EMD-bulletin
– nytt fra menneskerettsdomstolen i Strasbourg

Nr. **8** År **2014** Dato **16.september** Utgiver **Norsk senter for menneskerettigheter**

Kategori 1-avgjørelser fra EMD: Juli

§ Article 3 – Prohibiton of torture

No one shall be subjected to torture or inhuman or degrading treatment or punishment.

S.A.S. v. FRANCE

Date: 01/07/2014 **Application no.:** 43835/11

Articles: 8; 8-1; 8-2; 9; 9-1; 9-2; 14; 14+8; 14+9; 34; 35; 35-1

Conclusion: Preliminary objection dismissed (Article 34 - Victim); Preliminary objections dismissed (Article 34 – Actio popularis); Preliminary objections dismissed (Article 35-1 – Exhaustion of domestic remedies); Remainder inadmissible; No violation of Article 8 - Right to respect for private and family life (Article 8-1 - Respect for private life); No violation of Article 9 - Freedom of thought conscience and religion (Article 9-1 – Manifest religion or belief); No violation of Article 14+8 - Prohibition of discrimination (Article 14 - Discrimination) (Article 8-1 – Respect for private life Article 8 - Right to respect for private and family life); No violation of Article 14+9 - Prohibition of discrimination (Article 14 - Discrimination) (Article 9 - Freedom of thought conscience and religion Article 9-1 – Manifest religion or belief)

The case concerned the complaint of a French national, who is a practising Muslim, that she is no longer allowed to wear the full-face veil in public following the entry into force, on 11 April 2011, of a law prohibiting the concealment of one's face in public places (Law no. 2010-1192 of 11 October 2010).

The Court emphasised that respect for the conditions of "living together" was a legitimate aim for the measure at issue and that, particularly as the State had a lot of room for manoeuvre ("a wide margin of appreciation") as regards this general policy question on which there were significant differences of opinion, the ban imposed by the Law of 11 October 2010 did not breach the Convention.

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GEORGIA v. RUSSIA

Date: 03/07/2014 **Application no.:** 13255/07

Articles: 3; 5; 5-1; 5-1-f; 5-4; 8; 8-1; 13; 13+3; 13+5+1; 19; 35; 35-1; 38; 38-1-a; 41; P1-1; P1-1-1; P1-2; P4-4; P7-1; P7-1-1

Conclusion: Preliminary objection dismissed (Article 35 – Exhaustion of domestic remedies); Remainder inadmissible; Violation of Article 38 - Examination of the case and friendly settlement proceedings; Violation of Article 4 of Protocol No. 4 - Prohibition of collective expulsion of aliens-{general} (Article 4 of Protocol No. 4 - Prohibition of collective expulsion of aliens); Violation of Article 5 - Right to liberty and security (Article 5-1 - Lawful arrest or detention); Violation of Article 5 - Right to liberty and security (Article 5-4 - Review of lawfulness of detention); Violation of Article 3 - Prohibition of torture (Article 3 - Degrading treatment Inhuman treatment) (Substantive aspect); Violation of Article 13+5-1 - Right to an effective remedy (Article 13 - Effective remedy) (Article 5 - Right to liberty and security Article 5-1 - Lawful arrest or detention); Violation of Article 13+3 - Right to an effective remedy (Article 13 - Effective remedy) (Article 3 - Prohibition of torture Degrading treatment Inhuman treatment); No violation of Article 1 of Protocol No. 7 - Procedural safeguards relating to expulsion of aliens (Article 1 para. 1 of Protocol No. 7 - Expulsion of an alien Lawfully resident); No violation of Article 8 - Right to respect for private and family life (Article 8-1 - Respect for family life); No violation of Article 1 of Protocol No. 1 - Protection of property (Article 1 para. 1 of Protocol No. 1 - Deprivation of property); No violation of Article 2 of Protocol No. 1 - Right to education-{general} (Article 2 of Protocol No. 1 - Right to education); Just satisfaction reserved

Having regard to the parties submissions, the statements by 21 witnesses it had examined during a hearing in Strasbourg, and the reports from various international organisations, the Court found that in the autumn of 2006, a coordinated policy of arresting, detaining and expelling Georgian nationals had been followed by the Russian authorities, which had amounted to an administrative practice incompatible with the Convention.

