



OBSERVATORY ON THE RESPECT FOR FUNDAMENTAL RIGHTS IN EUROPE

Newsletter n. 54

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Below are the main updates concerning case-law and acts relevant to the protection of fundamental rights, as published in the web site www.europeanrights.eu

For the acts of the **European Union** we have included:

- the European Parliament Resolution of 17.12.2015 on the Annual Report on Human Rights and Democracy in the World 2014 and the European Union's policy in the matter;
- the European Parliament Resolution of 2.12.2015 on the Special Report of the European Ombudsman in own-initiative inquiry concerning Frontex;
- the EU Fundamental Rights Agency Report of 1.12.2015 on protection against discrimination on grounds of sexual orientation;
- the EU Fundamental Rights Agency Report of 1.12.2015 on violence against children with disabilities;
- the European Parliament Resolution of 26.11.2015 on education for children in emergency situations and protracted crisis;
- the European Parliament Resolution of 25.11.2015 on EU strategic framework on health and safety at work 2014-2020;
- the Directive n. 2015/2302 of 25.11.2015 on package travel and linked travel arrangements;
- the European Parliament Resolution of 24.11.2015 on reducing inequalities with a special focus on child poverty;
- the EU Fundamental Rights Agency Handbook on the rights of the child of 20.11.2015;
- the European Parliament study of 9.11.2015, "European economic governance – state of play and reform proposals";
- the European Parliament study of 6.11.2015, "Implementing the Lisbon Treaty Improving the Functioning of the EU on Justice and Home Affairs";
- the European Parliament Study of 01.11.2015, "Combating child sexual abuse online";
- the European Parliament study of 29.10.2015, "Migrants in the Mediterranean: Protecting human rights";
- the European Parliament study of 31.07.2015, "Flexibility Mechanisms in the Lisbon Treaty";
- the EU Fundamental Rights Agency Annual Report of 25.06.2015, "Fundamental Rights: challenges and achievements in 2014".

For the **Council of Europe** we would like to highlight the following resolutions and recommendations:

of the **Parliamentary Assembly**:

- the Resolution 2084 of 27.11.2015 "Promoting best practices in tackling violence against women";
- the Resolution 2083 of 27.11.2015 "Chinese migration to Europe: challenges and opportunities";
- the Resolution 2082 and the Recommendation 2082 of 27.11.2015 "The fate of critically ill detainees in Europe";
- the Resolution 2081 of 27.11.2015 "Access to justice and the Internet: potential and challenges".

For the **Court of Justice**, we added the decisions:

- 23.12.2015, C-333/14, *The Scotch Whisky Association*, on the minimum price of alcoholic drinks calculated according to the alcoholic strength of the product and protection of health and human life;
- 23.12.2015, C-293/14, *Hiebler*, on the territorial restriction of the licence for the trade of chimney sweep and the right to establishment and freedom to provide services;
- 23.12.2015, C-180/14, *Commission v. Greece*, on the maximum weekly working time;
- 17.12.2015, C-157/14, *Neptune Distribution*, on the indication of sodium in mineral waters, freedom of expression and information, freedom to conduct a business and consumer protection;
- 17.12.2015, C-419/14, *WebMindLicenses*, on the use by the tax authorities of evidence obtained without the taxable person's knowledge in the context of a parallel criminal procedure that has not been concluded, on the right of the defence and the protection of privacy;
- 17.12.2015, C-407/14, *Arjona Camacho*, on compensation for discrimination on grounds of sex;
- 17.12.2015, C-388/14, *Timac Agro Deutschland*, on freedom of establishment and taxes on companies;
- 17.12.2015, C-239/14, *Tall*, on multiple asylum claims and the right to an effective remedy;
- 17.12.2015, joined cases C-25/14 and C-26/14, *UNIS*, on the obligation of transparency and the social protection scheme supplemental to the general scheme;
- 10.12.2015, case C-350/14, *Lazar*, on compensation for material and non material damage claimed by the family member of a EU citizen, residing in a Member State (Italy), who has died in a traffic accident in this Member State, in absence of the identification of the vehicle responsible;
- 26.11.2015, C-326/14, *Verein für Konsumenteninformation*, on the increase in the telecommunication charges and consumer protection;
- 26.11.2015, C-487/14, *Total Waste Recycling*, on the shipment of waste and environment and health protection;
- 26.11.2015, C-509/14, *Aira Pascual and others*, on the safeguarding of the employees' rights of an undertaking responsible for the functioning of a public company and transfers of undertakings;
- 19.11.2015, C-241/14, *Bukovansky*, on the agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, and the prohibition of discrimination on grounds of nationality;
- 19.11.2015, C-455/15 PPU, P, on the custody of the minor and the protection of the rights of the child;
- 19.11.2015, C-632/13, *Hirvonen*, on freedom of movement of persons and income tax;
- 17.11.2015, C-115/14, *RegioPost*, on the legislation of a regional entity of a Member State requiring tenderers and their subcontractors to undertake to pay a minimum wage to staff performing the services covered by the public contract;
- 12.11.2015, C-198/14, *Visnapuu*, on the requirement of a licence for the retail sale for commercial import of alcoholic beverages and the protection of health;
- 12.11.2015, C-572/13, *Hewlett-Packard Belgium*, on intellectual property, the exclusive reproduction right and on remuneration;

