
Right to know – access to classified data in immigration cases

16 September 2021

On-line

Agenda

Start of the workshop: 9.00

Opening remarks by Márta Pardavi, co-chair of the Hungarian Helsinki Committee

1st session (9:15 – 10:15)

Presentations moderated by Julia Zelvenska, ECRE:

- Short description of main issues in Cyprus, Hungary, Poland (Gruša Matevžič, HHC) – 20 min
- Testing determinants considered by Security agencies when assessing a threat to national security (prof. Felicity Gerry QC) - 20 minutes

QnA - 20 minutes

Break: 10:15 – 10:30

2nd session: Relevant jurisprudence of CJEU and ECtHR (10:30 – 11:30)

Presentations moderated by Simon Cox, Doughty Street Chambers:

- CJEU jurisprudence (Tamás Molnár, FRA) (20 min)
- ECtHR jurisprudence (prof. Dr Galina Cornelisse) (20 min)

QnA - 20 min

Break 11:30 – 11:45

3rd session: Role of the domestic courts in national security cases (11:45 – 12:50)

Presentations moderated by prof. Dr Julia Wojnowska-Radzińska:

- Boštjan Zalar (Senior High Court Judge, Administrative Court of the Republic of Slovenia) (15 min)
- Mirosław Gdesz (Judge, Voivodship Administrative Court in Warsaw, Poland) (15 min)
- Zdenek Khün (Judge, Supreme Administrative Court of Czechia) (15 min)

QnA - 20 min



THE RIGHT TO KNOW PROJECT

A project led by the Hungarian Helsinki Committee and funded by EPIM

Break: 12:50 – 13:50

4th session: Views of different organisations (13:50 – 14:40)

Presentations moderated by Gruša Matevžič, HHC:

- UNHCR (Sibylle Kapferer, Senior Coordinator (Protection & National Security), Division of International Protection) - 10 min
- Polish Ombudsman's office (Piotr Wymysłowski) - 10 min
- UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism' technology, CT and human rights advisor (Adriana Edmeades Jones) – 10 min

QnA - 20 min

Conclusion (14:40 – 15:00) summed up by Julia Zelvenska, ECRE

Publications

- [Comparative Report on Access to Classified Data in National Security Immigration Cases in Cyprus, Hungary and Poland](#)
- [Legal Template on EU and International Law Regarding Disclosure of Classified Information in Asylum and Return Procedures Based on National Security Grounds](#)



kisa
Ισότητα, Στήριξη, Αντιρατσισμός
Equality, Support, Antiracism



HR HELSINKI FOUNDATION
for HUMAN RIGHTS



THE RIGHT TO KNOW PROJECT

A project led by the Hungarian Helsinki Committee and funded by EPIM

Speakers

Galina CORNELISSE (LLM Leiden University, PhD European University Institute) is Associate professor in EU law and international law at the Faculty of Law VU University. Her research focuses on the regulation of human mobility across borders, the protection of fundamental rights and the interplay of law and other disciplines in this area. Her publications include a large number of international articles, a monograph and an co-edited volume on return and detention in EU law (most recently, with M Moraru and P de Bruycker, *Law and Judicial Dialogue on the Return of Irregular Migrants from the European Union*, 2020 Hart Publishing; and with M Reneman, *Border procedures in the Commission's New Pact on Migration and Asylum: A case of politics outplaying rationality?* *Eur Law J.* 2020; 26: 181-198. <https://doi.org/10.1111/eulj.12382>). She also provides expertise to the EU institutions on the legal aspects of the common European Asylum System, most recently for the EPRS on border procedures in Article 43 of the Asylum Procedures Directive and on the New Pact on Migration and Asylum.

Simon COX is a barrister (trial lawyer) of 28 years experience at Doughty Street Chambers in London. He has argued cases before UK and European courts and tribunals at all levels, including UK Supreme Court, Court of Justice of the EU and European Court of Human Rights. His work includes human rights, administrative law, environmental law, immigration, EU and international law, social welfare and discrimination. His EU work has included Ireland, Hungary, Italy, Bulgaria, Spain and Romania.

His cases as lead counsel include *CEZ v Nikolova* (Grand Chamber CJEU; collective race discrimination), *Chowdury v Greece* (ECHR; forced labour of irregular migrant farmworkers), *McCarthy* (CJEU, dual nationals), and *Ayadi, Othman, M, A & MM* (CJEU, UK Supreme Court; international sanctions).

