



OBSERVATORY ON THE RESPECT FOR FUNDAMENTAL RIGHTS IN EUROPE

Newsletter n. 58

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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 Recommendation of the European Commission of 27.07.2016 regarding the rule of law in Poland;
- the Guidelines by the European Data Protection Supervisor of the 18.07.2016 “on processing personal information within a whistleblowing procedure”;
- the Study of the European Parliament of 13.07.2016 on “Precarious Employment in Europe”;
- the Regulation (EU) 2016/1191 of 6.07.2016 on promoting the free movement of citizens, by simplifying the requirements for presenting certain public documents in the European Union;
- the European Parliament Resolution of 7.07.2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities;
- the European Parliament Resolution of 5.07.2016 on implementation of the 2010 recommendations of Parliament on social and environmental standards, human rights and corporate responsibility;
- the European Parliament Resolution of 5.07.2016 on the fight against trafficking in human beings in the EU’s external relations;
- the European Parliament Resolution of 5.07.2016 on refugees: social inclusion and integration into the labour market.

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

- 6.09.2016, C-182/15, *Petruhhin*, on the extradition to a third State of a national of a Member State who has exercised his right to freedom of movement;
- 28.07.2016, C-168/15, *Tomášová*, on the liability of a Member State for damage caused to individuals owing to infringements of EU law attributable to a national court;
- 28.07.2016, C-191/15, *Verein für Konsumenteninformation*, on the protection of consumers resident in a Member State who conclude online sales contracts with companies established in other Member States;
- 28.07.2016, C-240/15, *Autorità per le Garanzie nelle Comunicazioni*, on the impartiality and independence of national regulatory authorities in the electronic communications networks and services sector;
- 28.07.2016, C-423/15, *Kratzer*, on equal treatment between men and women in matters of employment and occupation;

- 28.07.2016, C-294/16 PPU, *JZ*, on the concept of “detention” in the event of European Arrest Warrant and on measures involving a restriction of liberty other than imprisonment;
- 28.07.2016, C-330/15 P, *Tomana and others / Council and Commission*, on the freezing of funds adopted against certain individuals or companies, which were members of the Government of Zimbabwe or were somehow associated with it;
- 28.07.2016, C-379/15, *Association France Nature Environnement*, on the power of the national court to temporarily maintaining in force the effects of a national provision contrary to EU law in the matter of environment, if there are all the conditions highlighted in the decision *Inter-Environnement Wallonie et Terre wallonne* of 28 February 2012;
- 28.07.2016, C-543/14, *Ordre des barreaux francophones et germanophone and others*, on the compatibility of the non-exemption from VAT of services provided by lawyers with the right to an effective remedy, the right to be assisted by a lawyer and the principle of equality of arms;
- 20.07.2016, C-341/15, *Maschek*, on the right of a worker, who failed to use up all his entitlement to paid annual leave before the termination of his work relations to be granted an allowance in lieu of the paid annual leave he had not taken;
- 14.07.2016, C-19/15, *Verband Sozialer Wettbewerb*, on consumers' protection and on nutrition and health claims made on foods;
- 14.07.2016, C-335/15, *Ornano*, on the lack of entitlement for an ordinary female magistrate, in the case of compulsory maternity leave taken prior to the 18 January 2005, to an allowance in respect of expenses which she incurred in the performance of her professional functions;
- 14.07.2016, C-271/15 P, *Sea Handling / Commission*, on the right to access to documents of the European Union;
- 14.07.2016, joined cases C-458/14 and C-67/15, *Promoimpresa*, on freedom of establishment and the automatic extension, provided for by Italian law, of the concessions of State-owned maritime, lakeside and waterway property of an economic interest in the lack of tender procedure;
- 13.07.2016, C-18/15, *Brisal and KBC Finance Ireland*, on freedom to provide services and the difference in treatment between resident financial institutions and non-resident financial institutions;
- 13.07.2016, C-187/15, *Pöpperl*, on freedom of movement for workers, the loss of the retirement pension rights acquired in the civil service and the retrospective insurance under the general old-age insurance scheme, in the case of a civil servant of a Member State, who left the public service in order to be employed in another Member State;
- 7.07.2016, C-70/15, *Lebek*, on the right of defence, on the conditions under which deficiencies in the service of a judicial and extrajudicial documents instituting proceedings may prevent the subsequent recognition and declaration of enforceability of a judgment in another Member State;
- 7.07.2016, C-476/14, *Citroën Commerce*, on consumer protection and the obligation to include in the price of a motor vehicle the additional costs necessarily incurred in connection with the transfer of the vehicle;
- 7.07.2016, C-494/15, *Tommy Hilfiger Licensing and others*, on the enforcement of intellectual property rights and the concept of “intermediary whose services are being used by a third party to infringe an intellectual property right”;
- 5.07.2016, C-614/14, *Ognyanov*, on the compatibility with European Union law (in the light of articles 47 and 48 of the Charter of Fundamental Rights) of the National rule providing that the national court is to be disqualified, because it stated a provisional opinion in the request for a preliminary ruling, when setting out the factual and legal context;