- 11.11.2015, C-219/14, *Greenfield*, on the right to annual paid leave;
- 11.11.2015, C-422/14, *Pujante Rivera*, on the termination of an employment contract following the worker's refusal to accept a significant unilateral change to essential elements of the contract and on dismissal;

and the order:

- 17.11.2015, C-137/15, *Plaza Bravo*, on the unemployment benefit in favour of a part-time worker and the principle of equal treatment of male and female workers;

and for the **General Court** the decision:

- 13.11.2015, joined cases T-424/14 and T-425/14, *ClientEarth v. Commission*, on the refusal of access to documents.

For the **European Court of Human Rights** we would like to highlight the judgments:

- 22.12.2015, *G.S.B. v. Switzerland* (n. 28601/11), on the non-violation of the right to the respect for private and family life and of the prohibition of discrimination in the implementation of the mutual assistance agreement in tax matters between Switzerland and the United States;
- 15.12.2015, *Bono v. France* (n. 29024/11), on the violation of the freedom of expression following the sanction imposed on the lawyer, who criticised the judges' procedural decision in his pleadings;
- 15.12.2015, *Raihani v. Belgium* (n. 12019/08), on the violation of the right to a fair hearing following the application of unclear rules on time-limit for appeal against a decision given by default;
- 15.12.2015, *Lopes de Sousa Fernandes v. Portugal* (n. 56080/13), on the violation of the right to life for the death of the patient following post-operation negligence;
- 15.12.2015, Grand Chamber Judgment, *Schatschaschwili v. Germany* (n. 9154/10), on the violation of the right to a fair trial, since the counsel did not have the opportunity, at any stage of the proceedings, to question the only direct witnesses of the crime allegedly committed;
- 8.12.2015, *Z. H. and R. H. v. Switzerland* (n. 60119/12), on the non-recognition by the Swiss authorities of a 14 years old child's marriage, which had been celebrated in Afghanistan: according to the Court such decision did not breach the right to the respect for private and family life;
- 4.12.2015, Grand Chamber Judgment, *Roman Zakharov v. Russia* (n. 47143/06), on the arbitrary and abusive secret surveillance of mobile telephone communications in Russia, in violation of the right to the respect for private life and correspondence;
- 3.12.2015, *Mytilinaios and Kostakis v. Greece* (n. 29389/11), on the obligation on Samos winegrowers to be members of the Samos union of vinicultural cooperatives, in violation of their right to freedom of assembly and association;
- 3.12.2015, *Prompt v. France* (n. 30936/12), on the non-violation of the right to freedom of expression: according to the Court the libel case against the author of a book on the "Grégory case" did not breach such right;
- 1.12.2015, *Brito Ferrinho Bexiga Villa-Nova v. Portugal* (n. 69436/10), according to which the consultation by the tax authorities of the lawyer's bank accounts amounted to an interference with her right to the respect for private and family life;
- 1.12.2015, *Cengiz and others v. Turkey* (n. 48226/10 and 14027/11), on the violation of the right to freedom of expression for the blocking, without a legal basis, of the access to YouTube, which was used by the applicants, all academics in different universities, to receive and impart information;
- 26.11.2015, *Annen v. Germany* (n. 3690/10), according to which the prohibition of distributing anti-abortion leaflets near a clinic was in breach of the right to freedom of expression of the pro-life activist;

