



OBSERVATORY ON THE RESPECT FOR FUNDAMENTAL RIGHTS IN EUROPE

Newsletter n. 69

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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 study of 5.6.2018 "*Convergence in EMU: What and How?*";
- the Annual Report of the European Commission of 4.6.2018 on the Application of the European Union Charter of Fundamental Rights in 2017;
- the Fundamental Rights Report 2018 by the EU Agency for Fundamental Rights of 1.6.2018;
- the Annual Activity Report 2017 of the European Union Agency for Fundamental Rights of 1.6.2018;
- the European Parliament Resolution of 31.5.2018 on Responding to petitions on tackling precariousness and the abusive use of fixed-term contracts;
- the Special Report of the European Ombudsman in strategic inquiry OI/2/2017/TE on the transparency of the Council.

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

of the **Parliamentary Assembly**:

- the Resolution 2235 of 29.06.2018 "Empowering women in the economy";
- the Resolution 2234 and the Recommendation 2139 of 29.06.2018 "Deliberate destruction and illegal trafficking of cultural heritage";
- the Resolution 2233 of 28.06.2018 "Forced marriage in Europe";
- the Resolution 2232 of 28.06.2018 "Striking a balance between the best interest of the child and the need to keep families together";
- the Resolution 2231 of 28.06.2018 "Ukrainian citizens detained as political prisoners by the Russian Federation";
- the Resolution 2230 and the Recommendation 2138 of 27.06.2018 "Persecution of LGBTI people in the Chechen Republic (Russian Federation)";
- the Resolution 2229 and the Recommendation 2137 of 27.06.2018 "International obligations of Council of Europe member States: to protect life at sea";
- the Resolution 2228 and the Recommendation 2136 of 27.06.2018 "Human rights impact of the "external dimension" of European Union asylum and migration policy: out of sight, out of rights?";
- the Resolution 2227 and the Recommendation 2135 of 27.06.2018 "Extra-territorial processing of asylum claims and the creation of safe refugee shelters abroad";

- the Resolution 2226 and the Recommendation 2134 of 27.06.2018 "New restrictions on NGO activities in Council of Europe member States";
- the Resolution 2225 and the Recommendation 2133 of 26.06.2018 "Protecting human rights defenders in Council of Europe member States";
- the Resolution 2224 of 26.06.2018 "The humanitarian situation of refugees in the countries neighbouring Syria";
- the Resolution 2223 and the Recommendation 2132 of 1.06.2018 "Detainees with disabilities in Europe";
- the Resolution 2222 of 1.06.2018 "Promoting diversity and equality in politics".

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

- 12.07.2018, C-89/17, *Banger*, on the obligation of the Member State of which a Union citizen is a national to facilitate the provision of a residence authorisation to the unregistered partner, a third-country national with whom that Union citizen has a durable relationship that is duly attested;
- 10.07.2018, C-25/17, *Jehovan todistajat*, on the protection of individuals with regard to the processing of personal data by the members of a religious community in the course of their door-to-door preaching;
- 5.07.2018, C-213/17, *X*, on the determination of the Member State responsible for examining an application for international protection made in one of the Member States by a third-country national;
- 28.06.2018, C-512/17, *HR*, on the exercise of the parental responsibility in respect of minor children;
- 27.06.2018, C-246/17, *Diallo*, on the conditions for the issuing of a residence card of a family member of a Union citizen;
- 27.06.2018, C-230/17, *Altiner e Ravn*, on the right of residence of a third-country national who is a family member of a Union citizen in the Member State of which that citizen is a national;
- 21.06.2018, C-1/17, *Petronas Lubricants Italy*, on the concept of counter-claim of the employer and the determination of the court with jurisdiction;
- 19.06.2018, C-181/16, *Gnandi*, on the return of illegally staying third-country nationals, who have presented request for international protection, on the principle of non-refoulement and on the right to an effective remedy;
- 14.06.2018, C-458/17 P, *Makhlouf v. Council*, on the restrictive measures and the right of defence;
- 12.06.2018, C-163/16, *Louboutin and Christian Louboutin*, on the protection of intellectual property;
- 5.06.2018, C-677/16, *Montero Mateos*, on the lack of compensation on expiry of a fixed-term "interinidad" contract and the principle of non-discrimination;
- 5.06.2018, C-574/16, *Grupo Norte Facility*, on the lesser amount of compensation paid on expiry of a fixed-term "relief" employment contract and the principle of non-discrimination;
- 5.06.2018, C-673/16, *Coman and others*, on freedom of movement and residence of EU nationals and the right of residence for more than three months of a third-country national, who married a Member State national of the same sex;
- 5.06.2018, C-612/15, *Kolev and others*, on the right of a person to be informed of the charges against him, in particular of fraud or any other illegal activities affecting the financial interests of the European Union in customs matters, on the right of access to case materials, the right of access to a lawyer and on the effectiveness of prosecution;
- 5.06.2018, C-210/16, *Wirtschaftsakademie Schleswig-Holstein*, on the protection of personal data and Facebook;
- 31.05.2018, C-537/17, *Wegener*, on the right to compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and consumer protection;
- 31.05.2018, C-335/17, *Valcheva*, on the concept of right of access with regard to a minor;

