
Consequences of Violations of Common Constitutional Traditions of Member States by German Jurisprudence – The Widespread of Illegality All Over Europe and the World

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Abstract

Fair access to an independent judge and unbiased court all over the World has seemed to be obvious for tens of years. However, recent studies prove, how states do not fulfill this requirement, basic for constitutional traditions. Moreover, they took care of establishing mechanisms in European and international law that secure an automatic execution of judgments of national courts and thus abuse the good faith of all stakeholders in order to widespread the illegality anchored in national law all over the World.

Thus European and international law serve to deprive citizens of fair access to court. This constitutes a great friction in international law, that on the one hand foresees Human Rights and on the other hand it allows automatic execution of illegal judgments of one country in the entire World. The contradiction here is that the automatic execution of illegality anchored in one state runs to the automatic deprive of Human Rights all over the World.

It means that international law both guarantees the Human Right of fair access to court and hollows out this Human Right.

At the same time, mechanisms established in international law are missing that could help to deal with this contradiction.

The friction here is, that the widespread of the illegality occurs automatically – under abuse of national courts all over the World – and that the guarantee of the Human Rights' protection can solely occur on a case-by-case basis, by the European Court for Human Rights. However, there is no international court for Human Rights.

Keywords: the rule of law, separation of powers, unconstitutional plans on allocation of cases in German courts, access to court, judicial arbitrariness, eternity-clause, dependent judges, legal occupation, arbitrary application of law

1. Introduction

1.1 Introduce the Problem

The current paper presents the procedure of violations of Human Rights by German courts, an action that is attributed to the German state and proves, how Germany abuses international mechanisms in order to execute the illegality – having its origin in Germany – all over Europe and the entire World. According to newest studies solely some actors have access to the biased judge and the “independent” judge – as foreseen by German Basic Law [1] – does practically not exist. This means procedural violations of Human Right to fair trial, as foreseen by the European Convention on Human Rights.

Further the paper compares the applicability of the eternity clause of the German Basic Law in case of Human Rights and the budgetary control of Member State’s budget plans. It proves how Germany abuses European and international law by arbitrary applicability of the eternity clause and how the EU regulations are made – solely for the purpose of accomplishing with the interests of Germany, disrespecting all other stakeholders in the World.

The present research proves the arbitrary application of the eternity clause of the German constitution: the *ex ante* control of Member State’s budget plans vs. widespread of violations of fair access to court due to EU law and its goal it to address the international community on this arbitrariness.

2. Method

The present paper is based on the literature review as well as empirical study of existing practices of German courts.

In order to conduct the research I have examined literature on and plans on allocation of cases of German courts and its practices. I compared it with the German Federal laws, its Constitution and common constitutional traditions of Member States, European Union and international laws. The plans of courts and the national as well as international laws were the materials I used.

I have applied the study on unconstitutional plans on allocation of cases in German courts and its practices to automatic execution of their judgments all over the World.

In order to conduct a comparative study on the understanding of national sovereignty I have compared the legal situation regarding the practice in courts on Human Rights with *ex ante* control of national budgetary laws. I could determine a different practice regarding the applicability of eternity clause. While Germany observes it respecting budgetary control, it has created a system of disregard once it is about Human Rights. Moreover, with automatic execution of its judgments it has secured the widespread of German illegality all over the World.

3. Results and discussion

The present research proves the arbitrary application of the eternity clause of the German constitution: the *ex ante* control of Member State's budget plans vs. widespread of violations of fair access to court due to EU law and its goal it to address the international community on this arbitrariness.

3.1 Illegality of judgments of German courts due to violations of common constitutional traditions of Member States

The recent study accomplished an evidence and proved that procedures in front of German courts are not objective, since cases are allocated manually [2]. The Illegality of plans on allocation of cases in German courts does not meet criteria set up by the European Court of Human Rights [3].

The reviewed plans on allocation of cases of several German courts, some of them since 2021, brought the author to the conclusion that all plans on allocation of cases suffer from severe deficits regarding the Constitutional judge in terms of Article 101 German Basic Law [1] or – in terms of Human rights – the right on fair trial according to Art. 6 ECHR [4].

The plans on allocation of cases of German courts do not fulfill basic criteria set up by the German Federal Constitutional Court [5] or higher courts [6] on interpreting the provisions of German Federal law and the German Federal Constitution, what violates the process of fair trial.

The allocation of cases must occur based on abstract-general criteria and may not be concrete – or better – double concrete (certain case by certain judge, as judge named by name who is responsible for a certain procedure in front of respected court) [7]. The allocation of cases must occur in an abstract-general way. A clause foreseeing the distribution according to a certain decision of a given chamber does not meet the criterion of abstract-general distribution of cases [8]. The allocation of cases according to the last name of the person accused, may run to overload of some chambers [9]. Clauses must rule on the possibility to reach the court electronically [10]. Misleading clauses are unconstitutional [11].

According to article 6 para 3 of the Treaty on European Union [12] fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the European Union's law.

The Court of Justice of the European Union uses – in accordance with Article 6(3) of the Treaty on European Union – these shared national heritages to protect fundamental rights and shape EU legal standards since 1970 [13]. The concept was coined in 1949 for the Council of Europe (CoE) [14].

According to constitutional traditions of all Member States, the judges must be independent. However, in Germany the judges are dependent – for several reasons that I describe below (under I.1.).

The legal problem is that the illegal procedure in front of biased judge and unconstitutional court have been subject to execution under Hague Convention and the regulations as foreseen by European Union law (under II.2.).

German courts do not fulfill basic constitutional requirements (fair trial), common for constitutional traditions of all Member States and subsequently abuse the international law (Hague convention) and European Union law to execute their judgments.

This results in spread of the illegality of German system all over Europe.

Germany abuses the instruments of the Hague Convention and European Union law in order to execute illegal judgments of unconstitutional courts. This means that Member States' judges are instrumentalized in order to spread the law that violates national constitutions.

I propose solutions (under III.) that states, both Member States of the EU as well as Contracting Parties of Hague Convention must implement into national laws, by issuing directives to national courts not to execute judgments of German courts, since they violate constitutional traditions common to all Member States and thus the national *ordre public*.

3.1.1. Systematically dependent German judges

According to constitutional traditions of all Member States, the judges must be independent. However, in Germany the judges are dependent – for several reasons.

First, the state influenced offices of public prosecutor can determine, which judge to reach, what does not meet the criteria of abstract-general allocation of cases, since third parties influence the access to the “constitutional judge” (under I. 1.).

Second, state offices for Youth (as grounded during Nazi-time) influence the decisions of German judges – in accordance with constitutionally invalid German Federal law (under I.2.).

Third, judges manipulate the judicial procedures on their own, like for example during child's hearing in family courts. German judges in family matters are thus run by unknown factors and interests since they abuse children and children's hearings in order to let one parent (preferably incapable of education and raising of the child) to win the process. The manipulation is needed due to the fact that the parent incapable of education could not succeed in the procedures against the emotionally stable parent. The system of manipulation is directed towards raising children in violent households. This seems to be a part of German state policy (under I.3.).

a) The influence of public prosecutor offices on allocation of cases in German courts

One of the reasons of systematic illegality of judgments of German courts are invalid plans on allocation of cases. All German courts possess a manual system of allocation of cases between judges. These plans allow a.o. the state influenced offices of public prosecutor to determine, which judge they will reach with particular file.

This is how the offices of public prosecutor – as part of executive power of a state – influence the proceedings of the courts – a judicial process that in the light of German Basic Law – is supposed to be independent and obey solely the law. The German Basic Law foresees the principle of deviations of powers: legislative, executive and judicial powers in Article 20 Basic Law. The influence of executive power breaches the German Basic Law.