- 26.11.2015, *Ebrahimian v. France* (n. 64846/11), according to which the decision not to renew a social worker's contract, who refused to remove her veil, did not breach her right to freedom of religion;
- 19.11.2015, *Mikhaylova v. Russia* (n. 46998/08), on the right to a fair trial and legal aid: according to the judgment, Russian law should have provided free legal assistance to a pensioner in proceedings against her for having participated in a march;
- 17.11.2015, *Bamouhammad v. Belgium* (n. 47687/13), on the continuous transfers between prisons and the repeated special measures imposed on a detainee with a fragile mental health, in violation of the Convention: the State should introduce a remedy under Belgian law for all prisoners in the same situation;
- 17.11.2015, *Bondavalli v. Italy* (n. 35532/12), according to which the domestic courts should have ensured the respect for a father's right of contact with his child;
- 17.11.2015, *Tanişma v. Turkey* (n. 32219/05), on the presence of an officer in the composition of the military tribunal, which would be in breach of the Convention;
- 17.11.2015, *Özel and others v. Turkey* (n. 14350/05, 15245/05 and 16051/05), on the lack of effective investigations on the death of the applicants' relatives, who were buried alive in the earthquake of 17.08.1999;
- 12.11.2015, *Bidart v. France* (n. 52363/11), on the legitimacy of the restrictions on freedom of expression of Mr Bidart, former leader of the Basque separatist organisation Iparretarrak, when he was released on licence;
- 12.11.2015, *El Kaada v. Germany* (n. 2130/10), on the violation of the principle of presumption of innocence of the applicant, following the revocation of the suspension of a previous prison sentence before he was convicted in a final judgment;
- 12.11.2015, *Sakit Zahidov v. Azerbaijan* (n. 51164/07), on the unfair criminal proceeding against the applicant, famous Azerbaijani journalist;
- 10.11.2015, Grand Chamber Judgment, *Couderc and Hachette Filipacchi Associati v. France* (n. 40454/07), on the violation of the right to freedom of expression of the applicant for the conviction of the newspaper Paris-Match, which published some information on the private life of the Prince of Monaco;
- 5.11.2015, *Henrioud v. France* (n. 21444/11), on the violation of the right to access the court, because of the dismissal of the applicant's appeal on points of law for formal reasons, which were attributable to the public prosecutor;

and the decision:

- 10.11.2015, inadmissibility decision, *M'Bala v. France* (n. 25239/13): the European Convention does not protect negationist and anti-Semitic performances.

For the **extra-European area** we have included:

- the decision of the *Court of Appeal of Québec* of 22.12.2015, according to which the norms of the "law on end of life treatment and care" ("*Loi concernant les soins de fin de vie*") are not in breach of article 14 and paragraph 241b) of the Criminal Code, which prohibit the medically assisted suicide, since they were both found invalid by the Supreme Court with a decision of 6 February 2015, although the juridical effects of such decision were suspended for 12 months;
- the decision of the Appeals Chamber of the *International Criminal Tribunal for Rwanda* of 14.12.2015, case *Nyiramasuhuko et al.*, which partially reformed the first instance decision with regard to some charges, also recognizing the violation of the right to the reasonable delay, diminishing for each claimant the sanction;
- the decision of the Appeals Chamber of the *International Criminal Tribunal for the former Yugoslavia* of 09.12.2015, case *Stanišić & Simatović*, which reversed the first instance decision which acquitted the claimants of war crimes and crimes against humanity, ordering a new trial with regard to all the charges;
- the decision of the *United States Court of Appeals for the Seventh Circuit* of 23.11.2015, which stated the constitutional illegitimacy of the law of the State of Wisconsin on abortion, since it prohibited a doctor from performing an abortion unless he

