

THE RIGHT TO PRIVATE LIFE UNDER THE ECHR WITH SPECIAL REGARD TO CENTRAL EUROPE



AGNIESZKA WEDEŁ-DOMARADZKA

Abstract

This study addresses the right to private life in the jurisprudence of the European Court of Human Rights. The right to private life will be presented in the context of this right's general scope. The study will also analyse how the content and scope of the right to private life has been shaped in the jurisprudence regarding the content of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The jurisprudence of the Strasbourg Court has also shaped the very content and understanding of the right to private life. Thus, those judgments and those parts that affect the understanding of the right to private life will be presented. The most extensive consideration will be given to judgments rendered in cases concerning the observance of the right to private life in Central European countries. The consideration will cover three spheres of private life: the physical, psychological or moral integrity of individuals, privacy and the protection of personal autonomy and identity. The analysis will provide conclusions. These will include two aspects: an indication of what is specific to violations of the right to privacy in Central European countries and identifying the challenges posed to these countries. The latter aspect is based on already existing cases in Western Europe.

Keywords: right to private life, human rights, European Convention for the Protection of Human Rights and Fundamental Freedoms, European Court of Human Rights, Central Europe, autonomy, privacy, identity

Agnieszka Wedel-Domaradzka (2025) 'The Right to Private Life under the ECHR with Special Regard to Central Europe'. In: Nóra Béres – Renáta Hrecska-Kovács (eds.) *The ECHR at 70: The Central European Narrative*, pp. 245–266. Miskolc–Budapest, Central European Academic Publishing.



https://doi.org/10.54237/profn2025.nbrhkechr_10

1. Introduction

The right to private life is one of the fundamental rights of individuals. It is protected not only in the international human rights protection system but also in national systems. However, the extent of this national protection must be consistent with the international framework adopted at both the global and regional levels. The modern understanding of the right to privacy encompasses the autonomy of the individual, his or her ability to control his or her actions and the data concerning him or her, as well as to be free from any undue interference in private spheres.

The genesis of the right to respect for private life is sought in the legal arrangements of the United States of America and the Fourth Amendment to its Constitution. Interpreting this provision and other provisions of national constitutions in drafting the Universal Declaration of Human Rights, J. Humphrey pointed to the existence of a separate category of rights, which he termed “freedom and respect for private life”.¹ It has also been adopted in fundamental human rights documents, including the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

Nowadays, this instrument is identified as one of the fundamental instruments for the existence of democratic societies. This is why it is so crucial for the legal systems of Central European States, which had been struggling with a democratic deficit for many years. After the political changes of the late 1980s and early 1990s, these States joined universal and regional systems for the protection of human rights. By doing so, they not only committed themselves to having their legal systems introduce the relevant rights as well as their guarantees, but also undertook to have their practice of dealing with individual rights assessed by international bodies.

This paper is intended to address the issue of the right to private life as it applies to Central European countries. The study will indicate the genesis of the right to privacy in the context of the preparatory work for the ECHR and how this right is understood therein. Another aspect covered in the paper will be an analysis of the rulings on selected Central European countries and the subject matter of the rulings, together with an indication of how similar the scope of the rulings is in each country. The rulings will be analysed in three groups of problems related to the right to private life, i.e., the individuals’ physical, psychological or moral integrity, privacy and the protection of personal autonomy and identity. This type of analysis is to answer the question of whether the range of problems occurring in Central European States in connection with the realisation of the right to private life is similar to each other, whether the identified violations of the right to private life are therefore specific of the geographical area, or do not differ from violations occurring in other States of the Council of Europe system, and whether, if there are differences, what they concern and what their consequences are.

1 Schabas, 2015, p. 358.

The scope of the analysis will mainly cover cases considered as so-called ‘key cases’. The reflections carried out in this way will allow for the formulation of conclusions concerning the condition of the right to private life in Central European countries and the possible future challenges that have been and will be posed to the realisation of this right. The latter aspect is of particular importance in the context of the development of medical science, technological developments, the need to consider societal interests and the fact that the right to privacy increasingly intersects with other human rights and their violations.

2. Right to Private Life in the Preparatory Work for the ECHR

The right to private life and its regulation in the ECHR is recognised, like the Convention as a whole, as being strongly inspired by the provisions of the Universal Declaration of Human Rights (UDHR).² Work on the content of Article 8 of the ECHR was undertaken in August 1949. The original version of the said Article framed the need for protection as a ‘non-violation’ of private life as well as of the home, correspondence and family, implemented in accordance with Article 12 of the UDHR. However, this version was amended during the Committee vote initiated by the position of the Belgian and French representatives. Another version put forward by the Committee provided for “immunity from arbitrary interference in his private life, his home, his correspondence and his family”,³ while leaving the reference to Article 12 of the UDHR. Significantly, it was decided from the outset to use the term ‘private life’ rather than ‘privacy’ as in the UDHR. In the document submitted from the Committee to the Consultative Assembly in September 1949, this version was maintained, but the term ‘immunity’ was dropped and replaced by ‘freedom’. In the report presented to the Assembly, however, the focus was more on the right to family life and its possible content, without any broader consideration regarding the right to privacy.

In November 1949, the Committee of Ministers of the Council of Europe forwarded the Assembly’s recommendation to the Committee of Experts on Human Rights. On this basis, the Committee of Experts on Human Rights drafted the proposed provisions of Article 8. It returned to the far-reaching inspiration of the UDHR in particular by proposing a provision that “no one shall be subjected to arbitrary

2 Czubik, 2009, p. 113; Preparatory work on Article 8 of the European Convention of Human Rights, p. 2, available: <https://www.echr.coe.int/documents/d/echr/echrtravaux-art8-dh-56-12-en1674980>.

3 Preparatory work on Article 8 of the European Convention on Human Rights, p. 3, available: <https://www.echr.coe.int/documents/d/echr/echrtravaux-art8-dh-56-12-en1674980>.

interference with his privacy, family, home or correspondence. Everyone has the right to the protection of the law against such interference”.⁴

This proposal was the subject of further work involving both States⁵ and The Conference of Senior Officials. The Conference of Senior Officials adopted the content of Article 8 as: “Everyone’s right to respect for his private and family life, his home and his correspondence shall be recognised”,⁶ based on the British proposal.⁷ The content of Article 8 prepared by The Conference of Senior Officials then became the basis for work within the Committee of Ministers. However, this work mainly focused on clarifying Article 8(2).⁸ Finally, in August 1950, the Committee of Ministers adopted a working version which, without much discussion, became the basis of Article 8 of the ECHR. concerning the right to respect for private and family life. According to the wording of this Article, it includes:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, 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.”

