European Court of Human Rights: Case of Khurshid Mustafa and Tarzibachi v. Sweden

IRIS 2009-4:1/1

Dirk Voorhoof
Human Rights Centre, Ghent University and Legal Human Academy

The applicants, Adnan Khurshid Mustafa and his wife, Weldan Tarzibachi, are Swedish nationals of Iraqi origin. Relying on Article 10 (freedom to receive information) and Article 8 (right to respect for private and family life), they complained that they and their three children had been forced to move from their rented flat in Rinkeby (a suburb of Stockholm) in June 2006. The reason for their eviction was their refusal to remove a satellite dish in their flat after the landlord had initiated proceedings against them, because he considered the installation of a satellite antenna as a breach of the tenancy agreement that stipulated that "outdoor antennae" were not allowed to be set up on the house. The proceedings continued even after Mr. Khursid Mustafa and Mrs. Tarzibachi had dismantled the outdoor antenna and replaced it with an antenna installation in the kitchen on an iron stand from which an arm, on which the satellite dish was mounted, extended through a small open window. Eventually, the Swedish Court of Appeal found that the tenants had disregarded the tenancy agreement and that they should dismantle the antenna, if the tenancy agreement were not cancelled. The Swedish Court was of the opinion that the tenants were fully aware of the importance the landlord attached to the prohibition of the installation of satellite antennae and that, although the installation in the kitchen did not pose a real safety threat, their interests in keeping the antenna installation, based on their right to receive television programmes of their choice, could not be permitted to override the weighty and reasonable interest of the landlord that order and good custom be upheld.

The fact that the case involved a dispute between two private parties was not seen as sufficient reason for the European Court to declare the application inadmissible. Indeed, the Court found that the applicants' eviction was the result of a domestic court's ruling, making the Swedish State responsible, within the meaning of Article 1 of the Convention, for any resultant breach of Article 10 of the Convention. The European Court observed that the satellite dish enabled the applicants to receive television programmes in Arabic and Farsi from their country of origin (Iraq). That information included political and social news and was of particular interest to them as an immigrant family who wished to maintain contact with the culture and language of their country of origin. At the time, there were no other means for the applicants to gain access to such programmes and the dish could not be placed anywhere else. Nor could news obtained from foreign newspapers and radio programmes in any way be equated with information

© European Audiovisual Observatory (Council of Europe) 2026

available via television broadcasts. It was not shown that the landlord had installed broadband or internet access or other alternative means which might have given the tenants in the building the possibility of receiving these television programmes. Furthermore, the landlord's concerns about safety had been examined by the domestic courts, who had found that the installation had been safe. And there were certainly no aesthetic reasons to justify the removal of the antenna, as the flat was located in one of Stockholm's suburbs, in a tenement house with no particular aesthetic aspirations. Moreover, the applicants' eviction, with their three children, from their home, a flat in which they had lived for more than six years, was disproportionate to the aim pursued, namely the landlord's interest in upholding order and good custom. The Court therefore concluded that the interference with the applicants' right to freedom of information had not been "necessary in a democratic society": Sweden had failed in its positive obligation to protect the right of the applicants to receive information. The European Court held unanimously that there had been a violation of Article 10, while it further held unanimously that there was no need to examine the complaint under Article 8. The applicants were awarded EUR 6,500 in respect of pecuniary damage, EUR 5,000 in respect of non-pecuniary damage and EUR 10,000 for costs and expenses.

Judgment by the European Court of Human Rights (Third Section), case of Khurshid Mustafa and Tarzibachi v. Sweden, Application no. 23883/06 of 16 December 2008

https://hudoc.echr.coe.int/eng?i=001-90234

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026