EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Directorate of the Jurisconsult
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RESEARCH UNIT

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Subject: ***Selected judgments of the European Court of Human Rights concerning local or regional authorities***

Following your request of 11 October 2021, please find attached an update of a case-law report on the above subject, prepared by Toomas Sillaste, Lawyer of the Directorate of the Jurisconsult.

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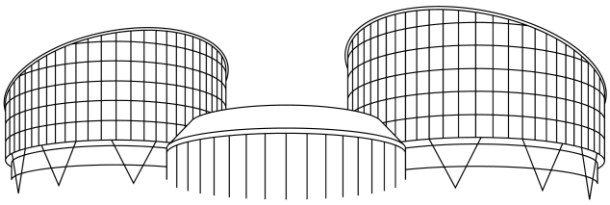

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

RESEARCH REPORT

Selected judgments of the European Court of Human Rights concerning local or regional authorities

(updated on 20 December 2021)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

This report has been prepared by the Research Unit (in English only), under the supervision of the Directorate of the Jurisconsult, and does not bind the Court. The first version of the report was finalised on 19 January 2007. Updated versions were produced on 26 March 2020, 18 April 2018, 15 September 2009 and 1st March 2013 and the present version has been updated up to and including 20 December 2021.

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[1]. All cases referred to are **Judgments** of the ECHR except those referred to as (dec.) which are **Decisions** of the ECHR.

I. LACK OF *LOCUS STANDI* OF LOCAL/REGIONAL AUTHORITIES

Article 34 - Individual applications

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

Gouvernement de la Communauté Autonome du Pays Basque c. Espagne (dec.), nº 29134/03, du 3 février 2004

« La Cour rappelle que, selon sa jurisprudence constante, doivent être qualifiées d'« organisations gouvernementales », par opposition à « organisations non gouvernementales » au sens de l'article 34 de la Convention, non seulement les organes centraux de l'Etat, mais aussi les autorités décentralisées qui exercent des « fonctions publiques », quel que soit leur degré d'autonomie par rapport auxdits organes ; il en va ainsi des collectivités territoriales (voir, essentiellement, *Commune de Rothenthurm c. Suisse*, nº 13252/87, décision de la Commission du 14 décembre 1988, Décisions et rapports (DR) 59, p. 251 ; *Section de commune d'Antilly c. France* (déc.), nº 45129/98, CEDH 1999-VIII ; *Ayuntamiento de Mula c. Espagne* (déc.), nº 55346/00, CEDH 2001-I, et *Danderyds Kommun c. Suède* (déc.) nº 52559/99, 7 juin 2001).

La Cour note que tant le requérant que la Communauté autonome qu'il représente constituent en Espagne des autorités publiques exerçant des compétences et des fonctions officielles qui leur sont dévolues par la Constitution et par la loi, quel que soit le degré de leur autonomie. Dès lors, ils ne peuvent être considérés comme étant des organisations non gouvernementales au sens de l'article 34 de la Convention.

Il s'ensuit que le gouvernement basque ne peut pas, au nom de la Communauté autonome du Pays Basque, introduire une requête fondée sur l'article 34 de la Convention. La requête doit donc être rejetée comme étant incompatible *ratione personae* avec les dispositions de la Convention (cf., par exemple, *The Province of Bari, Sorrentino and Messeni Nemagna v. Italy*, nº 41877/98, décision de la Commission du 15 septembre 1998 ; *Hatzitakis, mairie de Thermaikos et mairie de Mikra c. Grèce* (déc.), nºs 48391/99 et 48392/99, 18.5.2000, non publiée). »

Paşa and Erkan Erol v. Turkey, no. 51358/99, 12 December 2006

Applicant father could not complain of his son's injury as his own administrative responsibility as local major was engaged - *His own application was dismissed under Article 34.*

Döşemealtı Belediyesi v. Turkey, no. 50108/06, (dec.) 23 March 2010

The Court's case-law established on a number of occasions that decentralised authorities exercising public functions could not bring an

application because, regardless of their degree of autonomy, they shared in the exercise of public authority and, accordingly, their acts or omissions engaged the responsibility of the State under the Convention. The Court has always taken as a criterion the power of municipal authorities to exercise public authority, regardless of the act (which might be private) or procedure complained of before it (dispute with central government for example) – *inadmissible.*

Demirbaş and Others v. Turkey, nos. 1093/08, 301/08, 303/08, 306/08, 309/08, 378/08, 382/08, 410/08, 421/08, 773/08, 883/08, 1023/08, 1024/08, 1036/08, 1260/08, 1353/08, 1391/08, 1403/08 and 2278/08, (dec.) 1 December 2010

Lodging of applications with the Court, in a personal capacity, by municipal councillors complaining about the dissolution of the council for using non-official languages in its activities: *inadmissible under Article 34.*

The Court reiterated that local authorities did not have standing to lodge an application under Article 34 of the Convention. Moreover, the members of a dissolved municipal council did not have standing before the Court.

Neither local authorities nor any other government bodies may lodge applications through the individuals who make them up or represent them, relating to acts punishable by the State to which they are attached and on behalf of which they exercise public authority.

Ärztekammer Für Wien and Dorner v. Austria, no. 8895/10, 16 February 2016

Lodging of an application by two applicants, the Vienna Chamber of Medical Doctors and its President, complaining about an injunction prohibiting them from publicly repeating certain statements – *partly admissible.*

The first applicant is a self-administrating body entrusted with public functions, including the issuing of decrees, under the supervision of the regional government. In deciding that the first applicant had no *locus standi* in this case, the Court made reference to its earlier case-law on central organs of the State and decentralised authorities that exercise "public functions".

> "35. […] The term "governmental organisations" applies not only to the central organs of the State, but also to decentralised authorities that exercise "public functions", regardless of their autonomy *vis-à-vis* the central organs; likewise it applies to regional and local authorities, including municipalities. In order to determine whether any given legal person falls within one of the two above categories, account must be taken of its legal status and, where appropriate, the rights that status gives it, the nature of the activity it carries out, the context in which it is carried out, and the degree of its independence from the political authorities (see *Radio France and Others v. France* (dec.), no. 53984/00, § 26, ECHR 2003-X, and *Islamic Republic of Iran Shipping Lines v. Turkey* (no. 40998/98, §§ 78-81, ECHR 2007 V)."

Regarding the second applicant, the Court decided that he had standing to introduce the application, even though he represented the first applicant. Indeed, the injunction in question was addressed to him not only as a representative of the Chamber but also explicitly as a natural person. Therefore it affected him individually.

Forcadell i Lluis and Others v. Spain (dec.), no. 75147/17, 7 May 2019

Suspension by the Constitutional Court of the plenary sitting of the Parliament of the Autonomous Community of Catalonia.

The Court accepted that the applicant MPs were acting as a "group of individuals" in order to defend their specific individual rights, which were not attributable to the Parliament of Catalonia as an institution. They therefore had standing to introduce the application within the meaning of Article 34 (see, to converse effect, *Demirbaş and Others v. Turkey*, referred to above).

II. LOCAL/REGIONAL GOVERNMENT AND ELECTORAL RIGHTS UNDER ARTICLE 3 OF PROTOCOL NO. 1, ARTICLES 7 AND 10 OF THE CONVENTION, AND ARTICLE 1 OF PROTOCOL NO. 12

Article 3 of Protocol No. 1 - Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

A. Regional assemblies

Py v. France, no. 66289/01, ECHR 2005-I[2] (extracts), 11 January 2005

Right to vote in elections to New Caledonian Congress and provincial assemblies refused on account of the ten-year residence rule – *Congress sufficiently involved in the specific legislative process to be regarded as part of the "legislature" for the purposes of Article 3 of Protocol No. 1 – the residence requirement pursued a legitimate aim and was justified in view of the history and status of New Caledonia – no violation of Article 3 of Protocol No. 1.*

[2]. ECHR refers to published case-law.