The protection provided by Article 8 thus falls under four elements: the right to private life, family life, the home and correspondence. At the same time, it is essential to emphasise the apparent predominance of cases addressed by the European Court of Human Rights (ECtHR) in which the Court considers the violation of the right to private life and the right to family life over the violation concerning the protection of the home and correspondence. It should also be pointed out that the ECtHR often considers violations of the right to private life and the right to family life together without making a clear distinction between violations of both rights based on the facts.⁹

As can be seen from the above-mentioned text, Article 8 ECHR points out two aspects of protecting the right to private life and the situations permitted by law in

4 Preparatory work on Article 8 of the European Convention of Human Rights, p. 2, available: <https://www.echr.coe.int/documents/d/echr/echrtravaux-art8-dh-56-12-en1674980>, p. 4–5.

5 For example, the proposal from the United Kingdom in: Preparatory work on Article 8 of the European Convention of Human Rights, p. 2, available: <https://www.echr.coe.int/documents/d/echr/echrtravaux-art8-dh-56-12-en1674980>, p. 6.

6 Preparatory work on Article 8 of the European Convention of Human Rights, s. 2, available: <https://www.echr.coe.int/documents/d/echr/echrtravaux-art8-dh-56-12-en1674980>, p. 7.

7 Schabas, 2015, p. 365.

8 Preparatory work on Article 8 of the European Convention of Human Rights, p. 2, available: <https://www.echr.coe.int/documents/d/echr/echrtravaux-art8-dh-56-12-en1674980>, p. 7-8.

9 Schabas, 2015, p. 366.

which this interference with privacy will be possible and will not be considered a violation of this right. The protection of the right to private life encompasses both a negative obligation on the part of the State (to refrain from interfering with the activities that an individual wishes to undertake) and a positive obligation (to ensure that an individual can pursue his or her intentions and to intervene if someone wishes to prevent him or her from doing so).

3. Right to Private Life within the Meaning of the ECtHR's Basic Case Law

The ECtHR has explicitly defined the right to private life itself. It has been emphasised that it is a broad concept,¹⁰ subject to expansive interpretation,¹¹ and because of this breadth of understanding, it is not possible to formulate an exhaustive definition for it.¹² However, in the case law, there are some elements indicating how the right to private life should be understood and interpreted. Firstly, it has been pointed out that the interpretation of the right to privacy should be moderate. It does not only refer to the 'inner circle', but also includes establishing and developing relationships with others.¹³ Secondly, it refers to a person's physical and psychological integrity¹⁴ and embraces aspects of an individual's physical and social identity.¹⁵ Thirdly, the ECtHR has identified several elements that fall within the scope of the right to privacy, such as gender identification, name, sexual orientation, sexual life,¹⁶ a right to personal development, and the right to establish and develop relationships with other human beings and the outside world.¹⁷ However, the right to establish

10 Case *Niemietz v. Germany*, application no. 13710/88, 16 December 1992, § 29, <https://hudoc.echr.coe.int/?i=001-57887>; Case *Pretty v. the United Kingdom*, application no. 2346/02, 29 April 2002, § 61, <https://hudoc.echr.coe.int/eng?i=001-60448>. Also: Aleca and Duminică, 2012, p. 112.

11 Van Dijk et al., 2006, p. 664.

12 Case of *Costello-Roberts v. the United Kingdom*, application no. 13134/87, 25 March 1993 § 36, <https://hudoc.echr.coe.int/?i=001-57804>.

13 Case of *Niemietz v. Germany*, application no. 13710/88, 16 December 1992, § 29, <https://hudoc.echr.coe.int/?i=001-57887>.

14 Case of *X and Y v. the Netherlands*, application no. 8978/80, judgment of 26 March 1985, § 22, <https://hudoc.echr.coe.int/eng?i=001-57603>.

15 Case of *Mikulić v. Croatia*, application no. 53176/99, 7 February 2002, § 53, <https://hudoc.echr.coe.int/eng?i=001-60035>.

16 Case of *B. v. France*, application no. 13343/87, 25 March 1992, § 63, <https://hudoc.echr.coe.int/eng?i=001-57770>; of Case of *Dudgeon v. the United Kingdom*, application no. 7525/76, § 41, <https://hudoc.echr.coe.int/eng?i=001-57473>; Case of *Laskey, Jaggard and Brown v. the United Kingdom*, application nos. 21627/93; 21628/93; 21974/93, § 36, <https://hudoc.echr.coe.int/eng?i=001-58021>; Case of *Botta v. Italy*, application no. 21439/93, § 32, <https://hudoc.echr.coe.int/eng?i=001-58140>.

17 Case of *Friedl v. Austria*, application no. 15225/89, 19 May 1994, § 44, <https://hudoc.echr.coe.int/eng?i=001-45662>.

contact with one specific person does not itself fall within the scope of this right. It will not apply particularly if that other person does not share the desire for contact.¹⁸ This right also includes the values held by the individual,¹⁹ such as goodness and dignity.²⁰ The sphere of the right to privacy also includes protecting aspects of personality development,²¹ the right to self-determination²² or integrity of both the physical and psychological dimensions,²³ and some aspects of social identity.²⁴ The right to privacy also covers aspects bordering on (albeit not eligible for) the right to respect family life, such as the right to respect the decision of whether or not to have children.²⁵ The protection envisaged by the right to privacy also relates to the emotional ties that have been created and that are developed between an adult and a child in situations other than classic kinship situations.²⁶

Given the increasing access to and ease of obtaining personal data, the right to privacy also protects personal data,²⁷ including an image²⁸ and a person's home address.²⁹ This protection also applies to personal data in respect of which the individual may assume that it will not be published without his or her consent.³⁰ Data protection may also extend to post-mortem situations.³¹ The right to private life also includes verbal abuse of another person, such abuse causing emotional distress and

- 18 Case of *Evers v. Germany*, application no. 17895/14, 28 May 2020, § 54, <https://hudoc.echr.coe.int/eng?i=001-202527>.
- 19 Case of *Denisov v. Ukraine* [GC], application no. 76639/11, 29 September 2018, § 95, 96, 129, <https://hudoc.echr.coe.int/eng?i=001-186216>.
- 20 Case of *Hudorovič and others v. Slovenia*, applications nos. 24816/14 and 25140/14, 10 March 2020, § 112-116, <https://hudoc.echr.coe.int/eng?i=001-201646>; Case *Beizaras and Levickas v. Lithuania*, application no. 41288/15 14 January 2020, § 117, <https://hudoc.echr.coe.int/eng?i=001-200344>.
- 21 Case of *Von Hannover v. Germany* (no. 2) [GC], applications nos. 40660/08 and 60641/08, 7 February 2012, § 95, <https://hudoc.echr.coe.int/eng?i=001-109029>.
- 22 Case of *Pretty v. United Kingdom*, § 61.
- 23 Case of *J.L. v. Italy*, application no 5671/16, 27 May 2021, § 118, <https://hudoc.echr.coe.int/eng?i=001-210299>; Case of *Vavříčka and Others v. the Czech Republic* [GC], applications nos. 47621/13, 3867/14, 73094/14, 19298/15, 19306/15, 43883/15, 8 April 2021, § 261, <https://hudoc.echr.coe.int/eng?i=001-209039>.
- 24 Case of *Mikulić v. Croatia*, § 53.
- 25 Case of *A, B and C v. Ireland*, application no. 25579/05, 16 December 2010, § 212, <https://hudoc.echr.coe.int/eng?i=001-102332>.
- 26 Case of *Jessica Marchi v. Italy*, application no. 54978/17, 27 May 2021, § 62, <https://hudoc.echr.coe.int/eng?i=001-210090>.
- 27 Case of *M.L. and W.W. v. Germany*, applications nos. 60798/10 and 65599/10, 28 June 2018, § 87, <https://hudoc.echr.coe.int/eng?i=001-183947>; Case *Liebscher v. Austria*, application no. 5434/17, 6 April 2021, § 31, <https://hudoc.echr.coe.int/eng?i=001-209035>.
- 28 Case of *Reklos and Davourlis v. Greece*, application no. 15 January 2009, 1234/05, § 38, <https://hudoc.echr.coe.int/eng?i=001-90617>.
- 29 Case of *Alkaya v. Turkey*, application no. 42811/06, 9 October 2012, § 30, <https://hudoc.echr.coe.int/eng?i=001-114030>.
- 30 Case of *M.P. v. Portugal*, application no. 27516/14, 7 September 2021, § 33-34, <https://hudoc.echr.coe.int/eng?i=001-211781>.
- 31 Case of *Polat v. Austria*, application no. 12886/16, 20 July 2021, § 48, <https://hudoc.echr.coe.int/eng?i=001-211365>.

