



OBSERVATORY ON THE RESPECT FOR FUNDAMENTAL RIGHTS IN EUROPE

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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 Regulation (EU) 2024/3015 of 27.11.2024 on prohibiting products made with forced labour on the Union market;
- the Directive (EU) 2024/2853 of 23.10.2024 on liability for defective products;
- the Directive (EU) 2024/2831 of 23.10.2024 on improving working conditions in platform work.

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

- 19.12.2024, C-664/23, *Caisse d'allocations familiales des Hauts-de-Seine*, on the right to equal treatment with regard to access to family benefits between third country nationals legally residing in the territory of Member States and nationals of the Member State;
- 19.12.2024, C-531/23, *Loredas*, on the organisation of working time of domestic workers, on the protection of the safety and health of workers and on daily and weekly rest;
- 19.12.2024, C-369/23, *Vivacom Bulgaria*, on the effective legal protection in the fields covered by EU law and on access to an independent and impartial tribunal;
- 19.12.2024, joined cases C-185/24 and C-189/24, *Tudmur*, on the suspension, by the Member State responsible, of the taking charge of and taking back of asylum seekers and on the evidence and standard of proof of the real risk of inhuman or degrading treatment, resulting from systemic flaws in the asylum procedure and in the reception conditions for applicants in the Member State responsible;
- 19.12.2024, joined cases C-123/2023 and C-202/23, *Khan Yunis*, on the possibility to reject a request of international protection;
- 19.12.2024, C-157/23, *Ford Italia*, on the liability of the producer for defective products and on consumer protection;
- 19.12.2024, C-65/23, *K GmbH (Traitement de données personnelles des employés)*, on data processing in the context of employment;
- 05.12.2024, C-379/23, *Guldbrev*, on the concept of product and on consumer protection;
- 28.11.2024, C-432/22, *PT () and l'auteur d'une infraction*), on criminal proceedings against several persons and on effective remedies;
- 28.11.2024, C-398/23, *PT II () and l'auteur d'une infraction*), on criminal proceedings against several persons and on effective remedies and on the right to information in criminal proceedings;

- 28.11.2024, C-169/23, *Másdi*, on processing of personal data, on the exception to the obligation to provide information and on appropriate measures to protect the data subject's legitimate interests;
- 28.11.2024, C-80/23, *Ministerstvo na vatreshnite raboti () and génétiques II*), on the systematic recording of biometric and genetic data of any person formally accused of any intentional crime punishable by law and on protection of personal data;
- 19.11.2024, C-808/21, *Commission/ Czech Republic () and qualité de membre d'un parti politique*), and C-814/21, *Commission/ Poland () and qualité de membre d'un parti politique*), both on the right to vote and to stand as a candidate in municipal and European Parliament elections in the Member State of residence under the same conditions as nationals of that State;
- 14.11.2024, C-197/23, *S. (Modification de la formation de jugement)*, on effective remedy and on independent and impartial tribunal established by law;
- 07.11.2024, C-178/23, *ERB New Europe Funding II*, on effective judicial protection of the consumer;
- 07.11.2024, C-126/23, *Burdene*, on fair and appropriate compensation to victims of violent intentional crimes;
- 04.11.2024, C-646/22, *Compass Banca*, on consumer protection in the event of unfair and aggressive commercial practices;
- 24.10.2024, C-227/23, *Kwantum Nederland and Kwantum België*, on intellectual property and on copyright.

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

- 19.12.2024, *Grande Oriente d'Italia v. Italy* (n. 29550/17), concerning a Parliamentary investigation on mafia infiltration in masonic associations: according to the Court searches and seizures in the applicant's headquarter were in contrast with the Convention;
- 19.12.2024, *X and others v. Slovenia* (n. 27746/22 and 28291/22), according to which the prohibition of contact between the children and their mothers in a case of custody and visitation right in Slovenia was unjustified;
- 17.12.2024, *Taganova and others v. Georgia and Russia* (n. 18102/04), according to which Russia did not guarantee the respect of the rights of displaced people who have their home in Abkhazia;
- 12.12.2024, *Hasmik Khachatryan v. Armenia* (11829/16), on the violation of the Convention following the lack of adequate answers by Armenia to serious allegations of domestic violence;
- 10.12.2024, *Kumari v. The Netherlands* (n. 44051/20) and *Martinez Alvarado v. The Netherlands* (n. 4470/21), in which the Court explains the meaning of "family life" between adults, pursuant to the Convention with regard to family reunification;
- 10.12.2024, *F.M. and others v. Russia* (n. 71671/16 and 40190/18), according to which the State was not able to protect women against trafficking in human beings and slavery.
- 05.12.2024, *Giesbert and others v. France* (n. 835/20), according to which the conviction for defamation of the editor of *Le Point* and of two journalists, following the publishing of an article entitled "L'affaire Copé", is not in contrast with their right to freedom of expression;
- 05.12.2024, *Kezerashvili v. Georgia* (n. 11027/22), according to which the annulment of the acquittal of the former Minister of Defence, accused of embezzlement, was not unlawful;
- 03.12.2024, *Svrtan v. Croatia* (n. 57507/19), which recognized the violation of the right to life in the case of a twelve years' old child who was a collateral victim of a shooting in 2003, in an environment characterized by a high concentration of illegal possession of guns;
- 03.12.2024, *Espírito Santo Silva Salgado v. Portugal*, (n. 30970/19), which established that there was not a violation of the right to fair trial for the former President of the Bank of Portugal;

- 02.12.2024, *Adamčo v. Slovakia (No. 2)* (n. 55792/20, 35253/21 and 41955/22) and *Ribár v. Slovakia* (n. 56545/21), in which the Court examined the effectiveness of remedies in Slovakia with regard to claims against detention conditions, establishing that there are effective remedies against them;
- 26.11.2024, *Ferrero Quintana v. Spain* (n. 2669/19), according to which the limit of 35 years old to have access to the job of police officer is discriminatory;
- 12.11.2024, *Associated Newspapers Limited v. the United Kingdom* (n. 37398/21), on the violation of freedom of information because of an excessive fine;
- 07.11.2024, *Kazachynska v. Ukraine* (n. 79412/17), which recognized the violation of articles 3 and 5 of the Convention in a case of internment of a woman in a psychiatric hospital for 13 days;
- 07.11.2024, *Lavorgna v. Italy* (n. 8436/21), on the violation of the Convention for the application of a restrictive measure for eight days to a patient suffering from psychiatric disorder.

