

Human Rights Law Journal · HRLJ

HRLJ

30 June 2017

Vol. 37 No. 1-6

ISSN 0174/4704

Pages 1-236

1. ARTICLES

Kate Fox Princiipi, Geneva

Implementation of Decisions under UN Treaty Body Complaint Procedures – How Do States Comply? / A Categorized Study Based on 268 Cases of “Satisfactory” Implementation under the Follow-Up Procedure, mainly regarding the UN Human Rights Committee

1

Christoph Grabenwarter, Vienna

Reception of Migrants: Material and Procedural Guarantees for Settled Migrants – Some Thoughts on the Case-Law of the European Court of Human Rights

31

2. DECISIONS and REPORTS

UN Human Rights Committee (UN-HRCee), Geneva

– 31.III.16 – Irish abortion law and practice / Having to choose between continuing to carry a dying foetus and terminating a pregnancy by travelling to another country / Violation of Articles 7, 17 and 26 of the Covenant (Cruel, inhuman and degrading treatment; Right to privacy; Discrimination) / *Mellet v. Ireland*

36

– 14.VII.16 – State’s obligation to address hateful speech and incitement to violence / Meaning of Article 20(2) of the Covenant / Acquittal of a politician (Geert Wilders) did not violate the authors’ rights / *Rabbae et al. v. NL*

48

– 27.X.16 – Unlawful media control / Practice of allocating broadcasting frequencies without a tender to entities which appear to have ties with the State party’s government / Authors’ right to freedom of expression violated / *Agazade and Jafarov v. Azerbaijan*

60

UN Economic, Social and Cultural Rights Committee (UN-ESCRce), Geneva

– 20.VI.17 – Right to adequate housing in times of severe economic and financial crisis / Protection against forced eviction includes State’s duty to provide access to public housing irrespective of whether the eviction is initiated by State authorities or by an individual / *Ben Djaza and Bellili v. Spain*

66

European Court of Human Rights (EurCourtHR), Strasbourg

– 27.VI.17 – Evaluation of the best interests of baby Charlie Gard suffering from a genetic disease / Decisions of the UK courts (*inter alia* not to allow, as requested by the parents, experimental treatment in the USA) endorsed in Strasbourg / No violation of parental rights (Article 8 ECHR) / Application inadmissible as being manifestly ill-founded / *Gard et al. v. UK*

74

– 13.XII.16 – Clarification of the Court’s approach hitherto regarding the threshold for the application of Article 3 ECHR (inhuman or degrading treatment) / Pre-conditions for lawful removal of aliens suffering from serious illness / Meaning of “very exceptional cases” in which, unlike in the case of *N. v. UK* [GC] judgment of 2008, removal would violate Article 3 / *Paposhvili v. Belgium (GC)*

85

– 24.I.17 – Placement in social-service care of a 9-month-old child who had been born in Russia following a gestational surrogacy contract entered into with a Russian woman by an Italian couple who had no biological relationship with the child / The applicants allege that the removal from their care of the child violated their right to family life / The Court, referring to the State’s wide margin of appreciation, found no violation of the Convention / *Paradiso and Campanelli v. Italy (GC)*

105

(Contents continued on last page)



N. P. Engel, Publisher

www.hrlj.info

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

Table of contents (continued)

European Court of Human Rights (EurCourtHR), Strasbourg	
- 11.X.16 – Deprivation of liberty at Sheremetyevo airport, Moscow, preventing a political activist (former chess player) from attending an opposition demonstration on the occasion of the 2007 EU-Russia summit in Samara / Right to liberty and freedom of assembly (Articles 5 § 1 (c) and 11 ECHR) violated / <i>Kasparov v. Russia</i>	130
- 7.II.17 – Deprivation of UK citizenship and exclusion from the UK on account of terrorism-related activities and links to extremists / Application inadmissible as being manifestly ill-founded / <i>K2 v. United Kingdom</i>	138
- 30.III.17 – Grand Chamber held by 14:3 votes that exceptional circumstances may call for a just-satisfaction award in respect of non-pecuniary damage (here: 50,000 Euros), notwithstanding the absence of a properly made “claim” (as required under Rule 60 of the Rules of Court) / Context: violation of the right to life of the applicant’s son and the lengthy and defective investigation into the death caused by an agent of the State (use of a tear-gas grenade) / <i>Nagmetov v. Russia (GC)</i>	144
- 17.XI.16 – Interpretation of Article 37 § 1 (a) of the Convention / Criteria enabling applications to be struck off the Court’s list of cases if the applicants have failed to maintain contact with their lawyer / Grand Chamber decision by 12:5 votes / <i>V.M. et al. v. Belgium (GC)</i> ..	162
Court of Justice of the European Union (CJEU), Luxembourg	
- 31.I.17 – Conduct justifying exclusion of refugee status / Conviction on a charge of participation in the activities of a terrorist group / Supply of logistical support / <i>Case of Lounani</i>	166
- 14.III.17 – Dismissal of a female worker wearing an Islamic headscarf not discriminatory if based on a general policy of neutrality on the part of a private undertaking vis-à-vis its customers / <i>Case of G4S</i>	172
- 14.III.17 – Dismissal of a female worker wearing an Islamic headscarf discriminatory if based on the willingness of an employer to take account of a specific customer’s wish / <i>Case of Bougnaoui</i>	175
3. DOCUMENTATION	
Andrew Drzemczewski, Strasbourg	
The Council of Europe and the Rule of Law – Introductory remarks regarding the Rule of Law Checklist established by the Venice Commission.....	179
European Commission for Democracy through Law (Venice Commission), Strasbourg	
- 18.III.16 – Rule of Law Checklist	184
Jean-Bernard Marie, Strasbourg	
- 1.I.17 – International instruments relating to human rights / Classification and status of ratifications	199
Council of Europe, Strasbourg	
- 30.VI.17 – Advisory Panel of Experts on Candidates for election as Judge to the EurCourtHR: Third activity report: January 2016 to June 2017	222
4. PENDING PROCEEDINGS	
European Court of Human Rights (EurCourtHR), Strasbourg	
- 30.I.17 – Prosecution for sport hooliganism and alleged breach of <i>ne bis in idem</i> principle / Six applications communicated / <i>Seražin et al. v. Croatia</i>	233
- 23.V.17 – Missionary behaviour of Christian foster parents regarding Muslim children / Application communicated / <i>Kilic v. Austria</i>	235

Human rights law journal @ N.P. Engel Verlag
Reproduced with permission of Engel Verlag