



ECtHR AND CJEU PRISON CASE LAW COMPILATION

*This compilation gathers the most important judgments and decisions on prison issues handed down by the **European Court of Human Rights** and the **Court of Justice of the European Union**. By reporting on the main trends in European prison case law, it aims to support legal practitioners in the prison field in their research and litigation, as well as to identify blind spots in the European case law to build strategic litigation avenues.*

OVERVIEW OF CASES APRIL-JUNE 2023

COURT OF JUSTICE OF THE EUROPEAN UNION

E. D. L. ■ [Case C-699/21](#)

A serious risk to the health of persons whose surrender is requested by a European Arrest Warrant (EAW) justifies the postponement of the surrender and obliges the executing authority, in order to rule out the risk at issue, to inquire about the circumstances under which the issuing authority will detain and try the requested persons. In exceptional circumstances, if, in the light of the information provided by the issuing judicial authority and of any other information, that risk cannot be ruled out within a reasonable period of time, the executing judicial authority must refuse to execute the EAW.

O.G. ■ [Case C-700/21](#)

The grounds for refusing to execute a European arrest warrant (EAW) when the requested person is a resident of the executing Member State and the latter undertakes to execute the sentence or detention order in accordance with its domestic law, applies to non-EU nationals. This grounds for refusal is meant to increase the requested person's chances of reintegrating into society upon release, which is assisted by the fact that this person maintains regular and frequent contact with his or her family and persons close to him or her.

EUROPEAN COURT OF HUMAN RIGHTS

HALLAÇOĞLU AND OTHERS v. TÜRKİYE ■ [Applications nos. 6239/19 and 2 others](#)

Uploading of prisoners' correspondence onto the national server regulated by unpublished internal regulations to which prisoners did not have access: **violation of Article 8**.

MASLÁK v. SLOVAKIA (No. 3) ■ [Application no. 35673/18](#)

Seizure of a prisoner's letter addressed to another prisoner: **violation of Article 8**.

S.P. AND OTHERS v. RUSSIA ■ [Applications nos. 36463/11 and 10 others](#)

Segregation, humiliation and abuse of prisoners by fellow inmates on account of inferior status in informal prisoner hierarchy tolerated by prison staff; lack of systemic State action: **violation of Article 3**.

HORION v. BELGIUM ■ [Application no. 37928/20](#)

Impossibility for a life-sentenced prisoner to be admitted to a forensic psychiatric unit (as an intermediate stage before his release), even though his detention in prison is no longer considered appropriate by psychiatric experts and domestic courts; irreducible life sentence: **violation of Article 3.**

ÇAYLI AND SERLİ v. TÜRKİYE ■ [Applications nos. 49535/18 and 10419/20](#)

Monitoring and interception of prisoners' correspondence with their lawyers by the prison authorities: **violation of Article 8.**

BOJAR v. POLAND ■ [Application no. 11148/18](#)

Strip searches of a detainee lacking justification and impossibility to appeal to the court against the dismissal of the complaint regarding the strip searches in the absence of any formal decision or register of searches: **violation of Article 8.**

PONOMARENKO v. UKRAINE ■ [Application no. 51456/17](#)

Lack of adequate medical treatment and assistance provided to a HIV-positive remand detainee leading to his death: **violation of Article 2.** Failure to provide appropriate care and assistance in detention given his serious physical disability, handcuffing to hospital bed, mental suffering endured by the applicant's mother as a result of the ill-treatment endured: **violation of Article 3.** Extension of the applicant's pre-trial detention in spite of his deteriorating state of health: **violation of Article 5 § 3.**

DEMİRTAŞ AND YÜKSEKDAĞ ŞENOĞLU v. TÜRKİYE ■ [Applications nos. 10207/21 and 10209/21](#)

Surveillance of the applicants' meetings with their lawyers depriving them of effective legal assistance; legal basis for the impugned measure deprived of safeguards against abuse : **violation of Article 5 § 4.**

NISTOR-MARTIN AND OTHERS v. ROMANIA ■ [Applications nos. 29908/20 and 3 others](#)

Refusal of penitentiary authorities to grant prison leave for the purpose of attending the funeral of a close relative, without proper justification: **violation of Article 8.**

NESHCHERET v. UKRAINE ■ [Application no. 41395/19](#)

Inadequate conditions of detention for a child held together with his mother in a pre-trial detention centre and lack of appropriate medical care: **violation of Article 3;** Lack of effective remedy: **violation of Article 13.**

TEKİN v. TÜRKİYE ■ [Application no. 28249/20](#)

Placement in a disciplinary cell for alleged propaganda in favour of a criminal organisation, on the basis of a letter sent to the Ministry of Justice in protest of the detention regime imposed on the leader of the Kurdistan Workers' Party (PKK): **violation of Article 10.**

BIJAN BALAHAN v. SWEDEN ■ [Application no. 9839/22](#)

No evidence of a real risk of a life imprisonment sentence without parole or with a 61-year minimum term before parole eligibility, if applicant extradited to, and convicted in, the USA: **no violation of Article 3.**

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