- had “*admitting privileges*” in a nearby hospital, which had to be not more than 30 miles from the clinic;
- the decision of the *Supreme Court of the State of Oklahoma* of 17.11.2015, which recognized the parental authority in favour of the biological mother’s partner, even though their relation had ended two years before the State recognized same-sex marriages;
 - the decision of the *United States District Court for the District of Columbia* of 09.11.2015, which stated the constitutional illegitimacy of the massive *National Security Agency* (NSA) phone data collection program, in the light of the Fourth Amendment to the Constitution, and ordered the Government to stop gathering phone data of some claimants and secluding such kind of data, which had been already collected. With order of 16.11.2015, the *United States Court of Appeals for the District of Columbia Circuit* blocked the decision of the district court, pending the appeal decision;
 - the order of the *Supreme Court of Mississippi* of 05.11.2015, which deemed legitimate the claim for divorce, previously rejected by the court of first instance, in the light of the decision of the USA Supreme Court in the case *Obergefell v. Hodges*;
 - the decision of the *Corte Constitucional de Colombia* of 04.11.2015, which pronounced itself in favour of adoption by same-sex couples;
 - the decision of the *United States Court of Appeals for the Second Circuit* of 29.10.2015, which rejected the claimants’ request to stop the massive *National Security Agency* (NSA) phone data collection program, during the transitory period of 180 days from the coming into force of the USA Freedom Act of 2015;
 - the decision of the *Inter-American Court of Human Rights* of 05.10.2015, case *López Lone and others vs. Honduras*, which recognized the violation of the rights to freedom of expression, assembly and association, guarantees of fair trial and restrictions to political rights in relation to the disciplinary proceedings imposed to 4 judges belonging to the *Asociación de Jueces por la Democracia*, for having deemed the removal of the former President Zelaya as *coup d’état*, in contrast with the opinion of the Supreme Court of Justice; the decision of 02.09.2015, case *Omar Humberto Maldonado Vargas and others vs. Chile*, on the violation of the procedural guarantees of the claimants, who were subjected to torture during the military dictatorship; the decision of 01.09.2015, case *Comunidad Campesina de Santa Bárbara vs. Perú*, which deemed the State responsible for the forced disappearance of 15 persons, among which there were women and children, on 4th of July 1991 in the rural community of Santa Bárbara by members of the army.

As far as **case law of national courts** is concerned, the following decisions must be highlighted:

- **Austria:** the decision of the *Verfassungsgerichtshof* (Constitutional Court) of 29.10.2015, in the matter of personal data protection, which recalls the supranational legislation; and another decision of 29.10.2015, on the absolute prohibition of genetic analyses for private insurances, which applies EU law and principles;
- **Belgium:** the decision of the *Cour constitutionnelle* n. 172/2015 of 03.12.2015, on the compatibility of the conditions in order to have access to the compensation pension for the civil victims of the second world war, according to article 1 of the law of 15 March 1954, with the norms of EU Charter of Fundamental Rights and the Treaty on the Functioning of the European Union in the matter of freedom of movement; the decision n. 153/2015 of 29.10.2015, which rejected the claim lodged against the law of 28 February 2014, which amended the law of 28 May 2002, aiming at allowing euthanasia also for unemancipated minors endowed with the capacity of discernment, also applying the jurisprudence of the Court of Strasbourg; the decision n. 152/2015 of 29.10.2015, which, although almost totally rejecting the claim, quashed some articles of the Flemish decree of 4 April 2014, aiming at creating a centralized structure for administrative jurisdictions, recalling the jurisprudence of the Courts of Strasbourg and Luxembourg; and the decision n. 151/2015 of 29.10.2015, on the right to access to the court within proceedings in the matter of seizure, which recalls the jurisprudence of the Court of

Strasbourg; and the order of the *Tribunal de première instance néerlandophone de Bruxelles* of 09.11.2015, which ordered "Facebook" to abandon the use of trace systems (in the specific case the cookie "Datr") with regard to all internet users in the Belgian territory, who are not registered in the social network, applying the norms of Directive 95/46/EC and the jurisprudence of the Court of Justice;

