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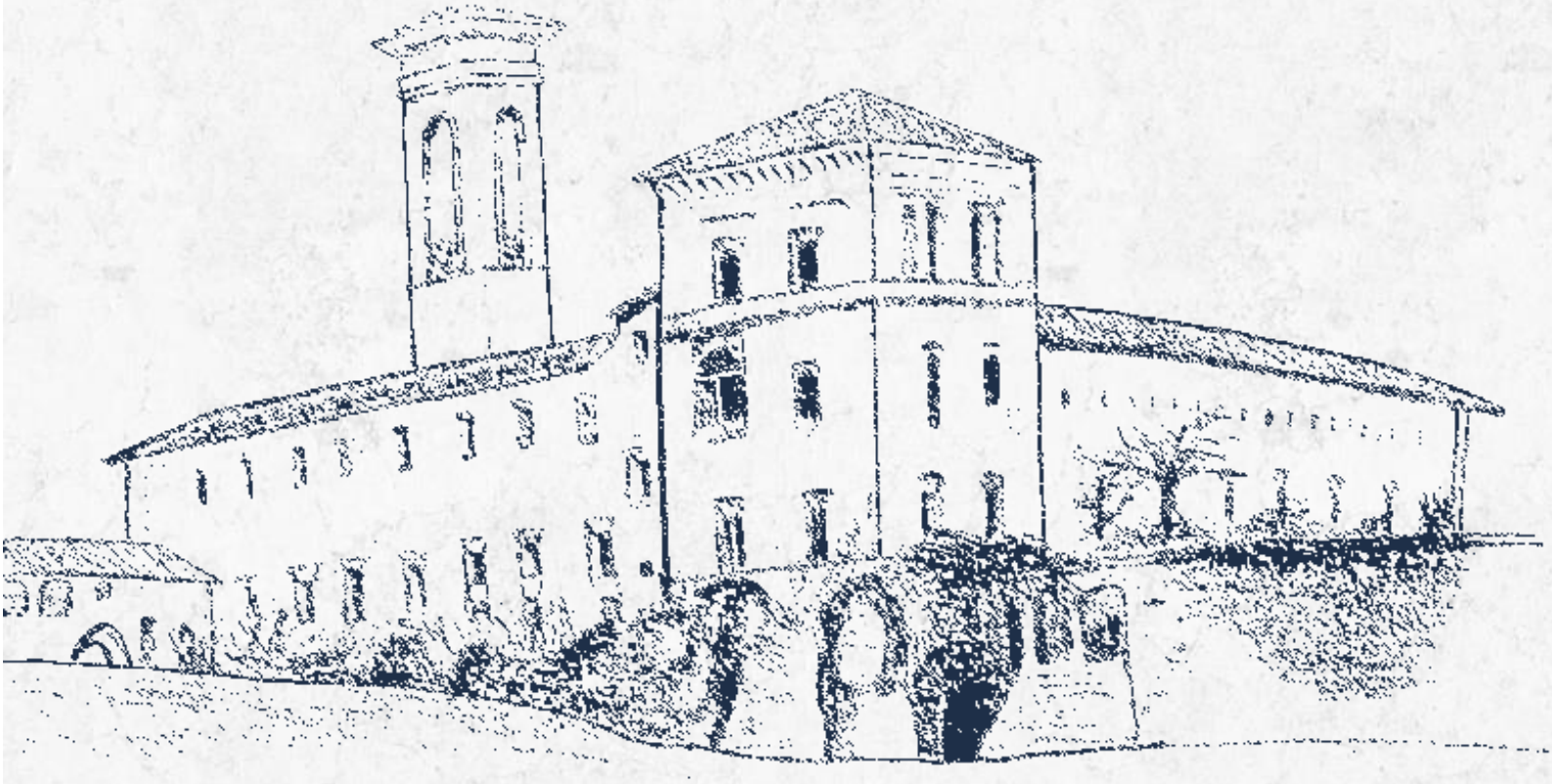

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Potential of the European Convention on Human Rights in the field of Wage Protection

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Abstract Purpose. The research was undertaken to estimate the perspectives of wage claims under the ECHR and investigate whether the provisions of the Convention might be referred to in the claim for decent wage.
Design/methodology/approach. The paper investigated the approach of the European Court of Human Rights to wage claims (non-payment, reduction or deductions from wages), considering relevant case law under the article 1 of Protocol 1(property rights) and article 3 (degrading treatment) of the ECHR.
Findings. The Court perceives salary as a payment which is protected under Article 1 of the Protocol 1. Such approach entitles employees to bring claims on the lack of payment before the ECtHR, as well as claims on the reduction of wages or excessive deductions. It was also established that the ECHR contains certain prerequisites for a potential claim concerning an employee's right to decent wage.
Research limitations/implications. The paper contributes to the discussion about the impact of international human rights instruments upon labour law.
Originality/value. The author draws attention to the potential applicability of the ECHR in cases of wage protection, concerning the right to decent wage in particular.
Paper type. Research paper.

Keywords: *Labour Law, European Court of Human Rights, Decent Wage, Human Rights.*

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1. Introduction

The gradual expansion of the European Convention on Human Rights over certain rights at work, such as the right to collective bargaining, the right to strike and the right to privacy has become evident in recent years. There are many publications researching relevant ECtHR's case law which demonstrate the growing value of the ECHR for employment law.[2]
In this paper, I would like to reflect upon the potential of the Convention in the field of wage protection, which was little researched to the present moment. This analysis will be based on the review of decisions and judgments of Strasbourg bodies (former European Commission of Human Rights and the ECtHR), bearing in mind the Court's practice of referring to European consensus when establishing new standards of human rights protection and to other sources of International law, as supporting the legitimacy of the Court's expansive interpretation of Convention rights.
The main research hypothesis is the potential applicability of the ECHR in cases of wage protection, concerning the right to decent wage in particular. The paper's structure is designed firstly to provide the analysis of Strasbourg case law on wage protection and secondly to substantiate further expansion of the ECHR over matters of decent wage.