- 31.05.2018, C-251/17, *European Commission v. Italy*, on the sentence against Italy for having failed to implement EU law on the collection and treatment of urban waste water within the time-limit and on environmental protection;
- 31.05.2018, C-647/16, *Hassan*, on the determination of the Member State responsible for the examination of an application for international protection lodged in a Member State by a third-country national;
- 31.05.2018, C-483/16, *Sziber*, on unfair terms in consumer contracts, on consumer protection and the right to an effective remedy;
- 30.05.2018, C-517/16, *Czerwiński*, on social security for migrant workers;
- 29.05.2018, C-426/16, *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and others*, on particular methods of slaughter prescribed by religious rites and on freedom of religion;
- 17.05.2018, C-147/16, *Karel de Grote - Hogeschool Katholieke Hogeschool Antwerpen*, on unfair terms in consumer contracts concluded between a seller or supplier and a consumer;

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

- 21.06.2018, joined cases C-391/16, C-77/17 and C-78/17, *M*, on the decision to deny or revoke the refugee status and the right of the individual;
- 31.05.2018, C-68/17, *IR v. JQ*, on the dismissal of a Catholic worker, in a managerial role, because of a second marriage following divorce and on the principle of non-discrimination based on faith;
- 29.05.2018, C-619/16, *Kreuziger*, and C-684/16, *Max-Planck-Gesellschaft zur Förderung der Wissenschaften*, both on the right to paid annual leave and on the allowance in lieu of untaken paid annual leave at the end of the employment relationship and on the applicability of article 31, paragraph 2, of the Charter of Fundamental Rights in a proceeding between individuals;
- 29.05.2018, joined cases C-569/16 and C-570/16, *Bauer*, on the payment to the deceased's heirs of an allowance in lieu of outstanding paid annual leave and on the applicability of article 31, paragraph 2, of the Charter of Fundamental Rights in a proceeding between individuals;
- 16.05.2018, C-268/17, *AY*, on the non-execution of a European arrest warrant;

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

- 31.05.2018, T-770/16, *Korwin-Mikke v. Parliament*, and T-352/17, *Korwin-Mikke v. Parliament*, both on the annulment of the decisions of the Bureau of the European Parliament to impose penalties on the European MEP Korwin-Mikke due to comments made in the Chamber of the Parliament and on the limit to freedom of expression.

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

- 28.06.2018, Grand Chamber judgment, *G.I.E.M. S.r.l. and others v. Italy* (n. 1828/06, 34163/07 and 19029/11), on the unlawful confiscation of the applicants' lands in absence of a criminal proceeding and of a clear charge against them;
- 26.06.2018, *Pereira Cruz and others v. Portugal* (n. 56396/12), on child sexual abuse at the "Casa Pia": the criminal proceeding violated the rights of the accused persons, because of the refusal to admit proofs during the appeal;
- 26.06.2018, *Lakatos v. Hungary* (n. 21786/15), on the extension for over three years of temporary detention of the applicant in violation of the right to freedom and security;
- 26.06.2018, *Girleanu v. Romania* (n. 50376/09), on the violation of the right to freedom of expression because of the applicant's (a journalist) arrest, which was deemed disproportioned, for having disclosed military information;
- 21.06.2018, *Semache v. France* (n. 36083/16), on the death of a man, who had been arrested by the police: the Court found the negligent behaviour of the authorities, in violation of the right to life;

