

INTRODUCTION TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS AND LIBERTIES

GENERAL PRESENTATION

PART I – CONTEXT, BACKGROUND AND INSTITUTIONS OF THE CoE

Course type : 24 hours - 3 ECTS

1. The structure and aims of the Council of Europe

- 1.1. The origins
- 1.2. The general aims of the Council of Europe
 - 1.2.1. Liberal Democracy
 - 1.2.2. Rule of Law
 - 1.2.3. Protection of Human Rights
- 1.3. The Membership to the Council of Europe
- 1.4. Synthesis

2. Main institutions of the Council of Europe

- 2.1. The Committee of Ministers
- 2.2. The Parliamentary Assembly
- 2.3. The Commissioner for human rights
- 2.4. The Congress of Local and Regional Authorities
- 2.5. The European Commission for democracy through Law (Venice Commission)

3. The Evolution of the European Court of Human Rights

- 3.1. Introduction
- 3.2. From the 'old system' to the new system of protection
 - 3.2.1. The adoption of the Protocol N° 11
 - 3.2.2. The Court's reforms: additional Protocol N° 14
 - 3.2.3. Additional reform: the Protocol N° 14bis
- 3.3. Composition of the Court
 - 3.3.1. Procedure for the election of judges
 - 3.3.2. Why professional diversity should be respected ?
 - 3.3.3. Internal organization of the ECtHR

4. Proceeding before the European Court of Human Rights

- 4.1. Procedure prior to the decision on admissibility
- 4.2. Examination of admissibility: procedural issues
 - 4.2.1. Conditions of admissibility

- 4.2.2. Particular procedural aspects
- 4.3. Enforcement of judgments
 - 4.3.1. General principles
 - 4.3.2. Remedies under Article 41
 - 4.3.3. Supervising the enforcement of judgments?
 - 4.3.4. Pilot judgments
- 4.4. Concluding remarks

5. Special issues

- 5.1. Interim measures
- 5.2. Infringement procedure
- 5.3. Advisory opinions

PART II – SELECTIVE ANALYSIS OF THE EUROPEAN CONVENTION'S RIGHTS

1. Interpreting the European Convention of Human Rights

- 1.1. Is there a hierarchy of rights?
 - 1.1.1. Distinction between absolute and relative rights
 - 1.1.2. Limitations common to Articles 8-11
 - 1.1.3. Proportionality test
- 1.2. The influence of the Vienna Convention
- 1.3. Evolutive interpretation and the principle of effectiveness
 - 1.3.1. Actualization vs originalism
 - 1.3.2. Limits of evolutive interpretation
- 1.4. Margin of appreciation
 - 1.4.1. Approaches and ideologies
 - 1.4.2. The Protocol n° 15 and the era of subsidiarity
 - 1.4.3. Applying the Convention: a shared responsibility?

2. Reservations and derogations

- 2.2. Derogations in emergency situations
- 2.2. Prohibition of abuse of rights
- 2.3. Limitation on use of restriction on rights

3. The right to life: protecting the cornerstone of political liberalism

- 3.1. Introduction
- 3.2. The death penalty and the extraterritorial application of the right to life
- 3.3. Forced disappearance
 - 3.3.1. Positive obligation to protect life
 - 3.3.2. The duty to investigate suspicious deaths
- 3.4. Euthanasia and the quality of life

4. Protection from slavery and forced labour: Can the Court do more?

- 4.1. Definitions
- 4.2. Positive and negative obligations
- 4.3. Military service
 - 4.3.1. The evolution of the case-law of the ECtHR
 - 4.3.2. The evolution of States' practices
- 4.4. New problems of slavery: prostitution and human trafficking

5. The right to a fair trial in civil and criminal cases: an autonomous interpretation

- 5.1. The scope of Article 6(1)
- 5.2. Right to access to court
 - 5.2.1. Objective and subjective independence
 - 5.2.2. Objective and subjective impartiality
- 5.3. The overall requirements of a fair hearing

6. Protecting private and family life: keeping up with the evolution of society?

- 6.1. Definitions
- 6.2. The right to adopt
- 6.3. Protecting the family life
 - 6.3.1. The family life of non-nationals
 - 6.3.2. The family life of prisoners
- 6.4. The right to marry and found a family
 - 6.4.1. Inherent limits to Article 12
 - 6.4.2. Equality between spouses
 - 6.4.3. Evolution due to the principle of non-discrimination

7. Freedom of thought, conscience and religion

- 7.1. The scope of Article 9
- 7.2. The manifestation of religion or belief
- 7.3. What recognition for religious organizations?

8. Protection of property

- 8.1. Introduction
 - 8.1.1. Defining possessions
 - 8.1.2. Deprivation of property
 - 8.1.3. Controlling the use of property
- 8.2. Intellectual property
- 8.3. Other interferences with peaceful enjoyment of possessions

9. The right to education

- 9.1. Regulating education
- 9.2. Safeguarding pluralism in education