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**STEERING COMMITTEE FOR HUMAN RIGHTS  
IN THE FIELDS OF BIOMEDICINE AND HEALTH  
(CDBIO)**

**Developments in the field of bioethics  
in the case law of the European Court of Human Rights (ECHR)**

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## **Autonomy and Informed Consent**

### **S.O. v. SPAIN**

(Application no. 5742/22)

**Spanish authorities failed to protect woman who had undergone a medical procedure without her informed consent.**

26 June 2025

**Violation of Article 8 (right to respect for private and family life).**

The case concerned the removal of Ms S.O.'s nipple and areola, allegedly carried out without her consent, during an operation to save her breasts from cancer, and subsequent court proceedings.

The Court found in particular that the Spanish authorities had failed to examine whether the doctors had informed her of the specific possibility of the nipple and areola being removed. The Spanish authorities had not responded adequately to S.O.'s claim concerning the absence of valid informed consent. They had failed to implement the existing legal framework correctly and sufficiently to protect her autonomy, in violation of Article 8.

The European Court of Human Rights held, unanimously, that there had been a **violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights.

## **Detention and Prisoners' Health Rights**

### **PEDEV v. BULGARIA**

(Application no. 27165/21)

**Individual attached to his hospital bed while guarded by prison officers: degrading treatment.**

27 May 2025

**Two violations of Article 3**

The case concerned an applicant who took part in a demonstration in 2020 and complained that he had been subjected to ill-treatment during his arrest by the police, while detained in a police station and while in hospital, where he was attached to the bed with leg restraints and handcuffs.

In today's **Chamber judgment**<sup>1</sup> the European Court of Human Rights held, unanimously, that there had been **two violations of Article 3 (prohibition of degrading treatment/obligation to conduct an investigation)** of the European Convention on Human Rights in respect of the applicant's immobilisation while in hospital.

The Court found in particular that the use of restraints to attach Mr Pedev to his hospital bed, even for the relatively short period of one day, had not been strictly necessary. The measure had been capable of humiliating and debasing him in his own eyes. Furthermore, he had been kept attached to his bed during a visit by his mother, thus intensifying the psychological impact of this measure. He had therefore been subjected to degrading treatment. The authorities had also failed to comply with their obligation to carry out an effective investigation into Mr Pedev's allegation that he had been subjected to degrading treatment while in hospital.

With regard to the alleged police violence during Mr Pedev's arrest and detention, the Court noted that in 2022 the Bulgarian authorities had opened a new, thorough and effective criminal investigation, which had concluded that the injuries noted on the applicant's body when he was

discharged from hospital had not been inflicted by law-enforcement officers, as he had claimed in his application. This complaint was therefore manifestly ill-founded. With regard to the complaint about the lack of an effective investigation into those allegations, the Court considered that the applicant had lost his victim status, since the Bulgarian authorities had acknowledged the ineffectiveness of the 2020 preliminary investigation and had conducted a new and effective investigation.

## **Environmental and Public Health Issues**

### **GREENPEACE NORDIC AND OTHERS v. NORWAY**

(Application no. 34068/21)

#### **Deferring environmental impact assessment in respect of licenses granting petroleum exploration did not breach the Convention.**

28 October 2025

#### **No violation of Article 8 (right to respect for private and family life).**

The case concerned the procedural aspect of the obligation to effectively protect individuals from the serious adverse effects of climate change on their life, health, well-being and quality of life in the context of petroleum exploration preceding extraction. On 10 June 2016 the Norwegian Ministry of Petroleum and Energy awarded ten exploration licences to 13 private companies for petroleum gas production. A judicial review requested by the applicant organisations, Greenpeace Nordic and Young Friends of the Earth Norway, of the validity of that decision was unsuccessful.

The European Court of Human Rights held, unanimously, that there had been **no violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights in respect of the complaints introduced by the applicant organisations.

The Court held, in particular, that when making a decision in the context of the environment and climate change, the State had to carry out an adequate, timely and comprehensive environmental impact assessment in good faith, and based on the best available science. While the processes leading to the 2016 decision had not been fully comprehensive and, in particular, the assessment of the activity's climate impacts had been deferred, there was no indication that deferring such an assessment had been inherently insufficient to support the State's guarantees of respect for private and family life within the meaning of the Convention.

The Court also found the complaints introduced by the individual applicants under **Article 8** and by all the applicants under **Article 13 (right to an effective remedy)** and **Article 14 (prohibition of discrimination) in conjunction with Article 8** were inadmissible.