2. The Protection of Wages: Current Cases and Perspectives

Article 1 of Protocol 1 to the ECHR ("**A1P1**") provides:

> *Protection of property:*
> *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by*

[2] See, for example, contribution to F.Dorssemont, K.Lörcher, I.Schömann (eds), *The European Convention on Human Rights and the employment relation,* Oxford, Hart Publishing, 2013; H. Collins, *Theories of Rights as Justifications for Labour Law*, in G Davidov and B Langillc (eds), The Idea of Labour Law, Oxford, OUP, 2011, 137-155; V. Mantouualou, *The Protection of the Right to Work through the European Convention on Human Rights*, Cambridge Yearbook of European Legal Studies, 16 (2013-2014); V. Mantouvalou, *Labour Rights in the European Convention on Human Rights: An Intellectual Justification for an Integrated Approach to Interpretation*, Human Rights Law Review, 13.3, 2013, 529-555; J.-P Marguenaud. et J. Mouly, *Le droit de gagner sa vie par le travail devant la Cour europeenne des droits de I'homme*, Recueil Dalloz, 2006, 182; D. Feldman, *The developing scope of Article 8 of the European Convention on Human Rights,* European Human Rights Law Review, 1997, 265.

law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

2.1. General Approach to the Protection of Possessions under A1P1

As the provisions of A1P1 do not contain any definition of "possessions", it must be explained how the Strasbourg bodies perceive this term. As early as in the *Marckx* case, the ECtHR acknowledged that A1P1 in substance guarantees the right of property.[3] A more complex approach has developed over the years and the ECtHR has formed an autonomous concept of "possession".[4] It means that the notion of "possessions" in the A1P1 is independent of the way it is formally classified in domestic law.[5]
The ECtHR emphasised that A1P1 does not include a right to *acquire* property.[6] However, in the light of this article, it considered several cases concerning the right to future income.[7] In such cases, the ECtHR stated that the claims to future income cannot be considered to constitute "possessions" unless it has already been earned or is definitely payable.[8] In *N.K.M. v. Hungary*, the ECtHR had to decide whether severance pay constituted possession in the sense of A1P1. It held that this payment constitutes a substantive interest protected by A1P1 as it is undeniable that it "has already been earned or is definitely payable".[9] In *Stec and others v. UK*, the ECtHR held that an enforceable claim to a social security benefit can constitute 'possession' within the meaning of A1P1.[10]

[3] ECtHR, Marckx v. Belgium (6833/74) 13/06/1979. para. 63.
[4] The Inter-American Court of Human Rights has developed a similar approach and the protection of property has become an important tool for the economic, social, and cultural rights. See L. Lixinski, *Treaty interpretation by the Inter-American Court of Human Rights: Expansionism at the service of the unity of international law*, European Journal of International Law, 21.3, 2010, 585-604.
[5] ECtHR, Beyeler v. Italy (33202/96) GC 05/01/2000, para. 100
[6] ECtHR, Stec and others v. UK (65731/01, 65900/01) 12/04/2006, para. 53.
[7] ECtHR, Centro Europa 7 S.r.l. and Di Stefano v. Italy (38433/09) GC 07/06/2012; Anheuser-Busch Inc. v. Portugal [GC] (73049/01) 11/01/2007; Tre Traktörer Aktiebolag v. Sweden (10873/84) 07/07/1989.
[8] ECtHR, Anheuser-Busch Inc. v. Portugal, para. 64
[9] ECtHR, N.K.M. v. Hungary (66529/11) 14/05/2013, para. 35
[10] ECtHR, Stec and others v. UK, see more in S. Günter Nagel, Francis Kessler, Social Security Law, Council of Europe. Kluwer Law International, 2010, p. 40

In the Grand Chamber judgment of *Kopecký v. Slovakia*,[11] the ECtHR went to some lengths to define the notion of the legitimate expectation in the context of A1P1, and acknowledged that a legitimate expectation might be protected under the ECHR only if the claim has a sufficient basis in national law, for example where there is settled case-law of the domestic courts confirming it.[12]

However, in the recent case of *Béláné Nagy v. Hungary*,[13] the ECtHR acknowledged the applicant's legitimate expectation to receive a disability pension once he had met the administrative requirements of the disability pension scheme as in force at the first material point in time.[14] Based on this argument, the ECtHR acknowledged the right of the applicant for the disability pension, despite decisions by the domestic courts not to grant this right.

This judgment demonstrates that it is not easy to draw the line between potential rights not protected by the article, and the legitimate expectation that the right will materialise, as protected by A1P1.[15]

The ECtHR's jurisprudence provides us with some guidelines in this respect. In *Aizpurua Ortiz and others v. Spain*, the ECtHR acknowledged that the applicants, deprived of the right to access supplementary pensions acquired under an earlier collective agreement, had at least a legitimate expectation of continuing to receive this pension.[16] In *Kjartan Ásmundsson v. Iceland*,[17] concerning the abolition of a disability pension as a result of changes in the way the applicant's disability was assessed, the ECtHR held that the applicant could validly plead an individual legitimate expectation that his disability would continue to be assessed on the basis of his incapacity to perform his previous job and found the violation of A1P1.[18] These cases demonstrate that a legitimate expectation might be

[11] ECtHR, Kopecký v. Slovakia (44912/98)28/09/2004, para. 45-52.
[12] Ibid, para. 52
[13] ECtHR, Béláné Nagy v. Hungary 53080/13 10/02/2015
[14] Ibid, para. 47.
[15] On this point see also G. Gauksdóttir, *The right to property and the European Convention on Human Rights: a Nordic approach*, Lund University, 2004, cited from P. Olsson, *Every Natural or Legal Person is Entitled to the Peaceful Enjoyment of His or Her Possessions: Article 1, Protocol 1 to the European Convention on Human Rights,* in F. Dorssemont, K. Lörcher , I.Schömann (ed.), The European Convention on Human Rights and the employment relation edited, Oxford, Hart Publishing, 2013, 399.
[16] ECtHR, Aizpurua Ortiz and Others v. Spain (42430/05) 02.02.2010, no violation of A1P1 was found as the interference pursued an aim in the general interest.
[17]ECtHR, Kjartan Ásmundsson v. Iceland (60669/00) 12/10/2004
[18] Ibid, para. 44, 45.

established in cases where the lack or reduction of payments was the result of external factors; in other words, when the applicant did not cease to satisfy the requirements to benefit from the payment as it was initially established.

The concept of "legitimate expectation" makes us question whether an employee's right to be reimbursed for lost wages in case of unfair dismissal might be protected under A1P1. This question was answered in *Baka v. Hungary*.[19]

In that case, the applicant alleged that the State had violated his right under A1P1 as a result of the premature termination of his mandate as the President of the Supreme Court. One of the effects of the termination was his losing the salary he would have been entitled to obtain had he not been terminated from such a position. The ECtHR pointed that the dismissal of the applicant from the post had indeed precluded him from receiving a further salary; however, that income had not been actually earned and was not definitely payable.[20] Surprisingly, the ECtHR did not look at the national law in order to establish if the applicant's claim "had a sufficient basis in national law."[21] Such a conclusion is, in fact, in contrast with its usual approach to legitimate expectations, which caused labour scholars to argue that the claim of future income can at least be accommodated in legal systems where unjustified dismissals generate damages based on future earnings or reinstatement.[22] At the same time, this judgment demonstrates the lack of coherence in approach to the protection of claims brought under A1P1. It also demonstrates the ECtHR's unwillingness to protect job property, defined by Davies and M. Freedland, as the interest which a worker has in the continuation of his employment.[23] However, it is necessary to reflect on the reasons why the ECtHR refused to protect the right to receive reimbursement for lost wages in this case, where, in its opinion, the dismissal violated articles 6 and 10 of the ECHR.