harming mental well-being, dignity and moral integrity, as well as humiliating the person in the eyes of others.³² Violations of the right to private life also include attacks on a person's reputation, dismissal, demotion, inadmissibility or other similarly adverse actions taken against an individual.³³ These violations also include any initiative that adversely affects the physical and psychological integrity of another person,³⁴ as well as actions with the characteristics of sexual harassment³⁵ or the violation of individual psychological well-being and dignity.³⁶ According to the ECtHR's rulings, the right to private life also applies to cases involving legal proceedings. In particular, those proceedings that involve sensitive issues, such as court proceedings related to gender violence and how the rhetoric of the proceedings is conducted in such cases.³⁷ It should be mentioned that the right to private life cannot be absolute or invoked in every distressed situation. According to the ECtHR, the possibility to exclude the invocation of a violation of the right to private life refers, for example, to situations in which a person's suffering is the consequence of his/her previous actions, such as, for example, committing a crime.³⁸ Nor does the protection of the right to private life extend to activities of a public nature.³⁹ The Court considers personal autonomy a vital principle underlying the interpretation of guaranteeing the right to private life.⁴⁰

It is worth noting that the jurisprudence of the ECtHR on the right to private and family life is considered one of the richest, if not the richest. According to statistics on ECtHR case law, cases decided on the basis of alleged violations of Article 8 ECHR account for more than 30,000 complaints. Although more of the complaints relate to Article 6 ECHR, in many cases, they are of a similar nature, mainly concerning the length of proceedings.⁴¹ There are even situations where the ECtHR, despite the pos-

32 Case of *F.O. v. Croatia*, application no. 29555/13, 22 April 2021, § 81, 59-61, <https://hudoc.echr.coe.int/eng?i=001-209331>.

33 Case of *Denisov v. Ukraine* [GC], § 111-112 and 115-117; Case of *Vučina v. Croatia* (dec.), application no. 58955/13, 24 September 2019, § 44-50, <https://hudoc.echr.coe.int/eng?i=001-198384>; Case of *M.L. v. Slovakia*, application no. 34159/17, 14 October 2021, § 24, <https://hudoc.echr.coe.int/eng?i=001-212150>.

34 Case of *Nicolae Virgiliu Tănase v. Romania* [GC], application no. 41720/13, 25 June 2019, § 128 <https://hudoc.echr.coe.int/eng?i=001-194307>.

35 Case of *C. v. Romania*, application no. 47358/20, 30 August 2022, § 50-54, <https://hudoc.echr.coe.int/eng?i=001-218933>.

36 Case of *Beizaras and Levickas v. Lithuania*, application no. 41288/15, 14 January 2020, § 109 and 117, <https://hudoc.echr.coe.int/eng?i=001-200344>.

37 Case of *J.L. v. Italy*, § 119.

38 Case of *Denisov v. Ukraine* [GC], application no. § 98 and § 121; Case of *Evers v. Germany*, § 55; Case of *M.L. v. Slovakia*, § 38, Case of *Ballıktaş Bingöllü v. Turkey*, application no. 76730/12, 22 June 2021, § 54, <https://hudoc.echr.coe.int/eng?i=001-210755>.

39 Case of *Centre for Democracy and the Rule of Law v. Ukraine*, application no. 10090/16, 26 March 2020, § § 114-116, <https://hudoc.echr.coe.int/eng?i=001-201896>.

40 Case of *Pretty v. the United Kingdom*, § 61.

41 HUDOC, database, <https://hudoc.echr.coe.int>, 19 of June 2024.

sibility (resulting from the indication of a potential violation) refers to other rights contained in the ECHR, is more willing to consider only the Article 8 provisions.

The protection of the right to private life provided for in Article 8 is not absolute. It is subject to the limitations provided for in paragraph 2 of that Article. These limitations include:

- the interests of national security,
- public safety
- the economic wellbeing of the country,
- the prevention of disorder or crime,
- the protection of health or morals,
- the protection of the rights and freedoms of others.

However, the restrictions must meet specific requirements to be effectively considered acceptable under the ECtHR's jurisprudence. These restrictions include tests relating to whether they are taken by a public authority 'following the law' or 'prescribed by law' and whether they are 'necessary in a democratic society'.

The question of 'under the law' or 'prescribed by law' in the jurisprudence of the ECtHR⁴² is understood as one that must meet specific criteria. These criteria include a clear basis in national law, the proper formulation of the law, the adequate precision of the regulation and the foreseeability of the consequences of the application of the regulation.⁴³ It also draws attention to the accessibility of the regulation to the recipient and its predictability.⁴⁴ The ECtHR also points out that the term 'law' in the context of 'following the law' and 'prescribed by law' should be understood in its 'substantive' sense, not its 'formal' one.⁴⁵

Referring to the aspect of "necessary in a democratic society", the ECtHR points out that interference is considered necessary if it responds to a "pressing social need" and, in particular, if the reasons adduced by the national authorities to justify it are "relevant and sufficient" and if it is proportionate to the legitimate aim pursued.⁴⁶ With that said, the national authorities are primarily relevant here when it comes to assessing the balance of public interest encroachments on the rights of individuals under Article 8 ECHR. Here, the ECtHR only examines whether the interference was 'necessary', while leaving the Parties to the ECHR with a margin of appreciation. This margin of appreciation may concern assessing the use of resources and social

42 Case of *Vavříčka and Others v. the Czech Republic* [GC], § 266.

43 Case of *Dubská and Krejzová v. the Czech Republic* [GC], applications nos. 28859/11 and 28473/12, 15 November 2016, § 167, <https://hudoc.echr.coe.int/eng?i=001-168066>; Case of *A, B and C v. Ireland*, application no. 25579/05, 16 December 2010, § 220, <https://hudoc.echr.coe.int/eng?i=001-102332>.

