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Constitutional law — Charter of Rights — fundamental justice — extradition proceedings as abuse of process — extradition judge has jurisdiction pursuant to Charter and at common law to stay

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Constitutional law — Charter of Rights — mobility rights — extradition — mobility rights not engaged at committal stage and extradition judge has no jurisdiction to grant Charter relief with respect to alleged violation of s. 6 of Charter — extradition judge has discretion to hear evidence relating to allegation that rights under s. 6 of Charter will be violated by surrender to foreign state — however, extradition judge should be mindful of need for expeditious disposition on issue of committal, danger of confusion from reception of irrelevant evidence and waste that will result if Minister ultimately declines to surrender — where necessary to develop proper factual basis for determination of Charter issue, Court of Appeal should receive appropriate evidence on judicial review from decision of Minister of Justice — Court of Appeal is court of competent jurisdiction to address issue of breach of s. 6 of Charter (Canada)

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Constitutional law — Charter of Rights — enforcement of rights exclusion of evidence — Germany seeking accused's extradition on various charges, including tax evasion — accused challenging scheme of extradition established by Extradition Act and Extradition Treaty between Canada and Germany — accused seeking to call evidence in support of constitutional challenge accused permitted to call evidence from expert on German law as to whether tax evasion extraditable as matter of German law and as to legal impediments to availability of evidence in Germany accused also permitted to call evidence as to steps taken by Canadian authorities to ensure compliance with legal requirements in authorising provisional arrest and issuing authority to proceed — however, accused not permitted to call evidence relating to fairness of proceedings or viability of prosecution in foreign state, or evidence relating to Ministerial functions in connection with surrender

Criminal law — extradition and fugitive offenders — constitutional challenge — Germany seeking accused's extradition on various charges, including tax evasion — accused challenging scheme of extradition established by Extradition Act and Extradition Treaty between Canada and Germany — accused seeking to call evidence in support of constitutional challenge — accused permitted to call evidence from expert on German law as to whether tax evasion extraditable as matter of German law and as to legal impediments to availability of evidence in Germany — accused also permitted to call evidence as to steps taken by Canadian authorities to ensure compliance with legal requirements in authorising provisional arrest and issuing authority to proceed — however, accused not permitted

to call evidence relating to fairness of proceedings or viability of prosecution in foreign state, or evidence relating to Ministerial functions in connection with surrender (Canada — Ontario)

Federal Republic of Germany v Schreiber 197 DLR (4th) 547 (SC)

Fundamental rights — right to freedom from inhuman punishment - mandatory death penalty — murder — statutory provisions prescribing sentence of death — appellants convicted of murder and sentenced to death — appellants challenging constitutionality of mandatory death penalty - whether death sentence mandatory - whether violating fundamental right - declaratory provisions - right to life - limitation - exception for execution of sentence of court — whether establishing right to protection against arbitrary deprivation of life - mandatory death penalty — prerogative of mercy — murder — statutory provisions prescribing sentence of death — appellants challenging constitutionality of mandatory death penalty — Constitution establishing Advisory Committee to advise executive on exercise of prerogative - whether such procedure rendering penalty compatible with fundamental right - right to freedom from inhuman punishment — transitional saving provision lawful punishments — mandatory death penalty — murder statutory provisions prescribing sentence of death — appellants convicted of murder and sentenced to death — appellants challenging constitutionality of mandatory death penalty transitional provisions protecting existing lawful punishments from being held inconsistent with fundamental rights — effect whether protecting mandatory death penalty constitutionality challenge — fundamental rights — remedies mandatory death penalty - murder - statutes prescribing sentence of death — such penalty violating fundamental right appellants convicted of murder and sentenced to death sentences quashed on appeal — appropriate orders, para 2 (St Lucia, St Vincent and the Grenadines)

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Fundamental rights — right to fair trial — right of access to court — plaintiff seeking to institute proceedings against local authority for recovery of delictual damages — statutory requirement that local authority be given written notice of intention to institute legal proceedings for recovery of delictual damages within 90 days from commission of delict — plaintiff failing to comply with time limit — whether statutory time limit violating plaintiff's constitutional right of access to court — limitation — right of access to court — plaintiff seeking to institute proceedings against local authority for recovery of delictual damages — statutory time limit violating plaintiff's constitutional right of access to court — whether limitation on

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Sia Leng Yuen v HKR Properties Ltd [2002] 1 SLR 83 (HC)

## Commercial Law

Agency — authority of agent — trading in shares and foreign exchange — whether authority given by customers to bank's employee to enter into disputed transactions — whether actual or apparent authority — actual authority — whether express or implied — conduct from which actual authority may be implied — apparent authority — circumstances giving rise to agent's apparent authority

Civil procedure — costs — appeal — appellants successful on appeal — costs to be awarded below and on appeal — whether general rule that costs follow the event applies — principles governing award of costs — whether successful appellants should be allowed costs for more than one solicitor — whether appellants should be awarded separate set of costs against each respondent (Singapore)

Banque Nationale de Paris v Tan Nancy & Anor [2002] 1 SLR 29 (CA)

## Companies and Corporate Bodies

Corporations — managed investment schemes — first responsible entity — subsequent appointment of new responsible entity — registration of charges — extension of time for lodgement of particulars — rectification of Australian Register of Company Charges

Equity — application for relief by responsible entity — reasonable reliance on solicitors (Australia)

Re Investa Properties Ltd and Another (2002) 187 ALR 462 (SC)

Corporations — arrangements and reconstructions — scheme of arrangement — provision for post-approval amendment to scheme — whether allowable — supervision and regulation — ASIC — limit of functions and powers — improper attempt to confer jurisdiction

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