A state office may determine the “constitutional judge”, what does not meet the criteria of abstract-general allocation of cases, since third parties influence the access to the concrete “constitutional judge”. Moreover, citizens do not have the same access and they are thus deprived of fair access to courts. Citizens cannot manipulate the procedures in front of courts, as public prosecutor can do.

The procedures in front of German courts are not objective, since cases are allocated manually and citizens do not have an objective access to courts, what violates the Human Right for fair trial of Article 8 ECHR, since third parties may influence the court's proceedings – on a high scale.

b) Participation of state offices for youth (German: Jugendamt) grounded during Nazi time in Germany in court's proceedings according to German Federal law

The German legal system knows the institution of Office for Youth since the Nazi ruled in Germany. This state institution is thus part of German state policy, since almost 100 years. None of the legal orders of the Contracting states of European Union knows institution this kind (but Austria and Germany).

German codex on family law (FamFG) [15] foresees an obligation, put on family court, to hear the state Office for Youth during the court's proceedings. Obligations to hear this state Office for Youth, grounded during Nazi time, foresee § 162 para 1, § 194 para. 1 FamFG) or § 213 para. 1 FamFG. Formal participation of state Office for Youth as a party of a trial (!) in court's proceedings foresee § 162 para. 2, § 212 FamFG.

According to this Federal law and the practice of German family courts, judges in family matters ask – during the procedure – the representative of state Office for Youth about their opinion, on how to solve the particular case regarding the child. Subsequently, the judgment is based on this opinion. Federal law foresees the influence of executive power on judicial power.

This particularly means that German family courts are dependent, since they follow opinions of

representatives of state offices for Youth.

The participation of state Office for Youth in German court's proceedings violates the constitutional principal of deviation of powers. The German Basic Law foresees the principle of deviations of powers: legislative, executive and judicial powers in Article 20 Basic Law (Grundgesetz) [1]. The influence of executive power (state office for Youth) breaches the German Basic Law. Judicial power is supposed to be independent from state.

Here both the Federal law as well as the practice of German judges, who ask the representative of state Office about its opinion, during the hearing in court, are unconstitutional and thus illegal.

The German state policy violates fundamental rights (access to unbiased court, fair trial), human rights of the young ones and their parents.

c) Manipulations of children's hearings by German family courts

German family courts apply an illegal practice of manipulations of children's hearings.

German judges manipulate the hearings of children on a high scale. They ask the child about its will. 3 or 4 years old children are in courts. German judges conduct their hearings without a psychologist. They do it in proceedings, for instance regarding contacts of mother, grandmother, or sister of a few years old child. They do not ask about the will of an adult, but they do ask about the will of a child.

And the will of a child, as we all know, changes during a day for several times.

Nevertheless, the German judges ask a child about its will. Subsequently, the will of the child, expressed as a snapshot, in front of a person that it sees for the first time in his/her life (the judge), constitutes the only base for a judgment and – typically – exclusion of any contact of the foreign child with its family.

The will of child's constitutes the only factual base, a judgment is based on. There are no legal or rational arguments for taking such decisions, but the will of the child, expressed as a snapshot.

No family connections or ties, no family relationship matters for a German family judge.

The exclusion of contacts of family members with the child occurs thus with no legal reason. It means that children that small will surely forget their parent, maybe already after few months – a regular duration of a court's proceedings.

According to the German code on procedures in family law matters, the contacts of parents do serve the well-being of a child. The German legislature anchored it as a legal presumption.

Nevertheless, in practice, the German judges abuse the will of a child – expressed as a snapshot – in order to rebut the presumption of law.

Snapshot expressions of children have the power, to supersede the will of German legislature.¹

The strong will of German judges to manipulate children's hearings makes them dependent (on unknown interests).

A judge manipulating children's hearing and grounding its decision based on the child's will – a snapshot, expressed out of spite – is clearly biased, since the judge is unable to decide based on objective facts, just as family ties, relationships, common background, language, origin and so on.

The manipulation, as conducted by a German judge, may have two main reasons:

- it may act in favor of the violent parent, so that the child will stay in its household and be exposed to violence for next tens of years
- the judge may act in favor of its own interests or interests of his/her colleagues, so that the physically or sexually abused child will not be able to communicate with other family members and this way neither the child nor the family members will file compensation claims against the judge, the judge previously occupied with the case or the violent parent.

Once is thus clear: the manipulation of children's hearings does not serve the well-being of the child.

Thus, foreign und unknown interests run the judge towards manipulations and it thus does not decide the case objectively. The judge is dependent and biased in the particular case, once it conducts manipulations of child's hearing. It does not decide independent, but follows interests unknown for the code in proceedings in family law matters.

Decisions of German family courts are thus made without any connection to objective facts.

These manipulations are conducted in order to keep the given child in the violent household, so that it will not be able to contact other family members and speak about its experiences (of physical or sexual violence). At the same time, this child will stay forever in the violent household, since the judge will always manipulate the hearing, so that it can void its own responsibility for conducting crimes against the young ones.

German courts cause alienation of child from foreign family members. This estrangement – without an understandable reason – constitutes a breach of Art. 5 and 8 ECHR.

¹ At the point of view of the author, next step will be the introduction of a right to vote in elections for children. If a child can supersede the will of the legislature, based on studies, opinions of society expressed in legislative process, it must have the right to vote, of whom the legislature will consist. This way, the system will be perfect.

German courts want to erase the child's memory, as this was common practice of the German state in the past, during Nazi time. This is clearly directed against foreign nationalities, religions and cultures.

Children may be foreign citizens and – due to the lack of contacts with foreign family members – they forget the language and are assimilated by the German state.

According to the Federal State Statistic Office, German Offices for Youth take away children from foreigners, what constitutes racism.

This is a further proof for the statement that the German state policy did not change since almost 100 years, since Nazi regime has ruled in Germany.

German state offices invent imaginary stories in order to blame foreign family members for health problems of the child. They thus hurt the right of the foreigners for a fair trial. German courts cause alienation of child from parent. This alienation – without a reason – constitutes further breach of the ECHR – the right for family life in Article 5.

Moreover, German courts and Offices for Youth change their narrative during the judicial proceedings and further on they blame the foreigner, he/she would cause the delay.

All this practice proves that German courts are biased and the foreigners are thus deprived of constitutional judge in Germany.

It has a great impact on the international execution of judgments, (ab)using European and international law (Hague Convention).

3.1.2. International consequences of decisions of a biased national court

The German state policy violates systematically fundamental rights, human rights of the young ones and their parents, typically foreigners [16]. This reminds the German state practice, dated back to Nazi regime in Germany, almost 100 years ago.

The legal problem now is, that in the so called meanwhile the international community of states has created – in good faith, that Germany did change its old school methods and internationally disrespected “traditions” – international and European law, that foresees execution of judgments of national courts.

It means that illegality enacted by German courts (see above under I.) is widespread all over Europe and the entire World.

The automatic mechanisms created by European Union law (regulations Brussels II or IIa [17]) and international law (Hague Convention) [18] are being (ab)used in order to execute

systematically illegal judgments of German courts. Note, that it does not affect solely decision in family law matters. Moreover, also decisions in all civil and criminal cases are part of the systematic illegality.

The illegality due to unconstitutional violation of fundamental rights and basic principles of law, like access to independent judge, occurs due to 3 reasons (above under I). Subsequently the author discusses possible international consequences of these abusive and manipulative practice of German courts, as part of the German state power.

a) Illegality of plans on allocation of cases in German courts – international legal matters

The German law foresees a renewal of the court's proceedings, § 579 ZPO (German codex on proceedings in civil law [19]), a special law suit on declaring decisions taken for invalid, in case that the plan of allocation of cases in a court was unconstitutional or a biased judge was acting. Moreover, national laws of other countries also foresee a re-start of court's proceedings in case of a biased judge.