- 19.06.2018, *Hülya Ebru Demirel v. Turkey* (n. 30733/08), on non-discrimination and the right to a fair trial;
- 19.06.2018, *Bursa Barosu Başkanlığı and others v. Turkey* (n. 25680/05), on the failure to enforce judicial decisions against the American company "Cargill", in violation of the applicants' right to an effective judicial protection;
- 12.06.2018, *T.K. v. Lithuania* (n. 14000/12), on the violation to the right to fair trial, because of the lack of possibility to test the credibility of the victim;
- 12.06.2018, *Beinarovič and others v. Lithuania* (n. 70520/10, 21920/10 and 41876/11), on the violation of the right to property;
- 12.06.2018, *Fernandes Pedroso v. Portugal* (n. 59133/11), on the violation to the right to freedom and security for having held in pre-trial detention a former MP, in an investigation of a paedophile ring, in absence of any plausible suspicions that he had sexually abused minors;
- 7.06.2018, *O'Sullivan McCarthy Mussel Development Ltd v. Ireland* (n. 44460/16), according to which Ireland's restrictions to a company, with regard to European directives in the environmental area, were fair and in line with the Convention;
- 7.06.2018, *Toubache v. France* (n. 19510/15), on the unlawful use of arms against an escaping car, deemed absolutely not necessary;
- 7.06.2018, *Dimitrov and Momin v. Bulgaria* (n. 35132/08), on the non-violation of the right to a fair trial of two individuals convicted of rape without an opportunity to question the victim;
- 7.06.2018, *Rashad Hasanov and others v. Azerbaijan* (n. 48653/13, 52464/13, 65597/13 and 70019/13), on the arrest and detention of activists of an NGO in breach of the rights provided for by the Convention;
- 7.06.2018, *Kartvelishvili v. Georgia* (n. 17716/08), on the violation of the right to a fair trial for the Court's refusal to hear the prisoner's cellmates in a proceeding against him for breaking prison rules;
- 31.05.2018, *Abu Zubaydah v. Lithuania* (n. 46454/11) and *Al Nashiri v. Romania* (n. 33234/12), on inhuman treatment within the CIA's "extraordinary renditions", in breach of the Convention;
- 29.05.2018, *Pocasovschi and Mihaila v. Moldova and Russia* (n. 1089/09), on the unlawful detention in prisons without water, power and heating;
- 29.05.2018, *Gülbahar Özer and Yusuf Özer v. Turkey* (n. 64406/09), on the confiscation of the bodies of the applicants' children, deemed disproportioned and in violation of the right to private and family life;
- 24.05.2018, *Laurent v. France* (n. 28798/13), on the unlawful interception by a police officer of pieces of paper handed over by a lawyer to his clients;
- 22.05.2018, *Zelenchuk and Tsytsyura v. Ukraine* (n. 846/16 and 1075/16), on the unlawful absolute ban on buying and selling of farm lands;
- 17.05.2018, *Ljatif v. The Former Yugoslav Republic of Macedonia* (n. 19017/16), on the unlawful expulsion order on national security grounds, adopted on the basis of a document which had never been available and had been filed;
- 9.05.2018, *Stomakhin v. Russia* (n. 52273/07), on the unlawful conviction to detention, with three years of suspension from the job as a journalist, because of some articles of the applicant which had gone beyond the bounds of acceptable criticism and had amounted to calls for violence and terrorism in relation to the conflict with Chechnya.

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

- the decision of the *Supreme Court of the United States* of 26.6.2018, which, reverting the decision of the *United States Court of Appeals for the Ninth Circuit* of 22 December 2017, established that the adoption of the Proclamation No. 9645 entitled "Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats", aiming at suspending or limiting the entry in the United States of nationals from 8 Countries, has not gone beyond the power of the Presidential authority, pursuant to the Immigration and Nationality Act (INA); and the decision of 22.6.2018, according to which, in the light of the right to privacy, the