44 Case of *X v. Latvia*, applications no. 27853/09, 26 November 2013, § 58, <https://hudoc.echr.coe.int/eng?i=001-138992>.

45 Case of *Vavříčka and Others v. the Czech Republic* [GC], § 269.

46 Case of *Vavříčka and Others v. the Czech Republic* [GC], § 273.

needs.⁴⁷ This margin restricted to issues related to intimate aspects or identity.⁴⁸ In contrast, the margin is wide concerning the balance between competing private and public interests or Convention rights.⁴⁹

4. Case Law on the Right to Privacy concerning Central European countries

Central European States joined the ECHR system after the political changes in the late 1980s and early 1990s. This has had an impact not only on the model of protection of individual rights they adopted but also on their activity and involvement before international bodies, including the ECtHR. Since their accession, several proceedings initiated by their citizens have been successfully conducted before the ECtHR. Most of these proceedings concerned respect for the right to private life.

The discussion of the jurisprudence against these States will be carried out based on three thematic groups: the notion of private life is the physical, psychological or moral integrity of individuals, privacy and the protection of personal autonomy and identity.⁵⁰

4.1. *The Individuals' Physical, Psychological or Moral Integrity*

Physical, psychological or moral integrity of individuals refers to situations related to the individual and his/her physical or psychological aspects to be protected or about which the individual has the right to decide. The scope of decision-making on this issue can be very broad.

Firstly, as is evident from the ECtHR's jurisprudence vis-à-vis Bulgaria, it can include aspects related to protection from domestic violence. In *Bevacqua and S.*, the applicants alleged a violation of Article 8 due to the failure of the national authorities to take adequate measures to protect one of the applicants from the violent behaviour of her ex-husband. In the view of the ECtHR, Article 8 protects the individual against arbitrariness by public authorities as its primary objective; however, it also pursues other objectives, including ensuring adequate respect for private and family life, in particular, in the context of the need to protect children and other

47 Case of *Hristozov and Others v. Bulgaria*, applications nos. 47039/11 and 358/12, 13 November 2012, § 119, <https://hudoc.echr.coe.int/eng?i=001-114492>.

48 Case of *Vavříčka and Others v. the Czech Republic* [GC], § 273.

49 Case of *Evans v. the United Kingdom* [GC], applications no. 6339/05, § 77.

50 Based on the division contained in: Guide on Article 8 of the European Convention on Human Rights Right to respect for private and family life, home and correspondence Updated on 31 August 2022, Council of Europe/European Court of Human Rights, 2022, https://www.echr.coe.int/documents/d/echr/guide_art_8_eng.

vulnerable persons.⁵¹ In this case, it effectively ensured reunification with the child and guaranteed the contact with the child envisaged by the judgments. Concerning the voluntariness of private life in this case, the ECtHR recalled its previous rulings, which consider a person's physical and mental integrity to be a private life.⁵² The State's positive duties in this regard, on the other hand, refer to the maintenance and application in practice of an adequate legal framework that protects against acts of violence by private persons.⁵³ In this regard, Bulgaria failed to fulfil these obligations, as the pending proceedings concerning safeguarding the applicants' situation were unreasonably prolonged, or at least were not provided with a timeframe of consideration appropriate to the seriousness of the situation. The source of these delays was the practice of the domestic courts seeking to postpone the adjudication of child custody issues in divorce proceedings until the expiry of the statutory reconciliation period. While, in general, the purpose can be considered legitimate, the automaticity of its application is not legitimate. Consequently, the right to private and family life was violated. Significantly, the ECtHR did not explicitly separate the consideration of both rights, and it only emphasised the privacy-related aspect of physical and psychological integrity.

According to ECtHR statistics, domestic violence issues are the subject of intensified jurisprudence. Most often, these rights are decided in Central European countries. Bulgaria, Croatia, Poland, Romania and Slovenia lead the way in the statistics of domestic violence cases, with a large proportion of judgments against these countries being issued based on Article 8.⁵⁴

Secondly, protecting private life encompasses actions towards persons who become victims of violations of personal rights. This is particularly relevant in the case of persons who should be particularly protected, namely children. In a case against Croatia,⁵⁵ the ECtHR had to deal with the issue of harassment by a teacher in a State school. The allegation concerned the failure of the domestic authorities to respond effectively to his allegations of harassment. The applicant had suffered prejudice due to the teacher's several demeaning statements directly and indirectly directed at him. In considering this case, the ECtHR pointed out that the purpose of the Article 8 provisions is to protect the individual from arbitrary interference by public authorities. These authorities should ensure that students are protected from any form of violence originating from an entity under their supervision.⁵⁶

51 Case of *X and Y v. the Netherlands*, § 23-24 and 27.

52 Case of *Bevacqua and S. v. Bulgaria*, application no. 71127/01, 12 June 2008, §65, <https://hudoc.echr.coe.int/eng?i=001-86875>.

53 Case of *Osman v. the United Kingdom*, application no. 23452/94 28 October 1998, § 128-130, <https://hudoc.echr.coe.int/eng?i=001-58257>.

54 KeyTheme Article 2 Domestic violence, 29 February 2024, <https://ks.echr.coe.int/documents/d/echr-ks/domestic-violence>.

55 Case of *F.O. v. Croatia*, application no. 29555/13, 22 April 2021, <https://hudoc.echr.coe.int/eng?i=001-209331>.

56 Case of *F. O. v. Croatia*, §82.

The ECtHR also pointed out that the teacher's conduct certainly had an impact on the psychological well-being and moral integrity of the applicant, which constituted an interference with the rights protected by Article 8. In addressing whether this interference was justified, the Court analysed both the aspect of harassment by the teacher and the failure of the competent authorities to respond adequately to the applicant's reporting of it.⁵⁷ In the ECtHR's view, the harassment constituted an unacceptable interference with the right to private life, for which the State is responsible. This liability is rooted in the fact that the interests of the minor were not adequately protected. Although the Croatian legal system provided solutions to initiate proceedings in cases of violation of the right to private life through harassment, these solutions did not work properly in this specific case. In particular, it was highlighted that despite the complaint, no official action was taken by the school authorities, and only the involvement of the applicant's father, who started sending letters to official institutions, resulted in a reaction.

Moreover, other entities obliged to supervise the public education system also conducted their proceedings incompetently, thus violating Article 8. The ECtHR also reached similar conclusions regarding the effectiveness of State protection in a case concerning the harassment of a person with a disability.⁵⁸ It should be added that the harassment aspect appeared in other cases decided by the ECtHR concerning Central European countries.