Illegal plan on allocation of cases in court constitutes reason to re-start old court's procedures and decide them from new on. The author has reviewed several plans on allocation of duties in more than 10 different German courts. None of them fulfills constitutional criteria, not even the German Constitutional Tribunal fulfills the criteria it set up on its own.

The author has raised several complains according to § 579 ZPO in front of at least 5 different courts in Germany. Its reasoning, based on concrete clauses, as found in the plans on allocation of cases in these respected courts, has been dismissed. The judges did not agree to reason with the illegality and deal with particular illegal clauses criticized. The judges rather quoted sources taken from literature, that obviously does not deal with the concrete clause in a certain plan of a given court.

Thus, the judges – knowingly – cover up the illegality of the plans of courts they are working based on. It clearly shows that German judges are not willing to apply laws, as they require it from others. A party has no chance to fight against the illegality of a certain judgment. German authorities disregard the valid law, since they represent the state and they thus just not follow the law. This is the exact wording, that German authorities use in their decisions.

However, neither the international law (Hague Convention [18]) nor the European Law (regulations Brussels IIa [17] and IIb [17]) contain provisions dealing with judges biased, due to illegal plans on allocation of cases in courts. This fact thus means an existing loophole.

Without a proper regulation on biased judges in international law – the illegality of German courts' decisions continues – also under international law. German courts abuse thus international law (Hague Convention as well as the European Union law) as well as courts of different states to execute their decisions, that have been issued in an illegal unconstitutional process.

The abuse of international law by German courts and judges means that the illegality of German decisions is being spread all over Europe and the entire World. This affects the Human right to fair trial, possible also right for family life.

German courts are not able to change their mind, in order to fulfill the constitutional criteria and guarantee the right to fair trial. They seem not to understand, that covering mistakes other public officers have done constitutes corruption – a normally criminal action, that is allowed in Germany due to the lack of a regulation in the criminal code.²

That is why, applicants must refer to ECHR. However, this constitutes a case-by-case solution that a citizen may apply against the systematic exclusion of Human Rights by German courts and state system. A legal fight against a system may be time-consuming.

b) Participation of state offices for Youth – grounded during Nazi time in Germany – in court's proceedings

International Treaties foresees the principle of deviations of powers: legislative, executive and judicial powers. Article 2 of the Treaty on European Union [12] also rules on deviation of powers. Thus the German family law codex breaches also the international law – the European Treaties.

Judges in German family courts hear the state office for Youth on their opinion, during court's proceedings (under I.2.). This situation is similar to a court working based on an illegal plan on allocation of cases. Because when an office participates and the court hears it regarding its opinion, the judge is dependent and not independent. The constitutional judge is biased, towards the state office (for Youth), that – what is statistically proven – discriminates foreigners.

The legal problem here is, that § 579 ZPO foresees a re-start of court's proceedings in a.o. 2 cases (above I.1. and II.1.).

§ 579 ZPO does not contain a ruling on the influence of State Office for Youth on court's proceedings. One thus must apply this provision analogue, since the legal loophole does exist.

However, this is not the only legal problem. Germany manipulated the international community. It first secured automatic execution of judgments of family courts – under abuse of international and European law. Subsequently it extended the competencies and powers of State Office for Youth, as it anchored the right to influence the judge in German code of proceedings in family matters, by this state office and thus part of executive power. The breach of the constitutional principle on deviation of state powers occurred after the international mechanisms securing automatic execution of (illegal) judgments were working well. And nobody seemed to notice.

² The German criminal code regulates solely financial advantage as a corruption. It does not regulate taking decision based on "relationships".

The common constitutional traditions of Member States of the European Union and the Contracting States of the Hague Convention require independent judges. The common constitutional traditions of Member States of the European Union and the Contracting States of the Hague Convention foresee the principle of the deviation of powers: judicial power may not be influenced by the executive power (state Offices for Youth).

The decisions of biased German judges – acting under the influence of State Office for Youth – are object of execution by means of international and European law.

The mechanisms created by European Union law (regulations Brussels II or IIa) and international law (Hague Convention) are being (ab)used in order to execute illegal judgments of German courts.

Moreover, this means that Member States' judges are instrumentalized in order to spread the law that violates national constitutions.

The illegality due to unconstitutional violations of fundamental rights and basic principles of law, like access to independent judge, occurs also due to hearing of a state office (executive) and letting it “lead” the judge, as a representative of justice.

c) Manipulations of children's hearings by German family courts

Manipulation of children's hearings constitutes a common German state practice (under I.3.). Also here, the biased judge, deciding solely according to the will of the child, expressed as a snapshot, violates the fundamental rights, since it disrespects objective facts, like the will, experience, family ties, emotional relationships of closest family members – basing its judgments solely on a snapshot expression of a child.

This alienation is not based on any objective facts and has the reasons described above (under I.3.).

Summing up, German (family) courts – working on unconstitutional code FamFG– developed an unconstitutional practice.

3.1.3. Solutions to heal the deficits resulting from systematic violations of constitutional traditions common to all Member States and the community of states

German national law, § 579 ZPO, foresees a re-start of court's proceedings in above mentioned cases: illegal plan on allocation of cases and biased, unconstitutional judge (due to manipulations he/she conducts).

National laws of other countries foresee a re-start of court's proceedings in case of a biased judge too.

However, neither the international law (Hague Convention) nor the European Law (regulations Brussels IIa) contains provisions dealing with judges biased, due to illegal plans on allocation of cases in courts or due to the common German state practice on manipulations of children's hearings or due to influence of state Office for Youth on judges during judicial proceedings. This means an existing loophole.

The German thus take advantage of the blindness of international and European Union law regarding the existence of systematic exclusion of fair access to courts, a fundamental right.

The author suggests 3 ways to deal with this phenomenon of systematic violation of Human Rights by German state system of illegality.

a) Solution: re-start of court's proceedings in case of a biased unconstitutional judge

National laws of states, Contracting Parties of Hague Convention as well as Member States of the European Union, foresee re-start of court's proceedings in case of a biased judge (acting based on an invalid, because unconstitutional plan on allocation of cases).

However, the Hague Convention and European Union Regulations (Brussels IIa) do not foresee this. International law must be interpreted and applied in the light of national legal orders. Otherwise both international and national laws are abused to enforce judgments of biased judges and courts acting based on constitutionally invalid plans on allocation of cases.

aa). Illegality of plans on allocation of cases in courts

The processes of the Hague Convention must be re-started due to the systematic illegality of plans on allocation of cases in German courts (above under I.1. and II.1.). A re-start of biased court's proceedings constitutes a common constitutional tradition – for all Member States. Each state, addressee of a given judicial execution order according to Hague Convention, must apply its national law on re-start of the process, in order to stop the illegality, as caused by German courts.

bb). Influence of a state office (executive) on judicial power

Moreover, a re-start of court's proceedings must occur due to the participation of state offices (Jugendamt grounded during Nazi time in Germany) in court's proceedings. The legal situation of a dependent judge, acting based on constitutionally invalid plans on allocation of cases, is similar, once a representative of a state office for Youth participates in the court's proceedings, according to – Federal law FamFG.

According to Federal law and the existing practice of German family courts, the judges actively ask the representative of these state offices, on how would they decide the given case.

Respecting the answer, the representative of state provides in front of the court, the judge files the judgment.

