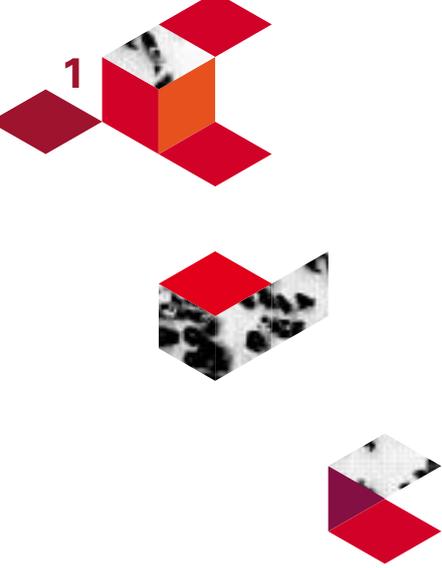


Council of Europe
European Convention
on Human Rights

RIGHTS AND FREEDOMS IN PRACTICE

Teaching resources



Human rights: at the very heart
of the Council of Europe

The Council of Europe: the only organisation of its kind

The Council of Europe's main objectives are:

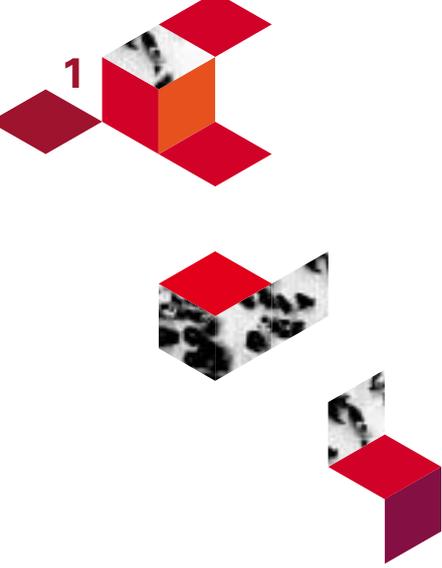
- ◆ to protect human rights, pluralist democracy and the rule of law
- ◆ to promote awareness and encourage the development of Europe's cultural identity and diversity
- ◆ to find common solutions to the challenges facing European society: discrimination against minorities, xenophobia, intolerance, bioethics and cloning, terrorism, human trafficking, organised crime and corruption, cyber-crime and violence towards children
- ◆ to consolidate democratic stability in Europe by implementing political, legislative and constitutional reform.

To achieve these objectives, the Council of Europe has the following bodies:

- ◆ the **Committee of Ministers**: the decision-making body, comprising the foreign ministers of the member states or their permanent representatives based in Strasbourg
- ◆ the **Parliamentary Assembly (PACE)**: the deliberative body, whose members are appointed by national parliaments. There are 318 members and 318 substitutes
- ◆ the **Congress of Local and Regional Authorities**: the consultative body representing local and regional authorities

- ◆ the **European Court of Human Rights**: the judicial body guaranteeing the rights enshrined in the European Convention on Human Rights for everyone under its jurisdiction
- ◆ the **Commissioner for Human Rights**: an independent official whose role is to promote education in, awareness of and respect for human rights in member states
- ◆ the **Conference of INGOs**: the Council of Europe is open to dialogue with over 400 international non-governmental organisations (INGOs) that have been granted participatory status
- ◆ the **Secretary General**: elected as head of the organisation by the PACE for a five-year term, is responsible for the strategic planning and direction of the Council's work programme and budget and oversees the day-to-day management of the Organisation
- ◆ the **Secretariat**: over 2,000 members of staff from all 47 member states work at the Council's headquarters in Strasbourg (France) or in other offices in Europe.

www.coe.int



Human rights: at the very heart
of the Council of Europe

Greater Europe

From Reykjavik to Vladivostok

Founded in 1949 by 10 states, the Council of Europe is an international organisation with its headquarters in Strasbourg (France).

Today it has 47 member states, representing 800 million people.

Founding members (5 May 1949)

-  Belgium
-  Denmark
-  France
-  Ireland
-  Italy
-  Luxembourg
-  Norway
-  Netherlands
-  United Kingdom
-  Sweden

Other member states (in the order they joined)

-  Greece (1949)
-  Turkey (1949)
-  Iceland (1950)
-  Germany (1950)
-  Austria (1956)
-  Cyprus (1961)
-  Switzerland (1963)
-  Malta (1965)
-  Portugal (1976)
-  Spain (1977)
-  Liechtenstein (1978)
-  San Marino (1988)
-  Finland (1989)
-  Hungary (1990)
-  Poland (1991)
-  Bulgaria (1992)
-  Estonia (1993)
-  Lithuania (1993)
-  Slovenia (1993)
-  Czech Republic (1993)
-  Slovakia (1993)
-  Romania (1993)
-  Andorra (1994)
-  Latvia (1995)
-  Albania (1995)
-  Moldova (1995)
-  "the former Yugoslav Republic of Macedonia" (1995)
-  Ukraine (1995)
-  Russia (1996)
-  Croatia (1996)
-  Georgia (1999)
-  Armenia (2001)
-  Azerbaijan (2001)
-  Bosnia and Herzegovina (2002)
-  Serbia (2003)
-  Monaco (2004)
-  Montenegro (2007)



Did you know?

The European Convention on Human Rights was directly based on the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948.

What is the ECHR?

Guaranteeing human rights and fundamental freedoms

The European Convention on Human Rights (ECHR) is an *international treaty* adopted in 1950 which entered into force in 1953. It was the first Council of Europe convention to deal with the protection of human rights. States must ratify the Convention in order to join the Organisation.

Since 1950, the Convention has undergone various amendments and has given rise to many other Council of Europe conventions. It is made up of a number of articles, supplemented over the years by protocols adding new rights to the Convention. The Court's case-law makes the Convention a "living instrument", able to adapt to the changes taking place in our societies.

The *Convention* protects the right to:

- ◆ life, freedom and security
- ◆ respect for private and family life
- ◆ freedom of expression
- ◆ freedom of thought, conscience and religion
- ◆ vote in and stand for election
- ◆ a fair trial in civil and criminal matters
- ◆ property and peaceful enjoyment of possessions.

Amongst other things, it prohibits:

- ◆ torture or inhuman or degrading treatment or punishment
- ◆ slavery and forced labour
- ◆ arbitrary and unlawful detention
- ◆ discrimination in the enjoyment of the rights and freedoms secured by the Convention
- ◆ deportation of a state's own nationals or denying them entry
- ◆ the death penalty
- ◆ the collective deportation of foreigners.



International treaty

Agreement between states designed to produce legal effects in their mutual relations.