The Court made reference to its earlier case-law on the application of Article 3 of Protocol No. 1 to regional authorities:

> "36. The Court reiterates at the outset that the word "*legislature*" does not necessarily mean the national parliament; it has to be interpreted in the light of the constitutional structure of the State in question. In the case of *Mathieu-Mohin and Clerfayt*, the 1980 constitutional reform in Belgium had vested in the Flemish Council sufficient competence and powers to make it, alongside the French Community Council and the Walloon Regional Council, a constituent part of the Belgian "legislature", in addition to the House of Representatives and the Senate (see *Mathieu-Mohin and Clerfayt*, cited above, p. 23, § 53, and *Matthews v. the United Kingdom* [GC], no. 24833/94, § 40, ECHR 1999-I; see also the Commission's decisions on the application of Article 3 of Protocol No. 1 to regional parliaments in Austria (*X v. Austria*, no. 7008/75, decision of 12 July 1976, Decisions and Reports (DR) 6, p. 120) and in Germany (*Timke v. Germany*, no. 27311/95, decision of 11 September 1995, DR 82-A, p. 158)."

Federación nacionalista Canaria v. Spain (dec.), no. 56618/00, ECHR 2001-VI, 7 June 2001

Minimum proportion of votes required to qualify for seats in the regional legislative assembly – *a wide margin of appreciation of States in the choice of electoral system – electoral legislation is issue not arbitrary or disproportionate – inadmissible.*

As regards the applicability of Article 3 of Protocol No. 1, the Court stated as follows:

> "The Court notes that in accordance with the structure of the Spanish State's Autonomous Communities (*Comunidades autónomas*), their legislative assemblies participate in the exercise of legislative power and are therefore part of the "*legislature*" within the meaning of Article 3 of Protocol No. 1 (see, *mutatis mutandis*, Timke v. Germany, application no. 27311/95, Commission decision of 11 September 1995, Decisions and Reports (DR) 82-A, p. 158; see also "*Relevant domestic law*" above)."

Repetto Visentini v. Italy (dec.), 42081/10, 9 March 2021

Removal by the courts of an elected representative from her functions on a provincial council on the grounds that she was a member of the management board of a company in which the province was the majority shareholder.

In finding Article 3 of Protocol No. 1 applicable the Court noted that the legislative powers of the given region and its autonomous provinces were based on and clarified by the Constitution and the Regional Statute, which granted them considerable discretion, to the extent that the provincial councils could be regarded as constituents parts of the "legislature".

There was nothing to suggest that the applicant's removal from office had been contrary to national law, arbitrary or disproportionate, or that it thwarted the free expression of the opinion of the people in the choice of the legislature - *inadmissible as manifestly ill-founded under Article 3 of Protocol No. 1.*

Miniscalo v. Italy, no. 55093/13, 17 June 2021

Disqualification of the applicant from standing as a candidate in regional elections on account of his previous criminal conviction for abuse of authority.

The disqualification could not be considered equivalent to a criminal punishment – *inadmissible under Article 7.*

Given the powers afforded to regional councils by the Constitution, they can be considered as part of the "legislature" within the meaning of Article 3 of Protocol No. 1. The contested measure was not disproportionate to the legitimate aim pursed by the Italian authorities (ensuring the proper functioning of the public authorities in general) – *no violation of Article 3 of Protocol No. 1.*

B. Elections of a regional governor

Zhemal v. Russia (dec.), no. 60983/00, 28 February 2008

Elections of the Regional Governor of Sakhalin fell within the ambit of Article 3 of Protocol No. 1 since at the relevant time the Regional Governor, once elected, also became a member of the upper chamber of Russian Parliament and so participated in the exercise of legislative power.

> « Par conséquent, aux yeux de la Cour, l'élection du gouverneur de la région de Sakhaline portait à la fois sur le choix du chef du pouvoir exécutif local et d'un membre du « *corps législatif* » national, au sens de l'article 3 du Protocole n° 1 »

Nevertheless, this complaint is held to be manifestly ill-founded as the authorities are given a wide margin of appreciation in the exercise of their regional election law.

C. Municipal elections

Cherepkov v. Russia (dec.), no. 51501/99, ECHR 2000-I, 25 January 2000

Alleged failure to hold valid elections of municipal council and mayor – *Article 3 of Protocol No. 1 not applicable – inadmissible.*

> "The Commission found that organs of local authority, such as the municipal councils in Belgium and the metropolitan county councils in the United Kingdom, do not form part of the "legislature" within the meaning of Article 3 of Protocol No. 1 (see, Eur. Comm. HR, no. 10650/83, Clerfayt, Legros v. Belgium, Dec. 17.5.1985, D.R. 42, p. 212; no. 11391/85, Booth-Clibborn v. the United Kingdom, Dec. 5.7.1985, D.R. 43, p. 236).
>
> The Court notes … that the applicant complains about local elections …

> The Court considers that the power to make regulations and by-laws which is conferred on the local authorities in many countries is to be distinguished from legislative power, which is referred to in Article 3 of Protocol No. 1 to the Convention, even though legislative power may not be restricted to the national parliament alone (see the Mathieu-Mohin and Clerfayt and Matthews judgments cited above, *loc. cit.*)."

Salleras Llinares v. Spain (dec.), no. 52226/99, ECHR 2000-XI, 12 October 2000

Election dispute concerning a refusal to declare a list of candidates eligible for municipal_elections – *Article 3 of Protocol No. 1 not applicable – inadmissible.*

> "In the instant case the applicant complained about an election dispute relating to elections to the municipal council of Cadaqués. The municipal councils clearly do not exercise legislative power and do not therefore form part of the "legislature" within the meaning of Article 3 of Protocol No. 1 (see *Clerfayt and Others v. Belgium*, application no. 10650/83, Commission decision of 17 May 1985, Decisions and Reports (DR) 42, p. 212; *Booth-Clibborn and Others v. the United Kingdom*, application no. 11391/85, Commission decision of 5 July 1985, Decisions and Reports (DR) 43, p. 236; *Cherepkov v. Russia* (dec.), no. 51501/99, ECHR 2000-I)."

Mółka v. Poland (dec.), no. 56550/00, ECHR 2006-IV, 11 April 2006

Lack of access of the applicant in a wheelchair to a polling station – *inadmissible.*

> "The Court concludes that the municipal councils, district councils and regional assemblies do not possess any inherent primary rulemaking powers and do not form part of the legislature of the Republic of Poland. Accordingly, Article 3 of Protocol No. 1 is not applicable to elections to those organs."

Etxeberria and Others v. Spain, nos. 35579/03 and 3 others, 30 June 2009 – Article 10 applicable – no violation.

Cancellation of candidacies in municipal and provincial elections. *Article 10 of the Convention is applicable in an electoral context where Article 3 of Protocol No. 1 does not apply* - given that the municipalities and provinces concerned do not participate in "*the exercise of legislative power*" within the meaning of Article 3 of Protocol No. 1 (§§ 62-65).

Taking into account the close relationship between the right to freedom of expression and the criteria arising from the case-law concerning Article 3 of Protocol No. 1, the Court considered that the State was entitled to enjoy a margin of appreciation for Article 10 comparable to that accepted in the context of Article 3 of Protocol No. 1 (§ 72).

Şükran Aydın and Others v. Turkey, no. 14871/09, 22 January 2013

Conviction and sentencing of a candidate in the 2004 municipal elections for having spoken Kurdish during the election campaigns, under a law, amended in 2010, which prohibited the use of any language other than Turkish during election campaigns – *violation of Article 10*.

