

(English version)

**Question for written answer E-002121/24
to the Commission
Jean-Paul Garraud (Pfe)
(16 October 2024)**

Subject: Is the European Court of Human Rights being manipulated by deported criminals challenging national removal orders?

Ardit Binaj, an Albanian citizen who entered the UK illegally in 2014, was sentenced to 36 months in jail for burglary and 18 weeks in jail for a separate theft in 2016. After serving 6 months of his sentence, he was deported to Albania under a prisoner transfer agreement.

Five months later, in January 2017, he re-entered the UK illegally to reunite with his Lithuanian partner.

He deliberately waited until his son was born in 2020 before applying for the right to stay in the UK, and he married his partner, Diana Bolgova, in October 2020. Mr Binaj's application was rejected in February 2023, but he successfully contested his second deportation, invoking Article 8 of the European Convention on Human Rights (ECHR) on the grounds of violation of his right to a family life.

This case highlights legal loopholes that allow foreign criminals who have already been convicted and deported to use ECHR provisions to stay in a country, despite having repeatedly broken national laws.

1. Although the Convention does not fall within the remit of the EU institutions, is the Commission aware of this worrying situation, which could lead to some countries leaving the Convention?
2. Does it believe that the European Court of Human Rights prevents countries from controlling their own immigration policies and hinders their sovereign right to deport illegal foreign criminals within the EU?

Submitted: 16.10.2024

**Answer given by Mr McGrath on behalf of the European Commission
(10 January 2025)**

The Commission does not comment on individual cases.

The European Court of Human Rights is not an EU institution, but a court established by the Council of Europe to ensure the observance of the Convention for the Protection of Human Rights and Fundamental Freedoms ⁽¹⁾. The Commission does not have any power in respect of the procedures of the European Court of Human Rights.

Free movement rights of EU nationals and their family members in the UK are safeguarded by Part Two of EU-UK Withdrawal Agreement ⁽²⁾. Such rights are not unconditional and may be limited on grounds of public policy or public security.

⁽¹⁾ <http://www.echr.coe.int/>

⁽²⁾ Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.01.2020, p. 7.