In the case of *R.B. v. Hungary*,⁵⁹ the issue of an anti-Roma rally and how the public authorities reacted to its course and consequences was decided. In this case, the ECtHR noted the failure of the national authorities to investigate in such a way as to not only notice but also adequately assess and document the attack against a member of an ethnic group and, consequently, lead to proper accountability for it.⁶⁰ Anti-Roma statements were also the subject of a complaint by Budinova and Chaprazov,⁶¹ in which it was held that the politician's anti-Roma statements went beyond being a legitimate part of the public debate on ethnic relations and crime in Bulgaria, and that by failing to grant the applicant redress, the State had failed to fulfil its positive obligations. The ECtHR reached similar conclusions when considering a case related to anti-Semitic and anti-Roma statements,⁶² while stressing that statements attacking or placing entire ethnic, religious or other groups in a negative light do not merit protection under Article 10 ECHR. Another of the cases

57 Case of *F. O. v. Croatia*, §84.

58 Case of *Đorđević v. Croatia*, application no. 41526/10, 24 July 2012, <https://hudoc.echr.coe.int/eng?i=001-112322>, §151-153.

59 Case of *R.B. v. Hungary*, application no. 64602/12, 12 April 2016, <https://hudoc.echr.coe.int/eng?i=001-161983>.

60 Case of *R.B. v. Hungary*, § 89.

61 Case of *Budinova and Chaprazov v. Bulgaria*, application no. 12567/13, 16 February 2021 <https://hudoc.echr.coe.int/eng?i=001-207928>.

62 Case of *Behar and Gutman v. Bulgaria*, application no. 29335/13, 16 February 2021, <https://hudoc.echr.coe.int/eng?i=001-207929>, §101, 105.

concerned sexual harassment⁶³ and, as it related to the applicant's psychological integrity and sexual life, it was also considered necessary to be dealt with based on the desire for the right to private life. In this case, the investigating public prosecutor's office discontinued the case, considering that the acts committed did not meet the requirements of criminal law as a sexual harassment offence. Therefore, it was again a situation of failure to provide adequate procedural guarantees, particularly during the investigation.⁶⁴

Central European countries diagnose certain problems with the treatment of students. The legal basis here is not always Article 8 or only Article 8, if their treatment is sometimes discriminatory, the legal basis is Article 14 ECHR. This is also applicable to the State's positive obligations to protect children against abuse by peers. Such insufficient State protection is diagnosed especially in countries with a Roma minority.⁶⁵ In many cases, the Roma population escapes the rules of the education system and the Convention-compliant treatment by public authorities.⁶⁶

Thirdly, in the context of protecting private life, issues of violation of the right to private life may also arise, which are related to the political and State changes in Central Europe. An example well illustrating how political changes affect citizens is a case against Slovenia.⁶⁷ The facts of this case concern a situation where it was part of Yugoslavia and one of Yugoslavia's constituent republics (but not Slovenia), and citizens residing in Slovenia. After Slovenia's independence, these persons either did not apply for Slovenian citizenship or their applications were rejected. Their names were deleted from the Register of Permanent Residents. The persons concerned themselves had yet to learn immediately after such a change was made and only found out later when they planned to obtain new identity documents. Consequently, they became foreigners or even stateless, resulting in many unfavourable situations in their daily lives. In examining the case, the ECtHR's Grand Chamber found that the Slovenian authorities' actions impacted the applicants' private and family life. While the idea of creating a society based on informed citizens was considered legitimate to protect national security, the lack of regulation and the protracted procedures for obtaining residence permits for those who did not declare themselves as Slovenian

63 Case of *C. v. Romania*, application no. 47358/20, 30 August 2022, <https://hudoc.echr.coe.int/eng?i=001-218933>.

64 Case of *C. v. Romania*, §79-82.

65 Case of *Durđević v. Croatia*, application no. 52442/09, 17 July 2011, <https://hudoc.echr.coe.int/eng?i=001-105691>

66 Case of *D.H. and Others v. the Czech Republic* [GC], application no. 57325/00, 13 November 2007, <https://hudoc.echr.coe.int/eng?i=001-83256>; Case of *Oršuš and Others v. Croatia* [GC], application no. 15766/03, 16 March 2010, <https://hudoc.echr.coe.int/eng?i=001-97689>; Case of *Horváth and Kiss v. Hungary*, application no. 11146/11, 29 January 2013, <https://hudoc.echr.coe.int/fre?i=001-116124>.

67 Case of *Kurić and Others v. Slovenia* [GC] application no. 26828/06, 26 June 2012, <https://hudoc.echr.coe.int/eng?i=001-111634>.

citizens were considered disproportionate.⁶⁸ Consequently, the rights guaranteed by Article 8 were violated.⁶⁹

The aspect of political regime change also had consequences for the employees of the Lithuanian branch of the Soviet Security Service.⁷⁰ States took measures to limit the professional activity of the persons concerned. Lithuania adopted those measures by banning former employees from holding positions for ten years. In assessing this case, the ECtHR considered that while the ban could be justified concerning the public sphere, a ban on employment in the private sphere would violate Article 8.⁷¹

While the ECtHR's jurisprudence is also aware of other cases considering the right to private life in the context of individuals' physical, psychological or moral integrity, these were not applicable to Central European countries. These cases concerned considerations of the right to decide when to end one's own life by assisted suicide⁷² or the right to decide on reproductive aspects,⁷³ including considerations relating to the existence or otherwise of the right to decide whether or not to become a parent⁷⁴ or a genetic parent,⁷⁵ as well as access to IVF.⁷⁶

4.2. Privacy

Regarding the second aspect to be protected under Article 8, the considerations of the ECtHR are usually understood as "people's interests in not being exposed to unwanted attention from the state or third parties".⁷⁷ Also included in the scope of what is understood as protected by privacy are aspects of decisions relating to the physical and moral integrity of reputation and data relating to a person, including personal data or images.

As regards physical and moral integrity, however, the ECtHR's jurisprudence includes numerous cases in which the Court found violations of the right to private life resulting from the failure of the State to recognise the will of the mother as to where and how to give birth⁷⁸ and immunisation.⁷⁹ The first situation concerned

68 Case of *Kurić and Others v. Slovenia* [GC], §358–259.

69 A similar situation occurred in the case of *Hoti v. Croatia*, application no. 63311/14, 26 April 2018, <https://hudoc.echr.coe.int/eng?i=001-182448>.

70 Case of *Sidabras and Džiautas v. Lithuania*, applications nos. 55480/00 and 59330/00, 27 July 2004, <https://hudoc.echr.coe.int/eng?i=001-61942>.

71 Case of *Sidabras and Džiautas v. Lithuania*, §58.

72 Case of *Pretty v. the United Kingdom*, §61.

73 Case of *A, B and C v. Ireland*, [GC].

74 Case of *Evans v. the United Kingdom*, [GC].

75 Case of *Dickson v. the United Kingdom* [GC], application no. 44362/04, 18 April 2006, <https://hudoc.echr.coe.int/eng?i=001-73360>.

76 Case of *S.H. and Others v. Austria*, [GC], application no. 57813/00, 3 November 2011, <https://hudoc.echr.coe.int/eng?i=001-107325>.

