Seminar 5 – EU Accession to ECHR: the European Convention on Human Rights

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Assignment

You should prepare, within your study groups, the following cases for a presentation not exceeding 10 minutes for each case:

* Bosphorus v. Ireland [2005]
* MSS v. Belgium and Greece, Appl No 20696/09 [2011]
* Case C-411/10 NS [2011]. Read also the Opinion of the Advocate General

Read the Draft Agreement on the Accession of the European Union to the ECHR of 11-12 October 2011


Describe and assess the co-defendant system.

Describe and assess the prior authorization system.

How do you understand the Bosphorus doctrine? Is it a good way to deal with the interaction between the Strasbourg and Luxembourg system? Should this doctrine be dropped after accession to the ECHR?

Caselaw

European Court of Human Rights

Niemietz [1992]
Open Door Counselling v Ireland [1992]
Funke [1993]
Procola [1995]
Vermeulen [1996]
Matthews [1999]
Kress [2001]
Goodwin [2002]
Cola Est [2002]
*Bosphorus v. Ireland [2005]
Scoppola v. Italy, Appl No 1024/03, 2009.
Kokkelvisserij v. Netherlands [2009]
*Zolotukhin v. Russia [2009]
*MSS v. Belgium and Greece, Appl No 20696/09 [2011]

Court of Justice of EU

*Case C-411/10 NS [2011]. Read the Opinion of the AG also.
Case C-329/11 Achughbabian [2011]
Case C-256/11 Dereci [2011]
Case C - Scarlet Extended [2011]
Case C-147/08, Jürgen Römer v Freie und Hansestadt Hamburg [2011]
Case C-282/10 Dominguez [2012]
*Case C-17/10 Toshiba Corporations [2012]
Cases C-611/10 and C-612/10 Hudzynski [2012]
*Case C-617/10 Åkerberg [2013]
Case C-317/11 Rainer Reimann.[pending]
Case C-399/11 Melloni [2013]

Recommended reading


X Groussot and L Pech “Fundamental Rights Protection in the EU Post Lisbon Treaty” on www.ssrn.com (exist also in French exist also in French as Robert Schuman Policy Paper)

Special Seminar

A. Debate on Accession (the class will be divided into two groups):

Argue in favour of EU accession to ECHR: what are the arguments in favour of accession?

Argue against EU accession to ECHR: what are the arguments against accession?

B. Discussion on Accession based on a case study (Ne Bis in Idem)

Read Article 50 EU Charter of Fundamental Rights (EUCFR)

You should prepare in French the following cases for a presentation not exceeding 10 minutes for each case:

* Zolotukhin v. Russia [2009]
* Case C-17/10 Toshiba Corporations [2012]
* Case C-617/10 Åkerberg [2013]

How do you view the position of the CJEU in its interpretation of ne bis in idem? Is it legitimate to keep such a position in light of the EUCFR?