- **Czech Republic:** the decision of the *Ústavní soud* (Constitutional Court) of 12.08.2015, which analyses the concept of indirect discrimination in the light of the jurisprudence of the Court of Strasbourg, in relation to the alleged violation of the rights of the claimant, who had been put in a "special" school for mentally disabled children, because of his Roma origin; and the decision of 16.06.2015, on the interpretation of the meaning, content and extension of the concept of "speech", with regard to the applicability of the constitutional norms in the matter of Parliamentary immunity, which applies a consolidated jurisprudence of the Court of Strasbourg;
- **France:** the decision of the *Cour de cassation* n. 2243/2015 of 16.12.2015, which, in the matter of the definition of the working relationship as autonomous or subordinated with regard to the access to paid leave, recalls the decision on a preliminary referral of the Court of Justice *Centre d'aide par le travail «La Jouvene»*; the decision n. 1076/2015 of 15.12.2015, which, in the matter of freedom of expression, applies article 10 of the ECHR; and the decision n. 1028/2015 of 30.9.2015, which, in the matter of placement of a worship place at Muslim people's disposal, recalls article 9 of the ECHR;
- **Germany:** the decision of the *Bundesverfassungsgericht* (Federal Constitutional Court) of 15.10.2015, on freedom of movement of people with specific regard to an English lawyer, which recalls article 6 of the ECHR; and the decisions of the *Verwaltungsgericht Aachen* (Administrative Court of Aachen) of 28.10.2015, of the *Verwaltungsgericht Minden* (Administrative Court of Minden) of 2.10.2015, and of the *Verwaltungsgericht Köln* (Administrative Court of Cologne) of 15.9.2015, in the matter of claim for asylum, which apply article 3 of the ECHR and the Dublin III Regulation;
- **Great Britain:** the decision of the *United Kingdom Supreme Court* of 17.12.2015, in which the Court deems the power of the police to stop and investigate on a suspected person compatible with the right to private life, because the respect for the principle of proportionality of such power may be assessed case by case; the decision of 16.12.2015, on the obligation for the public prosecutor's office to give communication of all the material at its disposal to the lawyer of the accused person, in the light of article 6 of the ECHR; another decision of 16.12.2015, in the matter of documents deployed in camera in the interests of national security and to protect the identity of a witness or other person, and on the power to prohibit their use in an application before the ECHR; the decision of 25.11.2015, in which the Court states that English authorities, according to article 2 of the ECHR, are not obliged to carry out an investigation on the death of some individuals in Malaysia in 1948 by the English army; the decision of 18.11.2015, in which the Court deems compatible with the right to private and family life the provision of a test on the knowledge of the English language for the partners of English nationals, who decide to live in the United Kingdom, however inviting the claimants to present future demonstrations of cases in which such requirement is impractical; and the decision of 14.10.2015, on the protracted forced isolation and the compatibility of such measure with articles 3 and 8 of the ECHR; the decision of the *England and Wales Court of Appeal* of 04.11.2015, in which the Court deems that the right provided for by article 8 of the ECHR does not oblige the competent authorities to give, in this specific case, a permit to entry in the United Kingdom to a child, who was adopted in Algeria by a French couple; and the decision of 20.10.2015, on the compatibility between the prohibition for the patient to leave for a certain period the hospital after she had undergone surgery and the right to freedom; the decision of the *England and Wales High Court* of 02.11.2015, on the direct applicability to Google of the obligations deriving from article 8 of the ECHR; the decision of 29.10.2015, in which the Court deals with the issue if hospital internment can amount to detention, according to article 5 of the ECHR; and the decision of 19.10.2015, on the protraction of health treatments, the right to life and the prohibition of inhuman and degrading treatments in the interest of the patient; the decision of the *High Court of Justice in Northern Ireland* of 30.11.2015, according to which, the lack of

exceptions to the legal prohibition of abortion (excluding the serious case of risk for the life of the mother) in the hypothesis of fatal foetal abnormality "FFA" or pregnancy following sexual assault until, in such case, the foetus is capable of an independent life from the mother, amounts to the violation of article 8 of the ECHR. With the decision of 16.12.2015, the same court stated the incompatibility, according to Section 4(2) of the Human Rights Act 1998 (HRA), of the appealed law (Sections 58 and 59 of the Offences against the Person Act 1861) with the ECHR, in consideration of the impossibility of an interpretation in conformity with the Convention; and the decision of the *Scottish Court of Session Outer House* of 28.10.2015, in which the Court states that the request of two paedophiles, in pre-trial detention, to spend some time together to recall the crimes committed, could not find any protection in the right to family life and the right not to be discriminated;