and the conclusions of the **Advocate General**:

- 19.07.2016, joined cases C-203/15 and C-698/15, *Tele2 Sverige*, on the general obligation to store data imposed by a Member State to providers of electronic communication services;

- 13.07.2016, joined cases C-154/15, C-307/15 and C-308/15, *Gutiérrez Naranjo*, on consumer protection and the temporal limit on the effects of the invalidity of "floor clauses" included in mortgage loan agreements in Spain;
- 13.07.2016, C-188/15, *Bougnaoui and ADDH*, on the use of clothes and religious symbols at work, on non-discrimination for religious reasons and freedom of business.

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

- 30.08.2016, *Aydoğdu v. Turkey* (n. 40448/06), on the right to life: according to the applicants, the death of the daughter, who was born prematurely and with breathing difficulties, was due to medical negligence of the doctors at the hospital of Izmir;
- 23.08.2016, Grand Chamber judgment, *J.K. and others v. Sweden* (n. 59166/12), on the risk of inhuman and degrading treatments in the event of expulsion to Iraq of the applicants;
- 26.07.2016, *Adam v. Slovakia* (n. 68066/12), on the lack of an adequate investigation into the statements of a young Roma, who complained he had been smacked during his police interrogation in 2010;
- 21.07.2016, *Kulinski and Sabev v. Bulgaria* (n. 63849/09), on the loss of the right to vote, which is applied to all prisoners in Bulgaria; such measure is considered disproportionate;
- 21.07.2016, *Mamatas and others v. Greece* (n. 63066/14, 64297/14 and 66106/14), on the right to property: the reduction of the commercial value of the bonds, in order to restructure the public debt of Greece during the crisis, did not violate the applicants' right to property;
- 12.07.2016, *SIA AKKA/LAA v. Latvia* (n. 562/05), on copyright of authors' musical work: the judgment of the Latvian court did not violate the Convention;
- 12.07.2016, *Reichman v. France* (n. 50147/11), according to which the conviction for defamation of a journalist was disproportionate, it violated his freedom of expression and in particular the Court noted that the domestic court had not drawn a distinction between statements of fact and value judgments and that a certain degree of "exaggeration" or even "provocation" was permitted in the exercise of journalistic freedom;
- 12.07.2016, *Ruban v. Ukraine* (n. 8927/11), on the case of a person sentenced to life imprisonment for aggravated murder, after the decision of the Constitutional Court, which stated the constitutional illegitimacy of the death penalty: three months after such decision, a new law substituted the death penalty with life imprisonment and the applicant alleged that, since he had been sentenced during the three-month gap between the time when the death penalty had been abolished in Ukraine and life imprisonment had not yet been introduced, the court would have had no choice but to sentence him to a maximum of 15 years' imprisonment; the Court rejected the application;
- 12.07.2016, *A.B. and others v. France* (n. 11593/12), *R.K. and others v. France* (n. 68264/14), *A.M. and others v. France* (n. 24587/12), *R.C. and V.C. v. France* (n. 76491/14) and *R.M. and others v. France* (n. 33201/11), on the insufficient control of the administrative judge in the claims against administrative detention of a foreigner in France: these judgments, in particular, concern the administrative detention of children in the context of a deportation procedure;
- 5.07.2016, *A.M. v. the Netherlands* (n. 29094/09), on the right to an effective remedy for an Afghan asylum seeker, which was guaranteed by Dutch courts;
- 5.07.2016, *Ziemiński v. Poland (n° 2)* (n. 1799/07), on freedom of expression, in particular on the conviction against the journalist, ordering him to pay a fine;
- 5.07.2016, *Lazu v. the Republic of Moldova* (n. 46182/08), on the decision of the Court of Appeal, which was taken without hearing oral testimony from the main prosecution witnesses, in breach of the Convention;
- 5.07.2016, Grand Chamber judgment, *Buzadji v. the Republic of Moldova* (n. 23755/07), according to which the requirement on a judge to give relevant and sufficient reasons for detention is applicable as from the first decision ordering