Norsk sammendrag på Lovdata.no

ALIŠIĆ and OTHERS v. BOSNIA HERZEGOVINA, CROATIA, SERBIA, SLOVENIA and "THE FORMER YUGOSLAVIC REPUBLIC OF MACEDONIA"

Date: 16/07/2014 **Application no.:** 60642/08

Articles: 13; 35; 35-3; 41; 46; P1-1 ; P1-1-1

Conclusion: Preliminary objections dismissed (Article 35-3 - Ratione materiae); Violation of Article 1 of Protocol No. 1 - Protection of property (Article 1 para. 1 of Protocol No. 1 - Peaceful enjoyment of possessions) (Serbia); Violation of Article 1 of Protocol No. 1 - Protection of property (Article 1 para. 1 of Protocol No. 1 - Peaceful enjoyment of possessions) (Slovenia); No violation of Article 1 of Protocol No. 1 - Protection of property (Article 1 para. 1 of Protocol No. 1 - Peaceful enjoyment of possessions) (Bosnia and Herzegovina) (Croatia) (the former Yugoslav Republic of Macedonia); Violation of Article 13 - Right to an effective remedy (Article 13 - Effective remedy) (Serbia); Violation of Article 13 - Right to an effective remedy (Article 13 - Effective remedy) (Slovenia); No violation of Article 13 - Right to an effective remedy (Article 13 - Effective remedy) (Bosnia and Herzegovina) (Croatia) (the former

Yugoslav Republic of Macedonia); Respondent State to take measures of a general character (Article 46 - Pilot judgment Systemic problem General measures); Respondent State to take measures of a general character (Article 46 - Pilot judgment Systemic problem General measures); Pecuniary damage - claim dismissed; Non-pecuniary damage - award

The case concerned the applicants' inability to recover "old" foreign-currency savings – deposited with two banks in what is now Bosnia and Herzegovina – following the dissolution of the former Socialist Federal Republic of Yugoslavia (SFRY).

The Court confirmed that Slovenia and Serbia had been responsible for the debts owed to the applicants by the two banks, Ljubljanska banka Sarajevo and the Tuzla branch of the Investbanka, and held that there had been no good reason for the applicants to have been kept waiting for so many years for repayment of their savings. It pointed out that this was a special case, as it was not a standard case of rehabilitation of an insolvent private bank, the banks in question having always been either State- or socially-owned.

The Court further held by a majority, that Serbia and Slovenia had to make all necessary arrangements, including legislative amendments, within one year and under the supervision of the Committee of Ministers, in order to allow Mr Šahdanović , Ms Ališić and Mr Sadžak, nationals of Bosnia and Herzegovina, as well as all others in their position, to recover their "old" foreign-currency savings under the same conditions as Serbian and Slovenian citizens who had such savings in domestic branches of Serbian and Slovenian banks. The Court unanimously decided to adjourn, for one year, examination of all similar cases against Serbia and Slovenia.

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HÄMÄLÄINEN v. FINLAND

Date: 16/07/2014 **Application no.:** 37359/09

Articles: 8; 8-1; 12; 14; 14+12; 14+8

Conclusion: No violation of Article 8 - Right to respect for private and family life (Article 8 - Positive obligations Article 8-1 - Respect for family life Respect for private life); No violation of Article 14+8 - Prohibition of discrimination (Article 14 - Discrimination) (Article 8-1 - Respect for family life Respect for private life Article 8 - Right to respect for private and family life); No violation of Article 14+12 - Prohibition of discrimination (Article 14 - Discrimination) (Article 12 - Men and women Right to marry)

The case concerns the complaint of a male-to-female transsexual that she could only obtain full official recognition of her new gender by having her marriage turned into a civil partnership.

The Court reiterated that the Convention did not impose an obligation on the Contracting States to allow same-sex marriage. Furthermore, the Convention did not require that any further special arrangements be put in place for situations such as the applicant's. In the absence of a European consensus, and given the sensitive moral and ethical issues at stake, Finland had to be afforded a wide margin of appreciation, both as to its decision whether or not to enact legislation concerning legal recognition of the new gender of post-operative transsexuals and, having intervened, to the rules laid down in order to achieve a balance between the competing public and private interests.

The Court found that since the conversion of the marriage into a civil partnership was automatic under the Finnish system the spouse's consent to registration of the change of gender was an elementary requirement designed to protect each spouse from the effect of unilateral decisions taken by the other. Moreover, the applicant and her wife would not lose any other rights if their marriage were converted into a registered partnership. The Court found that the change to a civil partnership would have no implications for the applicant's family life.

