© The Author(s), 2021. Published by Cambridge University Press on behalf of The American Society of International Law
DOI:10.1017/ilm.2021.25

BRIEFLY NOTED

(Not reproduced in *International Legal Materials*)

Judicial and Similar Proceedings

1. Case C-896/19, Repubblika v. Il-Prim Ministru (C.J.E.U. – April 20, 2021)

<https://curia.europa.eu/juris/liste.jsf?language=en&td=ALL&num=C-896/19>

On Tuesday, April 20, the Court of Justice of the European Union (CJEU) ruled in Case C-896/19, *Repubblika v. Il-Prim Ministru* that Malta's system for appointing judges did not contradict EU law. As reported by JURIST, the ruling went before the national court when Repubblika, an association created to promote the rule of law in Malta, had challenged the procedure, which was provided by the Constitution of Malta. The process in the Maltese Constitution stated that judiciary members are appointed by the president acting under the advisement of the prime minister. However, appointees must satisfy certain conditions and are subject to background checks or other examinations by the Judicial Appointments Committee, whose purpose is to assess candidates and provide feedback to the prime minister. The national court brought this to the CJEU to decide whether this system was constitutional under EU law, specifically under Article 19 (1) of the Treaty on European Union, in light of Article 47 of the EU Charter of Fundamental Rights, which states that member states must provide conditions for a fair, independent, and impartial trial to ensure true justice. The court reached the conclusion that this practice was not prohibited by EU law because, in order to guarantee conditions of judicial independence and impartiality, procedures must exist to ensure that appointees are free from influence from the legislature and/or executive with regard to judiciary proceedings. The Court found that power of the prime minister to submit a candidate that was not suggested by the Judicial Appointments Committee was not contrary to EU law because of various safeguarding measures included in the Constitution. The Court held: "Inasmuch as the Prime Minister exercises that power only in quite exceptional circumstances and adheres to strict and effective compliance with that obligation to state reasons, that power is not such as to give rise to legitimate doubts concerning the independence of the candidates selected" (para. 71). Therefore, the Court concluded that the national provisions at issue do not give rise to any legitimate uncertainties, or doubts of independence, regarding the chosen judiciary candidates.

Resolutions, Declarations, and Other Documents

1. Statement on Myanmar (U.N.S.C. – March 10, 2021)

<https://usun.usmission.gov/statement-by-the-president-of-the-security-council-on-myanmar-march-10-2021/>

In a statement on Myanmar released on March 10, 2021, by the President of the Security Council, the Council emphasized the necessity for the release of State Counsellor Aung San Suu Kyi and President Win Myint and other members of the Government who were detained, as well as all citizens who were detained arbitrarily. It also have condemned the violence against peaceful protesters, as well as women and children. The Council called for the military to exercise "utmost restraint" and stated that it will be monitoring the situation accordingly. Along with its "deep concern[s]" about restrictions placed on certain people and violence taking place in the country, the Council expressed its support for Myanmar's democratic transition, as well as the regional organizations that have been working to protect the human rights of the people of Myanmar. The Council restated its support to the Special Envoy of the Secretary-General on Myanmar, while encouraging the Special Envoy to continue her efforts to communicate and engage with all relevant parties, and reiterated the need for her to visit Myanmar as soon as possible. The Council noted its concern that the current situation could intensify other situations, such as in the Rakhine state and other regions, as well as a concern that the situation in Myanmar might pose challenges for a safe return of the Rohingya and others who were internally displaced. Finally, the Council continued its call for "safe and unimpeded humanitarian access to all people in need" while reaffirming its support for the people of Myanmar and their mission of democracy and unity.

https://doi.org/10.1017/ilm.2021.25 Published online by Cambridge University Press

2. Twelfth Annual Report (Spec. Trib. Sierra Leone – March 16, 2021)

<https://www.stl-tsl.org/sites/default/files/documents/annual-reports/STL_12th_Annual_Report-EN.pdf>

The Special Tribunal for Lebanon has published its 12th Annual Report, covering activities from March 1, 2020, to February 28, 2021. The report highlights the judgment in the *Ayyash et al.* case, which the report refers to as a "key milestone" for the Tribunal. In addition to that judgment, the report discusses case STL-18-10, a case connected to the *Ayyash et al*. case, as well as two other matters before the Tribunal. It discusses procedural reforms made in the form of a newly-adopted Practice Direction on the Record Book, which gives effect to Rule 54 of the Rules of Procedure and Evidence, and it provides an overview of an expert review of the Tribunal's policies and practices, which concluded in December 2020. In her introduction to the report, President Ivana Hrdličková notes that the UN Secretary-General has extended the mandate of the Tribunal for two more years, until the end of February 2023. A press release on the Report is also available.

3. Resolution on the Declaration of the EU as an LGBTIQ Freedom Zone (Eur. Parl. - March 11, 2021)

<https://www.europarl.europa.eu/doceo/document/TA-9-2021-0089_EN.html>

On Thursday, March 11, 2021, the European Parliament adopted a resolution declaring the European Union an "LBTIQ Freedom Zone," and strongly denounced any form of violence or discrimination on the basis of sex, sexual orientation, or gender. The resolution emphasizes the significance of equal treatment and non-discrimination as a fundamental right central to the EU Treaties and the EU Charter of Fundamental Rights, and restates that LGBTIQ rights are human rights. It condemns resolutions adopted across Poland and Hungary that cut directly against this core principle, seeking to diminish LGBTIQ rights and protect against LBTIQ "propaganda." The resolution acknowledges numerous complaints and petitions issued by the Polish Ombudsman for Human Rights, multiple NGOs, and activist groups regarding these outwardly discriminatory practices, and expressed its deep concern with the marked uptick in intolerance and violence towards LBTIQ individuals as of May 2020, particularly in Poland. The resolution further acknowledges that transgender individuals persistently confront severe forms of discrimination and observed that only 13 out of 31 countries surveyed in a 2018 European study provide forms of protection on the basis of gender identity. Recognizing that many member states continue to lack enshrined non-discrimination laws consistent with minimum EU standards protecting individuals from sex or gender-based discrimination, the resolution stresses that combatting inequality comprises a shared responsibility. A press release covering the resolution is available here.

https://doi.org/10.1017/ilm.2021.25 Published online by Cambridge University Press