detention on remand: in the specific case, the Court considered that the reasons given by the national courts for ordering and prolonging the detention had been stereotype and abstract as well as inconsistent, because the courts did not make any assessment of the applicant's character, his morals, his assets or links with the Country or his behaviour during the first ten months of the criminal investigation;

- 5.07.2016, Grand Chamber judgment, *Jeronovičs v. Latvia* (n. 44898/10), according to which the State had a duty to conduct an effective investigation into the inhuman and degrading treatment, which it had acknowledged in a unilateral declaration;

and the decision:

- 28.07.2016, inadmissibility decision, *Lisnyy and others v. Ukraine and Russia* (n. 5355/15, 44913/15 and 50853/15), on the shelling of the applicants' homes in Ukraine during the conflict in April 2014.

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

- the decision of the *Tribunal Oral en lo Criminal Federal N° 1 de Córdoba* of 25.08.2016, which sentenced 38 out of the 43 accused persons, among which there was the former General Luciano Benjamín Menéndez, for the crimes (among others) of unlawful detention, aggravated homicide, torture, forced disappearance and minors' abduction, committed in the clandestine detention centres of "La Perla" and "La Ribera" during the military dictatorship in Argentina;
- the decision of the *Supreme Court of Belize* of 10.08.2016, which, also recalling the jurisprudence of the Court of Strasbourg, stated the constitutional illegitimacy of Section 53 of the Criminal Code, where it provided for the punishment of "carnal intercourse against the order of nature", with specific refer to sexual intercourse between consenting adults in private;
- the decision of the *Appeals Chamber* of the *International Criminal Tribunal for the former Yugoslavia* of 30.06.2016, case *Prosecutor v. Mićo Stanišić, Stojan Župljanin*, which confirmed the first instance sentence to 22 years' imprisonment against the accused – the first one was the former Serbian Minister of Internal Affairs in Bosnia and Herzegovina, the second one was the former Chief of the Regional Security Services Centre of Banja Luka (Bosnia and Herzegovina) – for war crimes and crimes against humanity, committed in 1992 in Bosnia and Herzegovina;
- the decision of the *United States District Court for the Southern District of Mississippi Northern Division* of 30.06.2016, which stated the constitutional illegitimacy of the House Bill 1523, ordering not to promulgate nor enforce the law: according to the Court, such norm, also known as Protecting Freedom of Conscience from Government Discrimination Act, introduced a two levels system, granting special rights to those who adhered to the religious and moral belief provided for by section 2 ("the marriage is or should be recognized as the union between one man and one woman; sexual relations are properly reserved to such marriage; male (man) or female (woman) refer to an individual's immutable biological sex, as objectively determined by anatomy and genetics at time of birth"), in violation of the freedom of religion and the principle of equality and non-discrimination;
- the decision of the *United States District Court Southern District of Indiana Indianapolis Division* of 30.06.2016, which stated the constitutional illegitimacy of the norms of the State, providing for a presumption of paternity of the husband, but not of the wife of the biological mother, in the case of artificial insemination, considering in such event the child born outside wedlock;
- the decision of the *United States District Court for the Northern District of Florida Tallahassee Division* of 30.06.2016, which temporarily suspended the execution of two norms of the new law of Florida on abortion, with specific regard to the norm providing for the arrest of any State and local financing to clinics practicing abortion; the Court, with an order of 18.08.2016, blocked definitively the enforcement of such norm;

