exceeded the leeway given to them when assessing the voting ban in respect of the applicant. It followed that there had been no violation of Article 3 of Protocol No. 1.

Separate opinions

Judges Serghides and Zünd expressed dissenting opinions. These opinions are annexed to the judgment.

The judgment is available only in English.

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Press contacts

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

We would encourage journalists to send their enquiries via email.

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.