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

- **France:** the decision of the *Conseil d'État* of 30.12.2024, on obtaining images from drones on grounds of public order, which recalls Union legislation; and the decision of 28.11.2024, on the concept of "medically assisted procreation" as parental project and therefore unfeasible individually post-mortem, deemed not in violation of article 8 of the ECHR; and the decision of the *Cour de cassation* of 18.12.2024, which quashes the appealed measure pursuant to article 5(3) of the ECHR on grounds of lack of reasoning on the extension of the detention;
- **Germany:** the decision of the *Bundesverfassungsgericht* (Federal Constitutional Tribunal) of 14.11.2024, on long-term surveillance, which involves the recording of images in accordance with the PolG NRW (police law of North Rhine Westphalia) and its illegitimacy; the decision of the *Bundesgerichtshof* (Federal Court of Justice) of 19.12.2024, in the matter of food safety, which recalls the legislation of the European Union; the preliminary referral decision of 21.11.2024, to the Court of Justice in order to explain if and under what conditions the promotion of culturally relevant works and services through the revenue of a collecting society is compatible with EU law; and the decision of 18.11.2024, on claims deriving from an accident concerning data protection on the social network Facebook (the so-called scraping);
- **Italy:** the decision of the *Corte costituzionale* n. 1 of 3.1.2025, on the illegitimacy of the law of the Autonomous Province of Trento, which subordinates the access to housing support to the 10 years' residence requirement, also in terms of violation of Union law; and the decision n. 200 of 14.12.2024, which excludes the violation of article 8 of the ECHR in the case of impossibility for the relative to refrain from testifying when victim of the crime; the order of the *Corte di cassazione* n. 34898 of 30.12.2024, on the concept of "safe countries" and on the evaluation by the national judge, which recalls the jurisprudence of the Court of Justice; the preliminary referral order n. 34107 of 23.12.2024, on the res iudicata intangibility also in the event of violation of Union law in the matter of civil responsibility and compulsory insurances; and the preliminary referral order n. 33398 of 19.12.2024, on the issue of "safe countries"; the decision n. 43082 of 26.11.2024, on the expulsion of the migrant as alternative solution to the detention, in the light of article 8 of the ECHR; and the preliminary referral order n. 24336 of 10.9.2024, on the right to priority in the transfer list of disabled persons; the decision of the *Consiglio di stato* of 20.9.2024, which condemns the Ministry of the Interior for the systematic delays in the regularisation of migrants; the decision of the *Corte di appello di Firenze* of 28.11.2024, which finds the illegitimacy of INPS's (Italian National Institute for Social Security) claim with regard to the refund of the amount paid as citizen's income to migrants who did not have the requirement of 10 years' residence, in the light of the decision of the Court of Justice in such matter; the decision of the *Corte di appello di Napoli* of 15.11.2024, on the calculation of the remuneration due for paid leave, pursuant to the jurisprudence of the

Court of Justice; the decision of the *Tribunale di Cremona* of 10.12.2024, on the discrimination of migrants holding a working permit from the access to the lists for public housing, which recalls EU legislation and the jurisprudence of the Court of Justice and article 34 of EU Charter of fundamental rights.

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

Articles:

[Maria Beatrice Benedetto](#) "Contribution of Italian schools to the Union of skills: the challenge of Draghi's Report"

[Giuseppe Bronzini](#) "Artificial intelligence, impact on work and European regulation. Is the EU pouting?"

[Sergio Galleano](#) "The complex affair of Alitalia-Ita transfer between national and euro-unitary legislation in the matter of transfer of firm"

[Riccardo Nuvola and Lorenzo Carbonara](#) (by) "Preliminary referral of the Constitutional Court to the European Union Court of Justice", Constitutional Court notebook November 2024

[Lucia Tria](#) "In the era of digital transformation work must be inclusive and multiethnic"

Notes and comments:

[Claudio Castelli](#) "Break-in of artificial intelligence in justice is inevitable, we need to learn about it, use it, not suffer it"

[Alessandro Centonze](#) "Comment on the ECHR decision in the case *Lavorgna v. Italy*, 7 November 2024, n. 8436/2021, in the matter of exceptional nature of the treatment of physical containment and pharmacological sedation of psychiatric patients"

[Fabrizio Felice](#) "Nation States and jurisdiction States. Europe at the crossroad"

[Gennaro Santoro, Valeria Capezio](#) "The Council of State condemns the delays and systematic inefficiency of the Ministry of the Interior and of the Prefect of Milan in the matter of foreigners' emergence"

[Davide Strazzari](#) "Equal treatment terms with direct effect; incompatible norm: disapplication or (obligation) to refer to the Constitutional Court? Comment on the order referring to the Constitutional Court of 26.10.2024, Tribunal of Florence"

Documents:

[Consultative Council of European Judges \(CCJE\)](#) "CCJE Opinion No. 27 (2024) on the disciplinary liability of judges" of 27 November 2024