- the decision of the *Inter-American Court of Human Rights* of 22.06.2016, case *Tenorio Roca y Otros vs. Perú*, which recognized the State responsible for the violation of the rights to personal freedom, personal integrity, right to life and to an effective remedy, with particular reference to the detention and following forced disappearance of Rigoberto Tenorio Roca, in 1984 in the province of Huanta; and the decision of 03.05.2016, case *Maldonado Ordoñez vs. Guatemala*, which stated the violation of the right to an effective remedy and of defence and the principle of legality, in relation to the case of the dismissal of Ms Olga Yolanda Maldonado Ordoñez, who was employed in the office of the *Procurador de los Derechos Humanos*.

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

- **Belgium:** The decision of the *Cour constitutionnelle* n. 108/2016 of 14.07.2016, which pronounces itself on the constitutional legitimacy of the law of 18 march 2014, concerning the management of police information, with regard to the compatibility with the norms in the matter of personal data protection, recalling the norms of the ECHR and the EU Charter of Fundamental Rights, European law and the jurisprudence of the Courts of Strasbourg and Luxembourg;
- **Czech Republic:** the decision of the *Ústavní soud* (Constitutional Court) of 14.06.2016, which, analysing also the jurisprudence of the Court of Strasbourg, stated the constitutional illegitimacy of article 13(2) of the Civil Partnership Act, where it did not allow any of the partners to become adoptive parents, because in contrast with the norms of the civil code, which allow individuals to adoption and, therefore, in violation of the right to human dignity and the respect for private life, as well as the principle of non-discrimination;
- **France:** the decision of the *Cour de cassation* n. 851/2016 of 6.7.2016, which (after the intervention of the Constitutional Council), in the matter of compensation following the loss of the qualification as a lawyer, recalls article 1 of Protocol n. 1 to the ECHR and the jurisprudence of the Court of Strasbourg and in particular the judgment in the case *Scordino v. Italy*; and the decision n. 1289/2016 of 22.6.2016, in the matter of leave, which applies Directive 2003/88/EC, deeming article 7 of such directive sufficiently precise and therefore prevailing on national norms also in horizontal relations, in the light of the jurisprudence of the Court of Justice; and the order of the *Conseil d'État* of 26.8.2016, on the legitimacy of the "burkini", which recalls the ECHR;
- **Germany:** the decision of the *Bundesverfassungsgericht* (Federal Constitutional Court) of 26.7.2016, in the matter of informed consent, which recalls UN's documents and compares the law of several Western Countries; the decision of the *Oberverwaltungsgericht für das Land Nordrhein-Westfalen* (Administrative Court of Appeal for the North Rhine-Westphalia) of 21.6.2016, which, in appeal, rejects the claim for asylum of a refugee from Algeria, recalling EU law; the decision of the *Verwaltungsgericht Aachen* (Administrative Court of Aachen) of 10.3.2016, which admits a claim for asylum for the ill-treatment suffered by the claimant in Serbia and Hungary, recalling the EU law; and the decision of the *Verwaltungsgericht Gelsenkirchen* (Administrative Court of Gelsenkirchen) of 19.2.2016, which rejects the claim for asylum of an Iraqi national of Kurdish origin, recalling the EU law;
- **Great Britain:** the decision of the *United Kingdom Supreme Court* of 10.08.2016, which makes a reference for a preliminary ruling to the EU Court of Justice, with regard to the compatibility, with European law, of a disadvantageous treatment of a transsexual woman, who, without a certificate of re-assignment of gender at the time of the pension claim, could not retire at the age of 60 years old, as provided for all women; the decision of 28.07.2016, which deems incompatible with the right to private and family life the Scottish Named Person Service, i.e. the appointment of a social worker for every Scottish minor: such measure may violate the privacy of the families, because of the possibility for the person to share information with public authorities with no particular limits; the decision of 27.07.2016, on the right to information of hospitalized patients, according to the Mental Health Act 1983 and the compatibility of