German judges in family matters are dependent on state offices – what makes them biased. All procedures in German family courts must be revoked, according to § 579 ZPO, that must be applied analogically, since it does not foresee a re-start of the process due to the influence of a representative of a state office for Youth. However, in these cases the courts are similarly biased, as if a biased judge would decide. The proceedings are illegal and must be re-started.

The strong will of German judges to manipulate children's hearings makes them dependent (on unknown interests) and constitutes a further reason to re-start court's proceedings. National judges of courts different than the German one must apply their national rules on re-start of procedures.

b) Solution: obligation of national court to ask for a preliminary rulings to European Court of Justice

National courts, different than the German ones, must ask the European Court of Justice in Luxemburg (doctrine „Foto Frost” [20]) on how to interpret national and European [12, 17] as well as international law [18] (preliminary ruling according to Article 267 Treaty on the Functioning of the European Union [21] in case that:

1. a German court has issued a judgment and a court of a different state is supposed to execute it. Because the proceedings are illegal due to unconstitutional plans on allocation of cases (above under I.1. and II.1.).³
2. the state office for Youth participated in court's proceedings and influenced the judge, what resulted in the lack of constitutional judge (above under I.2. and II.2.)
3. the judge manipulated child's hearing (above under I.3. and II.3.), it is biased towards unknown interests (different than the child's well-being).

The request for a preliminary ruling is necessary because the judicial power is supposed to be independent from state. And the European Court of Justice in Luxemburg must stop the illegal procedure of an systematic abuse of European and international law in order to execute unconstitutional judgments of German courts, that violate basic rights.

Moreover, the regulations Brussels II, IIa and II b were adopted in the procedure of informal trilogues, that serves bypassing of provisions of the Treaty [22]. This follows also from the inquiry of the European Ombudsman on the practice of conduct during trilogues [23].

c) Solution: Refusal to implement judgments of German courts due to violation of common traditions of Member States

³ The procedural mistake affect all cases and not only family matters.

German judges do not follow neither the national constitution, nor family law nor the European law. In particular cases, the author has referred cases of ECJ in Luxemburg regarding (international) family matters [24]. It did not convince the judge, although Germany is supposed to interpret the provisions of national law according to European law. This constitutes a further reason for biased judge.

Further solution is thus not to implement judgments of German courts in the respected national law, by issuing directives to national courts not to execute judgments of German courts, since and as long as they violate constitutional traditions common to all Member States (see above under I.1. – 3. and II.1. – 3.) and thus the national *ordre public*.

This would be the quickest solution, since preliminary ruling (solution III.2.) addressed to ECJ may take years and the re-start of proceedings (solution III.1.) would depend on the will of German judges, who are unable to change their judgments.

Because of the illegality of the work of German courts due to invalid plans on allocation of cases all kinds of judgments are invalid. That is why national courts must look for a quick solution in order not to widespread the illegality anchored in Germany's system towards their own countries, legal systems and citizens.

Moreover, German execute also judgments in general civil and criminal matters abroad – abusing the instruments under EU law, like regulations Brussels II, IIa or II b. In this regard, national judges must refuse the implementation, since the judgments are issued based on illegal plans on allocation of cases in German courts.

3.1.4. Applicability of the Statute of the International Criminal Court in The Hague

Germany abuses the instruments of the international law – the Hague Convention – in order to execute judgments of illegal German family courts – biased due to the hearing of State Offices for Youth during court's proceedings and manipulations of child's hearing – abroad. Foreign courts blindly follow German judgments, as they would be issued according to constitutional traditions of Member States and they are surely not.

a) Participation of state offices in judicial proceedings and a judge guided by unknown interests – as examples for the dependent judge due to violation of basic rights

In any other state of the World (but Germany and Austria) exists an office for Youth. These offices have been established in 1930 – the time, during which Nazis were ruling in Germany. German Family law codex (FamFG) foresees that these state offices – as an executive power – participate actively during judicial proceedings. However, according to German Basic Law (German: Grundgesetz), judges are supposed to be independent.

The influence of state offices for Youth on judges and judicial proceedings is thus anchored in law of a lower hierarchy (Federal family law codex) than the German Basic Law (constitution). The family law codex breaches the German constitution. Moreover, also EU law knows the principle of deviation of powers, as anchored in the Treaties. And that is why, the German FamFG also breaches the EU law – as international law.

The Hague Convention – as international law – did not foresee this kind of illegality, that occurs on a high scale and has reached to a level of a planned procedure. With other words, Germany abuses the instruments of international and European Union law in order to kidnap children – by “legal” methods as established by their own state system – by abusing courts and ministries of other states.

The principle on the rule of law and the deviation of powers between legislative, executive and judicial powers are part of every law study in 1. semester. Thus all judges in family courts as well as attorneys-at-law must have known that the German code on family law violates the German Basic Law and the Treaties of the European Union (deviation of powers).

This means the procedure of breaches of the German Basic law by all judges in family courts. The execution of the unconstitutional code on family law and of the judgments of German family courts has occurred by an abuse of international law – the Hague Convention.

Thus, the international law has been abused in order to execute unconstitutional German laws and judgments.

Since the execution by Hague Convention occurs by ministries of states – contracting parties of the Hague Convention – Germany abused both the state’s employees in the ministries as well as judges of these states to execute its illegal judgments.

The procedures according to the Hague Convention must thus be re-started all over the World.

b) The responsibility of German judges and public officers for war crimes for breaches of international law in the light of the Statue of the International Criminal Court in The Hague

Due to the knowledge that every graduate from law faculty in Germany must have on the constitutional principle on the deviation of powers, the international society must assume that the breaches of European and international Law by German judges occurred willingly (Latin: *dolus directus*).

The high scale procedure of the breaches of international law by German judges must have consequences for their responsibility – due to the international law. Neither the German Basic law nor any other law foresees responsibility of German judges. Thus, this is an existing loophole.

Since the high scale procedure and breaches of the Hague Convention constitute breaches of international law, one must look for international responsibility of German judges.

Breaches of international law by public officers result in crimes against humanity in the light of the statute of the International Criminal Court in The Hague.

Since the International Criminal Court in The Hague has issued an arrest warrant for Vladimir Putin and Maria Lvova-Belova, due to crimes against humanity (e.g. kidnapping of Ukrainian children), it is obliged – due to its own established practice – to issue arrest warrants for German judges at German family courts.

In the light of international law, Germany is still in the “state of war”, so that the judges in German family courts may commit war crimes, by issuing and executing illegal judgments.

The “state of war” in Germany exists since 1939, since there was not Freedom agreements after 1945 (the year that military occupation of European countries by Germany has ended).

In the 2-Plus-4 Treaty there is Part VI. Art. 1 of the Treaty Ruling on Questions Resulting from War and Occupation from 23.10.1954 contains a definition of a “freedom agreement”.

According to that, a “freedom agreement” is a “freedom agreement concluded between Germany and its previous enemies”. As “enemy” one understood all states, that were in state of war with Germany.

The 2-Plus-4 Treaty does not contain similar regulation. The 2-Plus-4 Treaty was concluded solely between 4 allies and 2 German states. Thus, there was no freedom agreement concluded after 1939, that would meet the requirements of a “freedom agreement”. In the light of international law, Germany is still in “the state of war”.

The German judges working based on unconstitutional Federal law (FamFG), illegal plans on allocation of cases in courts and unknown reasons for which they manipulate the children’s hearings, violate international law, during the “state of war”. That is why, they commit war crimes – in terms of the Statue of the International Criminal Court in the Hague.

The International Criminal Court in The Hague must – according to its established practice – consequently issue arrest warrants against Germany judges in family courts as well as employees of German state who have prepared illegal code on proceedings in family law matters. They have created the legal base for organized kidnapping of children.