This judgment makes us remember the cases where, for example, the ECtHR held that the withdrawal of a licence constituted the violation of A1P1 as the nature of these claims has a certain similarity with the claims

[19] ECtHR, Baka v Hungary (20261/12) 27/05/2014.
[20] Ibid, para. 105.
[21] ECtHR, Kopecký v. Slovakia [GC] (44912/98) 28/09/2004, para 52.
[22] P. Olsson, *op. cite* 14, 397.
[23] Davies and M. Freedland, *Labour Law: Texts and Materials*, London, Weidenfeld and Nicolson, 1984, 428.

of lost wage.[24] In *Tre Traktörer Aktiebolag v. Sweden*,[25] it found that the economic interests connected with the running of the restaurant were "possessions" for the purposes of A1P1. In a later case, concerning the granting of a fishing licence, the Commission pointed out that a licence holder cannot be considered to have a reasonable and legitimate expectation to continue his activity if the conditions attached to the licence are no longer fulfilled or if the licence is withdrawn in accordance with the provisions of the law which was in force when the licence was issued. It further reiterated that expectations for future earnings could only be considered to constitute a "possession", if it had already been earned or where an enforceable claim to it existed.[26]
Therefore, the Commission separated the economic interests of the licence holder and the expectation for future earnings. This approach of the Strasbourg bodies to the protection of the rights of licence holders make us question whether the application of Mr Baka, who, in the opinion of the ECtHR, had a reasonable and legitimate expectation to continue his activity as the President of the Supreme Court, would have been more successful if he had claimed that his economic interest in keeping the post was infringed instead of claiming rights to future income as he did. It is likely that the ECtHR would still refuse to find the violation of A1P1. The ECtHR's finding that the dismissal violated the ECHR generally provides the possibility to reconsider the case by the national court. The claim under A1P1 is always additional in such cases. The ECtHR's refusal to grant it might be explained by the reference to the margin of appreciation of the States and the subsidiary role of the ECtHR. It consciously leaves the issue of reimbursement for lost wages to national courts to address.

2.2. Case Law on the Protection of Wages

The Strasbourg Court has on several occasions stated that the provisions of the A1P1 do not guarantee the right to continue to be paid a salary of a

[24] It's worth noting that in cases concerning the decrease of income due to legislative changes the ECtHR has been reluctant to find the violation of A1P1: see X v. the Federal Republic of Germany (8410/78) 13/12/1979 (concerning notaries' expectations in respect of fees which had been statutorily reduced), Casotti, Florio and The Consiglio Nazionale Dell' Ordine Dei Consulenti Del Lavoro v. Italy (24877/94) 16/10/1996 (concerning the possible decrease in the income of labour consultants).
[25] ECtHR, Tre Traktörer Aktiebolag v. Sweden (10873/84) 07/07/1989, para. 53.
[26] ECtHR, Størksen v. Norway (19819/92) admissibility decision 05/07/1994.

particular amount and that it is entirely at the State's discretion to determine what benefits are to be paid to its employees out of the State's budget.[27]

The establishment of a wide margin of appreciation of the states in matters dealing with wage protection is a general peculiarity of the cases considered in the light of A1P1. Even in a case concerning the calculation of a minimum wage, the ECtHR was reluctant to impose any restrictions: in *Nerva and Others v. UK*,[28] the ECtHR declared inadmissible the applications of waiters who argued that the employer's refusal to include the tips paid by cheque or credit card in calculating their statutory minimum remuneration violated their rights under A1P1. The ECtHR' reasoning in this judgment demonstrates that it tends to acknowledge the legitimate expectation of receiving a minimum wage; however, it prefers to leave the calculation of the minimum wage wholly within the margin of appreciation of the State.

The ECtHR left aside the nature of the minimum wage and the nature of tips.[29] Relying on the conclusions of the domestic courts, it found that the applicants could not maintain that they had a separate right to the tips and a separate right to minimum remuneration, and emphasised that the ECHR does not guarantee the right to a higher level of earnings. The ECtHR also noted that it was for the applicants to come to a contractual arrangement with their employer as to how the tips at issue were to be dealt with, from the point of view of their wage entitlements.[30] This statement vividly demonstrates the reluctance of the ECtHR to interfere with relations between private parties of employment contracts and with the establishment of minimum wage regulations. The decision was criticised by British scholars as permitting restaurants to pay down the statutorily mandated UK minimum wage[31] and for not regarding the worker as being entitled to a certain threshold level of remuneration as a

[27] ECtHR, Baka v. Hungary (20261/12) 27.05.2014; Panfile v. Romania (13902/11) inadmissible 20/03/2012; Vilho Eskelinen and Others v. Finland [GC] (63235/00) 19/04/2007.

[28] ECtHR, Nerva and others v. UK (42295/98)24/09/2002.

[29] Dissenting Judge Loucaides noted that the nature of tips, given directly to the waiters, demonstrated that the tips were a possession in the meaning of A1P1. See Dissenting opinion of Judge Loucaides, Nerva and others v. UK.

[30] ECtHR, Nerva v. UK, para. 43.

[31] S. Tafreshi, *Here's a Tip, Change the Law-Nerva v. United Kingdom,* Loyola of Los Angeles International and Comparative Law Review, 27, 2005, 127, available at: http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1581&context=ilr (accessed 20.08.2015)

matter of right.[32] Some commentators pointed out that such an approach to the minimum wage ultimately led to the inclusion of customers in the employment relationship, and to the legal precariousness of workers.[33]
It is interesting to note that trade unions have successfully campaigned to amend the UK Minimum Wage Regulations, so the amounts of money paid by customers as a service charge or tip should be subtracted from the total of remuneration which the employer pays to the worker. Those changes were adopted in 2009.[34]

2.2.1. Wage Supplements

In *Vilho Eskelinen and others v. Finland*,[35] the ECtHR established a general rule that the establishment or annulation of wage supplements should be left within the margin of appreciation of the States. In this case, the applicants argued that the abolition of the remote-area supplement to wages of police officers constituted the violation of A1P1. The ECtHR noted that the applicants did not have a legitimate expectation to receive an individual wage supplement as the entitlement to it had ceased. In *Smokovitis and Others v. Greece*,[36] concerning the payment of a research allowance to teachers employed on temporary basis, the ECtHR did find the violation of A1P1, deciding that the applicants had a "legitimate expectation" to receive this supplement as the national courts had on multiple occasions stated that this research allowance applied to all staff.
In *Kechko v. Ukraine*,[37] the ECtHR found in favour of the applicant who claimed that the refusal to pay him a 20% increase in his salary, as required by law, violated A1P1. Therefore, in order to establish a legitimate expectation in remuneration claims brought under A1P1, such a claim must be supported by law or national case law, and ideally be acknowledged by decisions of the domestic courts. This approach reflects the ECtHR's general reluctance to consider remuneration claims under

[32] T. Novitz, *Labour Rights and Property Rights: Implications for (and Beyond) Redundancy Payments and Pensions?* Industrial Law Journal, 2012, 41, 148.
[33] A. Einat, *A Worker-Employer-Customer Triangle: The Case of Tips*, Industrial Law Journal, 2011, 40, 2, 181.
[34] Hugh Collins, Keith Ewing, Aileen McColgan, Labour Law. Cambridge University Press, 2012, p. 259.
[35] ECtHR, Vilho Eskelinen and Others v. Finland [GC] (63235/00) 19/04/2007.
[36] ECtHR, Smokovitis and others v. Greece (46356/99) 11/04/2002.
[37] ECtHR, Kechko v. Ukraine (63134/00) 08/11/2005.