certain customs with the right to freedom; the decision of 06.07.2016, which deems there is no violation of the right to fair trial, when giving to the authorities of the Country of origin a copy of the sentence issued by an English court against a national of that Country; and the decision of 15.06.2016, which rejects the direct applicability of the right to the respect for one's domicile (article 8 of the ECHR) in a case of eviction, in which there was no objection on the legitimacy of the eviction order; the decision of the England and Wales Court of Appeal of 29.07.2016, in which the Court admits the appeal lodged by some media against the refusal to make the text of a decision public, which sentenced a father of the homicide of his daughter, deeming almost non-existent the risk of compromising this right to fair trial in the following proceedings; and the decision of 12.07.2016, which rejects the appeal of the Secretary of State against the decision to admit the claim for asylum of a Somali journalist: the Court underlines that the choice of the Somali national about his profession is not the issue; instead, he could be persecuted for his political opinions, expressed through his profession, if repatriated, and it is irrelevant that such opinions were wrongly ascribed the journalist by the Somali authorities; and the decision of the Scottish Court of Session of 27.07.2016, on the evacuation of a permanent sit-in of an Indy group from the public area in front of the Scottish Parliament: the group declared it would not evacuate the area until the admission of the request of a second referendum on the independence of Scotland from Great Britain;

- **Ireland:** the decision of the Court of Appeal of 28.07.2016, which found the legitimacy of the order issued by the High Court, which asked the claimant, who was a provider of internet services, to apply a graduated response system – “GRS” – in order to prevent any acts of software piracy, committed by its own subscribers, in violation of the copyright, in the light of European law, as interpreted by the Court of Justice and the EU Charter of Fundamental Rights; and the decision of 13.07.2016, which makes a reference for a preliminary ruling to the Court of Justice in the matter of interpretation of article 7 of Directive 2004/38/EC (right to stay for more than three months) in the hypothesis of a EU national, who resided in the State and had worked as self-employed in the previous four years, but stopped working, because of the economic crisis; the decision of the High Court of 12.08.2016, which pronounces itself on the legitimacy of the extradition of the defendant to the United States, also in the light of the norms of articles 3 and 8 ECHR, as interpreted, in similar cases, by the jurisprudence of the Court of Strasbourg; the decision of 29.07.2016, on access to justice in environmental matters, which makes a reference for a preliminary ruling to the Court of Justice with regard to the interpretation of article 11 of Directive 2011/92/EU and the scope of the norms of the Convention of Aarhus; another decision of 29.07.2016, on the possibility, for the Minister, to revoke or modify, according to section 3(11) of the Immigration Act 1999, an expulsion order previously issued, after a change of the situation, which makes such order illegitimate (in the specific case, the consideration of potential rights and interests of the unborn child), which recalls the norms of the ECHR and the EU Charter of Fundamental Rights and the jurisprudence of the Court of Strasbourg; the decision of 22.07.2016, which judges on the legitimacy of the removal order adopted against the claimant, a Lithuanian national, in the light of the norms of Directive 2004/38/EC and the jurisprudence of the Court of Justice; another decision of 22.07.2016, which quashed the removal order issued against the claimant, for the violation of article 8 of the ECHR, as interpreted by the jurisprudence of the Court of Strasbourg; the decision of 19.07.2016, in which the Court judges on the request to participate to the proceeding *Data Protection Commissioner v. Facebook Ireland Limited and Maximillian Schrems* – lodged by the claimant to ask the said High Court to make a reference for a preliminary ruling to the Court of Justice, with regard to the validity of the three Decisions of the European Commission on the standard terms of contract for the transfer of personal data towards third Countries – of some bodies and institutions (among them, the USA Government) as *amici curiæ*;
- **Italy:** the decision of the Corte costituzionale n. 204/2016 of 21.07.2016, in the matter of extension, also to life convicts, who already could obtain the possibility of parole, of compensation for degrading treatment in prison, in the light of article 3 of the ECHR; the decision n. 200/2016 of 21.07.2016, in the matter of *ne bis in idem* and

