

Avotiņš v. Latvia: Presumption of Equivalent Protection not Rebutted

The much awaited decision Avotiņš v. Latvia of the Grand Chamber of the ECtHR was finally delivered yesterday. The decision can be found [here](#). A video of the delivery is also available.

The European Court of Human Rights held by a majority that there had been no violation of Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights. The Court reiterated that, when applying European Union law, the Contracting States remained bound by the obligations they had entered into on acceding to the European Convention on Human Rights. Those obligations were to be assessed in the light of the presumption of equivalent protection established by the Court in the *Bosphorus* judgment and developed in the *Michaud* judgment. The Court did not consider that the protection of fundamental rights had been manifestly deficient such that the presumption of equivalent protection was rebutted in the case at hand.

While at first sight the decision comes as a relief for all those who have been holding breath, fearing the worst after the CJEU Opinion 2/13, a careful reading (immediately undertaken by the academia: the exchange of emails has already started here in Luxembourg) reveals some potential points of friction. Following the advice of both Patrick Kinsch and Christian Kohler I would like to draw your attention in particular to para. 113-116.

Judge Lemmens and Judge Briede expressed a joint concurring opinion and Judge Sajó expressed a dissenting opinion, all three annexed to the judgment.