3.1.5. Legal occupation vs. physical occupation and war reparations after legal occupation

After the 1945, 1949 Germany has issued a Basic Law, in which it anchored principles, widely accepted by the international Community of states.

However, in its law of lower hierarchy, like the plans on allocations of cases, Germany kept the old “traditions”, reaching out to 1930ies, as Nazis were ruling the country. Nazis were the German citizens, who were occupying Europe and started the World War 1939.

The occupation of countries all over Europe had many tragic aspects, one of them is surely the destruction of Jewish life in Europe that has never been restored again. Millions of people died in concentration camps established by German Nazis.

German Nazis were in fact physically in different countries, which citizens were trying to fight against the occupation a.o. by partisan movements and uprising. This was a typical physical occupation of countries.

Nowadays it is different. German studied their history lesson and decided not to invest their own money or soldiers in order to occupy territories of other countries.

It would be sufficient to instrumentalize judges, public officers of other countries (in Ministries of Justice) in order to execute illegal and unconstitutional judgments of German courts, making them collaborators (just as 1939 – 1945 during physical occupation). As stated above, Germany has created an international system of execution of its national illegal judgments.

The illegality results from constant and established breaches of the German Basic Law and international law by German laws of lower hierarchy, like the plans on allocations of cases in courts. They allow influence on judges, what makes them dependent, as one example [2].

The abuse of European and international law (Hague convention) to execute illegal and unconstitutional German judgments has reached to a high scale phenomenon – allowing to spread the German illegality all over the World.

For the execution of illegal judgments German need, however, objects, who would blindly follow their “rule of law”, having its origin during Nazi time in Germany. Without sending their own soldiers they would not be able to execute their judgments.

That is why, they instrumentalized judges and public officers of other states, who blindly follow the national-socialist rule of law.

Just as Nazis – German citizens – were occupying Europe and started 1939 the World War, the present German occupy legal systems of Member States of the European Union and Contracting States of the Hague Convention.

The high scale abuse of international law in order to execute unconstitutional judgments constitutes – from German point of view – an efficient solution, since other states pay for their judges and public officers and thus German can save these costs of workforce.

At the same time, other states and countries – just as they would be German soldiers – execute blindly the German judgments, follow the decisions that German made, since Germany advertises itself on the international area, this would be a state based on the “rule of law”. Of course, but the question is: whose rule of law?

The abuse of international instruments demands its own legal terms, due to its scale and the tens of years that it is in force.

The author thus suggests the term “legal occupation”. Germany occupies other countries legally, due to established mechanisms of international execution of their unconstitutional judgments and high scale abuse of workers (read: legally blind public officers) of other countries.

The judges and public officers in the ministries executing unconstitutional decisions of German courts are legally blind, since the principle of the rule of law and deviations of legislative, executive and judicial powers is topic of every law study, during 1. semester. Any student graduating from law study must know that participation of state offices during and their influence on judicial procedures violates the rule of law.

That is why, the judges and ministry workers let the German instrumentalize them, as they were blindly following the illegal judgments, against the basic knowledge as taught during every law study at every law faculty in every country – all over the World.

One must be tempted to ask the question of collaboration, during the legal occupation, just as there were collaborators during the physical occupation, during World War since 1939 until today.

3.1.6. War reparations after legal occupation

Common state practice was to pay reparations after a physical war. The author is tempted to raise the question of a duty to pay war reparations after legal occupation, as Germany conducted since tens of years on legal orders of Member States of the European Union and Contracting Parties of the Hague Convention.

After the abuse of mechanisms of European and international law, Germany made judges and ministry workers of other states work for them – in order to execute the illegal judgments of their courts. These people have actually been workers and citizens of other states, according to labor agreements.

Thus, once they have been instrumentalized for the purposes of execution of illegal judgments of German courts, Germany must pay them, as it did in the period immediately after 1945. Back then – after taking advantage of workers from other states and nationalities – German also paid.

1939 – 1945 the Nazi German forced the workers by physical violence to work in German

factories for their advantage. After 1945 German have forced the workers of other states by legal means, to work for their advantage. Due to the automatically applicable instruments of EU and international law, German did not need to hire their own people or apply physical violence towards other nationalities to work for them. Moreover, it perfectionized its tactic, since it reached the same goals (making many people work for them for free) by establishing and applying legal mechanism that served automatic execution of their judgments.⁴

3.1.7. The widespread of violations of Human Rights all over the World

The illegal practices, as described above, mean, that Germany violated Human Rights all over the World and that the workers of ministries of justice and judges of other countries have helped German to do so. It is worth noticing that the automatic execution of judgments of German courts occurred with disrespect of Human Right (fair trial).

The procedure of depriving citizens of fair access to courts violated the German constitution that foresees in Article 79 III the so called eternity clause. The eternity clause refers to Human Rights, as anchored in the German constitution, and it states that the Basic fundamental Rights, as fair access to courts, are guaranteed for the eternity.

However, what the author has proven [2], the fair access to courts in Germany does not exist in the practice.

Moreover, by automatic widespread of the decisions of German courts all over the World under abuse of Hague Convention [18] and EU law [17], Germany also deprives citizens of other countries of fair access to courts.

In fact, the eternity clause of the German Basic law is inapplicable in practice. It was and it is a principle laid down on a paper – a kind of a paper tiger with respect of fundamental Rights.

Summing up, respecting the widespread of illegality of decisions of German courts, automatic mechanisms of international and European law applied.

3.2. The arbitrary application of the eternity clause of the German constitution: the ex ante control of Member State's budget plans vs. widespread of violations of fair access to court due to EU law

However, once it is about the *ex ante* control of budgetary plans of Member States by the European Commission, the EU law knows the restraints of applicability of mechanisms that

⁴ Further questions: war reparations after legal occupation of the collaborating countries. Do also judges of collaborating countries must pay reparations, since they have been legally blind? Can a judge claim, that he did not know about a principle on deviations of powers that is part of every legal study during 1. semester?

foresee an automatic execution of decisions.

3.2.1. obligations to consult EU institutions on national law draft in the area of fiscal policy

From all the existing obligations to consult EU institutions on national law drafts that author could determine in EU law [25, 26], the EU has chosen the last effective one [27], as it was about the budgetary control of Member States. There are more effective obligations to consult EU institutions on national law drafts that foresee more influence of EU institutions on national legislative procedure [28]. However, knowing how the EU (and thus Two-Pack) comes into force [22, 23], one must assume, that solely some interests are represented in the EU legislative procedure, that affect the final version of any EU legal act.

The fact, that the EU legislature has chosen a little effective obligation to consult EU institutions on national draft laws in case of Two-Pack may be due to the circumstance, that obligations to consult EU institutions on national draft laws – as part of the coordination policy – in fact serve the harmonization of Member State's laws [28, 29].

However, the existing control mechanisms have proven inefficient respecting the structural balance rule and the expenditure rule (due to non-observance of fiscal violations of countries regarding) [30]. Due to the ineffectiveness of the mechanisms in regard of these 2 budgetary rules, one must consider implementing further measures.

Further measures (that could be more effective on the structural balance rule and the expenditure rule) would require changes in national Constitutions.

In German Basic Law, the procedure of issuing a budgetary law is however included in the eternity clause. Thus the Basic Law in regard of budget law may not be changed, due to the eternity clause.

And without a change of national Basic Law or Constitutions of other Member States the *ex ante* control of budgetary plans – as foreseen by Two-Pack – does not fulfill its goals. At the same time, the change of national constitutions would cause a violation of national sovereignty.

This means that without a violation of national sovereignty no effective control of Member States' budgetary laws or plans is possible.

