

The Judges

VOLUME 8

**Judge Pinto de Albuquerque and
the Progressive Development of
International Human Rights Law**

Edited by

Triestino Mariniello

With a Foreword by Linos-Alexandre Sicilianos, President
of the European Court of Human Rights (2019–2020)



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Contents

Foreword ix

Laudatio for the Honorary Doctorate to Judge Paulo Pinto de Albuquerque 1

PART 1

The Politics of Human Rights

- 1 The Relationship between the Convention and Constitutional Law 7
 - 1.1 From Constitutional Parochialism to Multilevel Constitutionalism (*GIEM and Others v. Italy*) 9
 - 1.2 Double Standards in Europe (*Hutchinson v. United Kingdom*) 65
 - 1.3 The Existential Risk Put by Illiberal Democracies (*Baka v. Hungary*) 94
- 2 The Relationship between the Convention and International Law III
 - 2.1 Evolutive Interpretation, European Consensus and Soft Law (*Mursić v. Croatia*) 113
 - 2.2 The Clash between Strasbourg and the United Nations Security Council (*Al-Dulimi and Montana Management Inc. v. Switzerland*) 149
 - 2.3 The Confrontation between Strasbourg and the United Nations Human Rights Committee (*Correia de Matos v. Portugal*) 191

PART 2

The Human Rights Challenges

- 3 Succumbing to Penal Populism 231
 - 3.1 Too Much Unfairness in the "Overall Fairness" test (*Murtazalijeva v. Russia*) 233
 - 3.2 Retroactive Punishment of Dangerous Offenders (*Insher v. Germany*) 267

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- 8 Empowering Migrants as Citizens 735
- 8.1 Claim to Nationality by Stateless Person (*Ramadan v. Malta*) 737
- 8.2 Access to Justice by Asylum Seekers (*Hirsi Jamaa and Others v. Italy*) 758
- 8.3 Family Life of Undocumented Migrants (*De Souza Ribeiro v. France*) 780
- 8.4 Health Care for terminally Ill-Foreigners (*S. J. v. Belgium*) 802

PART 3

The Methods of Human Rights Law

- 9 Judge-Made Law: Is the Case Law Coherent? 813
- 9.1 Principled v. Casuistic Reasoning (*Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania*) 815
- 9.2 Vertical v. Horizontal *Stare Decisis* (*Herrmann v. Germany*) 830
- 10 Strasbourg Consequential Orders: Words Blown against the Wind? 849
- 10.1 The Realm of Confusion: General, Individual and Mixed Orders (*Moreira Ferreira v. Portugal (no.2)*) 851
- 10.2 Just Satisfaction 2.o: Imposing Punitive Damages (*Cyprus v. Turkey (Article 41)*) 884

Table of Cases 905

Table of Treaties and Other International Documents 925

Bibliography 945

Index of Subjects 953

- 3-3 Prison Overcrowding Out of Control (*Mironovas and Others v. Lithuania*) 337
- 3-4 Mentally Ill Prisoners Languishing in Limbo (*Murray v. the Netherlands*) 351
- 4 Defending Society from Its Enemies 371
- 4-1 Racism and Anti-Semitism (*Vona v. Hungary*) 373
- 4-2 Trafficking of Human Beings (*J. and Others v. Austria*) 385
- 4-3 Domestic Violence (*Valiulienne v. Lithuania*) 425
- 4-4 Organized Crime and Terrorism (*Laguin and Others v. Russia*) 437
- 5 New Forms of Punishment 449
- 5-1 Lustration of Former Communists (*Sõro v. Estonia*) 451
- 5-2 Outsourcing Punishment to the Administration (*A. and B. v. Norway*) 470
- 5-3 Crimmigration of Young Migrants (*Abdullahi Elmi and Aweys Abubakar Elmi v. Malta*) 511
- 5-4 Dealing with Massive Crimes of the Past (*Mocanu and Others v. Romania*) 534
- 6 Promoting the Internet as the New Global Market of Ideas 551
- 6-1 The Public-Forum Doctrine Revisited (*Mouvement Raelien v. Switzerland*) 553
- 6-2 Surveillance of Usage of Internet in the Workplace (*Barbulescu v. Romania*) 578
- 6-3 Blocking Content in the Internet (*Yıldırım v. Turkey*) 595
- 6-4 Vicarious Liability for Hyperlinks (*Magyar Jeti ZRT v. Hungary*) 607
- 7 Defending the Foundations of the European Model of Social State (Sozialstaalichkeit) 619
- 7-1 Dismantling Labour Market in Times of Crisis (*Hrvatski liječnički sindikat v. Croatia*) 621
- 7-2 Public Health Care in Disruption (*Lopes de Sousa Fernandes v. Portugal*) 638
- 7-3 Unfair Access to University Education (*Tarantino and Others v. Italy*) 693
- 7-4 Ostracizing Social Subsidies-Dependent Families (*Garib v. the Netherlands*) 703

Foreword

As President of the European Court of Human Rights and friend and former judicial colleague of Judge Paulo Pinto de Albuquerque it is both an honour and a pleasure to provide this foreword. This volume, "The Progressive Development of International Human Rights Law", comprises a selection of the separate opinions of Judge Pinto de Albuquerque and show-cases their remarkable contribution to European human rights jurisprudence.