He has advised & represented NGOs, acting as counsel for Amnesty International, the AIRE Centre and UK's Joint Council for the Welfare of Immigrants, Refugee Legal Centre, Child Poverty Action Group and the British Union for the Abolition of Vivisection.

From 2011 to 2019, Simon was the Migration Lawyer of the Open Society Justice Initiative, working with lawyers and activists in Indonesia, Malaysia, Nepal, and Europe, on the rights of international migrants and human rights defenders.

Adriana EDMEADES JONES is a human rights lawyer with ten years' experience in international NGOs and as a litigator, chiefly in the fields of national security and human rights. Most recently, Adriana has consulted for the UN Office of the High Commissioner on Human Rights, for the UN Office of Counter Terrorism and the Counter-Terrorism Committee of the Security Council, and leading European NGOs. Prior to this, she was Legal Director of the NGO Rights and Security International and a lawyer at Privacy International. She commenced her legal career in a leading public international law firm in London,



THE RIGHT TO KNOW PROJECT

A project led by the Hungarian Helsinki Committee and funded by EPIM

responsible for litigation before the appellate courts in the UK and the European Court of Human Rights. Adriana has worked on a wide range of matters relating to national security and human rights, such as the legacy of the Troubles in Northern Ireland, the trade in arms to Saudi Arabia for use in the Yemen conflict, the repatriation of women and children held in camps in North East Syria since the fall of ISIS, the conduct of the British military in the Iraq and Afghanistan wars, and unlawful State surveillance of dissidents in Uganda and Bahrain. Adriana holds an LLM from Yale Law School and a BA and LLB from the University of Sydney.

Dr Mirosław GDESZ is a judge of the Voivodship Administrative Court in Warsaw (VAC) delegated to Supreme Administrative Court. Judge Gdesz has been a judge for over twelve years and holds a PhD from Adam Mickiewicz University in Poznan. He authored numerous publications on an array of legal issues including property and compensation rights, environmental protection and regulatory taking in Poland.

Professor Felicity GERRY QC works internationally as a barrister. She is admitted at the International Criminal Court and the Kosovo Specialist Chambers in The Hague, to the Bar of England & Wales and in Australia (Victoria and the High Court Roll). She has also had ad hoc admission in Hong Kong and Gibraltar. She led the intervention in the Shamima Begum appeals before the UK Supreme Court on behalf of JUSTICE and has defended in high profile terrorism trials. She is Professor of Legal Practice at Deakin University (Australia) and an Honorary Professor at Salford University (UK) and has taught and researched in terrorism and war crimes law.

Sibylle KAPFERER holds the position of Senior Coordinator (Protection & National Security) in the Division of International Protection, United Nations High Commissioner for Refugees (UNHCR), in Geneva. She is UNHCR's focal point for legal and policy questions on exclusion from international refugee protection, extradition, cancellation of refugee status and matters related to terrorism and national security. She was previously a staff member of at the UN Centre for Human Rights/Office of the High Commissioner for Human Rights, where she was assistant to the Special Rapporteur of the Commission on Human Rights on Extrajudicial, Summary or Arbitrary Execution and also worked with the Special Rapporteurs on human rights in the former Yugoslavia and Rwanda. As an independent consultant, she was involved in various research initiatives conducted by human rights NGOs, notably a two-year research project of the Lawyers Committee for Human Rights on exclusion under Article 1F of the 1951 Convention relating to the Status of Refugees. Since 2002, she has worked for UNHCR on different assignments, including research on cancellation of refugee status and the interplay between extradition and international refugee protection, as well as the development of guidance and training materials for UNHCR staff involved in refugee status determination with special focus on exclusion and related issues. Sibylle holds a law degree from the University of Innsbruck, Austria, and a diploma in international studies from the Johns Hopkins University School of Advanced International Studies, Bologna, Italy.

Zdenek KÜHN is Professor of Jurisprudence at Charles University Law School, Prague, and judge at the Supreme Administrative Court of the Czech Republic.

Gruša MATEVŽIČ is a senior legal officer within the refugee programme of the Hungarian Helsinki Committee, which she joined in 2009. She is coordinating the strategic litigation team, is involved in several transnational projects and trainings, and authored several studies. Gruša graduated at the Faculty of Law, Ljubljana and gained her first work experience in the field of asylum at the Legal-information centre for NGOs in Slovenia. In 2008 she completed a Master in Human Rights law at Central European University, Budapest and in 2010 she obtained an International diploma in mental health law and human rights, at the WHO and Indian law society, Pune. Since 2011 she also works as a refugee counsellor representing asylum seekers at the courts in Slovenia and is the ELENA coordinator for Slovenia.

