# One Step Forward, Two Steps Back: The European Court of Human Rights' Approach to the Criminalisation of Begging

## Dian v Denmark (App. No.44002/22)

European Court of Human Rights (Fourth Section): Decision of 21 May 2024

LT Freedom of expression; Poverty; Right to respect for private and family life; Vagrancy

## Background

Strugurel Ion Dian, a man of Romanian citizenship affected by a homelessness crisis,[1] brought a case to the European Court of Human Rights (hereinafter ECtHR or Court) against Denmark.[2] The Applicant was convicted for begging on the streets of Copenhagen and sentenced to unconditional 20 days' imprisonment. Earlier, he was cautioned for begging.

Mr Dian earned funds for a living by selling newspapers, collecting bottles, and begging. He could not find other employment as he did not know the language, was illiterate, and he was an older person—61 years. At the same time, he was unable to earn a living in Romania. He sent the collected funds to his family in Romania. He also regularly visited his family in Romania. Mr Dian used cocaine and cannabis given to him free of charge by people putting it in the cup that he had with him on the street.

In his application to the ECtHR, the Applicant alleged that his conviction for begging violated his rights to private life (art.8) and freedom of expression (art.10) guaranteed by the European Convention on Human Rights (ECHR).

## Held

(1) The ECtHR unanimously declared the application inadmissible. The Court found the complaint incompatible *ratione materiae* with the Convention under art.8 and manifestly ill-founded under art.10.

(2) Central to the European Court of Human Rights' reasoning was the differentiation of this case from an earlier and similar case, *Lăcătuş v Switzerland*,[3] in which the ECtHR had found a violation of art.8 ECHR. In that case, it had concluded that human dignity was inherent to the Convention and, as a consequence, a person who does not have sufficient means of

[1] I intentionally refer to the terms "person experiencing homelessness" or "person affected by a homelessness crisis" to replace the commonly appearing "homeless person(s)" or "the homeless". By doing this I want to emphasise the transient nature of homelessness and move away from the stereotypical and stigmatising term "homeless person".

[2] On the broader context (than indicated in the ECtHR's decision) of Denmark's actions aimed at countering—through criminal law—homelessness, see more extensively: P. Justesen, "A crime to sleep in camps-Denmark and international human rights" (2023) 17(1) *European Journal of Homelessness* 87 and M.L. Hansen, "Criminalising rough sleeping in Denmark", Homeless in Europe—a magazine by FEANTSA (2020).

[3] *Lăcătuş v Switzerland* (App. No.14065/15), judgment of 19 January 2021. See also S. Ganty, "The Double-Edged ECtHR Lacatus Judgment on Criminalisation of Begging: Da Mihi Elimo Sinam Propter Amorem Dei" (2021) 3(3) *European Convention on Human Rights Law Review* 393.

subsistence may adopt a particular way of life—which is begging—to rise above an inhumane and precarious situation.[4]

(3) In its decision in *Dian*, the ECtHR explicitly addressed the doubts that had grown[5] around the *Lăcătuş* judgment by underlining that the Court did not conclude that there was "a right as such under Article 8 of the Convention to beg".[6]

(4) The Court reiterated that in cases concerning begging, the specific circumstances of each case must be taken into consideration, particularly the person's economic and social situation. The ECtHR also stated that "the onus must therefore be on the applicant to substantiate his assertion that he was in a precarious and vulnerable situation, including that he lacked sufficient funds for his own subsistence."[7] By referring to this, the Court pointed to several circumstances that remained unclear in Dian's case. In particular, how had the Applicant been able to live in Denmark? How much did he earn by selling newspapers? Did he receive any assistance from his wife or his twelve adult children, and why did he not have access to his own house in Romania, among others.

(5) The Court concluded that the Applicant's situation was not so miserable such that he lacked sufficient means of subsistence or that begging was his only option to ensure his survival. The Court also pointed out that Denmark did not provide for a total ban on begging. Therefore, the ECtHR concluded that art.8 ECHR did not apply to the facts of the case. Considering the complaint under art.10 ECHR, the Court concluded that this provision did not raise a separate issue from the complaint already considered under art.8.