3.2.2. Restraints to Member State's sovereignty by Two-Pack

The present Two-Pack [31] and the *ex ante* control of budgetary plans by the European Commission already bring restraints to budgetary sovereignty of Member States, without fulfilling its goals.

Ex ante control of Member State's budgetary plans seems to be a paper tiger, due to:

- no effect on the structural balance rule and the expenditure rule due to the non-observance of

these rules by states

- no further possibility to extend the existing mechanisms of budgetary control due to national sovereignty over budget laws
- only diplomatic measures as mechanisms to follow Commission's recommendations are possible [32]. The EU Commission has no legal means that could support the compliance with its recommendations.

On the one hand, the mechanisms as established by Two-Pack are not effective, as planned, while on the other hand, the control of Members States' budgetary plans serves the bypassing of national constitutions. Because the Members States' constitutions refer solely to budgetary laws.

The problem is that national budgetary plans must be a part of national legislative process on budget laws. National constitutions do not foresee a plan on budgetary law, but solely budget law. That is why the control of a plan by the EU institution – as established by Two-Pack – interferes with the legislative process of Member States on budget laws. This constitutes already a break of national sovereignty. Because national constitutions do not foresee a draft of a budget plan. And – in the light of Two-Pack – Member States must notify plans of budget to EU institution and wait with the legislative procedure on budget law until this EU institution issues recommendations towards this notified plan.

The European Union Regulations require the notification of a plan – what should be a part or a draft of national budgetary law.

Such a plan or a draft must be understood as a draft budgetary law itself. Solely its name differs, in order to enable the establishment of new competencies of EU institutions towards national legislature. Thus, the EU regulation bypasses the wording, as chosen by national constitutions in order to gain more information about national budgetary policies and – at the end of the day – more competencies.

The problem here is that this bypassing constitutes a broad interpretation of the term “budgetary laws” and a broad interpretation – regarding the competencies – is not legal.

National constitutions do not know the term “budgetary plan”. This term is anchored solely in the EU law – Two-Pack and Six-Pack.

That is why, the EU law establishes new legal terms and commits the Member States to draft budget plans – during the national legislative procedures on budgetary laws. Thus Member States are obliged to change their procedures on budgetary laws in order to be able to notify the budget plan according to EU law – the Two-Pack Regulation.

EU law commits Member States to establish new instruments during legislative procedures on national budgetary laws. That is why, Two-Pack already violates the national autonomy and thus sovereignty on national budgetary laws that may not be issued without an *ex ante* notification of

national budget plan.

This is how the EU law influences national laws that must foresee the legal term “budget plan”. The national legislative proceedings on budgetary plans – as part of national sovereignty – may not continue without the prior notification to the EU institution.

Member States must prepare budget plans based on Two-Pack – an EU regulation – without a legal base in national constitutions or national laws. Thus national laws and constitutions are hollowed due to EU regulations – Two-Pack. Because the only legal base to establish national budget plans is anchored in Two-Pack – an EU regulation with direct effect.

3.2.3. National sovereignty here or there – whatever – Chapeau on the arbitrariness!

Due to the national sovereignty there are no further mechanisms foreseeing deeper control of Member State’s budgetary plans and the control existing has proven inefficient.

Constraints regarding the *ex ante* control of national budgetary laws due to national sovereignty seem to be unique. The national sovereignty of Member States respecting budgetary laws is laid down in the national constitutions (for example German Basic law).

This part – regarding the budgetary sovereignty – is considered to be the untouched part of the Basic law, that may never be changed, the so called eternity clause.

However, also fundamental freedoms and basic rights constitute a part of the German constitutional regulations, comprised by the so called eternity clause⁵.

The illegality of judgments of German courts [2] does violate fundamental rights, as guaranteed by the German Basic Law and the eternity clause. The access to an unbiased judge is a fundamental right.

The German legal order and German courts do not guarantee this access due to illegality of plans on allocation of cases in German courts as well as the influence that public offices – as part of executive (office for Youth) – can and may exercise on, read: influence German judges.

It is worth consideration, why the German Basic law must be respected, while it is about budgetary sovereignty and it may be disrespected, once it is about fundamental rights of German citizens and foreign citizens.

Once we compare the illegal execution of judgments of German family courts, while the illegality is widespread, there are no control mechanisms.

National sovereignty (Human Rights) does not seem to matter once illegal judgments of German

⁵ German: Ewigkeitsgarantie.

(family) courts are supposed to be executed automatically under abuse of international and European law.

It seems like the EU and international law have just been made so that the automatic execution of judgments of German courts can occur.

3.2.4. Comparison of the restraints regarding budgetary sovereignty and fundamental rights

Thus, the control, as established by EU Regulations Two-Pack, does not fulfill its goals (the on-going non-observance of 2 budgetary rules) and any further mechanism extending the control of Member State's budgetary plans cannot be feasible due to restraints such as national sovereignty and the eternity clause.

However, the restraints of the eternity clause of German Basic Law seem do not have meaning, once it is about a systematic violation of fundamental rights. Moreover, judgments based on the illegality of Federal law and illegal plans on allocation of cases in courts as well as judgments base on high-scale manipulations of children's hearings are executed automatically – abusing international law and European law.

C. The double or triple illegality in case of automatic execution of judgments of German courts under abuse of EU law and international law

However, not only the automatic execution of judgments of German courts based on international and European law is illegal – due to constitutional illegality anchored in the German system.

Moreover, the process of entering into force of respected EU law suffers from enormous democratic deficits – in 95% of EU legal acts the ordinary legislative procedures is bypassed by the EU institutions [22, 23]. One may be tempted to speak about *ultra vires* of EU institutions, since they do not follow the wording of the Treaties.

On the top of it, one must consider the influence of diplomacy on coming into force of EU legal acts (like Two-Pack or Brussels II, IIa or IIb Regulations) [17, 32]. The diplomacy during the legislative procedure of the European Union means that the negotiations on EU legal acts, which have direct effect in all Member States, are not available for the public. It constitutes a clear discrepancy, that law which has direct effect in 27 states – subjects of international law – does not come into force solely in an open legislative and thus democratic process, but is rather subordinated to diplomatic measures and interests. The influence of diplomacy means that the legislative process on every legal act of the European Union escapes the understanding of 452 Millions of citizens.

It means that all EU legal acts come into force in an – for politics – intransparent and – for lawyers – undemocratic process.

Since the EU is unable to create and practice democratic process of legislation, since years, one must assume that the EU legal acts and regulations come into force illegally and thus suffer from severe deficits on their own.

EU regulations, like Two-Pack or Brussels II, IIa or IIb, come into force according to undemocratic mechanisms ruling the ordinary legislative procedure of the European Union [31, 22, 23].

Since national judges are blind towards the illegality, they apply EU legal acts just as they would come into force according to democratic standards.

This means that EU legal acts, that serve to automatic execution of illegal judgments of German courts, suffer from democratic deficits.

What the author has proven, also the judgments of German courts are illegal, since they violate fundamental rights of citizens.

That is why, the author of the present paper would like to coin the new term of double or triple illegality.

Further question is, when a double and when a triple illegality occurs. It thus depends on the case in question.

Double illegality means the illegal process of coming into force of an legal act, i.e. EU Regulation and its execution, speak application. An example for double illegality could constitute for instance Two-Pack (its coming into force during informal trilogues – as 1.) and its application towards national budgetary plans (according to its wording)⁶ and (in fact!) its application towards national budgetary laws (as 2.). Two sources of illegality constitute the failures during the EU legislative procedure and its application towards national law (and not national budgetary plan!), that should be free from any influence due to the Constitutional restraints (like the German eternity clause), since national budgetary laws are part of national sovereignty.