Baralija v. Bosnia and Herzegovina, no. 30100/18, 29 October 2019

Inability of a city resident to vote and stand in local elections for a prolonged time due to a legal void created by the authorities' failure to enforce a Constitutional Court ruling concerning arrangements for voting in local elections in Mostar. The European Court could not accept the Government's justification for the prolonged delay in forcing the ruling, namely the difficulties in establishing a long-term and effective power-sharing mechanism for the city council so as to maintain peace and to facilitate dialogue between the different ethnic groups in Mostar. The State had failed to comply with its duty to take positive measures to protect the applicant from discriminatory treatment on the grounds of her place of residence and to hold democratic elections in Mostar - *violation of Article 1 of Protocol No. 12 (general prohibition of discrimination).*

The Court held that the State had to amend the relevant legislation, at the latest within six months of its judgment becoming final.

It stated as follows on the importance of effective democracy at the local level:

> "57. The Court notes that local elections in Mostar were last held in 2008 (see paragraph 7 above). Since 2012 the city has been governed solely by a mayor who has a "technical mandate" and therefore does not enjoy the required democratic legitimacy. Moreover, he cannot exercise all the functions of local government, which consequently remain unfulfilled (see paragraphs 12-13 above). This situation is not compatible with the concepts of "effective political democracy" and "the rule of law" to which the Preamble to the Convention refers. There is no doubt that democracy is a fundamental feature of the European public order (see *United Communist Party of Turkey and Others v. Turkey*, 30 January 1998, § 45, *Reports* 1998-I), and that the notion of effective political democracy is just as applicable to the local level as it is to the national level, bearing in mind the extent of decision making entrusted to local authorities (see paragraphs 15 and 18 above) and the proximity of the local electorate to the policies which their local politicians adopt (see, *mutatis mutandis*, *Ahmed and Others v. the United Kingdom*, 2 September 1998, § 52, *Reports* 1998-VI). The Court also notes in this respect that the Preamble to the Council of Europe's European Charter of Local Self-Government proclaims that "local authorities are one of the main foundations of any democratic regime", and that local self-government is to be exercised by councils or assemblies composed of freely elected members…"

Selygenenko and Other v. Ukraine, nos. 24919/16 and 28658/16, 21 October 2021

Discriminatory refusal to allow internally displaced persons to vote in local elections at their place of actual residence.

Failure of the authorities to take into account the applicants' particular different situation amounting to discrimination against them in the enjoyment of their right to vote in local elections, guaranteed under domestic law – *violation of Article 1 of Protocol No. 1.*

D. Regional referendums

Forcadell i Lluis and Others v. Spain (dec.), no. 75147/17, 7 May 2019

Regional parliament prevented from announcing the results of a referendum on self-determination organised in breach of a Constitutional Court decision. For a case concerning referendums to fall within the scope of Article 3 of Protocol No. 1, the proceedings in question had to be conducted under conditions which would ensure the free expression of the people's opinion in the choice of the legislature. Those conditions were not fulfilled in this case. The plenary sitting of the regional parliament had been convened pursuant to the law provisionally suspended by the Constitutional Court, and therefore in a manner manifestly at variance with the decisions of that court, which had been aimed at protecting the constitutional order - i*nadmissible as incompatible ratione materiae.*

III. RIGHT OF MUNICIPAL CIVIL SERVANTS TO FORM TRADE UNIONS, BARGAIN COLLECTIVELY, AND JOIN A POLITICAL PARTY

Article 11 - Freedom of assembly and association

1 Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2 No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or ***of the administration of the State****.*

Demir and Baykara v. Turkey [GC], no. 34503/97, 12 November 2008

Failure by the Turkish Court of Cassation to recognise the applicants' right, as municipal civil servants, to form trade unions, and the annulment of a collective agreement between their union and the employing authority. The Grand Chamber found that municipal civil servants, who are not engaged in the administration of the State as such, could not in principle be treated as "*members of the administration of the State*" and, accordingly, be subjected on that basis to a limitation of their right to organise and to form trade unions - *violation of Article 11*.

Çerikci v. Turkey, no. 33322/07, 13 July 2010

Council employee disciplined for unauthorised absence from work after participating, as a trade union member, in a national Labour Day celebration on 1 May 2007 - *violation of Article 11*.

Strzelecki v. Poland, no. 26648/03, 10 April 2012

Municipal police officer debarred from joining a political party. The Court found that this prohibition, which was not disproportionate to the legitimate aim of protecting national security, public order and the rights and freedoms of others, was not incompatible with Article 11. Such a prohibition sought to guarantee the political neutrality and impartiality of officers. It was necessary to preserve the legitimate trust of citizens in that body of public servants by ensuring that they were not under the direct influence of political parties and by guaranteeing their political neutrality (§ 44). The Court pointed out that its established case-law afforded to national authorities a broad margin of appreciation when it came to regulating the status and career conditions of State officials participating directly in the exercise of powers conferred by public law and duties designed to safeguard the general interests of the State (§ 51). Having regard to the territorial base of the municipal police and its proximity to the local population, it was clear that relations between officers and citizens had to be built on mutual trust, and such trust would be enhanced by the officers' detachment from politics (§ 56). The Court mentioned the solutions adopted by the various member States of the Council of Europe as regards the freedom of association granted to officials "*in uniform*" (§ 52) - *no violation of Article 11*.

IV. EXAMPLES OF RECENT CASES WHERE A VIOLATION (OR ALLEGED VIOLATION) OF THE CONVENTION ORIGINATED IN THE ACTS OF A LOCAL OR REGIONAL AUTHORITY

1. Unlawful detention – Article 5 § 1 (Right to liberty and security)

Assanidze v. Georgia [GC], no. 71503/01, ECHR 2004-II,

Unlawful detention of the applicant by the local Ajarian authorities, despite his acquittal by the Supreme Court of Georgia – *violation of Article 5 § 1.*

A. and Others v. Bulgaria, no. 51776/08, 29 November 2011

Placement order issued by the municipal social welfare directorate, in breach of the Child Protection Act, which stipulated that such orders were to be issued by a district court – *violation of Article 5 § 1.*

Stanev v. Bulgaria [GC], no. 36760/06, ECHR 2012

Applicant found to be partially incapacitated on the ground that he had been suffering from simple schizophrenia. Council officer appointed by the Municipal Council as the applicant's guardian. The decision by the council officer to place him in a social care home for people with mental disorders without having obtained his prior consent was invalid under Bulgarian law.