- **Ireland:** the decision of the *Court of Appeal* of 20.11.2015, in the environmental matter, which applies the norms of the Directive "Habitat" and the jurisprudence of the Court of Strasbourg; and the decision of 23.10.2015, on the right to legal aid within proceedings for the execution of European arrest warrants, which recalls the relevant European law in such matter and article 47 of the EU Charter of Fundamental Rights; the decision of the *High Court* of 19.11.2015, which admitted the claim against the denial to the second claimant, a Nigerian National married to an Irish citizen, concerning the visa to enter and stay in the Country, also in the light of article 8 of the ECHR; the decision of 20.10.2015, which judges on the expulsion from the State and the prohibition to re-enter for a period of 5 years, adopted against a Lithuanian national who was sentenced for sexual assault, recalling EU law in the matter of freedom of movement, article 8 of the ECHR and the jurisprudence of the Court of Justice; and the decision of 06.10.2015, in the matter of European arrest warrant, which recalls Directive 2012/13/EU on the right to information in criminal proceedings and the jurisprudence of the Court of Strasbourg;
- **Italy:** the decision of the *Corte costituzionale* n. 260/2015 of 11.12.2015 which, while stating the constitutional illegitimacy of the law of authentic interpretation in the matter of fixed-term contracts, recalls the decision of the Court of Justice in the case *Mascolo*; the decision n. 221/2015 of 5.11.2015, which, in the matter of right to sexual identity, states that such right finds its source at the same time in article 2 of the Italian Constitution and article 8 of the ECHR; and the decision n. 229/2015 of 21.10.2015, which, in the matter of medically assisted procreation, recalls article 8 of the ECHR; the decision of the *Corte di cassazione* n. 23323/2015 of 13.11.2015, which, in the matter of compensation as a remedy for fair trial, recalls article 6 of the ECHR and the EU Charter of Rights; and the decision n. 43696/2015 of 14.9.2015, on the reduced immunity of the States with regard to the commission of most serious international crimes, which recalls the Geneva Convention, the ECHR and the EU Charter of Rights; the decision of the *Corte di appello di Bari* of 17.11.2015, which, in the light of the guideline of the two European Courts, recognizes the status of refugee in favour of a Turkish national in consideration of the deteriorating situation in Turkey; the decree of the *Corte di appello di Torino* of 26.10.2015, which provides for the registration of the birth certificate of the minor, son of a homosexual couple, recalling the jurisprudence of the ECHR and article 9 of the EU Charter of Rights; the decree of the *Corte di appello di Milano* of 16.10.2015, which orders the adoption of a minor by his "social mother", recalling the jurisprudence of the ECHR; the decision of the *Corte di appello di Catanzaro* of 29.9.2015, in the matter of discrimination for maternity reasons, which recalls EU law; the order of the *Tribunale di Asti* of 10.11.2015, which raises question of constitutional legitimacy for the violation of the ECHR, in relation to some norms of the criminal procedure code, which do not provide for the personal communication of acts to the accused person; and the decision of the *Tribunale di Roma* of 1.10.2015, which, in the matter of proceedings concerning school short term employees, examines the aspect of compensation for the violation of EU law and recalls the jurisprudence of the Court of Justice;
- **Norway:** the decision of the *Høyesterett/Høgsterett* (Supreme Court) of 20.11.2015, on the relation between the protection of sources and the interest of justice for the contents, in the hypothesis of seizure by the police of films which have not yet been

divulged (in this specific case, parts of a documentary on the reasons why Norwegian nationals decide to join the "Islamic State"), which applies article 10 of the ECHR and the jurisprudence of the Court of Strasbourg;