- authorities have a general obligation (with some exceptions) to request and obtain a warrant in order to gather data on the position of telephones through the cells of the mobile phone network;
- the order of the *United States District Court Southern District of California* of 26.6.2018, which ordered the reunification of the children with their detained parents, from the *Department of Homeland Security*, in centres for migrants, in the absence of a decision proving that the parent is unfit or that he represents a danger for the minor and unless the parent refuses such reunification; and the order of 6.6.2018, which stated its jurisdiction on the possible claim concerning the alleged practice of the Government to separate the parents from their children, who are detained in centres for migrants, without demonstrating that the parent is unfit or that he represents a danger for the minor: according to the Court, in the light of such events, the Court's behaviour may amount to a violation of the right to family integrity;
 - the decision of the Appeals Chamber of the *International Criminal Court* of 8.6.2018, case *The Prosecutor v. Jean-Pierre Bemba Gombo*, which, reverting the first instance decision, acquitted the accused person from the charges of war crimes and crimes against humanity, committed in the Central African Republic; with order of 12.6.2018, the Trial Chamber VII ordered the possibility of parole for the accused person, who was still detained on account of the case *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, in which he has been convicted of offences against the administration of justice, also in consideration of the acquittal pronounced by the Appeals Chamber in the main proceeding;
 - the decision of the *Inter-American Court of Human Rights* of 13.3.2018, case *Carvajal Carvajal and others vs. Colombia*, which recognizes the responsibility of the State for the violation of the right to an effective remedy, to life and to freedom of expression with regard to the homicide of the journalist Nelson Carvajal, who was killed because of his work; of 9.3.2018, case *Ramírez Escobar y otros vs. Guatemala*, which recognized the illegitimacy of the declaration of the state of abandonment of the minor and the following proceeding for the International adoption for Osmín Ricardo Tobar Ramírez and J.R., which, according to the Court, led to an arbitrary separation of the family, highlighting the contrast of the law then in force with the norms of the Convention; and the decision of 8.3.2018, case *V.R.P., V.P.C. y otros vs. Nicaragua*, on the responsibility of the State for the violation of the obligation of enhanced due diligence and special protection during the investigations and the legal proceeding in a case of rape committed on a child, which also applies the jurisprudence of the Court of Strasbourg.

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

- **Belgium:** the decision of the *Cour constitutionnelle* n. 70/2018 of 7.6.2018, which founds the legitimacy of article 18(2) of the law of 10 May 2007, where it provides for a flat-rate compensation in the event of discrimination committed by the employer in the workplace and in complementary social security regimes, recalling Directive 2000/78/EC and the jurisprudence of the Court of Justice; the decision n. 62/2018 of 31.5.2018, which rejected the claim lodged against the law of 19 October 2015, which amended the Civil Procedure Code and introduced several norms in the matter of justice, recalling the ECHR and the EU Charter of Fundamental Rights, the jurisprudence of the Court of Strasbourg, the recommendations of the Committee of Ministers of the Council of Europe and the opinions of the Venice Commission; the decision n. 61/2018 of 31.5.2018, which rejects the claim for annulment lodged against the law of 12 July 2015 on the fight against vulture funds, in the light of EU legislation relevant in such matter, of the norms of the ECHR and the jurisprudence of the Courts of Strasbourg and Luxembourg; and the decision n. 56/2018 of 17.5.2018, on the constitutional legitimacy of article 187(6) and (9) of the Criminal Procedure Code, in the matter of "*opposition non avenue*", which recalls the norms of the ECHR and the jurisprudence of the Court of Strasbourg;