A1P1 unless the circumstances of the case very clearly demonstrate that a debt in favour of the applicant arose in this context.[38]

In *Lelas v. Croatia*,[39] the ECtHR considered a claim about the refusal to pay a wage supplement from a very interesting perspective. The applicant, a serviceman, was entitled to receive a wage supplement for carrying out demining work. For several years this right had been acknowledged by his supervisor. When the applicant brought a claim before the domestic courts, they found that the relevant limitation period had expired and therefore refused his claim. It found that the statutory limitation period continued to operate regardless of any acknowledgment of the debt on the part of the applicant's supervisor, as the supervisor was not an authorised person to extend any statutory limitation periods. The ECtHR considered that the refusal to grant the applicant's claim was an interference with the applicant's rights under A1P1. It further considered whether such interference was lawful and came to the conclusion that the failure of the domestic courts to refer to a legal provision justifying its finding that the debt should have been acknowledged by another official was incompatible with the principle of lawfulness and therefore contravened A1P1.

This judgment demonstrates that the ECtHR's approach to the protection of wage claims can expand to cover claims which have been refused by domestic courts. It is important that in such cases it seeks to establish whether such refusal corresponded to the criteria of accessibility and foreseeability as developed in the Strasbourg jurisprudence.

2.2.2. Reduction and Deductions

In all the cases concerning wage reduction or deductions from wages, the ECtHR has either explicitly or implicitly referred to the wide margin of appreciation of the States in the organisation of the labour market. It is particularly wide in respect of working prisoners when the deductions from their wages have a compensatory role, for example, because the deductions were intended to cover expenses for board and lodging while imprisoned. Thus in *Puzinas v. Lithuania*,[40] the ECtHR found that the deduction of a 25% contribution from a prisoner's salary did not violate A1P1, and in *Stummer v. Austria*[41] it noted that the deduction of 75% of

[38] ECtHR, Van der Mussele v. Belgium (8919/80) 23/11/1983.
[39] ECtHR, Lelas v. Croatia (55555/08) 20/05/2010.
[40] ECtHR, Puzinas v. Lithuania (63767/00) 09/01/2007
[41] ECtHR, Stummer v. Austria (37452/02) 07/07/2011

prisoners' wages "appears rather high" but was not found too unreasonable overall. In *Davis v. UK*,[42] the Commission declared inadmissible the application of a prisoner who claimed that the deductions from his wage, used to provide entertainment and other facilities in prison, violated A1P1 of the ECHR.

In *Evaldsson v.Sweden*, the ECtHR established that the margin of appreciation should be limited by a positive obligation of the State to ensure the accountability of trade unions for received compulsory deductions from wages.[43]

As far as the reduction of wages is concerned, the ECtHR has tended to justify such interferences with reference to the public interest. In the last twenty years it has formed an approach to cases involving the reduction of benefits, finding violations in cases where such reductions were aimed at a limited number of individuals and decreased to such a significant extent so as to violate the "safeguard against poverty for persons who lacked basic maintenance from another socially acceptable source".[44]

2.2.3. Austerity Measures

The recent case law on austerity measures demonstrates largely the same approach to the matters of reduction or deductions from wages. The proportionality exercise is the most significant part of the adjudication of applications under A1P1, and the ECtHR generally prioritises the general interest of the State in decreasing wages. In such cases, it tends to find violations if the applicant succeeds in demonstrating that as a result of the State's interference he or she has suffered from an individual and excessive burden.[45]

The estimation of the burden is very rigorous and this point, again, highlights the wide, but not unlimited[46] margin of appreciation of the

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[42] EurCommHR, Davis v. The United Kingdom (27042/95) inadmissible 17/01/1997

[43] ECtHR, Evaldsson and Others v. Sweden (75252/01) 13/02/2007, para. 63. The case concerned compulsory deductions from the wages of those who are not members of the union.

[44] Compare, for example, ECtHR, Goudswaard-Van der Lans v. the Netherlands (75255/01) 22.9.2005 and Kjartan Ásmundsson v. Iceland (60669/00) 12/10/2004.

[45] This concept was developed in social security cases, see, for example, Kjartan Ásmundsson v. Iceland (60669/00) 12-10-2004; Goudswaard-Van der Lans v. the Netherlands (75255/01) 22.9.2005; Marija Božić v. Croatia (50636/09) 24/04/2014; Khoniakina v. Georgia (17767/08) 19/06/2012.

[46] ECtHR, Da Conceição Mateus and Santos Januário v. Portugal (62235/12, 57725/12) 08 October 2013, para. 23.

State in this sphere. Let us take as an example the ECtHR's reasoning in *Koufaki and ADEBY v. Greece*,[47] which concerned cuts to pensions and salaries of public servants under national austerity measures.

It is interesting to note that, in contrast with the earlier case such as *Mihăieș and Senteș v. Romania*,[48] the ECtHR did not hesitate as to whether a salary cut might constitute an interference with possessions in the sense of A1P1; therefore it already represents a step forward. The State, justifying its interest in imposing austerity measures, noted that its goals coincided with those of the euro area Member States to ensure budgetary discipline and to preserve the stability of the euro area.[49] The ECtHR decided that the State did not, in this case, overstep its margin of appreciation and thus did not violate the ECHR.[50] The ECtHR did not investigate the first applicant's claims that the reduction of her wage, compounded by the rise in the price of basic essentials such as fuel and public service charges, had led to a drastic fall in her standard of living. Having found that the reduction was about 20%, the ECtHR stated that the extent of the reduction in the first applicant's salary was not such that it would place her at risk of having insufficient means to live on, and thus amounting to a breach of A1P1.[51] It also noted the observation of the Greek Court that the applicants had not claimed that they risked falling below the subsistence threshold. This observation might be interpreted as posing a "subsistence threshold" to justify the proportionality of austerity measures.

[47] ECtHR, Koufaki and ADEDY v. Greece (57665/12 57657/12)07/05/2013.