'This conclusion is in itself sufficient for the Court to establish that the applicant's deprivation of liberty was contrary to Article 5' – *violation of Article 5 § 1.*

2. Fair trial guarantees – Article 6 (Right to a fair trial)

Tedesco v. France, no. 11950/02, 10 May 2007

Proceedings before Alsace's Regional Audit Commission and the Audit Court had been unfair on account of the presence of both the Rapporteur and the Government Commissioner at the deliberation of the Regional Audit Commission. Applicant was the chairman of a limited company, RMR International, which in the late eighties was involved in the "Rhenania 2000" project (to promote audiovisual production in Alsace and Strasbourg) - *violation of Article 6.*

Ventorino v. Italy, no. 357/07, 17 May 2011

Failure of a Municipal Council to enforce a final judgment ordering it to pay its lawyer's fees – *violation of Article 6 § 1.*

Gerasimov and Others v. Russia, nos. 29920/05 and 10 others, 1 July 2014

Failure of local authorities to enforce final judgments ordering them to provide the applicants with housing. In this case, the enforcement of those judgments was considerably delayed and some of the judgments remained unenforced – *violation of Articles 6, 13 and 1 of Protocol No. 1*

Fazia Ali v. the United Kingdom, no. 40378/10, 20 October 2015

The applicant, a mother of two young children, was a homeless person in priority need of accommodation within the meaning of the Housing Act 1996. Having turned down a first offer of accommodation by her local authority, she was informed on the telephone that a further viewing had been arranged and that a letter would follow. The letter stated that if she refused that offer without good reason, the authority would consider that it had discharged its duty towards her. The applicant denied ever receiving the letter, but she did view the property and decided to refuse that offer also. The applicant complained that her inability to appeal to an independent and impartial tribunal in respect of the relevant factual finding had amounted to a violation of Article 6 § 1. The case concerned the limited judicial review of an administrative decision relating to the housing of homeless family. The scheme at issue was designed to provide housing to homeless persons. It was therefore a legislative welfare scheme covering a multitude of small cases and intended to bring as great a benefit as possible to needy persons in an economical and fair manner. When due enquiry into the facts had already been conducted at the administrative adjudicatory stage, Article 6 § 1 could not be read as requiring that the judicial review before a court should encompass a reopening with a rehearing of witnesses, as that would have significant implications for both the statutory scheme as well as the court and tribunal system. *No violation of Article 6 § 1*.

Dimitar Yanakiev v. Bulgaria (no. 2), no. 50346/07, 31 March 2016

Failure of a regional governor to implement a judgment for several years ordering him to pay compensation bonds for nationalisation of goods – *violation of Article 6 § 1.*

Gyuleva v. Bulgaria, no. 38840/08, 9 June 2016

Failure of a mayor to serve a summons on the applicant, wrongly stating that she was not registered as living in that village. Moreover, no appropriate means to secure a fresh adversarial hearing were available to the applicant once she was made aware of the judgment against her – *violation of Article 6 § 1.*

Savisaar v. Estonia, no. 8365/16, 8 November 2016

A re-elected mayor was arrested on suspicion of accepting substantial bribes. He was suspended from the office of mayor. The case concerned the exercise of political power gained through elections and concerned thus a political rather than a "civil" dispute within the meaning of Article 6 § 1. As a result, the applicant's complaint was held to be incompatible *ratione materiae* with Article 6 § 1 – *inadmissible*.

C.M. v. Belgium, no. 67957/12, 13 March 2018

Failure of the applicant's neighbour to implement a judgment and of a municipality to help implement it – *violation of Article 6 § 1*.

3. Childcare cases – Articles 3[3], 8[4] and 13[5]

Z. and Others v. the United Kingdom [GC], no. 29392/95, ECHR 2001-V, 10 May 2001

Failure of local social services to take into care children subjected to serious neglect and emotional abuse – *violation of Articles 3 and 13.*

K. and T. v. Finland [GC], no. 25702/94, ECHR 2001-VII, 12 July 2001

Taking of children into public care, failure to take adequate steps towards a possible reunification of the applicants' family –*violation of Article 8.*

M.G. v. the United Kingdom, no. 39393/98, 24 September 2002

Inadequate disclosure by the local authority of the applicant's social service records which related to his time spent as a child in the care of the local authority – *violation of Article 8.*

R.K. and A.K. v. the United Kingdom, no. 38000/05, 30 September 2008

Applicants' complained that their daughter was placed temporarily in care due to a medical misdiagnosis and there was no effective remedy for their complaint. – *no violation of Article 8 and violation of Article 13*

> "The authorities, medical and social, have duties to protect children and cannot be held liable every time genuine and reasonably-held concerns about the safety of children *vis-à-vis* members of their families are proved, retrospectively, to have been misguided…

[3]. Prohibition of torture
[4]. Right to respect for private and family life
[5]. Right to an effective remedy

> …The Court is satisfied that there were relevant and sufficient reasons for the authorities to take protective measures, such measures being proportionate in the circumstances to the aim of protecting M. and which gave due account and procedural protection to the applicants' interests, and without any lack of the appropriate expedition…
>
> …The Court considers that the applicants should have had available to them a means of claiming that the local authority's handling of the procedures was responsible for any damage which they suffered and obtaining compensation for that damage."

X and Y v. Croatia, no. 5193/09, 3 November 2011

Unwarranted institution of proceedings by social services to divest applicant of legal capacity - *violation of Article 8*. In order for proceedings to divest someone of legal capacity to be instituted, a social welfare centre had to present convincing evidence, on the basis of specific facts, that those concerned were either unable to care for themselves or that they presented a risk for others.

Strand Lobben and Others v. Norway [GC], no. 37283/13, 10 September 2019

Removal by the child-protection services of a mother's parental authority and authorising the foster parents to adopt her child - *violation of Article 8.*

The decision-making process which had led to the impugned decision had not been conducted in such a way as to ensure that all the views and interests of the applicants had duly been taken into account. The domestic authorities had not attempted to carry out a genuine balancing exercise between the interests of the child and his biological family and had never seriously contemplated their being reunited. The Court was thus not satisfied that the procedure in question had been accompanied by safeguards that were commensurate with the gravity of the interference and the seriousness of the interests at stake.

4. Eviction and social housing – Article 8 (Right to respect for private and family life)

Connors v. the United Kingdom, no. 66746/01, 27 May 2004

Eviction of the applicant's family from a local authority gypsy caravan site – *violation of Article 8.*

McCann v. the United Kingdom, no. 19009/04, 13 May 2008

Eviction of husband from local authority housing violated his procedural rights – *violation of Article 8.*

Bah v. the United Kingdom, no. 56328/07, ECHR 2011, 27 September 2011

Social Housing**:** Complaint about a local authority's decision refusing a priority placement on a list for social housing for a mother and her minor son, both nationals of Sierra Leone. There is no right under Article 8 to be provided with social housing. However, where a State decides to provide such a benefit, it must do so in a way that is not discriminatory. Given the shortage of social housing, it was legitimate for the national authorities to put in place criteria for its allocation, as long as the criteria were not arbitrary or discriminatory – no violation of Article taken in conjunction with Article 8.

Yordanova and Others v. Bulgaria, no. 25446/06, 24 April 2012

District mayor's plan to evict Roma from a settlement situated on municipal land without proposals for rehousing: *eviction would constitute a violation of* Article 8. Local authorities attempted to enforce the order in 2005 and 2006 regardless of the consequences and authorities had refused to consider approaches specially tailored to the needs of the Roma community on the grounds that that would amount to discrimination against the majority population. The underprivileged status of the applicants' group had to be a weighty factor in considering approaches to dealing with their unlawful settlement and, if their removal was necessary, in deciding on its timing, modalities and, if possible, arrangements for alternative shelter. This factor had not been taken into account in the present case. General and individual measures required under Article 46 of the Convention.

