

# Human Rights Law Journal · HRLJ

HRLJ

30 June 2016

Vol. 36 No. 1-6

ISSN 0174/4704

Pages 1-240

<b>1. ARTICLES</b>	<b>Helen Keller, Strasbourg, and Corina Heri, Zurich</b> Selective Criminal Proceedings and Article 18 ECHR – The European Court of Human Rights’ Untapped Potential to Protect Democracy .....	1
	<b>Jörg Polakiewicz, Strasbourg</b> Accession to the European Convention on Human Rights (ECHR) – An Insider’s View Addressing One By One the CJEU’s Objections in Opinion 2/13 .....	10
<b>2. DECISIONS and REPORTS</b>		
	<b>UN Human Rights Committee (UN-HRCee), Geneva/New York</b>	
– 22.VII.15 –	Real risk of persecution in Iran regarding an Iranian national, ethnic Kurd, born and raised in refugee camps in Iraq considered by the Iranian authorities to be linked to Kurdish opposition groups / Author’s removal from Denmark would violate Article 7 (prohibition of torture) / State’s obligation to consider facts and evidence “in their combination” together with the documented prevalence of torture in the Islamic Republic of Iran / <i>X v. Denmark</i> .....	22
– 21.VII.15 –	Denial of the right to compensation violates Article 9 (5) of the Covenant / Victim of political repression during the Stalin-era (forced deportation and internment from 1944 to 1957) / National courts declared the claim unfounded in 2006, the appeal was rejected as belated / Committee’s jurisdiction not precluded <i>ratione temporis</i> / Admissibility not challenged by the Government / <i>Yusupova v. Russian Federation</i> .....	29
	<b>European Court of Human Rights (EurCourtHR), Strasbourg</b>	
– 17.III.16 –	Unjustified arrest and pre-trial detention of an NGO activist charged with serious criminal offences whose core constituent elements could not be found on the existing facts / Authorities’ actions driven by improper reasons to silence and punish the applicant for his activities in the area of human rights / Violation of Article 18 taken in conjunction with Article 5 / <i>Rasul Jafarov v. Azerbaijan</i> .....	32
– 14.VI.16 –	Pre-trial detention of former Prime Minister of Georgia (in office several months in 2012) was lawful and based on reasonable grounds (he was later convicted with offences including vote-buying and misappropriation of property), but his detention was also used as a means to exert pressure on him in another unrelated investigation / Violation of Article 18 taken in conjunction with Article 5 § 1 / <i>Merabishvili v. Georgia</i> .....	50
– 23.III.16 –	Iranian national’s conversion to Christianity while staying in Sweden / Consequences of the religious conversion must be assessed <i>ex nunc</i> before deciding on the applicant’s removal to Iran given the absolute nature of Articles 2 and 3 of the Convention (right to life, prohibition of torture) / <i>F.G. v. Sweden (GC)</i> .....	62
– 23.V.16 –	Strasbourg decides for the first time on the observance of the fair hearing guarantee in the context of mutual recognition in civil and commercial law based on EU law / Enforcement in Latvia of a judgment delivered in Cyprus, given in default, concerning the payment of a debt / Review of the Latvian court sufficient for the purposes of Article 6 § 1 of the Convention / Presumption of equivalent protection (“Bosphorus presumption”) not rebutted / <i>Avotiņš v. Latvia (GC)</i> .....	87

(Contents continued on last page)



N. P. Engel, Publisher

e-mail: N.P.Engel@HRLJ.info

## Table of contents (continued)

<b>European Court of Human Rights (EurCourtHR), Strasbourg</b>	
– 23.VI.16 – President of the Supreme Court who criticized the Government policy on judicial reform removed / Mr Baka’s premature termination of mandate, not subject to any form of judicial review, violated his rights under Article 6 § 1 (access to court) and under Article 10 (freedom of expression) / <i>Baka v. Hungary (GC)</i> .....	109
<b>Court of Justice of the European Union (CJEU), Luxembourg</b>	
– 5.IV.16 – Grounds for refusal to execute a European arrest warrant / Obligation of mutual trust between EU Member States and its limitations “in exceptional cases” (existence of systemic or other deficiencies) / Evidence of a real risk of inhuman or degrading treatment of individuals detained in the issuing Member State / <i>Case of Aranyosi and Căldăraru</i> ....	151
– 15.II.16 – Examination of the validity of EU Directive 2013/33 in the light of the right to liberty and security under Article 6 of the Charter and Article 5 § 1 (f) ECHR / Existence of a pending asylum case does not as such imply that the detention – of a person who has made an asylum application – is no longer “with a view to deportation” / <i>Case of J.N.</i> .....	159
<b>US Supreme Court, Washington</b>	
– 27.VI.16 – Undue burden on abortion access / Two provisions of the Texas House Bill 2, enacted in 2013, place a substantial obstacle in the path of women seeking an abortion of a nonviable fetus / Interpretation of the doctrine of claim preclusion (aspect of <i>res judicata</i> ) / <i>Whole Woman’s Health v. Hellerstedt</i> .....	167
<b>3. DOCUMENTATION</b>	
<b>Jean-Bernard Marie, Strasbourg</b>	
– 1.I.16 – International instruments relating to human rights / Classification and status of ratifications	193
<b>Council of Europe, Strasbourg</b>	
• <i>European Commission for Democracy through Law (Venice Commission)</i>	
– 11.III.16 – Opinion 833/2015 on amendments to the Act of 25 June 2015 on the Constitutional Tribunal of Poland .....	216
• <i>Advisory Panel of Experts on Candidates for Election as Judge to the EurCourtHR</i>	
– 25.II.16 – Activity report 2014-2015 .....	227
<b>4. PENDING PROCEEDINGS</b>	
<b>African Court on Human and Peoples’ Rights (AfCourtHPR), Arusha</b>	
– 18.III.16 – Rwanda decides to withdraw its Declaration under Article 34(6) of the Protocol accepting the competence of the Court to receive cases / Withdrawal declaration deposited on 29 February 2016 / The Court orders the Parties to file written submissions on the effect of the withdrawal / <i>Case of Ingabire v. Rwanda</i> .....	235