Judge Pinto de Albuquerque began his prestigious legal career as a domestic judge in Portugal sitting in various courts from 1992 to 2004. He received his doctorate in law from the Faculty of Law of the Catholic University of Lisbon in 2004 and was awarded a habilitation in 2011. Since 2015 he has been holding a full professorship at the same university. He has been a visiting professor at a number of law faculties across the globe, from China to Africa to the United States of America, as well as in a number of European countries. His publications are similarly international in flavour and too numerous even to summarise here. However, I would like to mention one recently edited book, "Commentary on the European Convention on Human Rights and its Additional Protocols", which followed a very prestigious congress on the European Convention on Human Rights. It was my great pleasure to attend this congress in June 2019. That edition itself spanning 3600 pages in three volumes gathers the texts of 140 authors.

Judge Pinto de Albuquerque's European judicial career began on 1 April 2011 and lasted nine years until the end of March 2020. He came to Strasbourg as the fourth Judge elected in respect of Portugal, directly following in the footsteps of Judge Ireneu Cabral Barreto. As Judge elected in respect of Greece, I have personally had the privilege of sitting on the judicial bench with him for a number of years within the same Section. During this period, I was able to appreciate his legal qualities and his devotion to the cause of human rights.

In September 2018 Judge Pinto de Albuquerque was elected by his peers to the post of Vice-President of one of the five sections of the Court. He was also elected by his colleagues as President of the most important internal committee of the Court, the Committee on the Rules of the Court, where he directed the work on several ground-breaking changes to the Rules of the Court and laid the foundations for an overall reform of this document. In addition to the institutional organization of the European Court, Judge Pinto de Albuquerque has always been very concerned with the legal status of the Judges of the Court. As a member of the Status Committee, he successfully prepared a major reform of the pension scheme of the Judges of the European Court, which was ultimately

approved by the plenary of the Court and the Committee of Ministers of the Council of Europe.

During his tenure as Judge at the European Court of Human Rights, he founded and presided over the Criminal Law Group in the Court, which hosted the most prominent European experts in several conferences at the Court and organized a detailed glossary on the concepts and expressions in criminal law and procedure more frequently used by the drafting lawyers of the Court, in order to unify their language. He was appointed successively by four presidents of the Court as focal point for the Court's network of international, supreme and constitutional courts from outside of Europe. In this capacity he contacted and established institutional relations with the highest courts from Angola, Brazil, China, India, Israel, Japan, Jordan, Mozambique, South Africa, South Korea and organised a number of very successful visits of delegations of judges from these courts to Strasbourg. Through this network, Judge Pinto de Albuquerque contributed significantly to the promotion of the European Court to the wider world. This work was acknowledged by the Government of Japan with the award of an official commendation for the establishment of the cooperation agreement between the European Court and the Supreme Court of Japan.

The admirable energy and dynamism with which Judge Pinto de Albuquerque has performed his judicial tasks within the European Court of Human Rights can be seen most clearly in the number and length of his separate opinions. In nine years in Strasbourg he authored and coauthored 151 opinions, which are frequently subjected to comments in the literature and on the internet.

This volume provides 34 such examples and is structured into three parts. Part 1 looks at the politics of human rights, which is defined as the relationship between the European Convention on Human Rights and international and constitutional law; Part 2 sets out various and varied human rights challenges, and finally Part 3 focuses on the method of human rights – how the Court goes about its decision-making. The very fact that the opinions can be grouped in this way shows the breadth and depth of their scope from prison conditions to the internet, from migrants' rights to public health care. If there is one leitmotif to these opinions, I would say that they cast the spotlight on the rights of the outsider in society. It is this empathy with the fate of the vulnerable individual which might be said to characterise Judge Pinto de Albuquerque's contribution to human rights law. Yet, over and above the individual case, the opinions in this volume also show a passion for demonstrating the crucial role that the European Court of Human Rights can and must play in shaping European societies.

Judge Pinto de Albuquerque's devotion to the cause of human rights led the Portuguese Lawyers Bar to award him the Lawyers Bar medal of honor. He has also been recognised for his outstanding contribution to social justice and the development of international human rights law with an honorary doctorate from the prestigious Edge Hill University, in the United Kingdom.

This volume falls at a very special time in our shared European history. 2019 marked the 70th anniversary of the Council of Europe and the 60th anniversary of the European Court of Human Rights; two remarkable achievements for fundamental rights protection in Europe. 2020 sees the 70th anniversary of the European Convention on Human Rights. Judge Pinto de Albuquerque's opinions demonstrate how uniquely relevant the Court's case-law remains.

Linos-Alexandre Sicilianos

President of the European Court of Human Rights (2019–2020)
Strasbourg, 1 May 2020