Convention

A convention is a legal agreement between two or more states. States are invited to first sign a convention, showing that they want to follow what it says, then, when they are sure that they are able to do so, they can 'ratify' it - this means they commit themselves to its values and instructions.

Protocol to the Convention

A protocol to the Convention is a text which adds one or more rights to the original Convention, or amends certain of its provisions. Protocols which add rights to the Convention are binding only on those States that have signed and ratified them. To date, 14 additional protocols to the ECHR have been adopted.

www.human-rights-convention.org



Did you know?

Europe is not the only continent to have a court protecting human rights. There are two other regional courts: the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights. In 2008, to mark the 60th anniversary of the Universal Declaration of Human Rights, the three regional courts met together at a seminar in Strasbourg. In his address, Jean-Paul Costa, President of the European Court of Human Rights, said: "What better way to show the universal scope of human rights?"

Role of the European Court of Human Rights

Safeguarding democracy and the rule of law

Set up in 1959, the European Court of Human Rights is a judicial body guaranteeing the rights enshrined in the European Convention on Human Rights for everyone under the jurisdiction of a contracting state. There has been a single Court since 1 November 1998 which sits permanently in Strasbourg (France).

The number of judges at the Court is the same as that of the States Parties to the Convention. The judges are totally independent, do not represent their country and are elected by the Parliamentary Assembly of the Council of Europe.

In its 50 years of existence, the Court has delivered more than 10,000 *judgments*. These judgments are binding on the states concerned and require them to erase the consequences of violations for the applicants and amend their legislation and practices in numerous areas, under the supervision of the Committee of Ministers. The Convention evolves through the Court's case-law as a living instrument to face new challenges and as a force for the consolidation of the rule of law and democracy throughout Europe.

Because of the significant increase in the number of **cases** brought before the Court, several reforms are currently taking place. A major reform process to ensure the effectiveness of the Court was initiated in June 2010.



Judgment

The ruling delivered by the European Court of Human Rights regarding the merits of a case, or in other words, the actual complaints. A judgment should not be confused with a...

... Decision

A Court decision relating to the admissibility of an application. This is when the Court verifies that all the requirements have been fulfilled.

Application or case

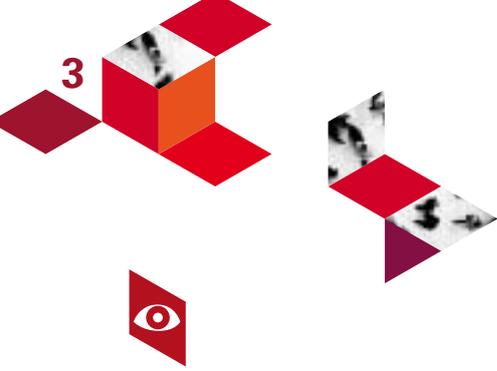
Dispute to be settled by a court.

Complaints

The reason for the application. Complaints are examined when the Court deals with the merits of an application.

Inadmissible

An application which is unfounded or insufficiently well-founded is declared inadmissible and dismissed.



Did you know?

Applicants are not obliged to submit their application in one of the Court's two official languages (English and French); they may submit it in any of the official languages of the countries which have ratified the Convention. Hearings take place in the Human Rights Building in Strasbourg. They are public unless otherwise decided by the President of the Chamber or Grand Chamber, as the case may be.

Submitting an application

The conditions to be fulfilled

Who can bring a case to the Court?

Cases can be brought directly by individuals or states who believe their rights have been violated. So, the Convention differentiates between two types of **application**:

- ◆ individual applications, lodged by an individual, group of individuals or a non-governmental organisation against one or more states;
- ◆ inter-state applications, brought by one state against another.

Since the Court was established, almost all applications have been lodged by individuals.

The formal requirements

The Court first of all has to look at whether an application is **admissible**. To be admissible, it must fulfil certain conditions set out in the Convention. For example, applicants must prove that they have "exhausted all domestic remedies" (generally speaking this means that the highest court in their country has dismissed their complaint) and they must submit their application within six months of the final decision taken in their country.

If the application is deemed to be admissible, the Court encourages the parties (the applicant and the state concerned) to reach a **friendly settlement**. For example, a country might agree to pay compensation, and the application is withdrawn. If there is no friendly settlement, the Court then examines the "merits" of the case, ie, it looks at whether or not there has been a violation of the Convention.

Application / applicant
The Convention makes a distinction between two types of application: individual applications (lodged by any person, group of individuals, company or NGO) and inter-State applications (brought by one State against another).

Admissibility
An application must comply with certain requirements (e.g. all domestic remedies must have been exhausted, it must be submitted within six months, it must relate to a violation of a right protected by the ECHR), otherwise it will be declared inadmissible by the Court, without the complaint actually being examined.

Friendly settlement
An agreement between the parties which consequently puts an end to the application, if the Court considers that the human rights interest is not sufficient to the case being maintained. When the applicant and the state in question agree to settle their dispute in this way, the outcome is usually that the State pays the applicant a sum of money.



Did you know?

The judges are elected by the Parliamentary Assembly of the Council of Europe from lists of three candidates proposed by each State. They are elected for a renewable term of 9 years.



Grand Chamber

This is the enlarged formation of the Court, comprising 17 judges. The Grand Chamber may hear a case on appeal or cases which raise serious human rights issues may be referred to it.