While it was regrettable that she was inconvenienced on a daily basis by her incorrect identity number, the applicant had a genuine possibility of changing that state of affairs via the conversion, at any time, of her marriage into a registered partnership with the consent of her spouse. In the Court's view, it was not disproportionate to require such a conversion, as a precondition to legal recognition of an acquired gender, as that was a genuine option which provided legal protection for same-sex couples that was almost identical to that of marriage. The minor differences between these two legal concepts were not capable of rendering the Finnish system deficient from the point of view of the State's positive obligation. The system as a whole was not disproportionate in its effects on the applicant and a fair balance had been struck between the competing interests in the case.

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SVINARENKO and SLYADNEV v. RUSSIA

Date: 17/07/2014 **Application no.:** 32541/08; 43441/08

Articles: 3; 5; 5-3; 6; 6-1; 34; 35; 35-1; 41

Conclusion: Preliminary objection dismissed (Article 34 - Victim); Violation of Article 3 - Prohibition of torture (Article 3 - Degrading treatment) (Substantive aspect); Violation of Article 6 - Right to a fair trial (Article 6 - Criminal proceedings Article 6-1 - Reasonable time); Pecuniary damage - claim dismissed; Non-pecuniary damage – award

The case essentially concerned the practice of keeping remand prisoners in metal cages during hearings on their cases.

The Court found that holding the applicants in a metal cage during court hearings on their case was a degrading treatment for which there could be no justification. Such treatment constituted in itself an affront to human dignity in breach of Article 3.

Norsk sammendrag på Lovdata.no

CENTRE FOR LEGAL RESOURCES ON BEHALF OF VALENTIN CÂMPEANU v. ROMANIA

Date: 17/07/2014 **Application no.:** 47848/08

Articles: 2; 2-1; 13; 13+2; 34; 46; 46-2

Conclusion: Preliminary objection dismissed (Article 34 - Locus standi); Violation of Article 2 - Right to life (Article 2 - Positive obligations Article 2-1 - Life) (Substantive aspect); Violation of Article 2 - Right to life (Article 2-1 - Effective investigation) (Procedural aspect); Violation of Article 13+2 - Right to an effective remedy (Article 13 - Effective remedy) (Article 2 - Right to life); Respondent State to take measures of a general character (Article 46-2 - Measures of a general character)

The case concerned the death of a young man of Roma origin – who was HIV positive and suffering from a severe mental disability – in a psychiatric hospital. The application was lodged by a Nongovernmental organisation (NGO) on his behalf.

The Court found that, in the exceptional circumstances of the case, and bearing in mind the serious nature of the allegations, it was open to the NGO to act as a representative of Mr Câmpeanu, even though the organisation was not itself a victim of the alleged violations of the Convention.

As regards the complaints under Article 2, the Court found in particular: that Mr Câmpeanu had been placed in medical institutions which were not equipped to provide adequate care for his condition; that he had been transferred from one unit to another without proper diagnosis; and, that the authorities had failed to ensure his appropriate treatment with antiretroviral medication. The authorities, aware of the difficult situation – lack of personnel, insufficient food and lack of heating – in the psychiatric hospital where he had been placed, had unreasonably put his life in danger. Furthermore, there had been no effective investigation into the circumstances of his death.

Finding that the violations of the Convention in Mr Câmpeanu's case reflected a wider problem, the Court recommended Romania to take the necessary general measures to ensure that mentally disabled persons in a comparable situation were provided with independent representation enabling them to have complaints relating to their health and treatment examined before an independent body.

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AL NASHIRI v. POLAND

Date: 24/07/2014 **Application no.:** 28761/11

Articles: 2; 2+P6-1; 2-1; 3; 3+P6-1; 5; 5-1; 6; 6-1; 8; 8-1; 8-2; 13; 13+3; 35; 35-1; 38; 38-1-a; 41; 46; 46-2; 52; P6-1