## Analysis

Although binding, the decision in *Dian v Denmark*, which largely follows the reasoning adopted in *Lăcătuş*, is not convincing.[8] In the following analysis, I will focus on three weaknesses of this decision: (1) the recognition of the criminalisation of begging and rejection of the approach to the criminalisation of begging adopted by the United Nations; (2) the question of the burden of proof in cases involving begging; and (3) the absence of consideration of the alleged freedom of expression violation. In conclusion I point out the potential, and underexplored, direction of litigation in cases concerning the criminalisation of begging as a life-sustaining activity.

### *1. The ECtHR's recognition of the criminalisation of begging and rejection of the UN approach to begging*

In line with the decision in *Dian*, only those in extreme poverty living in a country with a general ban on begging can resort to begging and receive protection under the ECHR. In other words, through this decision, the Court has implicitly condoned the criminalisation of those who engage in begging but do not meet these conditions. This remaining scope includes both cases of fraudulent begging, begging in which someone is coerced into using violence or uses violence to beg (which are rightly criminalised), as well

[4] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021 at [56].

[5] See especially the third-party intervention by the European Network of National Human Rights Institutions (at [11]) lodged in *Dian*: "The present case concerns the right to beg under Article 8 ECHR. ENNHRI invites the European Court of Human Rights ('the Court') to first and foremost reaffirm the position set out in the Lacatus-judgment that the right to beg can only be restricted in exceptional circumstances; that restrictions are only acceptable to the extent that these are the result of a careful balancing exercise, taking into account the concrete circumstances of the case; and that a general ban on begging in any case falls outside any acceptable margin of appreciation". The intervention is available at *https://ennhri.org/wp-content/uploads/2023/06/ENNHRI-third-party-intervention-Dian-v.-Denmark_final.pdf* [Accessed 28 October 2024]. See also E. Bambrough and G. Vonk, "Lacatus v Zwitserland (EHRM, nr. 14065/15)-Begging as a human right?" EHRC Updates 2021, No.3 (2021).

[6] *Dian v Denmark* (App. No.44002/22), decision of 21 May 2024 at [44].

[7] *Dian* (App. No.44002/22), decision of 21 May 2024 at [49].

[8] Some of the arguments raised here have been flagged in A. Ploszka, "Poverty as a Crime: City of Grants Pass v Johnson and Dian v Denmark" (23 July 2024), *VerfBlog*, *https://verfassungsblog.de/poverty-as-a-crime/* [Accessed 28 October 2024].

as circumstances in which people resort to begging as a life-sustaining activity but do not experience extreme poverty. I consider the inclusion of the latter case to be a mistake.

The introduction of this distinction by the ECtHR between people begging in a non-violent manner, as life-sustaining activities, depending on their degree of poverty, seems to reveal a lack of a deeper understanding of homelessness and poverty. This can also be seen in the series of questions posed by the Court related to how a person can survive on the street for several months; how it is plausible that the Applicant remained destitute despite having a family; or how it is possible to have a legal title to a property and yet have no access to it. The answer to these questions lies in the complex and uneven nature of the homelessness crisis.[9] Its various spectra—including the one where the Applicant finds himself—are well illustrated in the European Typology of Homelessness and Housing Exclusion (ETHOS).[10] It is not unusual for someone experiencing a crisis of homelessness to survive on the street for several months or even years, dependent on various forms of support offered by both state and charitable institutions in the form of night shelters, free meals, public toilets, etc. The spectrum of people experiencing homelessness or poverty is so wide that some of them may resort to begging as a life-sustaining activity because the money that they earn is not enough to cover their living expenses or because unexpected costs have arisen in their lives (e.g. relating to medical treatment or expensive repairs to household appliances).[11]

Bearing the above in mind, it is difficult to find a non-discriminatory explanation for why only a small proportion of those experiencing homelessness, who resort to begging as a life-sustaining activity, have received protection from criminalisation. In the Court's approach, one can see an endorsement of the increasingly criticised distinction between the deserving and undeserving poor.[12]

The ECtHR in *Dian* sustained the criminalisation of begging in Denmark due to—as indicated in *Lăcătuş*—the lack of consensus among the Council of Europe Member States with regard to bans or restrictions on begging despite the observed trend towards limiting its prohibition.[13] Therefore, the Court afforded to the Council of Europe Member States a wide margin of appreciation. It is difficult to agree with this argument by referring to the approach of the UN human rights system to the criminalisation of begging as a life-sustaining activity, which, however, did not find recognition in the reasoning adopted by the ECtHR both in *Dian* and *Lăcătuş*. This is despite the fact that the Court referred to it.[14]