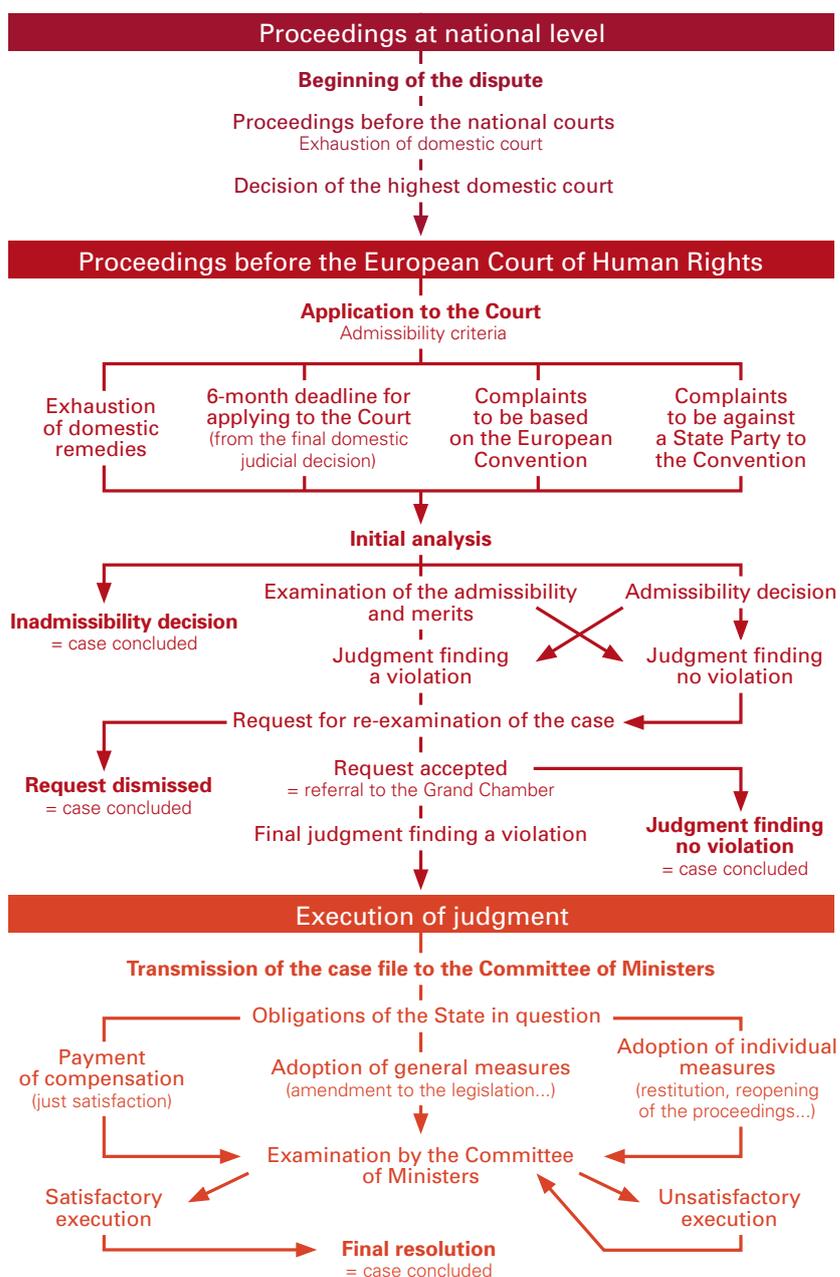
Just satisfaction – Pecuniary damage – non-pecuniary damage

When the Court finds against a State and observes that the applicant has sustained damage, it may award him or her just satisfaction, i.e. a sum of money by way of compensation for that damage.

The damage may be “pecuniary” (loss of property or source of income) or “non-pecuniary” (suffering, affront to a person’s dignity, etc...)

Application life-cycle

Case processing flow chart





Did you know?

The execution of a judgment continues to be under the supervision of the Committee of Ministers until the desired results are achieved. The Committee of Ministers takes an active part in seeking solutions by offering encouragement, assistance, or if necessary applying pressure. Once the Committee considers that the judgment has been fully executed, it publicly adopts a "Final Resolution", setting out in detail the measures taken.

What happens after the Court gives its judgment?

Execution and impact of judgments

The Court's judgments are binding: when it finds a violation, the country in question is obliged to execute the judgment taking measures to ensure that a similar violation cannot take place and to erase the consequences for the victim. The Court may also order the state to pay the applicant a sum of money as "just satisfaction", in that the money in question serves as compensation. Other specific measures may also be necessary, such as releasing the applicant if he or she is being detained, re-establishing contacts with the applicant's child, granting him or her a resident's permit, etc.

It is the Committee of Ministers of the Council of Europe which is responsible for monitoring application of the Court's judgments: it helps states identify the necessary measures and find solutions when the adoption of certain measures comes up against problems. In addition, it assesses the effectiveness of the measures taken for the applicant and for any other persons who might find themselves in the same situation.

Examples of general measures taken by states following a Court judgment:

- ◆ Austria ended the monopoly applying to television
- ◆ Belgium amended its laws on homeless people and adopted measures to prohibit any discrimination against children born outside marriage
- ◆ Bulgaria created an alternative to military service for conscientious objectors
- ◆ Croatia introduced an effective remedy against the excessive length of court proceedings
- ◆ The Czech Republic passed a new bankruptcy law
- ◆ Denmark extended the right not to belong to a trade union
- ◆ Finland amended its law on child custody and visiting rights

- ◆ France, Spain and the United Kingdom passed laws on telephone tapping
- ◆ Germany gave celebrities a greater right not to have their private photographs published
- ◆ Greece improved detention conditions for foreigners awaiting deportation
- ◆ Hungary introduced fairer decision-making with regard to prolongation of remand in custody
- ◆ Ireland decriminalised homosexual acts
- ◆ Italy made it compulsory for defence lawyers to appear before the Court of Cassation
- ◆ Latvia abolished discriminatory language tests for election candidates
- ◆ Moldova recognised freedom of religion
- ◆ The Netherlands amended its legislation on the detention of patients with mental illnesses
- ◆ Poland introduced an effective compensation system for certain persons whose property had been expropriated following the Second World War
- ◆ Romania cancelled provisions making it possible to annul final court decisions
- ◆ The Russian Federation improved the provision of social welfare for the victims of Chernobyl
- ◆ The Slovak Republic amended its legislation on child placement
- ◆ Slovenia took measures to prevent ill-treatment by the police
- ◆ Sweden amended its provisions on public trials
- ◆ Switzerland reviewed its criminal court system and criminal procedures
- ◆ Turkey abolished the presence of military judges in state security courts
- ◆ Ukraine amended its libel legislation
- ◆ The United Kingdom banned corporal punishment in schools.

Examples of individual measures taken by states following a Court judgment:

- ◆ in Azerbaijan, an applicant who had been wrongfully dismissed was reinstated
- ◆ in Bosnia and Herzegovina, an applicant's savings were restored to her
- ◆ in Bulgaria, the Principal State Prosecutor asked for the re-opening of a trial, judged to be unfair
- ◆ in Croatia, an applicant was given back his passport, held by the authorities
- ◆ in Cyprus, an applicant was able to vote
- ◆ in the Czech Republic, an applicant was awarded a retirement pension that had been suspended
- ◆ in Finland, parents were able to give their son the name of their choice, which had been rejected by the authorities
- ◆ in Georgia, an applicant who had been arbitrarily detained was released
- ◆ in Germany, the father of a child born out of wedlock and abandoned by his mother was granted custody
- ◆ in Greece, applicants were able to open a school
- ◆ in Hungary, a historian was granted access to classified documents
- ◆ in Latvia, an applicant detained in conditions unsuited to his age (84 years) was released
- ◆ in Lithuania, data relating to an applicant were erased from the list of foreigners forbidden to reside in the country
- ◆ in Moldova, a church was recognised and registered
- ◆ in Montenegro, the person unlawfully occupying the applicant's apartment was evicted
- ◆ in Poland, the record of an applicant's conviction for libel was erased
- ◆ in Portugal, a father was once more allowed to see his son
- ◆ in Romania, former owners of nationalised properties were able to recover their assets or receive compensation
- ◆ in the Russian Federation, an applicant was granted citizenship
- ◆ in the Slovak Republic, an applicant was able to challenge a paternity decision
- ◆ in Switzerland, a father was able to find his child, taken by the child's mother and kept concealed in Mozambique
- ◆ in Turkey, bans on political activities imposed on members of dissolved parties were lifted
- ◆ in the United Kingdom, an applicant was acknowledged as being the victim of chemical tests during his military service and, as a result, his pension was increased.

