



No violation in conviction of Dane who travelled to restricted area in Syrian Civil War

In today's **Chamber** judgment¹ in the case of [Mørck Jensen v. Denmark](#) (application no. 60785/19) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 7 (no punishment without law) of the European Convention on Human Rights, and

no violation of Article 2 of Protocol No. 4 (freedom of movement).

The case concerned a Danish citizen's conviction for a stay in a conflict zone in an area of Syria where the Danish State had restricted travel.

The Court found in particular that the conviction had been in accordance with the relevant law, which had been very clearly drawn up, and it saw no reason not to try and convict the applicant on the law that had been applicable at the time of the offence. Furthermore, the applicant's having been free to leave Denmark and enter Syria, but not this narrow restricted zone, meant that the domestic authorities had balanced his rights with the needs of the community as a whole.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Tommy Mørck Jensen, is a Danish national who was born in 1978 and lives in Aarhus (Denmark).

In 2017 Mr Mørck Jensen stated during a radio interview that he had been on the front line in the village of Tal Saman/Tal Elsamen in the al-Raqqa District in early January 2017 in the Syrian Civil War. The police initiated an investigation.

As a result, in 2019 he was charged with a breach of the Penal Code and with Prohibiting the Entry into and Stay in Certain Conflict Zones under an executive order, specifically for having stayed in Ayn Issa without permission from the police or a meritorious purpose. There he was believed to have fought in the armed conflict against the Islamic State with the People's Defence Units (*Yekîneyên Parastina Gel*). He pled not guilty, arguing that he had been in the area to support Kurdish autonomy. He gave details of his activities there and the combat seen. He stated that he had been ignorant of the relevant law under which he was accused.

The District Court found him guilty as charged. He received a six-month prison sentence.

The High Court upheld that judgment, adding that the restriction on the applicant's freedom of movement had not constituted a violation of his rights under Article 2 of Protocol No. 4 to the Convention.

The Supreme Court also found against the applicant on appeal in August 2019, considering that the conviction had not contravened Article 7 of the Convention, and that the relevant law had been

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

clear and the consequences foreseeable. It noted the repeal of the relevant provisions of the executive order in 2019, but held that the repeal did not alter the guilt of individuals who had gone into the restricted zone before that point. In its reasoning it referred to the Court's case-law and to European Union law. The sentence was also upheld.

Complaints, procedure and composition of the Court

Relying on Article 7 (no punishment without law) and Article 2 of Protocol No. 4 (freedom of movement), the applicant complained that his conviction and sentence had breached his rights.

The application was lodged with the European Court of Human Rights on 15 November 2019.

Judgment was given by a Chamber of seven judges, composed as follows:

Carlo **Ranzoni** (Liechtenstein), *President*,
Jon Fridrik **Kjølbro** (Denmark),
Egidijus **Kūris** (Lithuania),
Branko **Lubarda** (Serbia),
Gilberto **Felici** (San Marino),
Saadet **Yüksel** (Türkiye),
Diana **Sârcu** (the Republic of Moldova),

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

Article 7

The Court noted that the domestic courts had found the relevant law clearly set out. It had provided that entry into a listed area with an armed conflict was an offence, no matter which party had been supported. The purpose of the entry or stay had been irrelevant. An explanatory map including the al-Raqqa District was attached. The Court found therefore that Mr Mørck Jensen's conviction had been in accordance with the law.

Concerning the later repeal of the law, the Supreme Court had found that his actions had had to be adjudicated on the basis of the criminal law applicable at the time of the offence. With reference to the Court's case-law, it held that that punishment for the offence had not been contrary to Article 7. The Court noted that, unlike in similar previous cases, the relevant law (the Penal Code) and procedure had remained unchanged and agreed with the domestic authorities that the applicable law was that of the time of the offence.

Overall, the Court ruled that there had no violation of Article 7 of the Convention.

Article 2 of Protocol No. 4

Mr Mørck Jensen argued that the restriction on his entry into and stay in the al-Raqqa District had neither been in accordance with the law nor necessary in a democratic society.

The Court reiterated that Article 2 of Protocol No. 4 meant that people were free to leave any country, including their own, implying a right to travel.

The applicant had had the right to leave Denmark and travel to Syria, but the Court reiterated its ruling that the restrictions on travelling to the al-Raqqa District had been lawful. He could have applied to the State for permission to go there had he had a legitimate reason for doing so. The restrictions had only applied to areas where there had been terrorist activity, with the purpose of ensuring that individuals connected to Denmark would not take part in the conflict.

The domestic courts had carefully balanced the rights of the applicant and the needs of society as a whole, and the restriction had been in the public interest. There had been no violation of Article 2 of Protocol No. 4 to the Convention.

The judgment is available only in English.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpess@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Neil Connolly (tel.: + 33 3 90 21 48 05)

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.