Dr Tamás MOLNÁR works as a legal research officer at the EU Agency for Fundamental Rights (FRA) in Vienna. His areas of expertise with respect to the FRA's work include: fundamental rights of irregular migrants; borders; return and readmission of irregular migrants, including detention; anti-smuggling; EU asylum acquis and visa policy as well as horizontal issues of public international law. Before joining the Agency in autumn 2016, he worked for a decade in various ministries in Hungary in the fields of international and EU migration law and their domestic implementation (drafting legislation). During the Hungarian Presidency of the EU Council in 2011, he was the chair of the Migration-Expulsion Working Party and the deputy chair of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA). He also undertook ad hoc consultancies for UNHCR on statelessness between 2010 and 2016 and on readmission for ICMPD (2013-2014). In addition, he has been a part-time adjunct professor of international law and EU migration law at the Corvinus University of Budapest, in the Department of International Relations for 15 years, where he is now a visiting lecturer. He studied law in Budapest and Brussels (LLM on EU law), and holds a PhD in international law (Budapest). He has published widely in the fields of international law, EU migration and asylum law, and on the legal aspects of statelessness, with over 90 journal articles, book chapters and two monographs (new one: [The Interplay between the EU's Return Acquis and International Law](#). Edward Elgar Publishing, 2021).

Dr Julia WOJNOWSKA-RADZIŃSKA, Ph.D, assistant professor at the Department of Constitutional Law at the Faculty of Law and Administration Adam Mickiewicz University in Poznań, Poland. She teaches constitutional law, European Migration Law and antidiscrimination law. She has been Visiting Researcher at the Walther Schücking Institute for International Law Christian-Albrechts University in Kiel, at the Syracuse University College of Law, at the Université libre de Bruxelles and at the School of Law Queen Mary University of London. She is the author of academic publications, reports and analysis in Polish and English. She has participated in national and international research projects. A recipient of the 2017-2020

THE RIGHT TO KNOW PROJECT

A project led by the Hungarian Helsinki Committee and funded by EPIM

Fellowship of the Polish Ministry of Science and Higher Education for outstanding achievements in science and research.

Piotr WYMYSŁOWSKI is a member of the Warsaw Bar Association, lawyer in the Department of Equal Treatment in the Office of the Commissioner for Human Rights of Poland, specializing in migration law and criminal defense.

Prof. Dr Boštjan ZALAR is a Senior High Court Judge at the Administrative Court of the Republic of Slovenia (2004-), ad-hoc Judge of the European Court of Human Rights (2010-), President of the International Association of Refugee and Migration judges (IARMJ-Europe, 2018-), Member of the Editorial Team within the EASO-IARMJ-Europe project on development of the core judicial training materials for judges in the field of Common European Asylum System (2015-2022), past Co-Chair of the Working Party on Asylum and Immigration of the Association of European Administrative Judges (2006-2011), professor at the University of Ljubljana (2007-), lecturer at the Legal Clinics on Refugee Law, at the University of Ljubljana (2001-), Member of the EASO Network of Courts and Tribunals (2011-), Member of the Pool of Experts in the Field of Legal Migration Expert (EU Commission, 2019-) elected member of the Council of the European Law Institute (2012-2019) and coordinator of the project: 'Detention of Asylum Seekers and Irregular Migrants and the Rule of Law' (2017). He is a trainer within the networks such as: EASO, ERA, EJTN, TAIEX, IARLJ, AEAJ, Hungarian Helsinki Committee, ELENA, UNHCR, ECRE, national training institutions for judges in Russia, Ukraine, Bulgaria, Croatia, Northern Macedonia, Hungary, Montenegro, BiH, Belarus, Serbia, Slovenia. His most recent publication (Springer, 2021): "*Does Asylum Seeker Have a Right to Be Confronted with Inconsistencies or Implausibilities in his Submissions before a Decision is Taken: A Methodological Approach*", ERA Forum, 21, 4, January, 605-624.

Julia ZELVENSKA is ECRE's Head of Legal Support and Litigation and the ELENA Network. She joined ECRE in 2004 and worked on several projects that aimed to improve the protection of the rights of refugees and other forcibly displaced people in Eastern Europe, promote the rule of law, and enhance domestic asylum systems.