European Convention on Human Rights

*Simplified version of selected articles and protocols**

Summary of the Preamble

The member governments of the Council of Europe work towards peace and greater unity based on human rights and fundamental freedoms.

With this Convention they decide to take the first steps to enforce many of the rights contained in the Universal Declaration of Human Rights.

◆ Article 1 – Obligation to respect human rights

States must ensure that everyone has the rights stated in this Convention.

◆ Article 2 – Right to life

You have the right to life.

◆ Article 3 – Prohibition of torture

No one ever has the right to hurt you or torture you. Even in detention your human dignity has to be respected.

◆ Article 4 – Prohibition of slavery and forced labour

It is prohibited to treat you as a slave or to impose forced labour on you.

◆ Article 5 – Right to liberty and security

You have the right to liberty.

If you are arrested you have the right to know why.

If you are arrested, you have the right to stand trial soon, or to be released until the trial takes place.

◆ Article 6 – Right to a fair trial

You have the right to a fair trial before an unbiased and independent judge.

If you are accused of having committed a crime, you are innocent until proven guilty. You have the right to be assisted by a lawyer who has to be paid by the state if you are poor.

◆ Article 7 – No punishment without law

You cannot be held guilty of the crime if there was no law against it when you did it.

◆ Article 8 – Right to respect for private and family life

You have the right to respect for your private and family life, your home and correspondence.

◆ Article 9 – Freedom of thought, conscience and religion

You have the right to freedom of thought, conscience and religion. You have the right to practise your religion at home and in public and to change your religion if you want.

◆ Article 10 – Freedom of expression

You have the right to responsibly say and write what you think and to give and receive information from others. This right also covers the freedom of the press.

◆ **Article 11 – Freedom of assembly and association**

You have the right to take part in peaceful meetings and to set up or join associations – including trade unions.

◆ **Article 12 – Right to marry**

You have the right to marry and to have a family.

◆ **Article 13 – Right to an effective remedy**

If your rights are violated, you can complain about this officially to the courts or other public bodies.

◆ **Article 14 – Prohibition of discrimination**

You have these rights regardless of your skin colour, sex, language, political or religious beliefs, or origins.

◆ **Articles 19 to 51**

These articles explain how the European Court of Human Rights works.

◆ **Article 34 – Individual applications**

If your rights contained in the Convention have been violated in one of the member states you should first appeal to all competent national authorities.

If that does not work out for you, then you may appeal directly to the European Court of Human Rights in Strasbourg.

◆ **Article 52 – Enquiries by the Secretary General**

If the Secretary General of the Council of Europe requests it, a government must explain how its national law protects the rights of this Convention.

Protocols to the Convention

◆ **Article 1 of Protocol No. 1 – Protection of property**

You have the right to own property and use your possessions.

◆ **Article 2 of Protocol No. 1 – Right to education**

You have the right to go to school.

◆ **Article 3 of Protocol No. 1 – Right to free elections**

You have the right to elect the government of your country by secret vote.

◆ **Article 2 of Protocol No. 4 – Freedom of movement**

If you are lawfully within a country, you have the right to go where you want and to live where you want within it.

◆ **Article 1 of Protocol No. 6 – Abolition of the death penalty**

The death penalty shall be abolished.

◆ **Article 2 of Protocol No. 7 – Right of appeal in criminal matters**

You may appeal to a higher court if you have been convicted for committing a crime.

◆ **Article 3 of Protocol No. 7 – Compensation for wrongful conviction**

You have the right to compensation if you have been convicted for committing a crime and it turns out that you are innocent.

◆ **Article 1 of Protocol No. 12 – General prohibition of discrimination**

You cannot be discriminated against by public authorities for reasons of, for example, your skin colour, sex, language, political or religious beliefs, or origins.

www.human-rights-convention.org

* This document has been compiled by the Council of Europe's Directorate of Communication in collaboration with the Press and Public Relations Unit of the Court and the Information and Publishing Support Unit of the Directorate General of Human Rights and Legal Affairs. The simplified version of the European Convention on Human Rights is intended for educational purposes only; it is based on the simplified version of the Universal Declaration of Human Rights produced by Amnesty International and others. The only legally authentic texts are the English and French versions of the Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols.

Article 2 protects everybody's right to life.

It is one of the most important articles in the European Convention on Human Rights since without the right to life it is impossible to enjoy the other rights granted by the Convention.

Article 2 places a number of obligations on states:

- ◆ the obligation to refrain from the intentional taking of life
- ◆ the obligation to take the necessary steps to protect human life. This entails introducing laws and criminal penalties to dissuade people from harming others, and carrying out thorough investigations into deaths.



Article 2:

You have the right to life.

The right to *Life*

IN PRACTICE, the right to life includes...

... **protecting prisoners:** states must take the necessary steps to protect the life of those detained in prison.

In 2006 the Court found that there had been a violation of Article 2 in the *Renolde v. France* case. H el ene Renolde complained that the French authorities had not taken the necessary measures to protect the life of her brother, who hanged himself in July 2000 in his cell in Bois-d'Arcy Prison, where he was in pre-trial detention. The Court observed, among other things, that prisoners known to be suffering from a serious mental disturbance and to pose a suicide risk required special measures geared to their condition.

... **protection against environmental hazards:** states must take the necessary steps to protect the health of individuals and prevent any environmental dangers.

In 2008 the Court found that there had been a violation of Article 2 in the *Budayeva and others v. Russia* case. The six applicants lived in the town of Tyrnauz, situated in the mountain district adjacent to Mount Elbrus in the Republic of Kabardino-Balkariya (Russia). Mudslides had been recorded in the area every year since 1937, especially in summer. The case concerned the applicants' accusations that the Russian authorities had failed to heed warnings about the likelihood of a large-scale mudslide devastating Tyrnauz in July 2000, to warn the local population, to implement evacuation and emergency relief policies or, after the disaster, to carry out a judicial investigation.