Winterstein and Others v. France, no. 27013/07, 17 October 2013

Eviction of French travellers by a municipal authority from private land where they had been living for many years. The case concerned decisions ordering the eviction of a community of almost a hundred people, with inevitable repercussions on their way of life as well as their social and family ties. In ordering the applicants' eviction, the domestic courts had given overriding consideration to the fact that their presence on the land ran counter to the land-use plan, without in any way balancing this against the arguments advanced by the applicants. The authorities had not offered any explanation or argument as to the "necessity" of the eviction, although the land in question had already been classified as a protected natural area in the previous land-use plans, it was not communal land on which development was planned, and there were no third-party rights at stake. The applicants had therefore not had the benefit of a review of the proportionality of the interference in accordance with the requirements of Article 8 of the Convention – *violation of Article 8.*

Yevgeniy Zakharov v. Russia, no. 66610/10, 14 March 2017

Eviction of the applicant from a communal flat after the death of his partner. In this case, the local administration, which was the owner of the flat, did not appeal against the judgment of the first-instance court and thus ceased to defend the interests of persons on the municipal housing list. The only interests that were at stake were those of the third parties (neighbours). The national courts thus failed to balance the competing rights and therefore to determine the proportionality of the interference with the applicant's right to respect for his home – *violation of Article 8.*

5. Noise regulations – Article 8

Moreno Gómez v. Spain, no. 4143/02, ECHR 2004-X, 6 November 2004

Failure of a city council to enforce its regulations on excessive noise from nightclubs and discotheques - *violation of Article 8.*

Mileva and Others v. Bulgaria, nos. 43449/02 and 21475/04, 25 November 2010

Noise from a computer club seriously disturbed Bulgarian families' lives and failure of the municipal authorities to act in order to protect the well-being of the applicants in their homes and their private and family lives - *violation of Article 8*.

6. Environment & Security – Articles 2[6], 8 and 13 and Article 1 of Protocol No. 1[7]

Öneryıldız v. Turkey [GC], no. 48939/99, ECHR 2004-XII, 30 November 2004

Death and destruction of houses caused by an explosion at an industrial site under the authority and responsibility of a city council – *violation of Articles 2 and 13 of the Convention and Article 1 of Protocol No. 1.*

Giacomelli v. Italy, no. 59909/00, ECHR 2006-XII, 2 November 2006

Operation of a plant for the treatment of toxic industrial waste under the licence from a regional council near the applicant's home - *violation of Article 8.*

6. Right to life.
7. Protection of property

Brânduşe v. Romania, no. 6586/03, ECHR 2009, 7 April 2009

City Council responsible for a former refuse tip, located near to the prison. Prisoner complained of environmental nuisance. The Court found that the Romanian authorities were responsible for the offensive smells – *violation of Article 8.*

Georgel and Georgeta Stoicescu v. Romania, no. 9718/03, 26 July 2011

Non-fatal attack on elderly woman by stray dogs in city where problem was rife. Court found that the State authorities did not comply with their positive obligation to protect the applicant's physical and psychological integrity. The situation remained critical, with several thousand people being injured in the city of Bucharest alone – *violation of Article 8.*

Ciechońska v. Poland, no. 19776/04, 14 June 2011

Failure to establish liability for a man's death when a tree fell on him. Court reiterated that States were required to adopt regulations for the protection of people's safety in public spaces and noted that there did indeed exist legal regulations in Poland on care and maintenance of greenery in towns, including trees on municipal ground – *violation of Article 2.*

Di Sarno and Others v. Italy, no. 30765/08, 10 January 2012

State of emergency (from 11 February 1994 to 31 December 2009) in relation to waste collection, treatment and disposal in the Campania region

> 'La collecte, le traitement et l'élimination des déchets constituent, à n'en pas douter, des activités dangereuses. (…). En l'espèce, de 2000 à 2008, (…) le service de collecte des déchets dans la commune de Somma Vesuviana a été assuré par plusieurs sociétés à capital public. La circonstance que les autorités italiennes aient confié à des organismes tiers la gestion d'un service public ne saurait cependant les dispenser des obligations de vigilance leur incombant en vertu de l'article 8 de la Convention' (§ 110).

Colon v. the Netherlands (dec.), no. 49458/06, 15 May 2012

Security risk areas in the city: Designation by the Amsterdam Burgomaster of security risk areas in the city where anyone could be subjected to a preventive body search by police looking for weapons. The legislative framework contained sufficient guarantees. In particular, the Burgomaster's powers were subject to review and control by the local council, an elected representative body and, before making a designation order, the Burgomaster was required to consult with the public prosecutor and the local police commander, the former having power to order searches for a maximum non-renewable period of twelve hours. Moreover, the system in question was found effective in combating violent crimes – *inadmissible under Article 8.*

Dzemyuk v. Ukraine, no. 42488/02, 4 September 2014

Unlawful construction and use of a cemetery near the applicant's home and water supply. In 2000, the local authority decided to construct a cemetery on a neighbouring plot of land, some 40 metres from the applicant's house. The high level of bacteria found in the water from the applicant's well, coupled with a blatant violation of national environmental health and safety regulations, confirmed the existence of environmental risks, namely serious water pollution. The unlawfulness of the cemetery's location had been signalled on numerous occasions by the environmental-health authorities and acknowledged by decisions of the domestic courts. Moreover, the competent local authorities had failed to abide by a final and binding domestic court order to close the cemetery. Accordingly, the interference with the applicant's right to respect for his home and private and family life had not been "in accordance with the law" – *violation of Article 8.*

Hudorovič and Others v. Slovenia, nos. 24816/14 and 25140/14, 10 March 2020

Allegedly insufficient measures to ensure access to safe drinking water and sanitation for Roma communities residing in illegal and unserviced settlements. The key consideration in the Court's assessment concerned the scope of the State's positive obligation to provide access to utilities, especially to a socially disadvantaged group. The domestic authorities had recognised the vulnerability of the Roma community in Slovenia and acknowledged the need for positive measures aimed at improving their precarious living conditions. As regards the applicants' personal situation, the municipalities concerned had shown a degree of active engagement with the applicants' specific needs and taken concrete measures, in good faith, to ensure that they had the possibility to access safe drinking water. Welfare benefits provided by the State meant that they also had the possibility to install alternative sanitation measures - *no violation of Article 8 or Article 3, taken alone or in conjunction with Article 14*.

7. Freedom of religion – Article 9

Centre of Societies for Krishna Consciousness in Russia and Frolov v. Russia, no. 37477/11, 23 November 2021

Failure to protect the applicant centre's beliefs from hostile speech used by regional authorities during the "anti-cult" campaign, particularly in a brochure describing the centre as a money-greedy "totalitarian cult" "destructive" for Russian society, and accusing it of "psychological manipulation" and "zombification" of the youth.

The Court found no indication that the regional authorities had taken into account the "need to reconcile the interests of various religious groups and to ensure that everyone's beliefs had been respected" at any time before or during the "anti-cult" campaign. The responsible officials had given no consideration to the State's duty to abstain from assessing the legitimacy of religious beliefs or the ways in which those beliefs were expressed. Further, the allegations against the applicant centre's beliefs had been unsubstantiated. It was particularly striking that the regional authorities had considered themselves at liberty of casting aspersions on the religion of the applicant centre which was an officially registered and lawfully operating religious organisation – *violation of Article 9.*

8. Freedom of expression – Article 10

Kwiecień v. Poland, no. 51744/99, 9 January 2007

Applicant published an open letter to attract voters' attention to the suitability of a candidate for local public office. Proceedings brought against him under the Local Election Act found to have violated his Article 10 rights. The limits of acceptable criticism of the head of the local administrative authority were wider than in relation to a private individual - *violation of Article 10.*

Lombardo and Others v. Malta, no. 7333/06, 24 April 2007

Applicants were local councillors and authors of an article on the Local Council which was the subject of libel and defamation proceedings. The applicants stated that the Local Council had not consulted the public and was ignoring public opinion as concerned a road project. The Court found that a local council, being an elected political body made up of persons mandated by their constituents, should be expected to display a high degree of tolerance to criticism. The defamation and libel proceedings taken by the Local Council against the applicants amounted to a violation of their Article 10 rights - *violation of Article 10.*

> "The Court would in any event observe that the distinction between statements of fact and value judgments is of less significance in a case such as the present, where the impugned statement is made in the course of a lively political debate at local level and where elected officials and journalists should enjoy a wide freedom to criticise the actions of a local authority, even where the statements made may lack a clear basis in fact."