Conclusion: Preliminary objection joined to merits and dismissed (Article 35-1 - Exhaustion of domestic remedies); Remainder inadmissible; Violation of Article 38 - Examination of the case and friendly settlement proceedings; Violation of Article 3 - Prohibition of torture (Article 3 - Effective investigation) (Procedural aspect); Violation of Article 3 - Prohibition of torture (Article 3 - Torture) (Substantive aspect); Violation of Article 5 - Right to liberty and security (Article 5-1 - Lawful arrest or detention); Violation of Article 8 - Right to respect for private and family life (Article 8-1 - Respect for family life Respect for private life); Violation of Article 13+3 - Right to an effective remedy (Article 13 - Effective remedy) (Article 3 - Prohibition of torture Effective investigation); Violation of Article 6 - Right to a fair trial (Article 6 - Criminal proceedings Article 6-1 - Access to court Fair hearing); Violation of Article 2+P6-1 - Right to life (Article 2-1 - Death penalty Life) (Article 1 of Protocol No. 6 - Abolition of the death penalty Abolition of the death penalty-{general}); Violation of Article 3+P6-1 - Prohibition of torture (Article 3 - Degrading treatment Inhuman treatment) (Article 1 of Protocol No. 6 - Abolition of the death penalty Abolition of the death penalty-{general}); Respondent State to take individual measures (Article 46-2 - Individual measures); Non-pecuniary damage – award

The cases AL NASHIRI v. POLAND and HUSAYN (ABU ZUBAYDAH) v. POLAND concerned allegations of torture, ill-treatment and secret detention of two men suspected of terrorist acts. The applicants allege that they were held at a CIA “black site” in Poland.

Having regard to the evidence before it, the Court came to the conclusion that the applicants’ allegations that they had been detained in Poland were sufficiently convincing. The Court found that Poland had cooperated in the preparation and execution of the CIA rendition, secret detention and interrogation operations on its territory and it ought to have known that by enabling the CIA to detain the applicants on its territory, it was exposing them to a serious risk of treatment contrary to the Convention.

Norsk sammendrag på Lovdata.no

HUSAYN (ABU ZUBAYDAH) v. POLAND

Date: 24/07/2014 **Application no.:** 7511/13

Articles: 3; 5; 5-1; 6; 6-1; 8; 8-1; 8-2; 13; 13+3; 13+5; 13+8; 35; 35-1; 38; 38-1-a; 41; 52

Conclusion: Preliminary objection joined to merits and dismissed (Article 35-1 - Exhaustion of domestic remedies); Violation of Article 38 - Examination of the case and friendly settlement proceedings; Violation of Article 3 - Prohibition of torture (Article 3 - Effective investigation) (Procedural aspect); Violation of Article 3 - Prohibition of torture (Article 3 - Torture) (Substantive aspect); Violation of Article 5 - Right to liberty and security (Article 5-1 - Deprivation of liberty Lawful arrest or detention Procedure prescribed by law); Violation of Article 8 - Right to respect for private and family life (Article 8-1 - Respect for family life Respect for private life); Violation of Article 13+3 - Right to an effective remedy (Article 13 - Effective remedy) (Article 3 - Prohibition of torture Effective investigation); Violation of Article 13+5 - Right to an effective remedy (Article 13 - Effective remedy) (Article 5-1 - Deprivation of liberty Article 5 - Right to liberty and security); Violation of Article 13+8 - Right to an effective remedy (Article 13 - Effective remedy) (Article 8-1 - Respect for family life Respect for private life Article 8 - Right to respect for private and family life); Violation of Article 6 - Right to a fair trial (Article 6 - Criminal proceedings Article 6-1 - Access to court Fair hearing); Non-pecuniary damage – award

The cases AL NASHIRI v. POLAND and HUSAYN (ABU ZUBAYDAH) v. POLAND concerned allegations of torture, ill-treatment and secret detention of two men suspected of terrorist acts. The applicants allege that they were held at a CIA “black site” in Poland.

Having regard to the evidence before it, the Court came to the conclusion that the applicants’ allegations that they had been detained in Poland were sufficiently convincing. The Court found that Poland had cooperated in the preparation and execution of the CIA rendition, secret detention and interrogation operations on its territory and it ought to have known that by enabling the CIA to detain the applicants on its territory, it was exposing them to a serious risk of treatment contrary to the Convention.

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KAPLAN and OTHERS v. NORWAY

Date: 24/07/2014 **Application no.:** 32504/11

Articles: 8

Conclusion: Violation of Article 8 - Right to respect for private and family life (Article 8 – Expulsion) (Turkey)

The case concerned the expulsion of a father to Turkey.