Article 3 of the Convention prohibits torture and inhuman or degrading treatment in all circumstances, including in the context of the international fight against terrorism.

States also have an obligation to introduce prevention measures, such as laws which establish treatment contrary to Article 3 as a criminal offence, and to carry out thorough investigations into any allegations of torture or ill-treatment.

Protection against torture is a universally acknowledged principle and is not disputed in international law; there are special conventions in this field drawn up by the Council of Europe (e.g. the European Convention for the Prevention of Torture and the Convention on Action against Trafficking in Human Beings) and by the United Nations.



Article 3:

*No one ever
has the right
to hurt you
or torture you.*

Prohibition of *torture*

IN PRACTICE, ***the prohibition of torture applies,*** ***for example, to...***

... police brutality during interrogation: the interrogation techniques used by the law enforcement agencies must comply with the rights guaranteed by Article 3.

In 2007, the Court found that there had been a violation of Article 3 in the *Mammadov v. Azerbaijan* case. Sardor Jalaloglu Mammadov, Secretary General of the Democratic Party of Azerbaijan, (one of the opposition parties that considered the results of the October 2003 presidential elections to be illegitimate) was arrested and taken into police custody on 18 October 2003. The Court found that Mr Mammadov had been tortured while in police custody and that the authorities had not carried out an effective investigation into his allegations of torture.

... extradition and deportation: the Court may find that there has been a violation of Article 3 if the extradition or deportation of an individual to another country could entail a real danger of his or her being subjected to ill-treatment.

In 2008, the Court found that there had been a violation of Article 3 in the *Saadi v. Italy* case. The case concerned the possible deportation of Nassim Saadi to Tunisia, where he claimed to have been sentenced in 2005, in his absence, to 20 years' imprisonment for membership of a terrorist organisation acting abroad in peacetime and for incitement to terrorism. The Court held that if the decision to deport the applicant to Tunisia were to be enforced, there would be a violation of Article 3.



Article 4 of the Convention prohibits slavery, servitude and forced or compulsory labour. This also covers human trafficking.

States are also required to have legislation that guarantees practical and effective protection against such acts.



Article 4:

It is prohibited to treat you as a slave or to impose forced labour on you.

Prohibition of *slavery* and *forced labour*

IN PRACTICE, ***the prohibition of slavery and forced labour includes...***

... **protection of domestic employees:** states must take the necessary measures to protect individuals against domestic slavery.

In 2005, the Court found that there had been a violation of Article 4 in the *Siliadin v. France* case. Siwa-Akofa Siliadin complained that French criminal law had not afforded her sufficient and effective protection against the “servitude” in which she had been held, or at the very least against the “forced and compulsory” labour she had been required to perform, which in practice

had made her a domestic slave. The Court considered that the French criminal legislation in force at the relevant time had not afforded the applicant specific and effective protection against the actions of which she had been a victim.

... **action against human trafficking:** in January 2010, the Court found that there had been a violation of Article 4 in the *Ranstsev v. Cyprus and Russia* case, holding that the Cypriot and Russian authorities had failed to protect a 20-year old Russian cabaret artist from human trafficking. This was the Court’s first judgment regarding trafficking in human beings.

Article 5 of the Convention offers a means of verifying whether being held in detention is lawful and, therefore, of protecting people against arbitrary arrest and detention.

States are also required to provide detained persons with a number of procedural guarantees; everyone arrested must be informed as soon as possible of the reasons for the arrest and must be brought promptly before a judge or released pending trial. In addition, anyone whose arrest or detention is contrary to the rights guaranteed by Article 5 is entitled to compensation.



Article 5:

*If you are arrested
you have the right
to know why.*

*If you are arrested
you have the right
to stand trial soon
or to be released
until the trial takes
place.*

The right to *Liberty* and *security*

IN PRACTICE,
the right to liberty and security applies,
for example, to...

... unlawful detention: the Convention protects individuals against any arbitrary or unlawful detention.

In 2004, the Court found that there had been a violation of Article 5 in the *Frommelt v. Liechtenstein* case. Peter Frommelt was placed in pre-trial detention in 1997 on suspicion of offences including embezzlement and fraud. He alleged that there had been procedural shortcomings in the review of his pre-trial detention.

... unlawful detention: in April 2004, the Court found that there had been a violation of Article 5 in the *Assanidze v. Georgia* case. Tengiz Assanidze was formerly the mayor of Batumi and a member of the Supreme Council of the Ajarian Autonomous Republic. The applicant had been held in detention for more than three years after his acquittal by the Supreme Court of Georgia in 2001. The Court found that the applicant had been arbitrarily detained and held that the Georgian State had to secure his release at the earliest possible date. This judgment was the first by the Court ordering a state to release an applicant as soon as possible.

Article 8 of the Convention protects the right to respect for private and family life, the home and correspondence.

A state may not interfere in an individual's private life; at the same time, it has a duty to protect the moral and physical integrity of all.

The European Court of Human Rights has given protection of "private and family life" a fairly broad interpretation, taking the view that the deportation of a foreigner, the prohibition of private consensual homosexual acts, the refusal by a state to allow a detainee to attend the funeral of a family member or the refusal by a state to recognise the true paternity of a still-born child all constitute violations of Article 8.



Article 8:

You have the right to respect for your private and family life, your home and correspondence.

The right to respect for *private* and *family life*

IN PRACTICE,
the right to respect for private and family life applies, for example, to...

... publications intruding on one's privacy: celebrities and members of royal families have relied on Article 8 to protect their privacy from media intrusion.

In 2004, the Court found that there had been a violation of Article 8 in the *von Hannover v. Germany* case. Princess Caroline von Hannover had on several occasions unsuccessfully applied to the German courts for an injunction preventing any further publication of a series of photographs which had appeared in German magazines in the 1990s, claiming that they infringed her right to protection of her private life and her right to control the use of her image. The Court said that everyone, including people known to the public, had to have a "legitimate expectation" that his or her private life would be protected.

... custody of a child after a divorce: states must take the necessary steps to enforce a court decision to ensure a close relationship between parents and children.

In 2006, the Court found that there had been a violation of Article 8 in the *Bajrami v. Albania* case. Agim Bajrami complained that he had been unable to secure the enforcement of a court decision giving him custody of the daughter his ex-wife had taken to Greece after their divorce. After reiterating that the Convention required States to take all the necessary measures to reunite parents and their children in execution of a final judgment of a domestic court, the Court held that there had been a violation of the applicant's right to respect for his family life.

Article 9 protects everyone's freedom of thought, conscience and religion; these rights are inviolable, as too is the right to change religion or belief. All recognised belief systems are protected under Article 9.