In these cases, the ECtHR invoked the UN Guiding Principles on Extreme Poverty and Human Rights adopted by consensus by the UN Human Rights Council (resolution 21/11). What the ECtHR omitted to mention was that the Guiding Principles were subsequently and unanimously[15] endorsed by the UN General Assembly "as a useful tool for States in the formulation and implementation of poverty reduction and eradication policies".[16] This endorsement can be understood as an expression of consensus among states (including all states parties to the ECHR, which are members of the United Nations) on the approach to the criminalisation of begging, as the Guiding Principles urge states to "assess and address any disproportionate effect of criminal sanctions and incarceration proceedings on persons living in poverty"

[9] See in this regard the comprehensive publication on challenges related to homelessness regulation: C. Bevan (ed.), *The Routledge Handbook of Global Perspectives on Homelessness, Law & Policy* (Routledge, 2024).

[10] This typology, launched in 2005, is used as a framework for debate, data collection, and policy, and is available at *https://www.feantsa.org/en/toolkit/2005/04/01/ethos-typology-on-homelessness-and-housing-exclusion* [Accessed 28 October 2024]. See also: K. Amore, M. Baker and P. Howden-Chapman, "The ETHOS definition and classification of homelessness: an analysis" (2011) 4(2) *European Journal of Homelessness* 19; B. Edgar, "The ETHOS definition and classification of homelessness and housing exclusion" (2012) 6(2) *European Journal of Homelessness* 219.

[11] In the latter case, I refer to Amartya Sen's "capability approach": A. Sen, *Commodities and capabilities* (Oxford: Oxford University Press, 1999). In relation to human rights: S. R. Osmani, "Poverty and human rights: building on the capability approach" (2006) 6(2) *Journal of Human Development* 205.

[12] N. D. Zatz, "Poverty Unmodified: Critical Reflections on the Deserving/Undeserving Distinction" (2012) 59(3) *UCLA Law Review* 550.

[13] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021 at [105].

[14] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021 at [43]–[47]; *Dian* (App. No.44002/22), decision of 21 May 2024 at [30]–[32].

[15] Without vote, see UN General Assembly, A/67/PV.60, *https://documents.un.org/doc/undoc/gen/n12/659/11/pdf/n1265911.pdf* [Accessed 28 October 2024].

[16] UN General Assembly resolution "Human rights and extreme poverty" adopted on 20 December 2012, A/RES/67/164.

and "repeal or reform any laws that criminalize life-sustaining activities in public places, such as sleeping, begging, eating or performing personal hygiene activities."[17]

The Guiding Principles were developed through a multi-year process, involving a range of actors, including those living in poverty, and based on their experiences.[18] Although the Guiding Principles—as soft law—do not create a new law, they adopt existing standards for people living in extreme poverty. In *Lăcătuş*, the Court additionally cited some UN Special Rapporteurs reports indicating the discriminatory nature of punishment for begging.[19] For this reason, it may not be surprising that the United Nations Committee on Economic, Social and Cultural Rights, in its Concluding observations on Denmark's sixth periodic report, recommended that Denmark decriminalise begging, which the ECtHR also mentioned in its decision in *Dian*.[20]

In both *Dian* and *Lăcătuş*, the ECtHR does not offer an explanation for rejecting the UN approach to begging. This may create an impression that the ECtHR disregarded the experience of discrimination and human rights violations associated with the criminalisation of begging, which has been collected at the UN level.[21]

It is worth noting in this context that the UN is not alone in its approach to the criminalisation of begging as a life-sustaining activity. The same approach was adopted by several European cities, which over the past few years have adopted local charters on the rights of people experiencing homelessness. These charters include the right to carry out practices necessary for survival that should not be criminalised. Begging is cited as an example of such a practice.[22] Interestingly, Copenhagen, where the Applicant in the present case begged and for which he was fined, also endorsed such a Charter in 2023, making this commitment.[23] However, this endorsement was accompanied by a following caveat:

> "Due to other national legislation, there are instances where the City of Copenhagen is unable to act in full compliance with the Homeless Bill of Rights (HBR). Examples of this include the Anti-Begging Law and the Camp/Zone Law from 2017, which many NGOs working with homelessness have criticized for contributing to the criminalization of homelessness."[24]

## *2. The burden of proof in cases involving begging*

A novelty in the reasoning adopted by the ECtHR in *Dian*—as compared to that in *Lăcătuş*—is the controversial shift of the burden of proof to a person in a homelessness crisis. According to *Dian*, this person is now obliged by the ECtHR to prove their precarious situation. By shifting the burden of proof,

[17] Human Rights Council resolution, "The Guiding Principles on extreme poverty and human rights" adopted on 27 September 2012, A/HRC/RES/21/11 at [66].

[18] See A. Ploszka, "All Beginnings Are Difficult: The Guiding Principles on Extreme Poverty and Human Rights a Decade After Their Adoption" (2023) 23(2) *Human Rights Law Review* 1.

[19] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021 at [44]–[47].

[20] *Dian* (App. No.44002/22), decision of 21 May 2024 at [31]–[32].

[21] See also the recent Report of the Special Rapporteur on extreme poverty and human rights, based on information from nearly 130 entities of various types worldwide, entitled: Breaking the cycle: ending the criminalisation of homelessness and poverty, of 26 June 2024, A/HRC/56/61/Add.3, which further strengthens this argument.

[22] See A. Ploszka, "A Homeless Bill of Rights as a New Instrument to Protect the Rights of Homeless Persons" (2020) 16(4) *European Constitutional Law Review* 601; D. Thomas, "The Brighton Homeless Bill of Rights" (2022) 26(5–6) City 983.

[23] European Observatory on Homelessness, "Copenhagen to Endorse the Homeless Bill of Rights" (10 October 2023), *https://www.feantsaresearch.org/en/news/2023/10/10/copenhagen-to-endorse-the-homeless-bill-of-rights* [Accessed 28 October 2024]. For the purposes of this analysis, I tried to determine the effects the endorsement of a Homeless Bill of Rights by Copenhagen as well as whether the ECtHR's *Dian* Decision changes anything in this context. The Social Services Administration of City of Copenhagen did not provide me with an answer to the second question by indicating only in the context of the first that the City is working with different initiatives on social inclusion in the city and supporting socially vulnerable citizens in homelessness such as emergency social services, health services and accommodation. In the context of foreigners, the City of Copenhagen referred to the Transit Program within the Social Services Administration, which is a service for marginalised labour migrants and particularly socially vulnerable migrants. This service is designed to offer the migrants care, stabilisation, health services, and assistance with repatriation.

[24] Social Services Administration memo regarding the adoption of the Homeless Bill of Rights (in Danish: *Notat om Homeless Bill of Rights (HBR)*), *https://www.kk.dk/sites/default/files/agenda/af45bfb8-03d4-48c9-8cb4-7a9b4bc6210b/3605a966-92f9-4ae3-ad61-4e4e66030198-bilag-2.pdf* [Accessed 28 October 2024]. For pointing out this press release and translating this passage from Danish into English, the author would like to express his gratitude to Dr. Pia Lynggaard Justesen.

the ECtHR expects a person affected by a homelessness crisis to jump through several hoops. The question of how to prove a lack of means of subsistence should be considered legitimate here. This is a question to which the ECtHR, however, does provide an answer in *Dian*. It is therefore worth asking whether the Court, which underlined in the same decision that the concept of human dignity is inherent in the spirit of the ECHR,[25] is sidelining human dignity with such an expectation.

By shifting the burden of proof, the Court has replaced domestic authorities in its assessment of the factual situation of the Applicant, which is contrary to the principle of subsidiarity strengthened after the entry into force of Protocol No.15 to the Convention.[26] This is particularly visible in the formulation by the Court of a set of questions about the Applicant's sources of income and way of life. In the opinion of the ECtHR, these questions lacked answers and thus the Court was unable to assess whether the applicant's situation was sufficiently difficult (as if being homeless did not suffice for this). At the same time, domestic authorities gathered all available information (including information unfavourable to the Applicant, indicating drug use). It is safe to assume that if the national authorities had answers to some of the ECtHR's questions, they would have raised them. Interestingly, in the assessment of the Applicant's situation conducted by domestic courts (referred to in this decision), there is no indication as to why the Applicant did not benefit from the social assistance legally available to him. Therefore, we do not know whether this assistance was offered to him in practice or, due to the language barrier, it was unavailable to the Applicant altogether.