Kita v. Poland, no. 57659/00, 8 July 2008

Applicant published an article on the financial irregularities in the Municipality. A political party in the Region instituted proceedings against

him under the Local Election Act. The thrust of the applicant's article was to cast doubt on the suitability of the local politicians for public office. It related to issues of public interest and concerned specific acts of the local municipal councillors carried out in the exercise of their public mandate. The Court found that the applicant's article did not exceed the acceptable limits of criticism, and the proceedings brought against him amounted to a violation of his Article 10 rights - *violation of Article 10.*

Kubaszewski v. Poland, no. 571/04, 2 February 2010

Local politician obliged to publish apology for making allegations about municipality's public spending - *violation of Article 10.*

For the Court, a Municipal Council's session was the appropriate time and place to discuss any possible financial irregularities concerning the municipal budget. The applicant's allegations, part of a political debate, had not been directed against a specific person, but against the entire Municipal Board. It was moreover precisely the task of an elected representative to ask critical questions when it came to public spending. Free political debate in a democratic society was of crucial importance.

"At the material time the applicant was a member of the Municipal Council and his speech was given in that capacity during a session of the Municipal Council. The session was devoted to deciding on whether the Municipal Board had made appropriate use of the municipal budget in conformity with its statutory obligation. The Court considers that this was the best time and place to discuss any alleged financial irregularities concerning the municipal budget. In this respect the Court recalls that while freedom of expression is important for everybody, it is especially so for elected representatives of the people. They represent the electorate, draw attention to their preoccupations and defend their interests. Accordingly, interferences with their freedom of expression call for the closest scrutiny on the part of the Court." (§ 42)

Cârlan v. Romania, no. 34828/02, 20 April 2010

Conviction of a member of municipal council for defamation following vigorous criticism of the town's mayor – *violation of Article 10*.

The impugned remarks had a sufficiently substantiated factual basis (two investigations and a report) and were made in the context of a press conference on a subject of undoubted public interest (the designation of property for commercial use). Freedom of expression was particularly important for political parties and their active members. Conversely, the limits of acceptable criticism were wider with regard to politicians as such (like the mayor) than with regard to private individuals; the former inevitably and knowingly laid themselves open to close scrutiny of their every word and deed by both journalists and the public at large.

Saliyev v. Russia, no. 35016/03, 21 October 2010

Unjustified withdrawal of copies of municipal newspaper by editor-in-chief following publication - *violation of Article 10.*

Did the editor-in-chief represent the municipality? Although the Court accepted that the withdrawal had been ordered by the editor-in-chief, it nevertheless found on the facts that it amounted to a decision by "*public authority*" for the purposes of Article 10. His decision could be characterised as an act of policy-driven censorship in which he had implemented the general policy line of the municipality as its agent (§§ 64-68). Further, the municipality was a "*State authority*". Under domestic law municipal authorities were treated on the same footing as federal or regional bodies for many purposes so that, even if their competence was limited, their powers could not be characterised as anything other than public. The order to withdraw the copies of the newspaper thus constituted interference by "*public authority*" (§§ 69-70).

Fleury v. France, no. 29784/06, 11 May 2010

Conviction of town councillor for unduly accusing town's mayor of criminal offences.

The applicant serving as an opposition-party town councillor wrote a leaflet denouncing censorship and complaining about the handling of municipal affairs by the mayor and his team. The comments related to political speech or matters of public interest, and they were directed against a politician in his political capacity (against whom the limits of acceptable criticism were broader) and came from another politician belonging to an opposition party (a circumstance that required the Court to exercise particular scrutiny). Even supposing that Mr Fleury's comments were simply a value judgment (and not a statement of fact) it would be possible to describe them as excessive. Any value judgment was required at least to have a factual basis, which was not the case here (the French courts having considered that the conduct imputed to the Mayor was not substantiated). The Court emphasised that the accusations against the Mayor had been extremely serious and that they could appear all the more credible as they had come from a member of the town council who was supposed to be well-informed about the management of the municipality – *no violation of Article 10.*

Vellutini and Michel v. France, no. 32820/09, 6 October 2011

Conviction of trade-union leaders for strident criticism of their mayor employer - *violation of Article 10.*

Gillberg v. Sweden [GC], no. 41723/06, 3 April 2012

The principle of public access to official documents when provided by domestic law specifically allowed for the public, and the media, to exercise

control over the State, the municipalities and other parts of the public sector, "*and in turn contributed to the free exchange of opinions and ideas and to the efficient and correct administration of public affairs."*

Mouvement raëlien suisse v. Switzerland [GC], no. 16354/06, 13 July 2012 - no violation of Article 10.

The applicant, a non-profit association, sought permission from the police administration for the city of Neuchâtel to conduct a poster campaign which featured, among other things, pictures of extra-terrestrials' faces and a flying saucer and displayed the movement's website address and telephone number. Five authorities examined the case (the municipal police administration, the municipal council of the city of Neuchâtel, the Neuchâtel Land Management Directorate, the Administrative Court and the Federal Court) and refused permission - the municipal council of the city of Neuchâtel referred to the Administrative Regulations for the City of Neuchâtel.

This case is specific as there was no general ban on imparting certain ideas, only a ban on the use of regulated and supervised facilities in public space at local level. The Court elaborated on the margin of appreciation enjoyed at local level in assessing the need for and extent of an interference in the freedom of expression (§ 64-66):

> "the management of public billboards in the context of poster campaigns that are not strictly political may vary from one State to another, or even from one region to another within the same State, especially a State that has opted for a federal type of political organisation. In this connection, the Court would point out that certain local authorities may have plausible reasons for choosing not to impose restrictions in such matters (see *Handyside v. the United Kingdom*, 7 December 1976, § 54, Series A no. 24). The Court cannot interfere with the choices of the national and local authorities, which are closer to the realities of their country, for it would thereby lose sight of the subsidiary nature of the Convention system (see Case "*relating to certain aspects of the laws on the use of languages in education in Belgium*" (merits), 23 July 1968, p. 35, § 10, Series A no. 6).
>
> The examination by the local authorities of the question whether a poster satisfies certain statutory requirements – for the defence of interests as varied as, for example, the protection of morals, road traffic safety or the preservation of the landscape – thus falls within the margin of appreciation afforded to States, as the authorities have a certain discretion in granting authorisation in this area.
>
> Having regard to the foregoing considerations concerning the breadth of the margin of appreciation in the present case, the Court finds that only serious reasons could lead it to substitute its own assessment for that of the national authorities"

As to the proportionality test, the Court noted that the authorities which examined the case had given detailed reasons for their decisions, explaining why they considered it appropriate not to authorise the poster campaign. The Court took the view that the authorities were reasonably entitled to consider, having regard to all the circumstances of the case, that it was indispensable

to ban the campaign in question in order to protect health and morals, protect the rights of others and to prevent crime.

Guseva v. Bulgaria, no. 6987/07, 17 February 2015

Failure by mayor to comply with final judgments granting the applicant the right to access information. The applicant had been involved in the legitimate gathering of information of public interest for the purpose of contributing to a public debate. Thus, the mayor's failure to act in accordance with final court judgments and provide her with the information requested had constituted a direct interference with her right to receive and impart information – *violation of article 10.*

Ziembiński v. Poland (no. 2), no. 1799/07, 5 July 2016

Criminal conviction and imposition of a fine on a journalist for an article mocking local government officials.