[48] ECtHR, Mihăieș and Senteș v. Romania (44232/11, 44605/11) 02.03.2012

[49] N. Napoletano pointed out that the coincidence between the objectives pursued internally with those pursued by the European Union strengthened the position of the Government**.** N. Napoletano, *Estensione e limiti della dimensione economica e sociale della Convenzione europea dei diritti umani in tempi di crisi finanziaria*, Diritti umani e diritto internazionale, 2014 2(8), 425.

[50] It is interesting to note that two months prior to the ECtHR's decision, the ECSR decided that Greek austerity measures violated the ESC; its opinion, however, is not mentioned in the decision of the European Court. See ECSR, complaint No. 76/2012, Federation of Employed Pensioners of Greece (IKA–ETAM) v. Greece; ECSR, complaint No. 77/2012, Panhellenic Federation of Public Service Pensioners (POPS) v. Greece; ECSR, complaint No. 78/2012, Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece; ECSR, complaint No. 79/2012, Panhellenic Federation of Pensioners of the Public Electricity Corporation (POS-DEI) v. Greece; ECSR, complaint No. 80/2012, Pensioner's Union of the Agricultural Bank of Greece (ATE) v. Greece, became public on 22 April 2013.

[51] ECtHR, Koufaki and Yv. Greece, para. 46.

Examining other "austerity" cases permits us to ascertain with more certainty the permissible threshold by which wages may be decreased at a time of economic crisis. These cases concern both the reduction in pensions or wages and the taxation of severance payments received by public servants. It is particularly interesting to follow the ECtHR's reasoning when addressing the concept of what constitutes an excessive burden. Violation was found in a series of cases against Hungary, where the State introduced extremely high levels of taxation in respect of severance payments to be received by public servants (the level of taxation differed in these cases from 52% in *N.K.M. v. Hungary*[52] to 98% in *R.Sz. v. Hungary*[53]). In the cases concerning a decrease in pensions, the ECtHR found that the loss of 38% of a pension did not impose an excessive burden on the applicant, whilst the loss of 67% did violate A1P1.[54]

Inadmissible applications brought against Georgia, Portugal and Romania, where the pensions or other social benefits were reduced at a level less than 20% might be also referred to as, in the opinion of the ECtHR, a fair balance had been struck between the demands of the general interest and the requirements of the protection of the applicants' rights under A1P1.[55]

This brief overview demonstrates that the violation of A1P1 was found only in cases when the decrease in payment was more than 50%; therefore, it appears that the margin of appreciation of the State is in fact very wide in this context.

The ECtHR, however, pointed out in *Steffanetti and others v. Italy* that the fair balance test cannot be based solely on the amount or percentage of the reduction suffered.[56] In this case, it took account of the average and minimum pensions in Italy[57], comparing them with the reduced pensions of the applicants. In contrast with *Koufaki*, the ECtHR referred to the related conclusions of the ECSR in respect of Italy. All these circumstances made the ECtHR conclude that the reductions at issue had imposed an excessive burden on the applicants.

Other "austerity cases" show that the ECtHR only considers an

[52]ECtHR, N.K.M. v. Hungary (66529/11) 14/05/2013.

[53] ECtHR, R.Sz. v. Hungary (41838/11) 02/07/2013, see also similar cases Á.A. v. Hungary (22193/11), P.G. v. Hungary (18229/11) 23/09/2014.

[54]ECtHR, Stefanetti and Others v. Italy (21838/10 et al) 15/04/2014.

[55] ECtHR, Da Silva Carvalho Rico v. Portugal (13341/14) 24/09/2015; Mihăieş and Senteş v. Romania (44232/11, 44605/11) 02/03/2012, Da ConceiçãoMateus v. Portugal and Santos Januário v. Portugal (62235/12, 57725/12) 08/10/2013, Khoniakina v. Georgia **(**17767/08) 19/06/2012.

[56] ECtHR, Steffanetti v. Italy, para. 58, 59.

[57] Ibid, para. 62-63.

applicant's individual background as significant if the level of reduction is more than 50%; otherwise, its reasoning in these cases tends to be very brief and largely similar from case-to-case.
The ECtHR's approach to the impact austerity measures have on human rights could arguably be more rigorous; however, it would be impossible for it to take a more rigorous approach without interfering too much with States' social policies, and without invading the margin of appreciation of States. The ECtHR's decisions that reductions of wages and pensions can constitute an interference with ECHR rights is a valuable conclusion per se. It might provide domestic courts with a new perspective of such cases, by demonstrating the possibility to consider austerity measures in the light of fundamental human rights. National courts, which are in principle better placed than an international judge to appreciate what is "in the public interest",[58] might be more stringent in its assessment of the proportionality of the interference with social rights and might notice details which are imperceptible from Strasbourg. It is remarkable that this approach has already been taken by the Estonian Supreme Court[59], Latvian[60] and Portuguese Constitutional Courts[61] in judging pension cuts in those States as being unconstitutional.

2.3. The Interconnection between Violations of Procedural Rights under Article 6 and Violations of the A1P1 in the context of Employment

Article 6 of the ECHR has a particular value in the context of employment relations. The ECtHR has formulated certain requirements

[58] ECtHR, Mihăieş and Senteş v. Romania (44232/11, 44605/11) 02/03/2012
[59] On the 26 June 2014 the Estonian Supreme Court declared the cuts in judges' pensions during the austerity period unconstitutional, see Representing Retired Estonian Judges in Challenge to Austerity Measures. Available at: http://www.ceelegalmatters.com/index.php/over-the-wire/legal-ticker-deals-and-cases-in-cee/item/689-representing-retired-estonian-judges-in-challenge-to-austerity-measures/689-representing-retired-estonian-judges-in-challenge-to-austerity-measures (accessed 20 October 2014)
[60]See Judgment of The Constitutional Court Of Latvia, 21 December 2009, in the case No. 2009-43-01 that held unconstitutional the reductions of pensions, referring on the judgment of the ECtHR and to the General comments of the ICESCR.
[61]See the Constitutional Court Decision No. 353/2012, that declared unconstitutional the provisions of Budget Law on salary and pensions cuts for public servants, the decision is available at: http://www.tribunalconstitucional.pt/tc/acordaos/20120353.html (accessed 20 October 2014).

to the procedural rights of employees in labour disputes.[62] This facet of the ECtHR's jurisprudence was intentionally left outside the scope of the present research as it merits a separate profound analysis. However, the cases considered in light of both articles 6 and A1P1 will be researched in this section so far as they complement the ECtHR's approach to the protection of wages.