## *3. Freedom of speech and expression*

In *Lăcătuş*, the majority of the Court did not consider whether begging can be protected under the right to freedom of expression under art.10 ECHR, as the Court found that the complaint under art.10 did not raise any separate and essential issue.[27] To that point of judgment, judges Keller, Lemmens, and Ravarani wrote concurring opinions. All of them pointed out that the case raised a separate and essential issue under art.10 which should have been examined.[28] One can explain this omission by the principle of judicial economy, as the Court had found a violation of art.8 in *Lăcătuş*. This argument, however, cannot be raised to justify the Court's decision in *Dian* to find the application regarding art.10 as manifestly ill-founded.

It has been known for a long time that begging can be perceived as exercising freedom of expression by referring to the concept of symbolic speech or conduct.[29] United States courts' jurisprudence, based on which the concept of symbolic speech was developed, recognises that a person who begs also conveys a message to society protected under the First Amendment to the US Constitution—a message about their condition and need for support, but also a message about the condition of society itself, which may mobilise the government to provide support for those living in poverty.[30] The recognition of begging as a legally protected exercise of freedom of expression is not particular to US courts only. This perspective can also be found in European jurisprudence. A particular piece of evidence is the judgment of the Austrian Constitutional Court referred to in *Lăcătuş*.[31]

[25] *Dian* (App. No.44002/22), decision of 21 May 2024 at [44].

[26] Protocol No.15 to the European Convention on Human Rights, which entered into force on 1 August 2021.

[27] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021 at [120].

[28] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021, Concurring Opinion of Judge Keller at [2]–[18]; *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021, Partly Concurring and Partly Dissenting Opinion of Judge Lemmens at [2]; *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021, Partly Concurring and Partly Dissenting Opinion of Judge Ravarani at [15]–[17].

[29] On the concept of symbolic speech, L. Garlicki, "Symbolic speech" in J. Casadevall, E. Myjer, M. O'Boyle and A. Austin (eds), *Freedom of expression: essays in honour of Nicolas Bratza, president of the European Court of Human Rights* (Oisterwijk, The Netherlands: Wolf Legal Publishers, 2012).

[30] See especially *Smith v City of Fort Lauderdale*, Fla., 177 F.3d 954, 955 (11th Cir. 1999); *Clatterbuck v City of Charlottesville*, 708 F.3d549, 551 (4th Cir. 2013) and *Loper v New York City Police Department*, 999 F.2d 699 (2d Cir. 1993). See also F. Leossis, "The New Constitutional Right to Beg—Is Begging Really Protected Speech?" (1995) 14(2) *Saint Louis University Public Law Review* 529.

[31] Austrian Constitutional Court judgment of 30 June 2012 (G 155/10-9), *https://www.vfgh.gv.at/downloads/VfGH_G_155-10_Bettelverbot_Sbg.pdf* [Accessed 28 October 2024].

Bearing in mind the ECtHR's developing case law on symbolic speech,[32] as well as the earlier dissenting opinions in *Lăcătuş*,[33] the art.10 claim should have been considered by the ECtHR in *Dian*. The failure to address this represents a missed opportunity. Therefore, in future cases on the criminalisation of begging, which will sooner or later reach the ECtHR, the Court should consider this claim. Article 10 provides an opportunity for the ECtHR to move away from the controversial differentiation between those whose begging is protected by the ECHR and those whose is not.

