



SYLABUS

Human Rights (Winter 2019)

Lecturer: Tomáš Lalík
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Consultations: office no. 328 old Building
Mondays 15:30-16:30

Evaluation: 20% preliminary evaluation (activity on seminars, written submission etc.)
80% final evaluation (written exam)

Literature:

Steven Greer: The European Convention on Human Rights. Achievements, Problems and Prospects, Cambridge University Press, 2008;
Jacobs, White and Ovey: The European Convention on Human Rights, 7th edition, Oxford University Press, 2017.
Karen Reid: A Practitioner's Guide to the European Convention on Human Rights, 4th edition, Sweet/Maxwell, 2012.

1. General introduction into subject (26.9.)

-aim of the subject, its structure, evaluation and organizational matters

2. Introduction into the European Convention on Human Rights; conventional law and its principles (3.10.)

- creation, history, basic structure and purpose of the ECHR
-evolution of the ECHR and its change
-European Court of Human Rights and its composition
-role of the principles in general, principles governing the Conventional Law, i.e. principle of subsidiarity, test of proportionality, margin of appreciation, living instrument, autonomous concept, positive vs. negative obligation



3. Conventional Procedural Law (10.10.)

- procedural law before the ECtHR: exhaustion of domestic remedies, victim test
- Protocol No. 14 and the change
- execution and implementation of judgments

Seminar:

Practical examples and case studies

4. Right to life + Prohibition of Torture (17.10.)

- value of human life in democratic society, „absolute necessary“,
- substantial limb (use of force)
- procedural limb (effective investigation)
- elements of article 3, nature of the right, procedural safeguards
- relevant factors taken into consideration
- conditions for detentions, deportations, interrogation, physical integrity

Seminar:

Practical examples and case studies

Gäfgen v. Germany (Decision of the Grand Chamber, App. No. 22978/05, from 01.06. 2010)

5. Right to Liberty and Security (24.10.)

- liberty and security, presumptions and requirements
- substantial limb – legality (grounds art. 5.1. a) – f))
- procedural safeguards of the Article
- promptness, right to bail, challenge of detention, right to compensation etc.

Seminar:

Practical examples and case studies



6. Right to Fair Trial (7.11.)

- its importance and nature, limitations
- independence and impartiality of a tribunal
- trial within a reasonable time
- other requirements of the article
- criminal charge
- presumption of innocence and freedom from self-incrimination
- entrapment and other issues of the Art. 6

Seminar:

Practical examples and case studies

7. Private and family life (14.11.)

- concept of private life and family life (conventional and unconventional)
- evolution from negative to positive right
- search of premises and ECtHR standards
- search of premises in the light of standards of the ECtHR
- short practical example for applying standards

Seminar:

Practical cases

Schalk and Kopf v. Austria (App. No. 30141/04) from 24.06.2010

8. Freedom of religion+ Freedom of expression (21.11.)

- religious freedom
- content of the right - forum internum v. forum externum
- absolute and qualified nature of the right, manifestation of the right
- notion of a neutral state
- importance, public figures, scope of the protection, hate speech
- value judgment and statement of facts
- duties and responsibilities of the press, limitations of freedom



- conflict between Art. 8 and Art. 10
- defamation

Seminar:

Practical cases

Lautsi v. Italy (Grand Chamber Judgment, App. No. 30814/06 from 18.03. 2011)

S.A.S. v. France (App. No. 43835/11) Grand Chamber Judgment from 1.7.2016

9. Right to assembly and association (28.11.)

- right to protest, peaceful assembly
- associations, trade unions
- democracy and concept of militant democracy

Seminar:

Eva Molnár v. Hungary (App. No. 10346/05) from 07.10.2008

Refah Partisi v. Turkey (App. No. 41340/98) Decision of the Grand Chamber from 13.02.2003

10. Discrimination + Right to Property (5.12.)

- nature and content of Art. 14
- how does the prohibition work in practice
- issues arising out of Art. 14
- meaning and content of property
- three rules governing the Conventional protection of property
- limitation and expropriation

Seminar:

Bélané Nagy v. Hungary (App. No. 53080/13), Grand Chamber Judgment from 13.12.2016

Practical examples and case studies



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11. ECHR and the EU (12.12.)

- protection of human rights in the EU and Charter of Fundamental Rights
- accession of the EU into ECHR
- relationship between CJEU and ECtHR

Discussion: Bosphorus Hava Yollari Turizm ve ticaret anonim sirketi v. Ireland (App. No. 45036/98) from 30.06. 2005

O'Sullivan McCarthy Mussel Development Ltd v. Ireland (App. No. 44460/16) from 07.06. 2018

12. Exam (19.12.)

- written exam