The applicant was convicted of proffering insults against local government officials, including a mayor, who, as an elected local politician, could be subjected to wider criticism than private individuals. The use of sarcasm and irony was perfectly compatible with the exercise of a journalist's freedom of expression, and the domestic courts had not taken sufficient account of these features. The interference with the journalist's right to freedom of expression had been disproportionate to the aim pursued, and had not been "necessary in a democratic society" – *violation of Article 10.*

Marunić v. Croatia, no. 51706/11, 28 March 2017

The applicant was the director of a municipal company providing public utility services. She was summarily dismissed from her post after making statements to the media. The decision to dismiss her was taken on the grounds that she had made allegations to the press - concerning the unlawful collection of parking fees from land not owned by the municipality - that were damaging to the company's reputation. The applicant's claims of unfair dismissal were dismissed on the grounds that she had portrayed the company in an extremely negative light and should have raised any concerns she had about the company's practices with the appropriate authorities rather than airing them in the media. According to the Court, the applicant's statements in reply to those of the chairman were not disproportionate and had not exceeded the limits of permissible criticism. In particular, the Court noted that (i) the operation of a municipal public utility company was a matter of general interest for the local community; (ii) the applicant's statement implying that the company had been unlawfully charging for parking was to be seen not as a statement of fact but as a value judgment which had a sufficient factual basis because it could reasonably be argued that collecting parking fees on someone else's land was unlawful – *violation of Article 10.*

Fedchenko v. Russia (no. 4), no. 17221/13, 2 October 2018

Fedchenko v. Russia (no. 5), no. 17229/13, 2 October 2018

Skudayeva v. Russia, no. 24014/07, 5 March 2019

Award of damages made in defamation proceedings against journalists for having published articles concerning corruption in the regional administration - v*iolation of Article 10.*

The domestic courts failed to apply the standards established in the Court's case-law and to perform the requisite balancing exercise between the competing interests.

Timakov and OOO ID Rubezh v. Russia, nos. 46232/10 and 74770/10, 8 September 2020

Defamation proceedings brought against the applicants by a former regional governor in response to news items expressing the view that he was corrupt.

The domestic courts attached preponderant weight to the governor's social status and did not give due consideration to the principles and criteria laid down by the Court's case-law – *violation of Article 10*.

Sanchez v. France, no. 45581/15, 2 September 2021

Conviction of a local councillor for failing to take prompt action in deleting comments inciting hatred posted by others on the wall of his Facebook account, which was freely accessible to the public and used during his election campaign.

The Court found that the domestic courts' decision to convict the applicant had been based on relevant and sufficient reasons linked to his lack of vigilance and responsiveness – *no violation of Article 10*.

Staniszewski v. Poland, no. 20422/15, 14 October 2021

Sanctioning of the applicant, the editor of a monthly newsletter, in summary proceedings for having published untrue statements about a candidate in local government elections.

The Court considered that the reasons adduced by the domestic courts for sanctioning the applicant had been relevant and sufficient. The use of summary proceedings during election campaigns served the legitimate goal of ensuring the fairness of the electoral process – *no violation of Article 10*.

9. Freedom of association & Freedom of assembly – Article 11

Grande Oriente d'Italia di Palazzo Giustiniani v. Italy, no. 35972/97, ECHR 2001-VIII, 2 August 2001

Enactment by the Marches Region of a law requiring candidates for public office to declare that they were not Freemasons. Court found such a requirement was not necessary in a democratic society and that the offices covered by law (in regional organisations and nominations and appointments for which the Regional Council was responsible) did not fall within the scope of "*the administration of the State*" as they were not part of the organisational structure of the Region - *violation of Article 11*.

Siveri and Chiellini c. Italy (dec.), no. 13148/04, 3 June 2008

Dismissal of regional public servants for failing to declare their membership to an association (of Freemasons) - *declared inadmissible.*

Distinguishing *Grande Oriente d'Italia di Palazzo Giustiniani v. Italy*, the Court found that the applicants were sanctioned not because they were associated to a freemason's organisation but because they did not declare their membership to this organisation. The regional law in question did not prevent freemasons from being regional public servants, as long as a declaration was made to that effect. As to the applicant's claim that the Tuscany Region treated its regional public servants more severely, the Court noted:

> « la possibilité qu'une région règlemente certaines matière de manière différente par rapport à d'autres régions ou à l'administration centrale est une conséquence inévitable de l'autonomie législative reconnue aux régions. Elle ne saurait, en tant que telle, être constitutive d'une violation de l'article 14 de la Convention. »

Christian Democratic People's Party v. Moldova (no. 2), no. 25196/04, 2 February 2010

Request to hold a protest demonstration denied by the municipal council and confirmed by court: political parties played an essential role in the proper functioning of democracy. In view of the public interest in free expression on the functioning of democratic institutions in the country, and the fact that the applicant party had been in opposition at the time of the events, only convincing and compelling reasons could have justified restrictions on their freedom to assemble - *violation of Article 11.*

Vyerentsov v. Ukraine, no. 20372/11, 11 April 2013

Administrative arrest for breach of the procedure relating to the holding of demonstrations, decided in the absence of domestic legislation establishing such procedure in line with the Convention standards. The applicant notified

the City Mayor that he would hold a series of demonstrations over several months to raise awareness about corruption in the prosecution service. Following a complaint by the local council, the administrative court prohibited the holding of future pre-announced demonstrations. However, there had been no clear and foreseeable procedure for holding peaceful demonstrations in Ukraine since the end of the Soviet Union. It could not be concluded that the "procedure" followed was formulated with sufficient precision to enable the applicant to foresee, to a degree that was reasonable in the circumstances, the consequences of his actions – *violation of Article 11*.

Forcadell i Lluis and Others v. Spain (dec.), no. 75147/17, 7 May 2019

Suspension at the request of minority MPs of the convening of the plenary sitting of the Parliament of the Autonomous Community of Catalonia in order to announce the results of an unconstitutional referendum. In adopting the suspension order, the Constitutional Court had intended to ensure compliance with its own decisions, in order to protect the constitutional order. While a political party could campaign for a change in the State's legislation or legal or constitutional structures, it could only do so if the means used were lawful and democratic. It was also necessary to avoid situations whereby parliamentarians representing a minority in Parliament were prevented from discharging their duties. The interference with the applicants' right to freedom of assembly could therefore be considered as meeting a "pressing social need" and was accordingly "necessary in a democratic society" in the interests of public safety, for the prevention of disorder and for the protection of the rights and freedoms of others - *manifestly ill-founded under Article 11*.

10. Property rights – Article 1 of Protocol No. 1

Stretch v. the United Kingdom, no. 44277/98, 24 June 2003

Denial to the applicant of the renewal option on the lease on the ground that the option granted by the local authority had been *ultra vires – violation of Article 1 of Protocol No. 1*.

Guiso-Gallisay v. Italy, no. 58858/00, 8 December 2005

Damage sustained by the owner of a piece of land which had been illegally occupied by a local authority (Regional Council) and title to which had been transferred to the State under the so-called "*indirect expropriation*" procedure. Interference not compatible with the principle of lawfulness - *violation of Article 1 of Protocol N° 1*.

Scordino v. Italy (no. 1) [GC], no. 36813/97, ECHR 2006-V, 29 March 2006

Expropriation of the applicant's land by order of a district council without adequate compensation – *violation of Article 1 of Protocol No. 1.*

Skibińscy v. Poland, no. 52589/99, 14 November 2006

Designation by municipal authorities of the applicant's land for expropriation at an undetermined date under a local land development plan without compensation – *violation of Article 1 of Protocol No. 1.*

Skrzyński v. Poland, no. 38672/02, 6 September 2007

Same complaint as in above case. Court finding a v*iolation of Article 1 of Protocol No.1.*

> "… given that it was uncertain whether the land development plan would be implemented in the reasonably near future, this state of affairs, seen as a whole, disclosed a lack of sufficient diligence in weighing the interests of the owners against the planning needs of the municipality."

