



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 217 applications concerning Belgium in 2015, of which 198 were declared inadmissible or struck out. It delivered 13 judgments (concerning 19 applications), 11 of which found at least one violation of the European Convention on Human Rights.

Applications processed in	2013	2014	2015
Applications allocated to a judicial formation	270	159	202
Communicated to the Government	37	23	26
Applications decided:	262	164	217
- Declared inadmissible or struck out (Single Judge)	241	129	177
- Declared inadmissible or struck out (Committee)	8	14	20
- Declared inadmissible or struck out (Chamber)	4	2	1
- Decided by judgment	9	19	19
Interim measures:	49	50	40
- Granted	2	4	0
- Refused (including out of scope)	47	46	40

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

Applications pending before the court on 01/01/2016	
Total pending Applications*	411
Applications pending before a judicial formation:	346
Single Judge	16
Committee (3 Judges)	57
Chamber (7 Judges)	270
Grand Chamber (17 Judges)	3

*including applications for which completed application forms have not yet been received

Belgium and ...

Its contribution to the Court's budget

For 2016 the Court's budget amounts to approximately 71 million Euros. That budget is financed by contributions from the 47 member States of the Council of Europe in accordance with scales based on population and GDP; the 2016 contribution of Belgium to the Council of Europe's (EUR 326 million) budget is **EUR 7,521,703**.

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 **679** Registry staff members of whom **10** are Belgian.

Noteworthy cases, judgments delivered

Grand Chamber

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

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.

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.

Chamber

Cases dealing with the right to life (Article 2)

[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)

[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

[V.M. and Others v. Belgium](#)

07.07.2015

The case concerned the reception conditions of a family of Serbian nationals seeking asylum in Belgium. Following an order to leave the country and despite their appeals against the measure, the applicants were left without basic means of subsistence and were obliged to return to their country of origin, where their severely disabled child died.

Violation of Article 3

Violation of Article 13 (right to an effective remedy) taken in conjunction with Article 3

No violation of Article 2 (right to life)

[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)

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/hearing

[Lhermitte v. Belgium](#)

26.05.2015

The case concerned the sentencing of Mrs Lhermitte to life imprisonment by the Assize Court for the premeditated murders of her five children.

No violation of Article 6 § 1

[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 dealing with the right to respect for private and family life (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 of 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

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

V.M. and Others v. Belgium (no. 60125/11)

It concerns the reception conditions of a family of Serbian nationals seeking asylum in Belgium. Following an order to leave the country and despite their appeals against the measure, the applicants were left without basic means of subsistence and were obliged to return to their country of origin, where their severely disabled child died.

[Referred to the Grand Chamber on 14 December 2015](#)

Lhermitte v. Belgium (no. 34238/09)

The case concerns the applicant's sentencing to life imprisonment by the

Assize Court for the premeditated murders of her five children.

Relying on Article 6 § 1 (right to a fair trial) of Convention, the applicant complains in particular that her right to a fair trial was breached because of a lack of reasoning for the jury verdict as to her guilt or for the Assize Court decision on her sentence. She alleges that the jury, without giving reasons, disregarded the psychiatric reports which concluded that she was suffering from a severe mental disorder rendering her incapable of controlling her actions at the relevant time, and rejected her defence that she was not criminally responsible.

In its Chamber [judgment](#) of 26 May 2015, the Court held, by four votes to three, that there had been no violation of Article 6 § 1 of the Convention.

[Referred to the Grand Chamber on 14 September 2015](#)

[Grand Chamber hearing on 27 January 2016](#)

Paposhvili v. Belgium (no. 41738/10)

The case concerns the decision to return a Georgian national from Belgium to Georgia and ban him from re-entering Belgian territory.

In its Chamber [judgment](#) of 17 April 2014, the Court found that there would be no violation of Articles 2 or 3 in the event of Mr Paposhvili's deportation to Georgia. The Court further found that there had been no violation of Article 8.

The Court also decided to maintain the interim measure (Rule 39 of the Rules of Court) indicated on 23 July 2010 to the effect that Mr Paposhvili should not be deported until the judgment became final or a new decision was given.

Relying on Articles 2 (right to life) and 3 (prohibition of torture and inhuman and degrading treatment) of the Convention, Mr Paposhvili alleges that, if deported to Georgia, he would face a risk of premature death as well as a real risk of being subjected to inhuman or degrading treatment or punishment on the ground that the medical treatment he needs does not exist or is unavailable in the country. Lastly, under Article 8 (right to respect for private and family life), he complains that his return to Georgia and exclusion from Belgium for 10 years would result in separation from the rest of his family, who have been granted leave to remain in Belgium.

[Referred to the Grand Chamber on 20 April 2015](#)
[Grand Chamber hearing on 16 September 2015](#)

Chamber

Beuze v. Belgium (no. 71409/10)

[Communicated](#) to the Belgian Government on 25 August 2014

Under Article 6 §§1, 2 and 3 (c) (right to a fair trial) of the Convention, the applicant allege that the fact that he had no legal assistance during the initial stages of the criminal proceedings against him impaired the exercise of his defence rights and infringed his privilege against self-incrimination.

Bangura v. Belgium (no. 52872/10)

[Communicated](#) to the Belgian Government on 15 April 2014

The application concerns the alleged risk that Ms Bangura, a national of Sierra Leone, will be subjected to female genital mutilation if she is returned to Sierra Leone. Article 3 (prohibition of inhuman or degrading treatment) of the Convention is in issue.

Habran and Dalem v. Belgium (nos. 43000/11 and 49380/11)

[Communicated](#) to the Belgian Government on 8 April 2014

These cases concern criminal proceedings in which the applicants were sentenced by an assize court to 15 and 25 years' imprisonment respectively for acts of banditry, on the basis of statements made by individuals from the criminal world who were successively whistle-blowers and protected witnesses. Article 6 § 1 (right to a fair trial) of the Convention is in issue.

Thimothawes v. Belgium (no. 39061/11)

[Communicated](#) to the Belgian Government on 13 March 2014

The application concerns the lawfulness of the applicant's detention; he is an Egyptian national, and was held in Belgium in a closed centre for illegal immigrants for five months, although the compatibility of the detention with his mental health had not been examined by the authorities. For that reason, Mr Thimothawes considers that his detention was arbitrary, in violation of Article 5 § 1 (f) (right to liberty and security) of the Convention.

M.D. and M.A. v. Belgium (no. 58689/12)

[Communicated](#) to the Belgian Government on 14 September 2012

The case concerns the deportation of the applicants, a Russian couple of Chechen origin, to Russia. The applicants consider that deportation would expose them to inhuman and degrading treatment within the meaning of Article 3 (prohibition of inhuman or degrading treatment) of the Convention. They also complain that no effective remedy was available to them, within the meaning of Article 13 of the Convention.

Gengoux v. Belgium (no. 76512/11)

[Communicated](#) to the Government on 11 September 2012 - [partial decision](#) on the reminder of the application

Pre-trial detention case where the applicant's father, who was seriously ill, died in prison. The applicant complains under Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the Convention, that his father was not given adequate medical care, in part because of strikes by the prison staff during the period concerned.

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