The ECtHR has dealt with numerous applications concerning the non-enforcement of judgments awarding social security benefits or salary arrears and has established that if an applicant is unable to obtain the benefit awarded by the judgment then that inability constitutes an interference with the right to the peaceful enjoyment of possessions.[63] It has affirmed that States may not justify the non-enforcement of such judgments by reference to lack of relevant funds.[64]

Ukraine and Russia appear the most before the ECtHR as respondent states in such cases. In spite of adoptig the pilot judgments against Ukraine[65] and Russia[66] respectively, in which the ECtHR urged each of the respective States to set up an effective domestic remedy for the non-enforcement or delayed enforcement of domestic judgments, the problem has remained largely unresolved.[67]

The ECtHR recently faced another problem concerning the enforcement of judgments in favour of employees – the execution of such judgments in the course of insolvency proceedings or in case of insufficiency of the

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62 ECtHR, Fogarty v. The United Kingdom [GC] (37112/97) 21/11/2001; Waite and Kennedy v. Germany [GC] (26083/94) 18.2.1999; Oleksandr Volkov v. Ukraine (21722/11) 09.01.2013; D.M.T. and D.K.I. v. Bulgaria (29476/06) 24/07/2012; Tripon v. Romania(27062/04) 07/02/2012; Mitrinovski v. "The former Yugoslav Republic of Macedonia" (6899/12) 30/04/2015.

63 ECtHR, Mykhaylenky and others v. Ukraine (35091/02, 35196/02, 35201/02) 30/11/2004, para. 60; Fuklev v. Ukraine (71186/01) 7/06/2005; Adamović v. Serbia (no. 41703/06) 02.10.2012; Stošić v. Serbia (64931/10) 01.10.2013.

64 ECtHR, Mykhaylenky and others v. Ukraine, para. 52; Piven and Zhovner v. Ukraine (56849/00, 56848/00) 29/06/2004; The delay in payment also cannot be justified by such a reference, see Voytenko v. Ukraine (18966/02) 29/06/2004.

65 ECtHR, Yuriy Nikolayevich Ivanov v. Ukraine (40450/04) 15/10/2009.

66 See ECtHR, Burdov v. Russia(N1) (59498/00) 07.05.2002; Burdov v. Russia (N 2)) (33509/04) 15/01/2009.

67 See P. Maggs, O. Schwartz, W. Burnham, *Law and Legal System of the Russian Federation. Sixth Edition*, Juris Publishing, 2015, 389; I. Ilciienko, *Pilot Judgement procedure of the European Court of Human Rights: panacea or dead-end for Poland, Russia and Ukraine*, LL.M. Human Rights Thesis Central European University, published November 29, 2013; available at: www.etd.ceu.hu/2014/ilchenko_ivanna.pdf (accessed 20.07.2015).

employer's property. In this series of cases, the leading positions are occupied by Russia, Ukraine and Serbia.

The inability of an employer to cover its debts, acknowledged by national courts, is the most pervasive problem. According to the well-established Strasbourg case-law, the extent of State obligations in cases of non-enforcement of judicial decisions will depend on who the debtor is, in each specific instance.

The situation is often complicated by the processes of privatisation, which meant that owners could change over the course of time. In cases where the privatisation occurred before the domestic court handed down its judgment awarding salary arrears, the ECtHR tends to refuse employee's applications alleging the lack of payment, pointing out that the State cannot be held responsible for the financial debts of a private legal entity.[68] In such cases, the State is not directly liable for debts of private actors unless it fails to act in order to enforce a judgment.[69]

If the State fails to act then the ECtHR is more likely to attribute the failure to meet its responsibilities under the ECHR to the State, particularly if it can be demonstrated that the national authorities did not ensure the procedures enshrined in the legislation for the enforcement of final judgments and for bankruptcy proceedings have been complied with.[70]

At the same time, the ECtHR has consistently held the States responsible for the non-enforcement of the judgments rendered against companies owned by the State, or where there has been a subsequent change in their respective capital share structure resulting in the predominance of the State-owned and socially-owned capital.[71] Thus in *Khachatryan v. Armenia*,[72] the ECtHR found the State liable for the breach of both articles 6 and A1P1 due to the non-enforcement of a judgment which granted damages for salary arrears against a private company, the majority shareholder of whom was the State. The same conclusion was reached in numerous cases against Serbia as far as they concerned the non-

[68] ECtHR, Lepetyukhov v. Ukraine (5033/07) inadmissible 16/03/2010.
[69] ECtHR, Anokhin v. Russia 25867/02 inadmissible 31/05/2007; Polacik v. Slovakia (58707/00) 15/11/2005;
[70] ECtHR, Fuklev v. Ukraine (71186/01) 07/06/2005, para. 91.
[71] ECtHR, Sekulic and Kucevic v. Serbia (28686/06 50135/06) 15/10/2013
[72] ECtHR, Khachatryan v. Armenia (application no. 31761/04) 01/12/2009

enforcement of judgments in the circumstances of on-going insolvency proceedings of state-owned companies.[73]

The most important point of the ECtHR's judgments in these cases is the requirement to pay an employee the sums awarded in the final domestic judgments.[74]

Another significant point is the acknowledgment of the State's liability in cases where the employer's company lacked institutional and operational independence from the State.[75] This conclusion concerns certain types of enterprises where the State under national law retains ownership of the property of that enterprise, approves all transactions with that property, controls the management of the enterprise and decides whether the enterprise should continue its activity or be liquidated.[76]

Under Russian law, for example, such enterprises are not liable for the debts of their owners, and the owners are not generally liable for the companies' debts. In spite of such a clear national provision, the ECtHR has found Russia liable for the debts of such companies in respect of their employees.[77] In the recent case of *Liseytseva and Maslov v. Russia*,[78] the State was also found responsible for the non-enforcement of the judgment on the payment of salary arrears in respect of the employees of municipality-owned companies.[79]

The prerequisites of a successful claim are clearly formulated in the Strasbourg case law. The applicant is only required to file a request for the enforcement of a judgment awarding salary arrears with the competent national court or, in case of liquidation or insolvency proceedings against the debtor, to report his or her claims to the administrators of the debtor.[80]

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[73] ECtHR, Marčić and Others v. Serbia(17556/05) 30/10/2007, para. 60; Crnišanin and Others v. Serbia (35835/05 et al) 13/01/2009; Rašković and Milunović v. Serbia (1789/07 and 28058/07) 31 May 2011; Adamović v. Serbia (41703/06) 2/10/2012

[74] See also ECtHR, Janković v. Serbia (21518/09) 18 November 2014; Tomović And Others v. Serbia (5327/11 et al) 24/02/2015; Jovičić and Others v. Serbia (37270/11 et al) 13/01/2015.

[75] ECtHR, Bichenok v. Russia (13731/08) inadmissible 31/03/2015, para. 18.

[76] ECtHR, Aleksandrova v. Russia (28965/02) 06/12/2007 the same line in Veretennikov v. Russia (8363/03) 12/03/2009 see also Filshteyn v. Ukraine (12997/06) 28/05/2009.