77 Westlund, 2018, p. 24.

78 Case of *Dubská and Krejzová v. the Czech Republic* [GC], applications nos. 28859/11 and 28473/12, 15 November 2016, <https://hudoc.echr.coe.int/eng?i=001-168066>.

79 More: Nilsson, 2021.

women who wished to give birth at home with the assistance of a midwife. However, such an arrangement was unacceptable from the perspective of the applicable law. According to the applicants, this violated their right to private and family life. The Court considered that the issue was physical and moral integrity, medical care, reproductive health and the protection of health-related information. It also held that the interference with this right was lawful and aimed at protecting the health and safety of the mother and child during and after childbirth,⁸⁰ serving the legitimate aim of protecting the health and rights of others. The Court approved the State's action as necessary in a democratic society. It considered that the margin of appreciation available to the State in such forfeiture cases was wide because of the protected goods, the specificity of national policy and the lack of consensus among the Council of Europe Member States. State interference was not considered disproportionate, and thus, there was no violation of Article 8.⁸¹ Interestingly, in earlier jurisprudence on the permissibility of home births, the ECtHR considered them permissible and no more dangerous than hospital births.⁸²

In another health case, the ECtHR referred to the obligation to vaccinate a child. In this case, the Applicants considered the obligation to vaccinate and the consequences thereof (heating, non-admission to care facilities) to be an infringement of their rights under Article 8. In deciding this case, the Court considered that vaccination (its performance and the consequences of non-performance) interfered with the right to respect for private life. It considered interfering with the applicants' rights to be lawful and a legitimate aim. In contrast, the ECtHR addressed more broadly whether it was necessary in a democratic society. It argued that it was the national authorities who had the best knowledge of the health situation in their own country, emphasised the existing consensus on the need for the highest level of vaccination and pointed to the need to take into account the child's best interests.⁸³ The ECtHR's position suggests the acceptance of the idea and practice of mandatory vaccination.⁸⁴ They were intended to ensure population immunity. Any attempt to deviate from this obligation and the negative consequences applied to deviators by the State does not violate Article 8. The issue of vaccination has primarily been the subject of ECHR rulings against countries in Europe, especially the Czech Republic.⁸⁵

80 Štefko, 2017, pp. 248–249.

81 Case of *Dubská and Krejzová v. the Czech Republic*, §174–191.

82 Chen and Cheeseman, 2017, pp. 116–117; *Ternovszky v. Hungary*, application no. 67545/09, 14 December 2010, <https://hudoc.echr.coe.int/eng?i=001-102254>.

83 Case of *Vavříčka and Others v. the Czech Republic* [GC], § 285–288.

84 I. Gawłowicz, Europejski Trybunał Praw Człowieka na rzecz obowiązkowych szczepień dzieci - Vavříčka i inni przeciwko Republice Czeskiej, „Dyskurs Prawniczy i Administracyjny”, 2021, <http://www.dyskurs.inp.uz.zgora.pl/index.php/DPIA/article/view/184/97>, p. 67–68.

85 HUDOC Database, <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22vaccinate%22%2C%22display%22:%5B%22languageisocode%22:%5B%22ENG%22%5D%7D>.

A sphere also covered by privacy include issues related to the publication of personal data. The relevant case that touched on this issue was *L.B. v. Hungary*.⁸⁶ The facts of this case concerned the publication of the applicant's data (name and residential address) on the list of significant tax defaulters and subsequently on the list of tax debtors. Hearing the case, the Grand Chamber of the Court concluded that there had been an interference with the applicant's private life but that the interference was provided for by law. It also considered that the actions had a legitimate aim. That aim was to improve the fiscal discipline of citizens as well as to ensure transparency and business reliability and, consequently, to protect 'the rights and freedoms of others'.⁸⁷ However, the Court considered whether a proper balance was struck between the above-mentioned objectives and the interests of private individuals. In analysing this aspect, the ECtHR concluded that States enjoy a wide margin of appreciation in assessing the relationship of these interests. However, the freedom of States in this regard is not unlimited. In particular, attention was paid here to the scope of published data. It was considered that while the publication of the name has a deterrent effect, the publication of the home address⁸⁸ (even though it promotes data accuracy) is optional to achieve the State's objective of stigmatising defaulters. The widespread availability of these addresses and the danger of their use by third parties were considered actions violating Article 8.

In the context of data collection, a case against Romania is also noteworthy.⁸⁹ This case concerned an employee Internet use during working hours (both for business and private purposes) was monitored by the employer who subsequently used the data on private activity to justify termination of employment. In this case, the ECtHR pointed out that communication in the workplace falls within the scope of private life and the positive duties of the State to protect it. As workplace communication issues are not very often regulated by the States, they were entitled to a wide margin of appreciation.

In considering whether there had been a breach of Article 8 ECtHR, the ECtHR had to consider whether the employee had been informed of the monitoring and its scope, the reasons justifying the monitoring of communications, the effects of the monitoring on the employee, whether there were alternative less intrusive monitoring possibilities, as well as whether the employee had access to a legal remedy to establish the correctness of the monitoring.⁹⁰ The conclusions of these considerations led the ECtHR to conclude that the domestic courts had failed to verify the correctness of the employer's actions in this respect and to examine whether the employer could have achieved its objectives by other means. Thus, it was considered

86 Case of *L.B. v. Hungary* [GC], application no. 36345/16, 9 March 2023, <https://hudoc.echr.coe.int/eng?i=001-223675>.

87 Case of *L.B. v. Hungary* [GC], §113.

88 Case of *L.B. v. Hungary* [GC], §136.

89 Case of *Bărbulescu v. Romania* [GC], application no. 61496/08, 5 September 2017, <https://hudoc.echr.coe.int/eng?i=001-177082>.

90 Case of *Bărbulescu v. Romania* [GC], §121.

that, despite the wide margin of appreciation, the national authorities still needed to ensure the realisation of the right to private life. However, it is not so much a question of seeking a balance but the question of the right to privacy and its relevance to the individual that should be the primary consideration here.⁹¹

4.3. Protection of Personal Autonomy and Identity

The third thematic group of possible violations of the right to private life under Article 8 includes personal autonomy and identity protection. In many cases, the matters covered by these regulations overlap with individuals' physical, psychological or moral integrity. However, they appear to be more 'conscious' and more clearly identified by those whose rights have been violated.