Article 9:

You have the right to freedom of thought, conscience and religion.

Freedom of *thought,* *conscience* and *religion*

IN PRACTICE,
the right to freedom of thought, conscience and religion, includes...

... the right to practise one's religion freely:

States must uphold this right, protected by Article 9.

In 1993, the Court found that there had been a violation of Article 9 in the *Kokkinakis v. Greece* case. Minos Kokkinakis, a Jehovah's Witness, was arrested more than 60 times for proselytising.

... State neutrality: states must not interfere in the internal affairs of a religious community.

In 2000, the Court found that there had been a violation of Article 9 in the *Hasan and Chaush v. Bulgaria* case. The applicants, a former Chief Mufti of the Bulgarian Muslims and a teacher of Islam, complained about the Bulgarian authorities' decision to change the leadership and statute of the Muslim community. The Court found that there had been interference with the internal organisation of the Muslim community and the applicants' freedom of religion.



Article 10:

You have the right to responsibly say and write what you think and to give and receive information from others. This includes freedom of the press.

Article 10 of the Convention protects freedom of expression, one of the essential foundations of a democratic society.

The media require particular protection because they play a key role in defending freedom of expression.

This article protects the right to criticise, to make assumptions or value judgments and the right to have opinions.

Freedom of *expression*

IN PRACTICE, *the right to freedom of expression includes...*

... the freedom of the press and broadcasting media: without a free and diverse press there can be no democratic society. The freedom of expression guaranteed by Article 10 is also applicable to “information” or “ideas” that offend, shock or disturb the state or any sector of the population. States have a duty to uphold this right.

In 2008, the Court found that there had been a violation of Article 10 in the *Lopes Gomes da Silva v. Portugal* case. Vicente Jorge Lopes Gomes da Silva, who at the relevant time was manager of the daily newspaper *Público*, was convicted of libel. The Court stated in particular that freedom of expression was of particular importance with regard to the press, the limits of acceptable criticism being wider with regard to a politician acting in his public capacity.

In contrast, in 2009 in the *Times Newspapers Ltd v. the United Kingdom* (Nos. 1 and 2) case, the Court concluded that the newspaper’s conviction for the publication of libellous articles archived on the Internet did not constitute a violation of the Convention.

... civil servants’ freedom of expression: the Convention protects civil servants against limitations of their freedom of expression on account of their duty of loyalty, unless there are exceptional circumstances.

In 1995, the Court found that there had been a violation of Article 10 in the *Vogt v. Germany* case. The applicant maintained that her dismissal from the civil service on account of her political activities as a member of the DKP (German Communist Party) had infringed her right to freedom of expression. The Court held that the applicant’s dismissal was a disproportionate penalty.



Article 11:

You have the right to take part in peaceful meetings and to set up or join associations – including trade unions.

Article 11 protects people's right to organise themselves and take part in peaceful meetings and demonstrations, and guarantees their right to form or join associations and trade unions.

States have an obligation to take appropriate steps to protect lawful peaceful demonstrations; the rules governing demonstrations on the public highway should not dissuade citizens from exercising their right to freedom of peaceful assembly.

Freedom of *assembly* and *association*

IN PRACTICE, ***the right to freedom of assembly*** ***and association includes...***

... the freedom to meet up in an association: states must guarantee this right protected by Article 11.

In 2007, the Court found that there had been a violation of Article 11 in the *Ramazanova and others v. Azerbaijan* case. The applicants founded an association named "Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku" and applied several times to the authorities to have the organisation registered. The Court considered that the significant delays in registering the association, in breach of the statutory time-limits, amounted to a violation of the applicants' right to freedom of association.

... the freedom of peaceful assembly on the public highway (demonstration): states must guarantee the freedom of peaceful assembly. In order to ensure law and order, prior authorisation from the public authorities is legitimate if it is provided for by law.

In 2007, the Court found that there had been a violation of Article 11 in the *Mkrtchyan v. Armenia* case. Armen Mkrtchyan was ordered to pay a fine for having taken part in a demonstration in May 2002. Having observed that, at the time in question, there had been no legislation in Armenia governing the organisation of demonstrations, the Court concluded that the interference with the applicant's right to freedom of peaceful assembly had not been prescribed by law.

The prohibition of discrimination is a key part of the protection of human rights. It is closely linked to the principle of equality which holds that all people are born and remain free and equal in dignity and rights.

The prohibition of discrimination is to be found in all international instruments for the protection of human rights.



Article 14:

You have these rights regardless of your skin colour, sex, language, political or religious beliefs, or origins



Article 1 of Protocol No. 12 – General prohibition of discrimination:

You cannot be discriminated against by public authorities for reasons of, for example, your skin colour, sex, language, political or religious beliefs, or origins.

Prohibition of *discrimination*

IN PRACTICE, *the prohibition of discrimination applies,* *for example, to...*

... **discrimination based on sexual orientation:** states must guarantee that people are treated equally, whatever their sexual orientation.

In 2003, the Court found that there had been a violation of Article 14 in the *Karner v. Austria* case. Siegmund Karner complained about the Austrian courts' decision that the statutory right of a family member to succeed to a tenancy did not apply to homosexual couples.

... **discrimination based on origin:** states must guarantee equal treatment irrespective of an individual's origin.

In 2007, the Court found a violation of Article 14 in the *D.H. v. the Czech Republic* case in which Roma children had been placed in special schools.

... **discrimination based on descent:** states must guarantee the principle of equality in matters of descent, especially with regard to inheritance.

In 2004, the Court found that there had been a violation of Article 14 in the *Pla and Puncernau v. Andorra* case. The case concerned court decisions that Antoni Pla Puncernau, as an adopted child, could not inherit his mother's estate because he could not be considered as "a child from a legitimate and canonical marriage" as stipulated in the mother's will.

Research and analysis



Approach:

these activities require research and could therefore be given as homework or oral assignments to be prepared at home.



My country and the ECHR

PUTTING HUMAN RIGHTS IN THEIR HISTORICAL CONTEXT

Each country has its own human rights history:

in Hungary, for instance there was the uprising of serfs (1514-1710) culminating in 1848 in legislation outlawing serfdom and introducing freedom of the press. Going even further back in time to 1215 in England, the Magna Carta used constitutional means to limit the tyrannical use of royal power. More recently in Europe there are numerous examples of movements campaigning for freedom and human rights.

▀ Divide the pupils into groups and ask them to look at people, publications, the arts, events and movements that contributed to the development of human rights in your country. One or more groups could be asked to look at influences from other countries.

The results can be used in a variety of ways:

- ◆ each group could present its results to the rest of the class
- ◆ some pupils could write an essay on an aspect of their group research.