- **Portugal:** the decision of the *Tribunal constitucional* n. 596/2015 of 18.11.2015, in the matter of extradition, which also recalls article 6 of the ECHR; and the decision n. 576/2015 of 03.11.2015, which stated the constitutional legitimacy of law n. 75/2014 of 12 September 2014, where it provides for a temporary reduction of monthly wages for employees of State owned companies, also recalling EU law;
- **Spain:** the decision of the *Tribunal constitucional* n. 233/2015 of 05.11.2015, which pronounces itself in the matter of natural State property and, in particular, on the constitutional legitimacy of law n. 2/2013 on the protection and sustainable use of the shore, also recalling EU legislation; the decision n. 232/2015 of 05.11.2015, which recognized the violation of the right to an effective remedy for the lack of application by the court of first instance of a EU norm, which had already been "re-affirmed" by the Court of Justice in an almost identical context and without giving any explanations on the opportunity or not of raising a new reference for a preliminary ruling before the European court, also in breach of the principle of primacy of European Union law; and the decision n. 231/2015 of 05.11.2015, on the compatibility of a norm with the right to the execution of *res iudicata*, which applies the jurisprudence of the Court of Strasbourg; and the decision of the *Tribunal Supremo* of 23.10.2015, on the relation between freedom of expression and information and the right to honour, when situations and persons of public interest are involved, which recalls the EU Charter of Fundamental Rights and the jurisprudence of the Court of Strasbourg;
- **The Netherlands:** the three decisions of the *Gerechtshof Den Haag* (Court of Appeal of the Hague) of 18.12.2015, which stated that the competence of Dutch courts on claims lodged by Nigerian nationals against the *Royal Dutch Shell* company, in relation to the damages caused by the leaks of two oil wells and one underground oil pipeline between 2004 and 2007, also recalling the Brussels I Regulation and the jurisprudence of the Court of Justice.

For what concerns **comments**, we have included the following texts:

Articles:

[Stefan Clauwaert](#) "The country-specific recommendations (CSRs) in the social field"

[Michele De Luca](#) "Three words of the legislator are not enough for the promised Copernican revolution: the *jobs act* under the exam of the jurisprudence"

[Giovanna De Minico](#) "Internet and fundamental rights in time of terrorism"

[Sergio Galleano](#) "Responsibility of Member States for the lack of application of EU Directives and the role of the National judge: the Italian case"

[Pierpaolo Gori](#) "Social rights and compensation in the ECHR"

Notes and comments:

[Antonello Ciervo](#) "Relativity of evil. Some considerations at a first reading on the decision of the Grand Chamber in the case *Perinçek v. Switzerland*"

[Vincenzo De Michele](#) "The judge of laws in the dialogue with the Court of Justice and the ECHR: the decision n. 260/2015 of the Constitutional Court on non-retroactivity and

illegitimacy, also the constitutional one, of the law, which violates, without any objective reasons, the fundamental rights guaranteed also by the European Union”

[Alessandra Nocco](#) “Correction of the attribution of sex between the decision of the Constitutional Court n. 221/2015 and supra-national sources”

[Anna Luisa Terzi](#) “Short term employees at a fork”

Reports:

[Sergio Mattarella](#) “Speech at the solemn session of the European Parliament of 25.11.2015”

[Valeria Piccone](#) “Primacy in the enlarged Union”

[Elisabetta Tarquini](#) “Rights of working people and market mechanisms: the principle of non-discrimination put to the test”

[Lucia Tria](#) “The new law on hetero-organized collaborations between the jurisprudence of the Court of Cassation and supra-national and international vocation of labour and trade union law”

Documents:

[The first report by the Council of Europe according to the Lanzarote Convention](#) “Protection of children against sexual abuse in the circle of trust”, of 4 December 2015

[The annual analysis by Eurofond](#) “Developments in working life in Europe: EurWORK annual review 2014”, of 4 November 2015

[The report by Eurofond](#) “Collective bargaining in Europe in the 21st century”, of 4 November 2015

[The report by Human Rights Watch](#) “No More Excuses – A Roadmap to Justice for CIA Torture”, of 1 December 2015

[The report by the International Labour Organization](#) “Employment protection legislation: Summary indicators in the area of terminating regular contracts (individual dismissals)”, of 27 March 2015