Kamran Kaplan is of Kurdish ethnic origin and comes from south-east Turkey. Because he sympathised with and assisted the PKK (Kurdistan Workers Party), he says he often felt persecuted by the Turkish authorities and, fearing for his life, he fled from Sirnak (Turkey) in March 1993. He then stayed in several locations in Turkey and countries in Europe before applying for asylum in Norway. In October 1998, his application for asylum in Norway was however rejected. After a conviction for aggravated assault in Norway in December 1999, the Ministry of Justice requested the Directorate of Immigration to assess whether there was a basis for expulsion. The authorities took no specific measures to deport him until he received a warning to this effect issued on 31 October 2006. On 2 November 2006, his expulsion was ordered and his re-entry in Norway prohibited for an indefinite duration.

Having spent a period in Iraq as refugees, Mr Kaplan's wife arrived in Norway in May 2003 with their sons Azat and Cemsit and applied for asylum. On 4 August 2005 Rojun, the third child of the couple, was born. In February 2008, the Immigration Appeals Board ("the Board") granted Naime Kaplan and the children a residence and work permit, attaching decisive weight to Rojun's chronic and serious degree of autism together with the fact that Azat and Cemsit had already been residing in Norway for four years and nine months. The Board consequently limited the duration of the re-entry ban imposed on Kamran Kaplan to five years. His appeals against this decision were dismissed and the Supreme Court found in a judgment of 26 November 2010 that his expulsion would not constitute a disproportionate measure vis-à-vis the other family members. He was expelled to Turkey on 16 July 2011. The other family members were granted Norwegian citizenship in January 2012.

Relying on Article 8 (right to respect for private and family life), the applicants complained that Kamran Kaplan's expulsion to Turkey had split up their family, alleging in particular that the judgment of November 2010 had not paid enough attention to the best interests of the youngest child's special care needs. The Court found a violation of article 8 on account of Kamran Kaplan's expulsion from Norway with a five-year re-entry ban.

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Månedens utvalgte: Kaplan and others v. Norway

Fakta:

Førsteklageren var en kurder som kom fra Tyrkia. De andre klagerne var førsteklagerens kone og tre barn. Førsteklageren følte seg forfulgt av tyrkiske myndigheter, og fant det i 1993 nødvendig å flykte fra hjembyen sin. Etter å ha oppholdt seg på ulike steder i Tyrkia, og deretter i flere land i Europa, søkte han om asyl i Norge. Utlendingsdirektoratet avslo asylsøknaden hans i 1999. Vedtaket ble påklaget, men Justisdepartementet forkastet klagen i 2000. Førsteklageren forlot ikke Norge, og myndighetene iverksatte ingen tiltak for å sende ham ut av landet inntil han mottok varsel om utvisning i oktober 2006. I 1999 ble førsteklageren dømt til fengsel for legemsbeskadigelse.

Førsteklagrens kone, andreklageren, kom til Norge i 2003 sammen med parets to sønner. I 2005 ble parets tredje barn, en datter, født. Datteren led av barneautisme. Konen, sammen med barna, fikk etter hvert arbeids- og oppholdstillatelse. Det ble lagt vekt på barnas tilknytning til riket og datterens særlige behov. I etterkant ble førsteklagerens innreiseforbud tidsbegrenset og satt til fem år.

Førsteklageren reiste sak mot staten. Høyesterett kom i 2010 [HR-2010-2033-A] til at utvisningen ikke var et uforholdsmessig tiltak. Førsteklageren ble i 2011 utvist til Tyrkia. De andre klagerne fikk norsk statsborgerskap i 2012.

Anførsler:

Klagerne anførte at utvisningen av førsteklageren til Tyrkia innebar en krenkelse av artikkel 8.

Staten imøtegikk klagerens anførsler.

Domstolens vurderinger:

Domstolen viste innledningsvis til prinsippene som fremgår i *Nunez v. Norway* (no. 55597/09).

I den foreliggende saken var vurderingstemaet om det forelå en riktig balanse mellom klagernes rett til respekt for familieliv på den ene siden, og den offentlige interesse i å sikre en effektiv immigrasjonskontroll på den andre siden. Domstolen uttalte at et nasjonalt immigrasjonsregelverk