Perinati v. Italy, no. 8073/05, 6 October 2009

Applicant complained that the compensation he received for the expropriation of his land by the Municipality was insufficient - v*iolation of Article 1 of Protocol No. 1*

Potomska and Potomski v. Poland, no. 33949/05, 29 March 2011

Polish couple's property rights breached following protracted refusal by regional and local authorities to allow them to build on former Jewish cemetery – *violation of Article 1 of Protocol No.1*

> ''The district Mayor declared that he did not have sufficient funds to pay compensation to the applicants and therefore, for practical reasons, decided not to institute expropriation proceedings. In this connection the Court reiterates that a lack of funds cannot justify the authorities' failure to remedy the applicants' situation'' (§ 73)

Ventorino v. Italy, no. 357/07, 17 May 2011

Failure of a Municipality to enforce a final judgment ordering it to pay its lawyer's fees – *violation of Article 1 of Protocol No. 1.*

Ferrara v. Italy, no. 65165/01, 8 November 2012

Adoption by the municipal authorities of a general development plan turning most of the applicant's land into a public park. No formal expropriation or compensation - *violation of Article 1 of Protocol No. 1.*

De Luca v. Italy, no. 43870/04, 24 September 2013

Inability to recover judgment a debt from a local authority in receivership. Following the declaration of insolvency it had been impossible for the applicant to bring enforcement proceedings against the municipality, which had failed to honour its debts, in breach of the applicant's right to the peaceful enjoyment of his possessions – *violation of Article 1 of Protocol No. 1.*

Dimitar Yanakiev v. Bulgaria (no. 2), no. 50346/07, 31 March 2016

Failure of a regional governor to implement a judgment over a period of several years ordering it to pay compensation bonds for nationalisation of goods – *violation of Article 1 of Protocol No. 1.*

Cusack v. The United Kingdom (dec.), no. 1955/14, 3 May 2016

Construction by the local authority of an uncontrolled pedestrian crossing outside the applicant's property which prevented the applicant from parking cars on the forecourt. The applicant had not shown that he would have to bear an individual and excessive burden in the event that the local authority were to erect bollards preventing access to his property by car without paying compensation. The Court concluded that the petition was manifestly ill-founded under Article 1 of Protocol No. 1 – *inadmissible.*

V. OTHER INTERESTING CASES REGARDING LOCAL AUTHORITIES

1. Article 2 (Right to life)

Penati v. Italy, no. 44166/15, 11 May 2021

Effective criminal proceedings concerning the killing of the applicant's young son by his father during a "protected" contact session organised by a municipal authority on its premises - *no violation of Article 2 under its procedural limb.*

M. Özel and Others v. Turkey, nos. 14350/05 and 2 others, 17 November 2015

Applicability of Article 2 in the context of loss of life resulting from earthquake. State's failure to establish responsibilities for death of earthquake victims – *violation of Article 2.*

The State's obligation to prevent earthquake damage, under the substantive limb of Article 2, mainly consisted of taking measures to reduce

its effects to limit the scale of the catastrophe as far as possible, particularly through land planning and control of urban development. In that regard, it appeared established that the local authorities, whose role was to monitor and inspect constructions, had failed in their duties in such matters.

Cavit Tınarlıoğlu v. Turkey, no. 3648/04, 2 February 2016

Absence of State responsibility for injuries caused to holidaymaker in boating accident – *no violation of Article 2*.

There were no grounds for finding that the town's sports tourism board or the other local authorities had known or should have known that at the time of the events, the water sports activities organised by the Club posed a real and immediate risk to the applicant's life or the lives of other holidaymakers.

2. Article 4 (Prohibition of slavery and forced labour)

Adigüzel c. Turquie (dec.), no. 7442/08, 6 February 2018

Work of a civil servant doctor working for a municipal authority, outside the legal hours of work and without any pecuniary compensation for a period of ten years – *inadmissible*.

The applicant complained that he was the victim of "forced or compulsory labour" contrary to Article 4 § 2 of the Convention. However, he knew that he could be required to work outside the standard hours, without pay. Moreover, even if pecuniary compensation was not available, the applicant was entitled to compensatory days off which he never claimed.

3. Article 8 (Right to respect for private and family life)

Polyakh and Others v. Ukraine, nos.58812/15 and 4 others, 17 October 2019

Dismissal of five civil servants under the Government Cleansing (Lustration) Act of 2014 - *violation of Article 8.*

The lustration measure had been particularly disproportionate in respect of the fifth applicant who had been dismissed because of his former role as a second secretary of a district in the Communist Party prior to 1991. No serious argument had been made that as a local official working in agriculture he had posed any threat to the newly established democratic regime. The authorities had demonstrated a total disregard for his rights.

4. Article 9 (Freedom of thought, conscience and religion)

Association for Solidarity with Jehovah's Witnesses and Others v. Turkey, nos. 36915/10 and 8606/13, 24 May 2016

Freedom of religion: Planning restrictions making it impossible for small religious community to have a place of worship – *violation of Article 9.*

The applications concerned the applicants' lack of access to appropriate venues for practising their religion. A religious community's inability to obtain a place of worship nullifies its religious freedom. Consequently, the impugned decisions amounted to an interference with the right guaranteed by Article 9. The many cases reported to the Court by applicants and third parties showed that the administrative authorities tended to use the legislation to impose rigid, or even prohibitive, conditions on the activity of certain minority denominations, such as the Jehovah's Witnesses. The Court rejected the Government's argument that the applicants had repeatedly obtained authorisation to meet on the basis of a legislative act on Meetings and Demonstrations, because the granting of such authorisation depended on the goodwill of the central or local government departments. As a result the applicants had to secure official authorisation for each religious service they organised.

The Religious Denomination of Jehovah's Witnesses in Bulgaria v. Bulgaria, no. 5301/11, 10 November 2020

Measures taken by a municipality and court decisions preventing the applicant from constructing its house of worship and from subsequently being able to conduct religious services for its members. The measures took place against the background of the mayor's publicly demonstrated opposition to the applicant's intention to build its house of worship, because of its religious activities. The measures were either unlawful or unjustified, and resulted in serious limitations on the applicant's ability to exercise its freedom to manifest its religion – *violation of Article 9 interpreted in the light of Article 11.*

5. Article 2 of Protocol No. 4 (Freedom of movement)

Garib v. the Netherlands [GC], no. 43494/09, ECHR 2017

Policy imposing length-of-residence and type-of-income conditions on persons wishing to settle in inner-city area of Rotterdam – *no violation of Article 2 of Protocol No. 4.*

With a view to stopping the decline of certain impoverished inner-city districts in Rotterdam, the State enacted legislation in 2006 permitting local authorities to require persons wishing to live in such districts to obtain a housing permit. The permit would be refused to new residents not already

residing locally for the preceding six years unless they had an income from work, with a view to encouraging settlement by persons who were not dependent on social welfare and thereby stopping the trend towards "ghettoisation" in those districts. The applicant, a Dutch national and an unemployed single mother whose only income at the time was from social welfare, settled in Rotterdam in 2005 in an impoverished district which later became a designated district covered by the 2006 legislation. In 2007 she unsuccessfully applied for a housing permit to move to a different apartment around the corner in the same district: she had not been a Rotterdam resident for six years and did not have an income from work.

The consequences of the refusal of a housing permit did not amount to such disproportionate hardship for the applicant that her interest should outweigh the general interest served by the consistent application of the measure in issue. An unspecified personal preference, for which no justification was offered, could not override public decision-making.

The Court elaborated on the socio-economic policy choices in the sphere of town-planning policy. A wide margin of appreciation applied in this context (§ 139).

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