▀ Organise a display on human rights in your classroom for other classes to visit.

ORGANISATIONS DEFENDING HUMAN RIGHTS

We are all responsible for ensuring that human rights are protected and promoted. Although states undertake to protect human rights, many non-governmental organisations (NGOs) are active throughout Europe and the world to promote, develop and safeguard human rights.

▀ Ask your pupils to find out what NGOs are active in this field in your country.

What are their aims? What do they do? Who are their members? Are there any human rights organisations active in your region? Would it be possible to invite a human rights NGO to give a talk to the class?

Research and analysis



INTERNATIONAL HUMAN RIGHTS COMMITMENTS

Look at the links between human rights in your country and international organisations.

Working in groups, pupils are asked to research the following topics:

- ◆ When and why did your country join the Council of Europe?
- ◆ When did your country sign and ratify the European Convention on Human Rights and which protocols has it ratified?
- ◆ What is the main difference between the Universal Declaration of Human Rights and the ECHR?
- ◆ When did your country sign the Universal Declaration of Human Rights?
- ◆ When and why did your country join the United Nations?
- ◆ Has your country signed other major UN human rights documents?
- ◆ What other international human rights commitments has your country accepted?

YOUR COUNTRY AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS

What are the effects of the European Convention on Human Rights being in force in your country? When a country ratifies the ECHR, the consequences are far-reaching. Here too, this activity requires pupils to research the following topics:

- ◆ What institutions are influenced by the European Convention on Human Rights?

- ◆ What institutions are responsible for ensuring that the people in the country enjoy the rights and freedoms guaranteed by the Convention?
- ◆ Would it be possible to organise a class visit to one of them?
- ◆ What provisions in your country's constitution are similar to the rights set out in the Convention?
- ◆ What is the name of the judge from your country who sits in the European Court of Human Rights and what was his/her professional background?
- ◆ Have there been cases from your country that have reached the European Court of Human Rights? If so, what were the results?
- ◆ What measures has your country taken to comply with the Convention once a violation had been found?

There are several other Council of Europe conventions and mechanisms that protect people's rights. What connections are there between your country and:

- ◆ The European Convention on Human Rights?
- ◆ The European Social Charter?
- ◆ The Convention for the Protection of Torture?
- ◆ The Framework Convention for the Protection of National Minorities?
- ◆ The European Commission against Racism and Intolerance?

Case study – Analysis and application of what has been learned

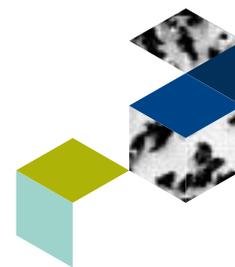


Time:

30 minutes (for reading the case study and answering the question) plus 20 minutes (correction, possibly followed by a discussion on the topics addressed).

Approach:

divide the pupils into small groups (4-5). Ask them to read the case study below and then answer the questions, with the help of the information sheets. Each group should choose a spokesperson to give a short presentation of its answers.



Mary Williams *and her image in the press*

Mary Williams is a world-famous actress. In 2001 the magazine *Star News* published a series of articles in which it was critical of her performance in her latest film.

Ms Williams sued the magazine for libel. She criticised the articles themselves and also the photos which the magazine published of her, claiming it was an invasion of her privacy.

The courts in her country (a Council of Europe member state) held that the articles did indeed contain libellous remarks about her and ordered the magazine to pay a fine of 7,000 euros. However, the same courts held that Ms Williams, as a well-known celebrity, had to be prepared to accept the publication of photographs portraying her everyday life.

Questions:

▀ Mary Williams wants to appeal against the court's ruling regarding the publication of photographs.

Can she take her case to the European Court of Human Rights? If she can, on which article(s) of the Convention could she base her application?

▀ The magazine *Star News* wishes to appeal against the fine it has been ordered to pay.

Can it take its case to the European Court? If it can, on which article(s) of the Convention could it base its application?

▀ Write about 20 lines on the following:

Are there limits to journalists' freedom of expression?

Case study – Analysis and application of what has been learned



Time:

30 minutes (for reading the case study and answering the question) plus 20 minutes (correction, possibly followed by a discussion on the topics addressed).

Approach:

divide the pupils into small groups (4-5). Ask them to read the case study below and then answer the questions, with the help of the information sheets. Each group should choose a spokesperson to give a short presentation of its answers.

Peaceful demonstration

The very last green park in town is going to be made into a car park. Ten local residents demonstrate peacefully in the park, saying they need a place to relax and for their children to play in.

The police arrive and tell them they are not allowed to demonstrate and that they should go home. The demonstrators sit down on the ground and refuse to move. The police move them by force, hurting some of them.

Questions:

- ▀ Have the demonstrators' fundamental rights been violated? If so, which rights?
- ▀ Can the demonstrators make a joint application to the European Court of Human Rights? State the conditions that have to be fulfilled in order to submit an application.
- ▀ On what article(s) of the Convention could they base their application?

Case study – Analysis and application of what has been learned

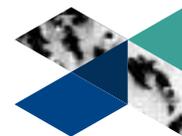


Time:

30 minutes (for reading the case study and answering the question) plus 20 minutes (correction, possibly followed by a discussion on the topics addressed).

Approach:

divide the pupils into small groups (4-5). Ask them to read the case study below and then answer the questions, with the help of the information sheets. Each group should choose a spokesperson to give a short presentation of its answers.



Lorenzo

his divorce and his children

Lorenzo applies for a divorce after 12 years of marriage. His wife has no objection, but the court takes several years before issuing the divorce decree.

Lorenzo wishes to maintain contact with his two children, but the law in the country does not allow him to do so until the divorce proceedings are over.

Questions:

- ▀ Which article of the Convention could Lorenzo turn to in order to challenge this situation?
- ▀ Describe the various stages of an application to the European Court of Human Rights which Lorenzo might decide to submit.

Case study – Analysis and application of what has been learned



Time:

30 minutes (for reading the case study and answering the question) plus 20 minutes (correction, possibly followed by a discussion on the topics addressed).

Approach:

divide the pupils into small groups (4-5). Ask them to read the case study below and then answer the questions, with the help of the information sheets. Each group should choose a spokesperson to give a short presentation of its answers.

Roberto and *detention*

In 1996, Roberto was sentenced to 20 years' imprisonment for a number of robberies and car thefts. He was held in custody for six months before being transferred to prison to serve his sentence once the court judgment became final.

Roberto complains that his remand in custody was unlawful. In addition, he criticises the conditions in which he was held, which he considers degrading. He also alleges that his correspondence was being opened and read by the prison authorities before being passed on to him.