Cases often taken up in human rights considerations include those concerning the establishment or non-establishment of paternity. One such case is *Mikulić v. Croatia*.⁹² This case concerned a child born out of wedlock who, together with her mother, brought an action to establish paternity. The national courts ordered DNA tests to be performed, but the defendant repeatedly failed to appear. The parties appealed this verdict; at the time of filing, the appeal proceedings were still ongoing. The ECtHR decided to examine the case based on Article 8. It pointed out that, despite the absence of family life between the applicant and her alleged father, information regarding paternity falls within the protection of the right to private life as encompassing an individual's physical and social identity. The question of establishing one's own identity is a fundamental issue; it encompasses the right to know one's parents (in this case, one's father) and affects an individual's personality. In its ruling, the ECtHR had to examine whether Croatia had breached its positive obligations. It found that the mere possibility of bringing actions establishing a man's paternity must be considered insufficient if it is not combined with the efficiency of obtaining a paternity determination, in particular in the absence of a practical possibility to carry out DNA tests. Considering the fact that the applicant had no other means of establishing paternity than just conducting the test, the ECtHR considered that an inadequate balance had not been struck between her right to know her identity without undue delay and the right of her alleged father not to be tested.⁹³ In this particular case, the first right, relating to knowledge of identity, must be more effectively protected as a right, the non-observance of which could have more severe consequences for the applicant.

Procedural aspects may also fail in reverse cases, namely where a person wishes to contest his declaration of paternity having DNA data indicating its absence.

91 Jervis, 2018, p. 452.

92 Case of *Mikulić v. Croatia*, application no. 53176/99, 7 February 2002.

93 More: Dobozi, 2013; Kinkelly, 2010.

The ECtHR was confronted with such a factual situation in a case against Slovakia.⁹⁴ In its ruling, the Court indicated that, in particular, where it does not conflict with the right to certainty and security of family relationships or prejudice the child's best interests, it should be permissible to carry out such a procedure. The impossibility of carrying out such a procedure, contrary to the wishes of those concerned,⁹⁵ constitutes an infringement of the right to respect for private life.

The aspects of protection of personal autonomy and identity were also addressed by the ECtHR when dealing with a case concerning forced sterilisation.⁹⁶ The Applicant was a Roma woman who had been sterilised during her hospital stay in connection with childbirth. The medical records made after the birth contained information about the sterilisation, together with a form containing requests for sterilisation. The applicant explained this by her lack of understanding of the term 'sterilisation' and the fact that she had been told that another pregnancy was a risk to her life. The applicant complained that she had been unsuccessful in seeking redress before the national courts for having carried out the procedure and not being adequately informed of its consequences and possible alternative solutions.

This case was part of the broader issue of the sterilisation of Roma women carried out in Slovakia signalled by international bodies.⁹⁷ In the ECtHR's view, the existing laws on sterilisation in Slovakia did not contain adequate safeguards and resulted in procedures being carried out without adequate knowledge of their necessity and consequences. Thus, the persons concerned were not adequately involved in the decision-making process,⁹⁸ which is necessary to meet the standard of positive obligations of the State under Article 8. Slovakia did not introduce the relevant procedural solutions until several years after the procedure was performed on the applicant. Such practices were the subject of ECtHR consideration also in cases against the

94 Case of *Paulík v. Slovakia*, application no. 10699/05, 10 October 2006, <https://hudoc.echr.coe.int/eng?i=001-77327>.

95 Case of *Paulík v. Slovakia*, §46.

96 Case of *V.C. v. Slovakia*, application no. 18968/07, 8 November 2011, <https://hudoc.echr.coe.int/eng?i=001-107364>.

97 European Commission Against Racism and Intolerance Third report on Slovakia Adopted on 27 June 2003, <https://rm.coe.int/third-report-on-slovakia/16808b5c11>, p. 20-22; Follow-up report on the Slovak Republic: Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights. 2001-2005, CommDH(2006)5 / 29 March 2006, <https://rm.coe.int/16806db7e7>, p. 8-10; Committee on the Elimination of Discrimination against Women Forty-first session, 30 June-18 July 2008, Draft concluding observations of the Committee on the Elimination of Discrimination against Women: Slovakia, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/427/73/PDF/N0842773.pdf?OpenElement>, p. 8.

98 Case of *V.C. v. Slovakia*, §141.

Czech Republic, Hungary and Moldova.⁹⁹ This fact shows the need to adopt a specific model of treating the Roma population and ensuring its members respect human rights.

The last of the cases worth noting are cases concerning Poland.¹⁰⁰ The applicants in this case were the spouses of the victims of the crash of a Polish Government plane in Russia. The subject of the complaint was the prosecutor's decision to exhume the bodies of the victims of the disaster. The applicants objected to this decision and filed appeals. However, domestic law did not provide for any judicial review of the prosecutor's decision to exhume the remains. The applicants failed to obtain an injunction against the exhumation in civil proceedings. In deciding this case, the ECtHR pointed out that the exhumation of the spouses constituted an interference with the right to family and private life. The law supported this interference.

Consequently, a conflict between two Convention rights – Article 2 (fairness of the proceedings) and Article 8 (right to family and private life)¹⁰¹ – had to be considered. The Court recognised the importance of the proceedings, particularly the need for a fair investigation, but stressed that the proceedings lacked reflection on whether similar results could have been obtained by less restrictive means. Above all, however, it noted that the prosecutor's decision was not subject to any appeal before a court or any form of review by an independent body.

5. Conclusions

As the ECtHR's jurisprudence indicates, Central European States have taken up the challenges of adapting their national legal systems to the human rights standards in force since the establishment of the Council of Europe. They have, of course, done so in their way, at their own pace and only since political changes have made this possible.

The accession of Central European States to the ECHR system gave a new impetus to the development of the right to privacy. New threats and calls emerged, such as aspects of situations remnants of previous non-democratic regimes. In particular, those concerned the data of individuals associated with services in the past and how

99 Case of *Anna Maděrová v. the Czech Republic*, application no. 32812/13, case declared inadmissible on 8 June 2021, <https://hudoc.echr.coe.int/eng?i=001-211043>; Case of *G.H. v. Hungary*, application no. 54041/14, case declared inadmissible on 9 June 2015, <https://hudoc.echr.coe.int/eng?i=001-156027>; Case of *G.M. and Others v. the Republic of Moldova*, application no 44394/15, 22 November 2022, <https://hudoc.echr.coe.int/eng?i=001-220954>. The ECtHR decided the latter case under Article 3 of the ECHR, although the complaints were brought under Article 8.

100 Case of *Solska and Rybicka v. Poland*, applications nos. 30491/17 and 31083/17, 20 September 2018, <https://hudoc.echr.coe.int/eng?i=001-186135>.

101 Wedeł-Domaradzka, 2020, pp. 60–61.

the solutions adopted by States to isolate them from public structures. Some shortcomings also resulted from the lack of proper development of policies protecting groups exposed to human rights violations, e.g. minorities.

It was also necessary to ask whether these actions exceeded the Convention standard. This subject matter was certainly unfamiliar even to the Western European States. However, the experience provided a deeper understanding of the right to privacy.

As the analysis shows, procedural issues were also a significant challenge for Central European countries. It takes time to create a legal system that works optimally and guarantees the realisation of individual rights and freedoms. These countries only started to develop a control system after the changes of the late 1980s and early 1990s. Consequently, there were excessive requirements on complaints submitted to the ECtHR, such as the need to address the Constitutional Court at the national level and only after the Constitutional Court has ruled.¹⁰² Hence, many cases before the ECtHR involving Central European States involved violations of Article 6, sometimes also linked to Article 8.¹⁰³

Indeed, Central European States still face many challenges concerning the right to privacy. There are silent or incidental cases concerning access to the realisation of reproductive rights, which are already familiar to Western European States. Such issues include the registration of children from surrogacy, access to assisted procreation procedures, and the right to the identity of children born as a result of assisted procreation procedures. Due to the differences in the affluence of societies between Western and Central Europe, such problems are yet to emerge.