- **Bosnia and Herzegovina:** the decision of the *Ustavni sud* (Constitutional Court) of 15.2.2018, which founds the compatibility, with the constitutional norms and article 6 of the ECHR, of the terms foreseen in article 201(4) of the Labour Law of the Serb Republic of Bosnia and Herzegovina (*Republika Srpska*) to take legal action against the employer for violation of rights, also recalling the jurisprudence of the Court of Strasbourg;
- **France:** the decision of the *Cour de cassation* n. 1218/2018 of 30.5.2018, with which, in the matter of sanctions, states again that, in the light of article 6 of the ECHR, the Court must consider the actual circumstances and the situation (also economic) of the convicted, even if such criteria do not concern the decisions issued before the decision of the Constitutional Council, which provided for them; and the decision n. 1216/2018 of 24.5.2018, which, in a case of extradition towards Argentina of a person who committed very serious violations of human rights during the military dictatorship, examines the International law and the norms of the ECHR;
- **Germany:** the decision of the *Bundesverfassungsgericht* (Federal Constitutional Court) of 12.6.2018, which deems constitutionally legitimate the prohibition to strike for civil servants, also in the light of the jurisprudence of the Court of Strasbourg; the decision of the *Bundesgerichtshof* (Federal Court of Justice) of 10.4.2018, on the enforcement of articles 8 and 10 of the ECHR in relation to the broadcast of illegally filmed documentaries on intensive chicken-farming: the Court dwells, in particular, on the function of “watch dog” of the free press; and the decision of 13.3.2018, on the discrimination in the use of the feminine or masculine gender in the words of bank contracts: the Court excludes any discrimination and mentions the EU Charter of Fundamental Rights; and the decision of the *Oberverwaltungsgericht Berlin-Brandenburg* (Berlin-Brandenburg Administrative Court of Appeal) of 2.3.2018, on the marriage between two foreign nationals in Germany, which recalls article 9 of the EU Charter of Fundamental Rights and articles 6 and 8 of the ECHR;
- **Great Britain:** the decision of the *United Kingdom Supreme Court* of 27.6.2018, according to which the law on civil partnership is discriminatory, where it excludes heterosexual couples (while homosexual couples were excluded from marriages until 2013); the decision of 13.6.2018, on the qualification as worker and employee in a paradigmatic case of agreement of self-employment in the *gig economy* world; and the decision of 7.6.2018, in the matter of access to abortion in Northern Ireland; the decision of the *England and Wales Court of Appeal* of 12.6.2018, in the matter of compensation for the unlawful detention of a migrant foreign national; the decision of 23.5.2018, which rejects the claim — in which the claimant complained the violation of the rules of fair trial — lodged by the member of a criminal gang subjected to restrictive measures; and the decision of 11.5.2018, in which the Court finds that it is not in the best interest of the patient, who suffers from dementia, to be forced to accept invasive artificial feeding methods; and the decision of the *England and Wales High Court* of 15.6.2018, in the matter of medical malpractice, in the light of obligations provided for by article 2 of the ECHR to national health authorities;
- **Ireland:** the decision of the *Supreme Court* of 9.5.2018, on the recognition of the divorce pronounced in another Member State and the alleged incompatibility of a following decision of divorce adopted by the national judge with article 67 of TFEU; the decision of the *Court of Appeal* of 19.4.2018, which admits the claim of an Afghan national, lodged pursuant to article 17(1) (“Discretionary clauses”) of the Regulation (EU) n. 604/2013 (“Dublin III Regulation”), applying the jurisprudence of the Court of Justice; the decision of the *High Court* of 1.6.2018, on the jurisdiction of the Court with regard to the assessment, on its own initiative, of the provisional liberty on bail in favour of a person arrested and detained in virtue of a European arrest warrant, which also recalls the jurisprudence of the Court of Justice; the decisions of 16.5.2018 and of 14.5.2018 (concerning the same case), with which it makes an urgent reference for a preliminary ruling, according to article 107 of the Rules of Procedure of the Court of Justice, on the impact of Brexit on the European Arrest Warrant, in virtue of the present detention of the defendant based on such measure issued by the authorities of the United Kingdom; the decision of 11.5.2018, on the alleged violation of the norms of Directive 2004/38/EC, in the light of a measure providing the removal from the territory

of the State for a period of 7 years of a Polish national, who had already obtained the right to permanent residence, pursuant to the said Directive; the decision of 4.5.2018, on the concept of non-prohibitive costs, according to article 11(4) of Directive 2011/92/EU, concerning the environmental impact assessment of certain State and private projects, in the light of the decision of the Court of Justice in the case *North East Pylon*; the decision of 2.5.2018, which rejected Facebook's request to suspend the order of preliminary referral to the Court of Justice in the case *The Data Protection Commissioner v. Facebook Ireland Limited and Maximillian Schrems*, in order to appeal against that decision: the Court declared it was bonded by the former decision of the Supreme Court, according to which, in virtue of the discretionary power of the national judge to makes a reference for a preliminary according to article 267 of the TFEU, it is not admitted the right to claim against such decision; the decision of 23.4.2018, which suspends the decision on a case concerning the enforcement of a European arrest warrant, issued by the Polish authorities, pending the decision of the Court of Justice on a similar case and requested by the same *High Court* with a preliminary referral on 12 March 2018 in the case *The Minister for Justice and Equality v. Artur Celmer*; and the decision of 23.2.2018, which excludes the retroactive application of the norms of Directive 2004/83/EC ("Asylum Qualification Directive") on subsidiary protection, recalling the jurisprudence of the Court of Justice;