basert på administrative sanksjoner i form av utvisning, ikke som sådan var i strid med artikkel 8. Etter Domstolens syn, veide den offentlige interesse i favør av å utvise førsteklageren tungt i avveiingen ved proporsjonalitetsvurderingen etter artikkel 8. Båndene som førsteklageren hadde etablert i den innklagede staten, kunne ikke anses å veie opp for de som han hadde i hjemlandet, og hadde uansett blitt dannet ved ulovlig opphold og uten noen legitim forventning om å få bli i landet. Domstolen uttalte at til tross for at andreklageren hadde fått oppholdstillatelse i den innklagede staten i 2008, var det ikke noe spesielt som hindret henne i å følge med førsteklageren og etablere seg på nytt i hjemlandet. Når det gjaldt den yngste datteren, nevnte Domstolen at en avgjørelse om å flytte en utlending, som lider av en alvorlig psykisk eller fysisk lidelse, til et land der behandlingsfasilitetene er dårligere enn de som finnes i den kontraherende staten, kan dette reise spørsmål etter artikkel 3, men kun i helt eksepsjonelle tilfeller. Den uttalte at det lot imidlertid ikke til å være tilfelle i denne saken. Videre uttalte Domstolen at den ikke desto mindre ville vurdere hvorvidt utvisningen av førsteklageren fra den innklagede staten, var uforenlig med artikkel 8 på bakgrunn av de eksepsjonelle omstendighetene («exeptional circumstances») relatert særlig til hensynet til det yngste barnets beste. I denne forbindelse, pekte Domstolen på at myndighetene hadde lagt avgjørende vekt på ny informasjon vedrørende datterens helse sammenholdt med lengden på barnas opphold i den innklagede staten, da andreklageren og barna fikk innvilget arbeids- og oppholdstillatelse i 2008. Videre viste den til at det i lagmannsretten [LB-2009-102660] ble lagt til grunn at datterens kroniske og meget alvorlige grad av barneautisme og oppfølgingsbehov ville prege de øvrige familiemedlemmer sterkt i år fremover og påføre dem en belastning langt utover det normale. Domstolen viste deretter til at utvisningen, etter høyesteretts syn [HR-2010-2033-A], imidlertid ikke ville påføre datteren en uvanlig stor belastning. Med bakgrunn særlig i lagmannsrettens vurdering av tiltakets uheldige følger for det yngste barnet, fant Domstolen at utvisningen av førsteklageren sammenholdt med innreiseforbudet på fem år, utgjorde et svært vidtrekkende tiltak særlig vis-à-vis den yngste datteren.

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Videre bemerket Domstolen at førsteklageren var straffedømt, men uttalte at dette i seg selv ikke var en faktor som burde tillegges betydelig vekt i denne saken. Domstolen viste videre til den lange tidsperioden som hadde gått fra 1999–2000 frem til myndighetene varslet førsteklageren i 2006, og uttalte at den ikke var overbevist om at tiltaket i tilfredsstillende grad ivaretok hensynet til hurtighet og effektivitet. Domstolen viste til at andreklageren hadde fått innvilget oppholdstillatelse til tross for at hun hadde oppholdt seg ulovlig i den innklagede staten. Videre uttalte den at det stemte at førsteklagerens ulovlige opphold var merkbart lengre, og at han i perioder også hadde arbeidet der ulovlig. Den var imidlertid ikke overbevist om at en forskjellsbehandling mellom foreldrene, kunne rettferdiggjøres i den foreliggende proporsjonalitetsvurderingen. Domstolen fant ikke at det forelå en tilstrekkelig begrunnelse som kunne vise at det omtvistete inngrepet var nødvendig i artikkel 8(2)s forstand.

Ved sin vurdering tok Domstolen i betraktning det yngste barnets langvarige og nære forhold til sin far, hennes spesielle omsorgsbehov, og den lange perioden uten aktivitet fra myndighetenes side frem til de varslet og vedtok å utvise førsteklageren. Domstolen var ikke overbevist om at det var lagt tilstrekkelig vekt på hensynet til barnets beste. Den fant derfor ikke at den innklagede statens myndigheter handlet innenfor sin skjønnsmargin da den forsøkte å finne en rimelig balanse mellom, på den ene side, førsteklagerens behov for å bli værende i landet for å opprettholde kontakten med

sin datter i hennes beste interesse, og på den andre siden, statens offentlige interesse i å sikre effektiv immigrasjonskontroll - det vil si, i følge staten, «av hensyn til .... landets økonomiske velferd» og «for å forebygge uorden og kriminalitet». På denne bakgrunn konkluderte Domstolen enstemmig med at utvisningen av førsteklageren og ileggelse av et fem års innreiseforbud innebar en krenkelse av artikkel 8.

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