[77] ECtHR, Shafranov v. Russia (24766/04) 25/09/2008.

[78] ECtHR, Liseytseva and Maslov v. Russia (39483/05 and 40527/10) 09/10/2014.

[79] See also ECtHR, Voronkov v. Russia (39678/03) 30/07/2015.

[80] ECtHR, Živković v. Serbia (63694/10) inadmissible 30/06/2015; Lolić v. Serbia (44095/06) 22/10/2013; Nikolić-Krstić v. Serbia (54195/07) 14/10/2014.

In *Zouboulidis v. Greece*,[81] the Court touched upon another facet of rights under A1P1. The applicant, an official of the Ministry of Foreign Affairs, was refused additional payments which he was entitled to by law, as the limitation period for the claims against the State had already expired. In his application before the ECtHR, he alleged that the establishment of a reduced time-limit for claiming the debts owed by the State as well as the calculation of default interest from the date on which notice of the action was served on the State were in breach with A1P1. The ECtHR emphasised that the mere interest of a State's cash flow could not in itself be regarded as a public or general interest justifying interference with individual rights, through the application of the two-year limitation period and the granting of preferential treatment to the state in fixing the date from which default interest was charged. It found the violation of A1P1 and awarded just satisfaction in respect of the pecuniary damage sustained by the applicant in the sum of the debt calculated on the basis of general rules.

The cases considered above demonstrate that the number of the cases brought before the ECtHR under article 6 and A1P1 is growing with years. Due to the fact that the ECtHR can require the State to pay salary arrears, this body turns out to be the most effective international body in the sphere of wage protection and provides invaluable support to the realisation of the fundamental right to remuneration, even though this right is absent from the text of the ECHR.

3. The Potential 0f the ECHR in the Sphere of Wage Protection

> *"Give him food and shelter, when you have covered his nakedness, Dignity will follow by itself".*
> Friedrich Schiller (1798)[82]

It has already been mentioned above that the ECHR, in the opinion of the ECtHR, does not guarantee the right to acquire property. Scholars have added that currently there is no "real substantial movement" towards the acknowledgement of the right to acquire property.[83] However, as also noted earlier, the ECtHR has started to use the notion of "insufficient means to live" in the consideration of cases under A1P1. Therefore, there is a hope, that taking into account a general trend of expanding the ECHR

[81] ECtHR, Zouboulidis v. Greece (No. 2) (36963/06) 25/06/2009.
[82] Cited from C. McCrudden, *Human Dignity and Judicial Interpretation of Human Rights*. European Journal of International Law Volume, 2008, 19, 4, 655-724.

to address social matters and the social policies of the states, the ECtHR could develop this concept of the sufficiency of the means to live even further. This concept, if further elaborated, might be used for the protection of the right for fair remuneration.

Why should the European ECtHR interfere with the issue of wages? There are already provisions in the International Covenant on Economic, Social and Cultural Rights (article 7) and in the ESC. According to the approach adopted by the European Committee of Social Rights (ECSR), fair remuneration must, in any event, be above the poverty line in a given country i.e. 50% of the national average wage.[84] This clear interpretation of the right to a minimum wage has, regretfully, a very limited practical impact. The protection of social rights through the ECSR has already proven ineffective, taking into account the peculiarities of the collective complaints system[85] and the non-binding legal status of its conclusions.[86] The same could be said in respect of the International Committee on Economic, Social and Cultural Rights (ICESCR), which only recently acquired its authority to consider individual claims.[87] None of the five claims brought before the ICESCR since the adoption of the Optional Protocol to International Covenant on Economic Social and Cultural Rights concern the right to a fair wage.[88]

Turning to other possible avenues of protecting the right to a decent wage, we find that "[i]t is barely hinted at in the sphere of the so-called

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[83] P. Olsson, *op. cite* 14, 385.

[84] See *Digest Of The Case Law Of The European Committee Of Social Rights*, 1 September 2008. Council of Europe. available at:https://www.coe.int/t/dghl/monitoring/socialcharter/Digest/DigestSept2008_en.pdf (accessed 30.07.2015)

[85] R. Churchill and U. Khaliq, *The Collective Complaints System of the European Social Charter: an effective mechanism for ensuring compliance with economic and social rights?* European Journal of International Law, 15,3, 2004, 417-456.

[86] See, e.g. V. Mantouvalou and P. Voyatzis, *The Council of Europe and the protection of human rights: a system in need of reform*, in S.Joseph, A.McBeth (ed.), Research Handbook on International Human Rights Law. Edward Elgar Publishing, 2010, 326 – 352; see also J. Petaux, *Democracy and Human Rights for Europe: The Council of Europe's Contribution,* Council of Europe, 2009, 263; B. Deacon, *Global Social Policy: International Organizations and the Future of Welfare*, SAGE, 1997, 83.

[87] The possibility of individual claims was highly anticipated by scholars and their necessity during times of crisis has been consistently emphasised. See O'Connell, *Vindicating Socio-Economic Rights: International Standards and Comparative Experiences*, London and New York, NY, Routledge, 2012, 44.

[88] See the list of pending cases on the official site of the Committee: http://www.ohchr.org/EN/HRBodies/CESCR/Pages/PendingCases.aspx (accessed on 23.09.2015).

four pillars of the Decent Work Agenda promoted by the ILO on a worldwide scale since 1999, the guarantee of an adequate wage is completely absent from the first EU formulations regarding the objective of (more and) better jobs pursued by the EU since 2000 within the so-called Lisbon strategy".[89]

In fact, the right to a decent wage was left outside the scope of the fundamental principles of ILO.[90] Although the ILO Consitution mentions the necessity of an adequate living wage, ILO Conventions on wage protection do not mention this notion.[91]

In such circumstances, the potential in any ECtHR elaboration on the concepts of "insufficient means to live" and the possibility of considering relevant claims under article 3, which prohibits (among other things) inhuman and degrading treatment, could provide employees with a new avenue by which to protect their right to obtaining fair remuneration on an international level. It could also offer interpretive support to the national courts, dealing with these matters.

The ECtHR has recently noted in its Grand Chamber judgment in *Bouyid v. Belgium*: "The prohibition of torture and inhuman or degrading treatment or punishment is a value of civilisation closely bound up with respect for human dignity".[92] In the same judgment, it pointed out that respect for human dignity forms part of the very essence of the ECHR.[93] The ECtHR has already referred to article 3 in cases concerning social rights[94] and scholars predict the strengthening of this trend.[95] In

[89] A. Lo Faro, *Is a Decent Wage Part of a decent Job? Answers from an Enlarged Europe,* WP CSDLE Massimo D'Antona, 2008, 18. Available at: http://aei.pitt.edu/13699/1/lofaro_n64-2008int.pdf (accessed 20.05.2015).