- **Italy:** the decision of the *Corte costituzionale* n. 120/2018 of 7.6.2018, which examines the norms limiting trade union rights for soldiers, in the light of the jurisprudence of the Court of Strasbourg and the decisions of the European economic and social Committee; the decision n. 115/2018 of 31.5.2018, which deems inadmissible the question of constitutional legitimacy raised with regard to the decision of the Court of Justice in the case *Taricco 1*, in the light of the following decision in the case *Taricco bis*, recalling the EU Charter of Rights; the decision n. 107/2018 of 25.5.2018, which states the illegitimacy of a norm of the Veneto region, which subordinated the grant of benefits to the requirement of the residence in the region for at least 10 years, for the contrast with EU norms and it recalls article 21 of the Charter of Rights; the decision n. 106/2018 of 24.5.2018, which founds the constitutional illegitimacy of a norm of the Liguria Region, which subordinated the possibility to access to public housing to the requirement of the residence in the region for at least 10 years, for the contrast with EU law; and the decision n. 105/2018 of 23.5.2018, which excludes the violation of articles 21 and 23 of the EU Charter of Rights by the national law, which denied the right to maternity allowance of the adoptive father, even in the event of the mother's abdication, considering a precedent decision of the Constitutional Court in favour of the claimant as self-applicable; the order of the *Corte di cassazione* n. 13678/2018 of 30.5.2018, which orders the preliminary referral to the Court of Justice, also with regard to article 21 of the EU Charter of Rights, in relation to the alleged discrimination on grounds of age of the pilots of a secret services' company; the decision n. 23609/2018 of 25.5.2018, which excludes the violation of the ECHR, having the court found an aggravating circumstance, which had not been formally contested, examining the jurisprudence of the Court of Strasbourg; the decision n. 23043/2018 of 23.5.2018, which excludes the prohibition of the *ne bis in idem*, as established by the ECHR, in the light of the reconstruction done by the jurisprudence of the Court of Strasbourg; and the decision n. 12108/2018 of 17.5.2018, which, after the preliminary referral and the decision of the Court of Justice in the case *Maturi*, deems discriminatory the norms of a national law which provided for a different age between male and female dancers with regard to the possibility to continue the working relation and, at the same time, not necessary to raise the question of constitutional legitimacy: according to the Court, the provisions of the decision n. 269/2017 of the Constitutional Court were situated in an *obiter dictum* and, with regard to them, the EU Charter of Fundamental Rights did not have any role (article 21); the order of the *Tribunale di Torino* of 18.5.2018, which deems discriminatory, also in the light of the Court of Justice, having reserved to Italian nationals a public competition;
- **Luxembourg:** the decision of the *Cour d'appel* of 15.5.2018, which pronounces itself on the case "LuxLeaks", with regard to the determination of the sanction for Antoine Deltour, following the revert by the Court of Cassation;

