



The Court rejects a number of applications complaining about searches conducted at the homes of third parties

In its decision in the case of [Gohe v. France and three other applications](#) (application no. 65883/14 and applications nos. 21434/15, 48044/15 and 51477/15) the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The case concerned house searches and subsequent seizures, carried out at the homes of third parties, on the basis of which the applicants underwent separate tax inspections which led in some cases to tax assessment proceedings and in one case to a conviction for tax fraud.

The Court observed, in particular, that where no search or seizure operations had been carried out at an applicant's own home or premises, he or she could not claim to be the victim of a breach of the right to respect for private life or the home (Article 8 of the Convention). The Court also found that the domestic proceedings as a whole had been fair, and reiterated that there was no obligation under the Convention to provide legal aid for all civil disputes. Lastly, it noted that the right to an effective remedy (Article 13) implied the existence of an "arguable complaint" under a different provision of the Convention or the Protocols thereto.

Principal facts

The applicants, Mr David Gohe, Mr Freddy Cornelissen, Mr François Parent and Mr Bruno Guedj, are French nationals who were born in 1967, 1966, 1952 and 1972 and live in Asnières-sur-Seine, Montfort l'Amaury, Paris and Issy-les-Moulineaux respectively.

In April 2006 the liberties and detention judge of the Nanterre Regional Court, adjudicating on a case submitted by the tax authorities, authorised them to conduct house searches in various places, including at the home address of B., a tax concessions consultant. During the operations, documents concerning each of the applicants were seized. Mr Gohe, Mr Cornelissen, Mr Parent and Mr Guedj underwent tax inspections, which resulted in additional tax assessments except in the case of Mr Cornelissen, who was convicted of tax fraud.

The applicants unsuccessfully lodged appeals with the administrative courts (all the applicants) and the criminal courts (Mr Cornelissen).

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 24 October 2014 (application no. 65883/14), 30 April 2015 (application no. 21434/15), 25 September 2015 (application no. 48044/15) and 12 October 2015 (application no. 51477/15).

Relying on Articles 6 § 1 and 8 of the Convention, the applicants complained of the dismissal of their submissions at all stages of the proceedings and their inability to challenge the lawfulness of the house searches and seizures carried out, in particular at B.'s home address. Mr Gohe also complained, under Article 6 § 1, of the dismissal of his request for legal aid, alleging that this had deprived him of the opportunity to present his case to the *Conseil d'État*. Finally, Mr Gohe, Mr Cornelissen and Mr Guedj complained of a breach of Article 13.

The decision was given by a Committee of three judges, composed as follows:

Mārtiņš Mits (Latvia), *President*,
André Potocki (France),
Lado Chanturia (Georgia),

and also Milan Blaško, *Deputy Registrar*.

Decision of the Court

Articles 6 § 1 (right to a fair trial) and 8 (right to respect for private and family life)

Where no search or seizures had been carried out at an applicant's own home or premises, he or she could not claim to be the victim of a violation of Article 8.

Nevertheless, from the standpoint of Article 6, the evidence obtained during the house searches had been used in the proceedings involving the applicants. Errors allegedly committed by the domestic courts could be reviewed only in so far as they infringed the rights and freedoms protected by the Convention. The applicants had been represented by lawyers throughout the proceedings and had thus had an opportunity to challenge the lawfulness of the proceedings and put forward their defence arguments. The domestic courts had expressly examined the issue of compliance with the adversarial principle and had ruled out any violation. Hence, the domestic proceedings as a whole had been fair. This part of the applications was therefore rejected as being manifestly ill-founded.

Article 6 § 1 and legal aid

There was no obligation under the Convention to provide legal aid for all civil disputes. Legal aid systems could not function unless there was a means of selecting the cases that should qualify for legal aid. In that regard, the French system afforded substantial guarantees to individuals. Furthermore, Mr Gohe had been able to have his case heard at first instance and on appeal. His application for legal aid had been rejected by means of a reasoned decision finding that the appeal on points of law had no reasonable prospect of success. Thus, the refusal had not impaired the very essence of his right of access to a court. This complaint was therefore manifestly ill-founded and was rejected.

Article 13

Article 13 of the Convention was applicable only if an applicant had an "arguable complaint" under another provision of the Convention or the Protocols thereto. As the complaints under Articles 6 § 1 and 8 had been declared inadmissible, this was not the case with regard to the applicants. The complaint was therefore rejected as being manifestly ill-founded.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.