## **Mental Health and Medical Ethics**

### **SPIVAK v. UKRAINE**

(Application no. 21180/15)

#### **Compulsory psychiatric hospitalisation led to multiple violations of rights**

5 June 2025

**Violation of Article 5 §§ 1 and 4 (right to liberty and security)**

**Violation of Article 3 (prohibition of inhuman and degrading treatment)**

### **Violation of Article 13 (right to an effective remedy).**

The case concerned Mr Spivak's compulsory psychiatric treatment at the National High Security Psychiatric Hospital in Dnipro as ordered by a criminal court in October 2012. It had found that he had committed attempted murder, but was exempt from criminal responsibility on the basis of his mental state at the time of the offence. He had been unable to initiate court proceedings to review the lawfulness of his continued confinement or to challenge the medical treatment administered against his will. He had been discharged in October 2014.

The Court found in particular that Mr Spivak's continued psychiatric detention in the hospital after the termination of coercive medical measures by a court had been unlawful. It also found that the hearings on the continuation of his compulsory in-patient medical treatment had not met the basic requirements of justice.

The Court furthermore held that Mr Spivak had been held in inadequate, overcrowded conditions in hospital, and had been unable to properly challenge the necessity of the compulsory treatment that the doctors there had prescribed for him.

The European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 5 §§ 1 and 4 (right to liberty and security)** of the European Convention on Human Rights,

**a violation of Article 3 (prohibition of inhuman and degrading treatment)** on account of both Mr Spivak's treatment and the conditions in which he was held in a psychiatric hospital, and

a violation of Article 13 (right to an effective remedy).

### **Rights of Persons with Disabilities**

#### **SEMENYA v. SWITZERLAND**

(Application no. 10934/21)

**Violation of international athlete's right to a fair hearing on account of Federal Supreme Court's limited review of an arbitral award relating to a set of World Athletics regulations.**

10 July 2025

**Violation of Article 6 § 1 (right to a fair hearing).**

The case concerned an international-level South African athlete who complained about a set of regulations issued by World Athletics ("the DSD Regulations"<sup>1</sup>) requiring her to decrease her natural testosterone level in order to be allowed to take part in international competitions in the female category, and about the rejection of her legal actions challenging those regulations before the Court of Arbitration for Sport (CAS) – which has its seat in Switzerland – and then the Swiss Federal Supreme Court.

In a Grand Chamber judgment<sup>2</sup>, the European Court of Human Rights declared, by 13 to 4, inadmissible the applicant's complaints under Articles 8 (right to respect for private life), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the Convention. It found that Ms Semenya did not fall within Switzerland's jurisdiction in respect of those complaints.

By contrast, the Court:

– declared, unanimously, **the application admissible in respect of the complaint under**

**Article 6 § 1 (right to a fair hearing)** of the European Convention on Human Rights, and – held, by 15 votes to 2, that there had been a **violation of Article 6 § 1 (right to a fair hearing)** of the Convention.

The Court considered, first, that the appeal lodged by the applicant with the Federal Supreme Court to challenge the CAS award had created a jurisdictional link with Switzerland, entailing an obligation for that State to ensure respect for the rights protected by Article 6 of the Convention in the proceedings which took place before the Federal Supreme Court, which was responsible, under domestic law, for reviewing the compatibility of arbitral awards with substantive public policy.

After pointing out the structural imbalance which characterised the relationship between sportspersons and the sport governing bodies, the Court then held that respect for the applicant’s right to a fair hearing had required a “particularly rigorous examination of ... her case” for the following three reasons: (1) the CAS’s mandatory and exclusive jurisdiction had been imposed on her, not by law but by a sport governing body; (2) the dispute concerned one or more “civil” rights; and (3) those rights corresponded, in domestic law, to fundamental rights.

In the Court’s view, the specific characteristics of the sports arbitration to which the applicant had been subject – entailing the CAS’s mandatory and exclusive jurisdiction – had required a rigorous judicial review that was commensurate with the seriousness of the personal rights at issue, by the only domestic court with jurisdiction to carry out such a task.

The Court considered, however, that the Federal Supreme Court’s review had fallen short of that requirement, on account, in particular, of its restrictive interpretation of the notion of public policy, within the meaning of the Federal Act on Private International Law. Accordingly, the Court found that Ms Semenya had not benefited from the safeguards provided for in Article 6 § 1 of the Convention, given the Federal Supreme Court’s failure to fulfil the requirement to carry out a particularly rigorous examination.