Triple illegality is present when the EU law, that came into force illegally (1.), is applied (by legally blind judges of Member States), who disrespect their duty according to “Foto-Frost” doctrine (2.), in order to execute illegal judgment of a German court.

An illegal judgments of a German court can be based for instance on an illegal plan on allocation of cases, which violates Federal Constitution or other Federal laws (§ 579 German ZPO) (3.a) or the illegal judgment of a German court is based on unconstitutional Federal law (FamFG) (3.b),

⁶ The wording – as anchored in EU law – “budgetary plan” serves to bypass the influence of the given EU regulation on national budgetary law. The bypassing of national legislative procedure by tricky wording in the EU law thus hollows the national Constitutional requirements, since its establishes new influence on the national legislative procedure.

which violates Federal Constitution, once the court participates the office for youth.

The judgment of a German family court can further be illegal due to manipulations of children's hearings that the court conducts due to unknown reasons. This constitutes further illegality, which violates Federal Constitution (3.c). Thus a judgment of a German family court can suffer from several reasons from illegality. Both the Federal law as well as the practice of German judges, who ask the representative of state Office about its opinion, during the hearing in court, or manipulate children's hearings, can run to unconstitutionality and thus illegality of a judgment. One could also be tempted to speak about quadruple or fivefold illegality. However, it is only one judgment of a court that suffers from several forms of illegality.

D. Interdependence of *ex ante* establishment of national institutions and *ex post* adoption of European and international law

The EU regulations (Brussels II and IIa [17]) refers to Hague Convention from 1980 in article 9. The regulation Brussels IIa came into force in the procedure of informal trilogues. The coming into force during informal trilogues constitutes a source of illegality [22]. Because the informal trilogues bypass the Treaty provisions.

Article 194 para 10 TFEU foresees a formal trilogue.

EU Treaties do not foresee informal trilogues. The EU institutions invented the procedure of informal trilogues, they agree to work on it and they thus admit committing [23] breaches of the EU law, on a mass scale since 1998.

Also the regulation Brussels IIa came into force in the process of informal trilogues. With this illegal regulation⁷, automatic execution of judgments of courts – also in cases of Hague Convention – has been established.

This constitutes an example for triple illegality. Triple illegality is present when the EU law, that came into force illegally (1.), is applied (by legally blind judges of Member States), who disrespect their duty according to “Foto-Frost” doctrine (2.) and do not address a preliminary question do ECJ on the legality of EU legal acts, instead, they execute illegal judgment of a German court.

An illegal judgment of a German court can be based for instance on an illegal plan on allocation of cases, which violates Federal Constitution or other Federal laws (§ 579 German ZPO) (3.a) or the illegal judgment of a German court is based on unconstitutional Federal law (FamFG) (3.b), which violates Federal Constitution, once the court participates the office for youth in its procedure.

However, this is not the only legal problem. Germany manipulated the international community. It first grounded offices for youth (during the time, as Nazis were ruling Germany).

⁷ Which was adopted in the procedure of informal trilogues, under breaches of EU Treaties.

1980 Germany has secured automatic execution of judgments of family courts⁸ – under abuse of international law (Hague Convention).

Subsequently the European Union issued European law (Brussels IIa regulation), that refer to international law.

Subsequently it extended the competencies and powers of State Office for Youth, as it anchored the right to influence the judge in German code of proceedings in family matters, by this state office and thus part of executive power. The breach of the constitutional principle on deviation of state powers occurred after the international mechanisms securing automatic execution of (illegal) judgments were working well. And nobody seemed to notice.

With other words:

Ex ante Germany grounded national offices for youth, during Nazi time. It was thus an institutional change – an office was created.

Subsequently, *ex post*, international and European mechanisms of automatic execution of national laws were created.

Further, also *ex post*, national law (FamFG 2009) extended the competencies of a state office for youth – *ex ante* established institution.

The interdependence of *ex ante* and *ex post* actions and changes in law as well as institutions has created the illegality.

National illegality *ex post* (influence of state office for youth on court's procedures and judges) to international automatic execution of illegal judgments of German courts, that was secured *ex ante*.

Ex post establishment of international law mechanisms in order to execute national triple illegality automatically.

The illegal interdependence results from *ex ante* establishment of national triple illegality and an *ex post* abuse of mechanisms of international law. Plus *ex post* and *ex ante*.

The legal matter is here: how can EU law (Brussels IIa) refer to an international agreement (Hague Convention)?

It thus constitutes a breach of the international law – Hague Convention.

⁸ Due to manipulations as conducted by judges in family matters or the fact that courts work based on unconstitutional plans on allocation of cases.

The Contracting Parties of the Hague Convention agreed on a document and a mechanism 1980. The provisions have been transposed to national legal orders by national laws, according to national constitutions.

Since EU law – Brussels II a – refers this international contract, it breaches the will of Contracting States of the Hague Convention and constitutes an excessive implementation.

The legal problem is here, that EU law established the reference to Hague Convention subsequently – without an agreement of Contracting States of the Hague Convention.

It breaches the will of Contracting States of the Hague Convention and thus constitutes an abuse of international law – Hague Convention – by illegal EU law (which came into force in the process of informal tilogues).

The Contracting States of the Hague Convention agreed on mechanisms, as anchored in this international agreement, and abusing it by further mechanisms of illegal EU law, creates a distortion of mechanisms, as agreed and introduced by the Hague Convention itself.

The abuse of Hague Convention is due to the fact, that Contracting States did not foresee that its mechanisms will be abused by European law and illegal German law (triple illegality) [2].

The problem is here, that Germany first established offices for youth, during Nazi time.

Subsequently Germany took part in adoption of Hague Convention.

Subsequently Germany took part in reference, established in EU law, towards Hague Convention.

And subsequently Germany extended the competence of offices for youth, established in Nazi time, at the moment in time, when the execution of judgments of German courts has been secured by mechanisms of international and European law.

Thus Germany has manipulated the international community for several times, implementing possibilities of triple illegality of judgments of their courts all over Europe and World.

E. Conclusion regarding high scale hollow out of Human Rights and Fundamental freedoms by German system

The principles regarding fundamental and thus Human rights and the eternity clause – as laid down in the German Basic Law – are a beautiful topic for a good night story. They seem to secure a calm sleep, possible rest and a life free from violations of the rule of law.

However, they are hollowed out by the rules of lower hierarchy – what is not visible for the first sight. It is possible to conduct the appropriate proof by an enormous amount of workload. The statutes of courts, on which the courts base their work are unconstitutional.

The plans on allocation of cases in German courts constitute statutory law – a legal source the lowest in the hierarchy of legal acts in a democratic state. And they do have the legal power to hollow out the constitutional principles.

The German state may well know it. It means that the inapplicability of constitutional principles constitutes a state-directed procedure. No one would care if the illegality would stay there, where it has its source.

However, under the abuse of internationally granted mechanisms the German illegality is widespread all over the World.

It means that international law both guarantees the Human Right of fair access to court and hollows out this Human Right – by implementing mechanisms, that secure automatic execution of illegal judgments.

At the same time, mechanisms established in international law are missing that could help to deal with this contradiction. The legal friction is here that once the illegality is widespread automatically, citizens are made to protect their fundamental rights on a case by case basis. At the same time, legal mechanisms or organizations are missing who could help in an appropriate – read: automatic – way.

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Magdalena Katz: Conceptualization, Resources, Methodology.

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References

Federal Ministry for Justice and Consumer Protection as well as Federal Office for Justice (German: Bundesministerium der Justiz und für Verbraucherschutz und das Bundesamt für Justiz), Federal Constitution (German: Grundgesetz), <https://www.gesetze-im-internet.de/gg/BJNR000010949.html> (last accessed 5.8.2026).