interpretation of the concept of "identity of the fact", which recalls the jurisprudence of the Court of Strasbourg; the decision n. 193/2016 of 20.7.2016, in the matter of retroactivity of the *lex mitior*, also with regard to administrative sanctions, which excludes that the application of such principle only to certain fields is in breach of the ECHR; and the decision n. 187/2016 of 20.7.2016, on school short-term employees, which recalls the judgment of the Court of Justice in the case *Mascolo*, deeming the law of 1999 on school short-term contracts in breach of the Constitution, because in contrast with the directive on fixed-term contracts, but only with regard to the norms already adopted for the employment of short-term employees and the announcement of a public competition; the decision of the *Corte di cassazione* n. 15812/2016 of 29.7.2016, which, in the matter of war crimes committed by Germany, follows the Italian Constitutional Court guideline (decision n. 238/2014), disregarding the one of the Court of The Hague, and founds the competence of the Italian Court in the matter of ascertainment of the damages deriving from such crimes; the decision n. 15024/2016 of 21.7.2016, which, in the matter of right to know about one's origins, recalls the jurisprudence of the Court of Strasbourg; the decision n. 26889/2016 of 1.7.2016, on the installation of a spyware, which establishes its legitimacy also in relation to article 8 of the ECHR and the Court of Strasbourg's guideline; and the decision n. 18949/2016 of 6.5.2016, according to which, in the matter of crimes in the construction industry, there is no "absolute" right to the inviolability of the domicile, deriving from the case law of the European Court of Human Rights, which could preclude the execution of a demolition order of buildings erected without a planning permission; the decision of the *Corte di appello di Brescia* of 16.6.2016, which deems discriminatory the denial of social allowances in favour of Pakistani individuals, recalling article 34 of the EU Charter of Human Rights and the jurisprudence of the Court of Justice; the order of the *Tribunale di Brescia* of 18.7.2016, which deems a collective discrimination, also with regard to article 14 of the ECHR, the sign in the Town of Pontoglio, which describes the town as a place of "deeply Christian tradition" and invites those, who are not willing to respect such culture and the local customs, to leave; the order of the *Tribunale di Milano* of 8.7.2016, which deems discriminatory the decision of the Ministry of Internal Affairs and the Ministry of Finance to request, for the residence permit, a sum of money out of proportion to the amount requested to Italian nationals for the renewal of similar documents, recalling Directive 2003/109/EC and the jurisprudence of the Court of Justice; and the order of the *Tribunale di Udine* of 30.6.2016, which deems discriminatory the exclusion of a Croatian national from the participation to a public competition for custom agents, interpreting article 45 TFEU and the so called "public service exception" for the participation to national public competitions;

- **Latvia:** the decision of the *Satversmes Tiesa* (Constitutional Court) of 29.04.2016, which, also applying the jurisprudence of the Court of Strasbourg, found the constitutional illegitimacy of Section 657 of the Law on Criminal Proceeding, where it allowed the Public Prosecutor, who started the criminal proceeding, to decide on the request for its judicial revision, in the light of new circumstances;
- **Poland:** the decision of the *Trybunał Konstytucyjny* (Constitutional Court) of 11.08.2016, which found the constitutional illegitimacy of some articles of the Constitutional Tribunal Act of 22 July 2016, also in the light of article 6 of the ECHR;
- **Portugal:** the decision of the *Tribunal constitucional* n. 429/2016 of 13.07.2016, which, also applying the jurisprudence of the Court of Strasbourg, found the constitutional illegitimacy of article 400, n. 1, paragraph e), as amended by law n. 20/2013, where it did not provide for the appeal against second instance sentences to a detention of more than 5 years, issued after an acquittal, for the violation of the right to an effective remedy;
- **Spain:** the decision of the *Tribunal constitucional* n. 140/2016 of 21.07.2016, on the compatibility of some articles of law n. 10/2012, which regulate certain taxes within the Administration of Justice and the National Institution of Toxicology and Forensic Science, with the right to access to justice, recalling articles 6 of the ECHR and 47 of the EU Charter of Fundamental Rights and the jurisprudence of the Courts of Strasbourg and Luxembourg; the decision n. 139/2016 of 21.07.2016, which