Questions:

- ▀ Have Roberto's fundamental rights been violated? If so, which rights?
- ▀ Which articles in the European Convention on Human Rights could Roberto turn to in order to complain about his situation?
- ▀ What criteria could Roberto's lawyer refer to regarding his client's detention conditions?

Case study – Analysis and application of what has been learned



Time:

30 minutes (for reading the case study and answering the question) plus 20 minutes (correction, possibly followed by a discussion on the topics addressed).

Approach:

divide the pupils into small groups (4-5). Ask them to read the case study below and then answer the questions, with the help of the information sheets. Each group should choose a spokesperson to give a short presentation of its answers.

Ivan and the prospect of *being deported*

Ivan has been arrested by the police in a neighbouring country (a Council of Europe member state). As his documents are not in order, the courts have ruled that he should be deported to his country of origin.

Ivan is trying to appeal against this decision. He claims that he belongs to an ethnic minority which is discriminated against in his country of origin and that if he is returned there, he will most probably be tortured – or even killed – by either the official authorities or rebels.

Questions:

- ▀ Can Ivan take a case to the European Court of Human Rights against the neighbouring country to complain about the decision to send him back to his country of origin? On which article(s) of the Convention could he base his application?
- ▀ To what extent could he also submit an application against his country of origin?

Case study – Exchanging ideas, discussing human rights



Time:

1 – 1½ hours.

Approach:

divide the class into groups of 5 or 6 and read them the following scenario. Then begin the discussion using the questions given below.



The *imaginary* country

“Imagine that you have discovered a new country, where no-one has lived before, and where there are no laws and no rules. You and the other members of your group will be the settlers in this new land. You do not know what status you will have in this new land.”

▀ Individually, each pupil should write a list of three rights which they think should be guaranteed for everyone in this new country.

Ask the pupils to share and discuss their lists within their group. The group should then agree on a list of 10 rights which it thinks are important. The group should then invent a name for the country and write it on a large piece of paper together with the list of rights.

▀ Each group presents its list to the rest of the class.

As they do this, make a note of each right on a class list; if rights are repeated, put a cross next to them.

Once all the groups have made their presentations, ask the class to identify rights which overlap or contradict each other:

- ◆ Can the class list be rationalised? Can similar rights be grouped together?
- ◆ How near to reality is this list?

▀ Further questions could then be asked on the following topics:

- ◆ Did your ideas about which rights were most important change during the activity?
- ◆ Are there any rights which you would now want to add to the list?
- ◆ Are human rights universal?
- ◆ Are there any human rights organisations active in your region?
- ◆ What are their aims? What do they do? Who are their members?

Quiz!



See how much you know

1. When was the ECHR adopted?

- ◆ 1948
- ◆ 1950
- ◆ 1959

2. How many judges are there for each country?

- ◆ one judge
- ◆ it depends on the country
- ◆ it depends on the case

3. Who can bring a case to the Court?

- ◆ European Union nationals
- ◆ nationals of Council of Europe member states
- ◆ anyone, whatever their nationality

4. What is the time limit for bringing a case to the Court after all domestic remedies have been exhausted?

- ◆ within 6 months of the last court decision
- ◆ within 10 years of the facts of the case
- ◆ in the year following the last court decision

5. Which body is responsible for monitoring application of the Court judgments?

- ◆ the European Court of Human Rights
- ◆ the Commissioner for Human Rights
- ◆ the Committee of Ministers

6. Which country has not signed and ratified the ECHR?

- ◆ Turkey
- ◆ Belarus
- ◆ Switzerland

7. Which of these subject areas has the Court already delivered judgments on?

- ◆ national defence
- ◆ risk of chemical pollution
- ◆ bioethics

8. How many European Union countries are not party to the ECHR?

- ◆ 0
- ◆ 1
- ◆ 9

9. Who is responsible for executing a judgment finding a violation of the Convention?

- ◆ states
- ◆ the Committee of Ministers
- ◆ the Court

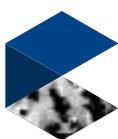
10. In how many different languages can an application be submitted to the Court?

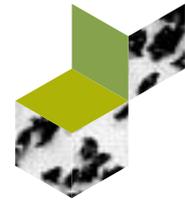
- ◆ 2
- ◆ 47
- ◆ any of the official languages of the member states



1. 1950
2. one judge
3. anyone, whatever their nationality
4. within 6 months of the last court decision
5. the Committee of Ministers
6. Belarus
7. risk of chemical pollution
8. 0
9. states
10. any of the official languages of the member states

Answers to the questions in the *quiz*:





Other Council of Europe texts protecting human rights

Over the years the Council of Europe has drawn up a number of other texts based on the rights guaranteed by the European Convention on Human Rights.

▀ The European Social Charter

The European Social Charter (1961), its Additional Protocol (1988) and the Revised Charter (1996) guarantee a range of fundamental social rights. These relate primarily to employment (e.g. non-discrimination, trade union rights, right to social welfare), protection against poverty and social exclusion, and the right to decent housing.

▀ The European Convention for the Prevention of Torture

In 1987 the Council of Europe adopted the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. This Convention supplements the protection provided by the European Convention on Human Rights by establishing a European Committee for the Prevention of Torture (CPT), made up of independent and impartial experts, who visit places of detention to see how detainees are treated.

▀ The Framework Convention for the Protection of National Minorities

This is the first legally-binding multilateral instrument to protect national minorities in general. It sets out the principles to be upheld by the states that ratify it.

These include equality before the law, taking measures to preserve and develop cultures and to safeguard identities, religions, minority languages and traditions.

▀ The European Commission against Racism and Intolerance (ECRI)

ECRI was set up in 1993 to strengthen the fight against all forms of racism, xenophobia, anti-Semitism and intolerance at European level. It evaluates the effectiveness of national and international measures in this field and encourages action at all levels.

▀ Council of Europe Convention on Action against Trafficking in Human Beings

The Convention is a comprehensive treaty concentrating essentially on the protection of victims of trafficking and on defence of their rights. It also concerns the prevention of trafficking and the prosecution of traffickers. It applies irrespective of the victims, women, men or children, and whatever the forms of exploitation, sexual exploitation or forced labour or services, etc.

www.human-rights-convention.org
www.echr.coe.int
www.coe.int/socialcharter
www.cpt.coe.int
www.coe.int/monitoring
www.coe.int/ECRI
www.coe.int/commissioner

www.coe.int



www.human-rights-convention.org

To find out more, visit the following human rights websites:

Council of Europe: www.coe.int

European Court of Human Rights: www.echr.coe.int

Execution of judgments of the Court: www.coe.int/execution