- **Portugal:** the decision of the *Tribunal Constitucional* n. 242/2018 of 8.5.2018, which founds the constitutional illegitimacy of article 7(3) of law n. 34/2004, where it excluded legal protection (legal aid) for legal persons, without taking into consideration their actual economic situation, in the light of the norms of the ECHR and the EU Charter of Fundamental Rights and of the jurisprudence of the Courts of Strasbourg and Luxembourg; the decision n. 233/2018 of 2.5.2018, which judges on the conflict of jurisdiction (between Regions and State) on article 1(1) and (2) of the Regional Decree of the Autonomous Region of the Azores n. 27/2015/A, on the juridical regime of public procurement in the provision services, transposing the norms of Directive 2014/24/EU on public procurement; and the decision n. 225/2018 of 24.4.2018, which founds the constitutional illegitimacy of certain norms of law n. 32/2006 on medically assisted procreation, in the matter of surrogacy, anonymity of the donator and research of paternity, recalling, among others, the EU Charter of Fundamental Rights, the ECHR and the Convention on Human Rights and Biomedicine (Oviedo Convention) of the Council of Europe and applying the jurisprudence of the Courts of Strasbourg and Luxembourg;
- **Spain:** the decisions of the *Tribunal Constitucional* n. 37/2018 and n. 36/2018 of 23.4.2018, on the breach of the right to an effective remedy and of defence for the violation of the principle of immediacy with regard to the assessment of personal evidence, which applies the jurisprudence of the Court of Strasbourg; and the decision n. 31/2018 of 10.4.2018, which rejects the claim lodged against certain norms of organic Law n. 8/2013 for the improvement of the quality of education, recalling supranational law relevant in such matter; the decision of the *Tribunal Supremo* of 31.5.2018, on the interpretation of article 57.2 of Organic Law n. 4/2000 on "the rights and freedoms of foreigners in Spain and their social integration" (*de derechos y libertades de los extranjeros en España y su integración social*) and, in particular, of the norm providing for the expulsion of the foreigner from the territory of the State in the event of conviction of a crime sanctioned with detention for over one year, which also applies the jurisprudence of the Court of Justice; and the decision of the *Audiencia Nacional* of 11.5.2018, which convicts the two accused persons of the crime of terrorist indoctrination, recalling the jurisprudence of the Court of Strasbourg in the matter of freedom of expression;
- **The Netherlands:** the two decisions of the *Hoge Raad* (Supreme Court) of 13.4.2018, on the compatibility of the reduction of the tax credit in favour of the partner with a lower income, as provided for by the law on income tax for the year 2001 (*Wet inkomstenbelasting 2001*), with articles 8 and 14 of the ECHR and the norms of the First Additional Protocol to the ECHR; and the decision of 10.4.2018, on the criminal relevance of offensive statements against Muslims pronounced during an interview in a television documentary, in the light of article 10 of the ECHR.

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

Articles:

[Vincenzo De Michele](#) "The European Parliament Resolution on precarious employment in Europe"

[Elena Falletti](#) "Self-determination, freedom of religion and medical consent"

[Paolo Ponzano](#) "Defending the rule of law in the European Union"

Notes and comments:

[Silvia Albano](#) "International protection, right to appeal and specialized sections"

[Sergio Beltrami](#) "Comment on the decision of the Court of Cassation n. 23043/2018 on the ne bis in idem"

[Roberto Conti](#) "Comment on the decision of the Court of Cassation n. 23362/2018 on compensation for detention in violation of art. 3 of the ECHR"

[Sergio Galleano](#) "The issue of school at the Court of Justice: the conclusions of the Advocate General Kokotte of 31 May 2018 in the case Ibàñez"

[Emilio Gatti](#)

"The national DNA data bank and the protection of the right to the respect for the individual's private life"

[Renato Rordorf](#) "The foreign guest. The international protection in the multilevel system of fundamental rights"

[Michelangelo Strazzeri and Valerio Giuseppe Di Rollo](#) "Damage deriving from the loss of the parental relation: an interpretation oriented to constitutional and euro-unitary values"

Reports:

[Mario Draghi](#) "Risk-reducing and risk-sharing in our Monetary Union"

[Jean-Claude Juncker](#) "Protection, prosperity, progress: a stronger euro for a stronger Europe"

[Speech pronounced on 30 May 2018 by the French President Emmanuel Macron](#) before the Organization for Economic Cooperation and Development (OECD)

[Speech pronounced on 10 May 2018 by the French President Emmanuel Macron](#) in Aachen after receiving the Charlemagne prize

[Speech pronounced by the President of the Republic Sergio Mattarella](#) at the opening of the conference "*The State of the Union 2018, solidarietà in Europa*", which took place in Florence on 10 May 2018

[Antonello Soro](#) "Protection of data: guarantees of freedom in the digital society"

Documents:

[Report by the United Nations Office on Drugs and Crime \(UNODC\)](#) "Global Study on Smuggling of Migrants", of 13 June 2018

[Report by the House of Commons](#) "Brexit: Parliament's role in approving and implementing agreements with the European Union", of 23 May 2018

[Dossier by the Italian Parliament](#) "Norms for the transposition in the Italian legislation of the norms of the Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)", of 21 May 2018

Report by the European Foundation for the Improvement of Living and Working Conditions (Eurofound) "Game changing technologies: Exploring the impact on production processes and work", of 5 April 2018