Magdalena Katz, Illegal Clauses on Allocation of Cases in German Courts – As an Example of Judicial Arbitrariness, *International Journal of Law and Society*, 2026, Vol. 9, No. 2, pp. 224 – 233, <https://doi.org/10.11648/j.ijls.202660902.18>.

pending case No. 23712/24, Olszewski./Poland.

European Convention on Human Rights, as amended by Protocols Nos. 11, 14 and 15 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16 (<https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=005>).

Federal Constitutional Court, decision from 23.12.2016 – 2 BvR 2023/16, BeckRS 2016, 111809: 31; Federal Constitutional Court, decision from 20.2.2018 – 2 BvR 2675/17, *Neue Juristische Wochenschrift* 2018, 1155.

Federal Highest Court (German: Bundesgerichtshof), decision from 16.6.2021 – StB 25 and 26/21, *Neue Zeitschrift für Strafrecht* 2021, 761

- District Court Karlsruhe (German: Oberlandesgericht Karlsruhe), judgment from 26.7.2012 – 9 U 204/11, No. 3, p. 440
- Federal Highest Court (German: Bundesgerichtshof), judgement from 16.10.2006 – IX ZR 183/06, *Neue Juristische Wochenschrift* 2009, 1351, 1352
- Administrative Tribunal Munich (German: Verwaltungsgerichtshof Muenchen), judgment from 16.9.2021 – 13 a ZB 21.30046, *Neue Zeitschrift für Verwaltungsrecht Rechtsprechungs-Report*.
- Federal Highest Court (German: Bundesgerichtshof), judgment from 8.2.1955 – 5 StR 561/54, *Neue Juristische Wochenschrift* 1955, 680.
- Federal Highest Court (German: Bundesgerichtshof), judgment from 24.10.1973 – 2 StR 613/72, *Neue Juristische Wochenschrift* 1974, 109.
- Federal Constitutional Court, decision from 23.12.2016 – 2 BvR 2023/16, BeckRS 2016, 111809: 31.
- Federal Constitutional Court, decision from 20.2.2018 – 2 BvR 2675/17, *Neue Juristische Wochenschrift* 2018, 1155.
- Federal Highest Court (German: Bundesgerichtshof), decision from 16.6.2021 – StB 25 and 26/21, *Neue Zeitschrift für Strafrecht* 2021, 761.
- Federal Highest Court (German: Bundesgerichtshof), decision from 16.6.2021 – StB 25 and 26/21, *Neue Zeitschrift für Strafrecht* 2021, 761.
- District Court Karlsruhe (German: Oberlandesgericht Karlsruhe), judgment from 26.7.2012 – 9 U 204/11, No. 3, p. 440.
- Consolidated version of the Treaty on European Union, OJ C 326, 26.10.2012, pp. 13–390, http://data.europa.eu/eli/treaty/teu_2012/oj.
- Case 11/70 Internationale Handelsgesellschaft ECLI:EU:C:1970:114.
- Ziller, Jacques, Common Constitutional Traditions (March 22, 2023), in: Besselink, Lupo, Wendel, *Research Handbook of European Constitutional Law*, Edward Elgar, 2023, Forthcoming, Available at SSRN: <https://ssrn.com/abstract=4404157>
- Federal Ministry for Justice and Consumer Protection as well as Federal Office for Justice (German: Bundesministerium der Justiz und für Verbraucherschutz und das Bundesamt für Justiz), German codex on proceedings in family law cases as well as in matters of non-contentious jurisdiction (German: Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG), <https://www.gesetze-im-internet.de/famfg/BJNR258700008.html>.
- A request of “Die Linke” towards the Federal Government, German Parliament, No. 20/8187, 31.8.2023 (<https://dserver.bundestag.de/btd/20/081/2008187.pdf>), providing for statistical data from Federal Office for Statistic.
- Council Regulation 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast), OJ L 178, 2.7.2019, pp. 1 – 115, <http://data.europa.eu/eli/reg/2019/1111/oj>
- Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (<https://www.hcch.net/en/instruments/conventions/full-text/?cid=24>)

- Federal Ministry for Justice and Consumer Protection as well as Federal Office for Justice (German: Bundesministerium der Justiz und für Verbraucherschutz und das Bundesamt für Justiz), German codex on proceedings in civil law (German: Zivilprozessordnung), <https://www.gesetze-im-internet.de/zpo/>.
- ECJ, ruling from 22.10.1987, C-314/85 (Foto-Frost).
- Treaty on the Functioning of the European Union, Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012, pp. 47–390, http://data.europa.eu/eli/treaty/tfeu_2012/oj.
- EU-Regulations that came into force during informal trilogues, like 95% of EU legislation, came into force by bypassing the formal Treaty rules; compare: Skowron M., Secrecy During the Ordinary Legislative Procedure of the European Union: The Legal Dimension, *European Public Law*, Volume 29, Issue 2 (2023) pp. 219 – 248, <https://doi.org/10.54648/euro202301>
- <https://www.ombudsman.europa.eu/en/activities/speech.faces/en/60991/html.bookmark>;
<https://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/61591/html.bookmark>;
<https://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/61592/html.bookmark>;
<https://www.ombudsman.europa.eu/en/cases/correspondence.faces/en/61590/html.bookmark>;
Press release no. 9/2016;
<https://www.ombudsman.europa.eu/en/press/release.faces/en/69214/html.bookmark>
- ECJ, decision from 31.5.2018 – C-335/17 (Neli Valcheva/Georgios Babanarakis).
- Skowron-Kadayer M., Obligations to consult EU institutions on national draft laws, A dogmatic analysis, *European Review*, 28.2.2020, 343 – 356, <https://doi.org/10.1017/S1062798719000474>
- Skowron-Kadayer M. (2018) Die Beteiligung der Organe Europäischen Union an der Rechtsetzung der Mitgliedstaaten [The participation of the EU institutions in national legislative procedures]. C. H. Beck, Warsaw.
- Katz M., Few Remarks on the Duty to Notify National Law Drafts to a European institution, *Journal of Political Science and International Relations*, 2026, Vol. 9, No. 2, pp. 122-129, <https://doi.org/10.11648/j.jpsir.20260902.12>.
- Skowron-Kadayer, M. Effet utile du contrôle préventif by hybrid legislative procedures, *European Review*, 28.3.2020, pp. 470 – 482, <https://doi.org/10.1017/S1062798719000607>.
- Skowron-Kadayer M., Selective harmonization impact of the coordination policy, *European Review*, 28.4./2020, pp. 693 – 706, DOI: <https://doi.org/10.1017/S1062798720000149>
- Magdalena Katz, Enhancing Stability and Compliance in the Eurozone by Fiscal Policy Measures, *International and Public Affairs*, 2026, Vol. 10, No. 1, pp. 39–47, <https://doi.org/10.11648/j.ipa.20261001.15>.
- Regulation (EU) No 473/2013 of the European Parliament and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area, OJ L 140, 27.5.2013, p. 11–23.

Katz, M. The EU as an Area of Freedom, Security and ... Diplomacy, 23rd Annual International Conference on Law, 13-18 July 2026, Athens, Greece: Abstract Book, p. 49 (available at: <https://www.atiner.gr/abstracts/2026ABST-LAW.pdf>), Katz M., The European Union as an Area of Freedom, Security and ... Diplomacy ([Forthcoming Paper of the Athens Journal of Law | Academic Journals](#)). National court apply EU law in order to execute decisions of German courts. Before the application of EU law, national courts must ask ECJ for a preliminary ruling