## *4. Conclusion: the way forward in the strategic litigation of the criminalisation of begging as a life-sustaining activity*

After recognising the criminalisation of begging as a violation of the ECHR in *Lăcătuş*, which constituted the one step forward, the ECtHR took two steps backwards in *Dian* in terms of denying protection to persons who decide to beg to ensure that their subsistence needs are met. First, it made it clear that the Convention does not guarantee the right to beg, and second, it imposed additional obligations on applicants to prove the violation of their rights before the ECtHR. Not only does this ruling not provide legal protection to marginalised people; it could also potentially contribute to worsening it. The decision in *Dian* may be used as an argument to justify other manifestations of the criminalisation of poverty, such as the criminalisation of refusal to accept assistance adopted in the Hungarian legal system.[34]

Therefore, the ECtHR should reconsider its approach to criminalising begging as a life-sustaining activity. In my opinion, the Court should follow the path of recognising that the criminalisation of certain activities related to minority groups[35] may violate the Convention, and thus enhance the protection of those living in poverty. By doing so, the Court may turn to another potential legal avenue that may be employed to provide legal protection for those who beg under the ECHR. Judge Lemmens accurately pointed out this possibility in his partly concurring partly dissenting opinion in *Lăcătuş* by stating: "I wonder to what extent Article 3 may not also have been relevant".[36] In my opinion, this is the very legal basis that those engaged in strategic litigation of begging as a human rights violation should reach for—a legal basis that has indeed already been exploited in the context of poverty by the ECtHR.[37]

To illustrate, it is worth recalling a high-profile case on the migration crisis and homelessness—*MSS v Belgium and Greece*.[38] In that case, the Court found that the situation in which the applicant finds himself—that is, homelessness—was due to the state's omission, which was in breach of art.3 ECHR. The state's responsibility for people living in poverty was even more strongly emphasised in the Court's decision in *Budina v Russia*. In that case, while considering the claim raised under art.3 ECHR, the ECtHR held that:

[32] See *Mariya Alekhina v Russia* (App. No.38004/12), judgment of 17 July 2018; (2019) 68 E.H.R.R. 14, at [206] in which the ECtHR found that: "that action, described by the applicants as a 'performance', constitutes a mix of conduct and verbal expression and amounts to a form of artistic and political expression covered by Article 10." See also *Mătăsaru v Republic of Moldova* (App. Nos 69714/16 and 71685/16), judgment of 15 January 2019; and *Chirikov and Nekrasov v Russia* (App Nos 47942/17 and 58664/17), judgment of 29 March 2022.

[33] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021, Concurring Opinion of Judge Keller at [2]–[18]; *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021, Partly Concurring and Partly Dissenting Opinion of Judge Lemmens at [2]; *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021, Partly Concurring and Partly Dissenting Opinion of Judge Ravarani at [15]–[17].

[34] É. T. Udvarhelyi, "'If we don't push homeless people out, we will end up being pushed out by them': The Criminalization of Homelessness as State Strategy in Hungary" (2014) 43(6) *Antipode* 816; B. Misetics, "Criminalisation of homelessness in Hungary" in S. Jones (ed.), *Mean Streets: A Report on the Criminalisation of Homelessness in Europe* (2013), p.101; A. Arato and G. Halmai, "Economic constitutionalism, the challenge of populism and the role of the constituent power" in (ed.), *Economic Constitutionalism in a Turbulent World* (Edward Elgar Publishing, 2023), pp.87–108.

[35] See for example, *Dudgeon* (App. No.7525/76), judgment of 22 October 1981; (1981) 3 E.H.R.R. 40.

[36] *Lăcătuş* (App. No.14065/15), judgment of 19 January 2021, Partly Concurring and Partly Dissenting Opinion of Judge Lemmens at [1].

[37] L. Lavrysen, "Strengthening the protection of human rights of persons living in poverty under the ECHR" (2015) 33(3) *Netherlands Quarterly of Human Rights* 293.

[38] *MSS v Belgium* (App. No.30696/09), judgment of 21 January 2011; (2011) 53 E.H.R.R. 2.

> "The Court cannot exclude that State responsibility could arise for 'treatment' where an applicant, in circumstances wholly dependent on State support, found herself faced with official indifference when in a situation of serious deprivation or want incompatible with human dignity."[39]

Adopting this perspective does not mean automatic protection for all those who resort to begging, but it may provide protection for those who decide to beg to meet their subsistence needs. It does, however, allow for a broader analysis of state actions in relation to those who are begging. This perspective also enables the ECtHR to focus more on the state's actions (or omissions) concerning an individual living in poverty rather than on the individual.

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[39] *Budina v Russia* (App. No.45603/05), decision of 18 June 2009.