pronounces itself on the constitutional legitimacy of some articles of decree law n. 16/2012, on urgent measures to guarantee the sustainability of the national health system and improve the quality and safety of its services, with particular regard to the right to health care, recalling the norms of the EU Charter of Fundamental Rights, the European Social Charter and the jurisprudence of the Court of Justice; the decision n. 131/2016 of 18.07.2016, which quashed the appeal decision, which confirmed the expulsion adopted against the claimant, for the violation of the right to an effective remedy (lack of reason and lack of assessment of personal and family circumstances of the claimant), also applying the jurisprudence of the Courts of Strasbourg and Luxembourg; the decision n. 130/2016 of 18.07.2016, which pronounces itself in favour of the violation of the right to an effective remedy following the dismissal and suspension of criminal proceedings related to the crime of torture, in the light of a consolidated jurisprudence of the Court of Strasbourg; the decisions n. 129/2016 of 18.07.2016, n. 103/2016 of 06.06.2016 and n. 89/2016 of 09.05.2016, all three on the violation of the right to a trial within a reasonable time, which recall the jurisprudence of the Court of Strasbourg; the decision n. 112/2016 of 20.06.2016, according to which, also in the light of the jurisprudence of the Court of Strasbourg, the sentence for apology of terrorism for having participated, as main speaker, to a demonstration in memory of a member of ETA, who was killed 30 years before in an attack, was not in breach of the claimant's right to freedom of expression; and the decision n. 105/2016 of 06.06.2016, which rejected the claim lodged for the violation of the right to an effective remedy, right of defence and the presumption of innocence, also applying the jurisprudence of the Court of Strasbourg; and the order of the *Tribunal Supremo* of 11.07.2016, which rejected the complaint for the crime of lese-humanity, lodged by *Izquierda Unida y Unidad Popular* against the Spanish Prime Minister, following the subscription of the EU-Turkey Agreement of 18 March 2016 during the European Council, because deemed not relevant from a criminal point of view and, instead, in line with the norms of articles 79 and 80 of the Treaty on the Functioning of the European Union.

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

Articles:

[Vincenzo De Michele, Sergio Galleano](#) "The decision of the Italian Constitutional Court in the case Mascolo on school short-term employees"

Notes and comments:

[Giuseppe Allegri](#) "For the European Republic of collective solidarity: starting from guaranteed minimum income"

[Marco Bignami](#) "National legal system and ECHR. First impressions"

[Giuseppe Bronzini](#) "Considerations against European disintegration. Guaranteed minimum income and new rights to re-launch the integration process"

[Vincenzo Di Cerbo](#) "The proceedings to establish the compatibility with rules of EU law. The "case study" of time contracts. The jurisprudence of the Court of Justice until the decision in the case *Mascolo*"

[Alice Giurlanda](#) "Right to know one's origins"

[Sandro Mezzadra](#) "Borders and Migration. Emerging Challenges for Migration Research and Politics in Europe"

[Valeria Montaruli](#) "Creation of the "stepchild adoption" between development of the law and jurisprudence"

[Paolo Ponzano](#) "After Brexit, what should the European Union do?"

[Giovanni Salvi](#) "Considerations on the balance between freedom of communication and national and international security"

[Marco Sacquegna](#) "*Bis in idem* and European Convention of Human Rights. The Constitutional Court defines the concept of "same fact""

[Eugenio Zaniboni](#) "Freedom as economic power of the majority. Autonomy and equity between the Italian and the European context"

Reports:

[Franco Fiandanese](#) "Reasoning techniques between promptness and adequate response"

[Antonio Gambaro](#) "Language and style of the Supreme Courts: the reasoning"

[Stefano Giubboni](#) "Collective dismissals between law Fornero and the Jobs Act"

[Vincent Vigneau](#) "The writing of the decisions by the French Court of Cassation"

Documents:

[Publication by the *Foundation Friedrich Ebert Stiftung*](#) "No progress on social cohesion in Europe", of July 2016

[Dossier by the Italian Senate](#) "European Union Migration policy", of July 2016

[Report by the House of Lords](#) "Scrutinizing Brexit: the role of Parliament", of 19 July 2016

[Report by the House of Commons](#) "Migration Crisis", of 19 July 2016

[Study by the *Fundación 1º de Mayo*](#) "Digitalization in the labour world", of 17 July 2016

[Report by Oxfam](#) "Hotspot, rights denied", of May 2016