It should be borne in mind that societies are gradually raising their standard of living, which does not exclude an increase in the availability of foreign reproductive technology, for which, as it may turn out, the domestic system of those who will benefit from it will not yet be prepared.¹⁰⁴

In the future, an increase in harassment cases against sexual minorities is also to be expected, such as in a case against Hungary,¹⁰⁵ which has been communicated but declared inadmissible.

102 Case of *Pavlović and Others v. Croatia*, application no 13274/11, 2 April 2015, § 32-38, <https://hudoc.echr.coe.int/eng?i=001-153316>; *Bajić v. Croatia*, application no 41108/10, 13 November 2012, §68-69, <https://hudoc.echr.coe.int/eng?i=001-114490>.

103 Violations by Article and by State 1959-2022, https://www.echr.coe.int/documents/d/echr/stats_violation_1959_2022_eng.

104 This is the case, for example, in French cases concerning the regulation of surrogacy practices from which French or Italian citizens benefited abroad. For example: Case of *Mennesson v. France*, application no. 65192/11, 26 June 2014, <https://hudoc.echr.coe.int/eng?i=001-145389>; Case of *Labassee v. France*, application no. 65941/11, , 26 June 2014, <https://hudoc.echr.coe.int/eng?i=001-145180>; Case of *Paradiso and Campanelli v. Italy*, application no. 25358/12, 27 January 2015, <https://hudoc.echr.coe.int/eng?i=001-151056>.

105 Case of *Andrea Giuliano against Hungary*, application no. 45305/16, lodged on 26 July 2016, <https://hudoc.echr.coe.int/eng?i=001-198563>.

The size of the Central European countries and the number of their residents guarantees an increasing dynamic but also a thematic change in the cases that the ECtHR will decide. There is a decrease in procedural cases or those that still need to address the specificities of non-democratic regimes. It will be possible to observe the emergence of cases similar to those currently pending against Western European countries.¹⁰⁶ This is an important signal to follow the ECtHR jurisprudence and anticipate legal regulations concerning situations that could generate complaints. Legislative action must cover cases that are highly problematic in terms of morality, where States often have a wide margin of appreciation accepted by the ECtHR, provided that it is well secured procedurally.

106 For example: *Hájovský v. Slovakia*, application no. 7796/16, 1 July 2021, <https://hudoc.echr.coe.int/eng?i=001-210766>

References

- Aleca, C., Duminićă, R. (2012) 'Jurisprudential issues concerning the interpretation of Article 8 of the European Convention on Human Rights', *Current Issues of Business and Law*, 7(1);
- Chen, Ch-Y, M. Cheeseman, M. (2017) 'European Court of Human Rights Rulings in Home Birth Set to Cause Trouble for the Future: A Review of Two Cases', *Medical Law Review*, 25(1);
- Committee on the Elimination of Discrimination against Women (2008) *Forty-first session 30 June-18 July 2008 – Draft concluding observations of the Committee on the Elimination of Discrimination against Women: Slovakia*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N08/427/73/PDF/N0842773.pdf?OpenElement>;
- Council of Europe/European Court of Human Rights (2022) *Guide on Article 8 of the European Convention on Human Rights Right to respect for private and family life, home and correspondence*, Updated on 31 August 2022, https://www.echr.coe.int/documents/d/echr/guide_art_8_eng.
- Czubik, A. (2009) 'Prawo do prywatności w travaux préparatoires Europejskiej Konwencji Praw Człowieka', *Problemy Współczesnego Prawa Międzynarodowego, Europejskiego i Porównawczego*, vol. VII;
- Dobozi, V. (2013) 'The Right to Know One's Biological Identity', *Challenges of the Knowledge Society. Public Law* 60;
- European Commission Against Racism and Intolerance (2003) *Third report on Slovakia Adopted on 27 June 2003*, <https://rm.coe.int/third-report-on-slovakia/16808b5c11>;
- European Court of Human Rights (2024) *Key Theme Article 2 Domestic violence*, 29 February, <https://ks.echr.coe.int/documents/d/echr-ks/domestic-violence>.
- Follow-up report on the Slovak Republic (2006) *Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights. 2001-2005*, CommDH(2006)5 / 29 March 2006, <https://rm.coe.int/16806db7e7>;
- Gawłowicz, I. (2021) 'Europejski Trybunał Praw Człowieka na rzecz obowiązkowych szczepień dzieci – Vavříčka i inni przeciwko Republice Czeskiej', *Dyskurs Prawniczy i Administracyjny*, <http://www.dyskurs.inp.uz.zgora.pl/index.php/DPiA/article/view/184/97>;
- Jervis, C.E. M. (2018) 'Barbulescu v Romania: Why There Is No Room for Complacency When It Comes to Privacy Rights in the Workplace', *Industrial Law Journal*, 47(3);
- Kinkelly, U. (2010) 'Protecting Children's Rights under the ECHR: The Role of Positive Obligations', *Northern Ireland Legal Quarterly* 61(3);
- Nilsson, A. (2021) 'Is Compulsory Childhood Vaccination Compatible with the Right to Respect for Private Life? A Comment on Vavříčka and Others v. the Czech Republic', *European Journal of Health Law*, 28(3);
- Preparatory work on Article 8 of the European Convention of Human Rights, available: <https://www.echr.coe.int/documents/d/echr/echrtravaux-art8-dh-56-12-en1674980>.
- Schabas, W.A. (2015) *The European Convention on Human Rights: A Commentary*. Oxford Press;
- Štefko, M. (2017) 'Recent Changes in Czech Labour Law and Social Security Law (First and Second Semester 2016/2017). Focused on Home Birth', *Revue de droit comparé du travail et de la sécurité sociale* 4;
- Van Dijk, P., van Hoof, F., van Rijn, A., Zwaak L. (et al.) (2006) *Theory and Practice of the European Convention on Human Rights*. Antwerpen;

- Wedel-Domaradzka, A. (2020) 'Prawa człowieka a kres życia – 25 lat doświadczeń w systemie Konwencji o ochronie praw człowieka i podstawowych wolności' in Jastrzębski, M., Wedel-Domaradzka A. (eds.) *Prawa człowieka w Polsce – perspektywa 25 lat ratyfikacji Konwencji o Ochronie Praw Człowieka i Podstawowych Wolności*, Bydgoszcz;
- Westlund, M. (2018) *The development of the right to privacy under the ECHR A study on the effects of Article 8 on third parties*, Uppsala, <https://www.diva-portal.org/smash/get/diva2:1257161/FULLTEXT01.pdf>.