[90] See ILO Declaration on Fundamental Principles and Rights at Work (1998); Zimmer, J. Michael, *Decent Work with a Living Wage*, in R. Blanpain and M. Tiraboschi (eds.) Global Labor Market: From Globalization To Flexicurity, Kluwer Law International BV, 2008, 61-80, (the author proposed to complement fundamental principles by the right to living wage).

[91] ILO Minimum Wage Fixing Convention, 1970 (N 131); ILO Social Policy (Basic Aims and Standards) Convention, 1962 (N117). It is interesting to point out that the calculation of adequate earnings is one of thirty criteria elaborated by the ILO for the estimation of decent work, see R. Anker et al. *Measuring decent work with statistical indicators*, International Labour Review, 2003, 142, 2, 147-178.

[92] ECtHR, Bouyid v. Belgium [GC] (23380/09) 28/09/2015, para. 83.

[93] Ibid, para. 89.

[94] ECtHR, M.S.S. v. Belgium and Greece [GC] (30696/09)21/01/2011; Larioshina v. Russia (56869/00) 23/04/2002; Budina v. Russia (45603/05) 18/06/2009.

[95] F. Tulkens, *The European Convention on Human Rights and the economic crisis: the issue of poverty*, EUI Working papers, AEL 2013/8; N. Napoletano, *op. cit.* 48.

fact, the concept of human dignity has become a very "attractive" normative concept,[96] capable of justifying the expansion of certain rights before the national and international courts. It is widely acknowledged that economic and social rights are essential to the concept of human dignity.[97] In two cases against Russia, the ECtHR stated a very important thing –a wholly insufficient amount of pension and social benefits may raise an issue under article 3 of the ECHR.[98]

Even though it is rather questionable whether the ECtHR might conclude the same in respect of a "wholly insufficient" wage, these decisions impose a new, positive social obligation on the State in the context of article 3, which, if further developed, might have a deepened impact on employment law as well.

It is necessary to mention the general approach of the ECtHR to the violations of this article. According to the Strasbourg case-law, degrading treatment violates article 3 if it attains a "minimum level of severity". This threshold is reached where ill-treatment involves actual bodily injury or intense physical or mental suffering or humiliates or debases an individual, showing a lack of respect for, or diminishing his or her human dignity.[99] Applying this principle, the ECtHR noted that the applicants in two cases against Russia failed to provide sufficient evidence that the low pension had caused damage to the respective applicants' physical or mental health.[100] The applications were declared inadmissible, even though the sum of the pensions were about 15 euro in Larioshina and about 50 euro in the case of Budina.

Let us imagine a civil servant residing in a remote area of Russia, where there is no employment opportunity other than with the civil service,

[96] D. Weisstub, *Honor, Dignity, and the Framing of Multiculturalist Values*, in D. Kretzmer, E. Klein (eds), Concept of Human Dignity in Human Rights Discourse, Springer Netherlands, 2002, 265.

[97] See Article 23(3) of the Universal Declaration of Human Rights, see also O. Schachter, *Human Dignity as a Normative Concept, The American Journal of International Law, 1983,* 77, 4, 85; C. Gearty, V. Mantouvalou, *Debating Social Rights*, Oxford, Bloomsbury Publishing, 2010.

[98] ECtHR, Larioshina v. Russia (56869/00) 23/04/2002; Budina v. Russia (45603/05)18/06/2009.

[99] ECtHR, Price v. The UK (33394/96)10/07/2001; V. v. UK (24888/94)16/12/1999; T.M. and C.M. v. The Republic of Moldova (26608/11) 28/01/2014, para 35.

[100]ECtHR, Larioshina v. Russia (56869/00) 23/04/2002; Budina v. Russia (45603/05) 18/06/2009.

which pays about 35% of the average national wages.[101] As a result of not having sufficient funds to pay for medical treatments, the civil servant's health suffers. The civil servant, having unsuccessfully pursued domestic legal avenues, brings a claim to the ECtHR, claiming that the State violated its article 3 obligations to prohibit degrading treatment. In this hypothetical case, the applicant would bring evidence of the damage to her health and will establish an irrefutable link between the damage and the fact that her low wage directly caused her inability to obtain medical treatment that could have arrested the harm suffered to her health.
Should the ECtHR approach this case in a bold way and find a violation of article 3, or should it rather leave a wide margin of appreciation to the State in establishing the remuneration of civil servants? Obviously, the first option is less probable. However, there is an opportunity for the ECtHR to take that bolder option if it follows the tradition to refer to other international instruments (such as they did in the Demir and Baikara case). In consequence, it might find support for such an innovative interpretation of article 3 in the provisions of the ESC and any relevant conclusions of the ESCR.

4. Conclusions

It has been illustrated in the first section that the ECtHR's jurisprudence on the wage protection is rather modest, but nevertheless contributes to the protection of employees' rights. It entitles them to bring claims concerning the lack of payment before the ECtHR, alleging the reduction of wages or excessive deductions. This possibility, even if it is subject to numerous conditions, is very important as it provides an additional chance to confront the State as an employer and make it respect fundamental social rights.
Human rights litigation based on property rights has an ideological purpose, insofar as it has the potential to make workers collectively aware of and reflect upon their legal entitlements and their moral claims.[102] In

[101] Recent reports of the Russian Federal State Statistics Service clearly demonstrate that the situation is wide-spread, thus only the possibility to commence a relevant application to the ECtHR remains hypothetical. See: The results of the federal statistical observation in the field of remunerationof certain categories of social workers in 2014 (Itogi federal'nogo statisticheskogo nablyudeniya v sfere oplaty truda otdel'nykh kategoriy rabotnikov sotsial'noy sfery i nauki za 2014 god). Available at: http://www.gks.ru/free_doc/new_site/population/trud/itog_monitor/itog-monitor4-14.html (accessed 20.07.2015).
[102] T. Novitz, *Op. cit.* 31, 153.

addition, the ECtHR's jurisprudence urges national courts to consider the issue of proportionality where an interference with the employee's rights is justified by the state on the basis of advancing the public interests. It proposes a concept of "excessive burden" (even if it needs further elaboration), which permits one to outline the margin of appreciation of the states in the adoption of the austerity measures.

This analysis of the potential of the ECHR in this field demonstrated that the ECtHR is gradually expanding the scope of the Convention to cover certain social rights and renders the prohibition of degrading treatment applicable to the state's policy in the social field. The research of Strasbourg case law made me discover certain prerequisites for a potential claim concerning an employee's right to decent wage. This finding, although purely theoretical, might contribute to the contemporary perception of international instruments which might be referred to in cases of protection of the right to decent wage. I believe the protection of this right under ECHR might become real if local actors (trade unions, judges, advocates) become aware of the relevant provisions of the ECHR and ECtHR's case law in this field. Therefore there is a need to disseminate this information on national levels and to profoundly research the ways of enhancing the direct impact of the ECHR on national practice in the field of employment right protection.

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