

Yaroslav Mudryi National Law University

Department of Theory and History of Law

**PRACTICAL CLASSES GUIDE OF ACADEMIC DISCIPLINE
“HUMAN RIGHTS STANDARDS OF THE EUROPEAN COURT OF HUMAN
RIGHTS”**

Level of higher education – the first (bachelor) level

Degree of higher education – bachelor

Field of knowledge – 29 “International Relations”

Speciality – 293 “International Law”

Educational Program / specialization – “International Law”

Discipline status – optional

Practical classes guide of academic discipline “Human rights standards of the European Court of Human Rights” for students of the first (bachelor’s) level of higher education in the field of knowledge 29 “International Relations” of the speciality 293 “International Law” of the specialization “International Law” of the Faculty of International Law. Kharkiv: Yaroslav Mudryi NLU, 2025. 23 p.

Developer

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Approved at the Meeting of the Department of Theory and History of Law

(protocol No. 1 dated August 30, 2021)

Amendments and additions approved at the meeting of the Department of the Theory and History of Law

(protocol No. 9 dated April 15, 2025)

Head of the Department _____ Protsiuk Ihor Valeriiovych

The objective of the course is to form competencies in the field of the key European standards of interpretation and application of basic human rights and fundamental freedoms in the jurisprudence of the European Court of Human Rights, in order to shape a common understanding of their content and harmonised application in practice, including for the purpose of human rights' effective provision and protection by individual states at different levels.

The course tends to develop the following **general competencies and skills:** abstract and critical thinking, systemic analysis and synthesis; ability to be creative; application of knowledge in professional activities in standard and non-standard situations; ability to make unbiased and reasoned decisions.

Specific learning outcomes: knowledge of the concept, basic characteristics and types of human rights, an ability to apply national and international instruments for their effective protection; knowledge of the essence and the scope of protection under the right to life guaranteed by the European Convention of Human Rights; an ability to define the meaning of the notion of 'life' and corresponding state obligations under its provision; knowledge of the relationship between the prohibition of torture, inhuman treatment or punishment, and degrading treatment or punishment, the scope of protection secured and the state obligations; an ability to outline the scope of protection under the right to respect for private and family life, the concepts of private and family life, a home and correspondence; knowledge of the distinctive features, the content and the scope of application of the freedom of expression, its permissible restrictions and state obligations in this respect, *etc.*

Applied teaching methods:

- Lecture-based learning, presentations and individual/group learning
- Individual task (presentation or essay)
- Case-study analysis
- Class discussion, debates

I. INTRODUCTION TO THE EUROPEAN STANDARDS OF HUMAN RIGHTS

Topic 1. Human rights

Structure:

- 1. The concept and basic characteristics of human rights*
- 2. Types of human rights*
- 3. Guarantees of human rights*
- 4. State obligations in the sphere of human rights*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf
2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.
3. Akandji-Kombe J.-F. Positive obligations under the European Convention on Human Rights. A guide to the implementation of the European Convention on Human Rights. Council of Europe: Human rights handbooks, 2007. 68 p.
4. Habermas J. The concept of human dignity and the realistic utopia of human rights. *Metaphilosophy*. 2010. Vol. 41, No. 4. Pp. 464 – 480. URL: www.jstor.org/stable/24439631.
5. Трихліб К. О. Гармонізація законодавства України і законодавства ЄС: наближення загальноправової термінології. Х. : Право, 2015. 224 С.

6. Akandji-Kombe J.-F. Positive obligations under the European Convention on Human Rights. A guide to the implementation of the European Convention on Human Rights. Council of Europe: Human rights handbooks, 2007. 68 P.

7. Дженіс, М. Європейське право у галузі прав людини: джерела і практика застосування. Пер. з англ. / М. Дженіс, Р. Кей та Е. Бредлі. К.: АртЕк, 1997. 624 с.

8. Starmer K. European Human Rights Law. London: Legal Action Group, 1999. 960 p.

Topic 2. Introduction and history

Structure:

- 1. The origins and structure of the ECHR*
- 2. Main principles and evolution of the ECHR*
- 3. State jurisdiction and the scope of the ECHR's application*
- 4. The scope of state's responsibility to the ECHR*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf

2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.

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6. Kristina Trykhlіb. Zasada niedyskryminacji w prawie europejskim (Принцип недискримінації в європейському праві). *Przegląd Prawa Konstytucyjnego*. 2020 / Nr 2 (54). С. 271 – 296. DOI 10.15804/ppk.2020.02.15 ISSN 2082-1212. URL: <https://bibliotekanauki.pl/articles/524461.pdf>
7. Starmer K. European Human Rights Law. London: Legal Action Group, 1999. 960 p.

Topic 3. Interpretation of the European Convention on Human Rights

Structure:

- 1. General principles of interpretation*
- 2. Autonomous interpretation*
- 3. Dynamic interpretation*
- 4. The doctrine of the margin of appreciation. The principle of the European consensus*
- 5. Limitation of human rights. Prohibition of discrimination and abuse of rights*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf
2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.
3. Trykhlіb K. Analysis of autonomous concepts in the practice of the European Court of Human Rights. *Comparative Law Review*. 2022. Vol. 28. P. 459 –

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4. Kristina Trykhlí. THE PRINCIPLE OF PROPORTIONALITY IN THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS / EU AND COMPARATIVE LAW ISSUES AND CHALLENGES SERIES (ECLIC 4). – ISSUE 4, Josip Juraj Strossmayer University of Osijek, Faculty of Law. International Scientific Conference “EU 2020 – lessons from the past and solutions for the future“ in Osijek (Croatia), 10 – 11 September 2020, Conference book of proceedings. – 1360 p. – Pp. 128 – 154. DOI: <https://doi.org/10.25234/eclic/11899>

5. Popelier P., Van De Heyning C. Procedural rationality: giving teeth to the proportionality analysis. *European Constitutional Law Review*. 2013. Vol. 9, Issue 2. P. 230 – 262, DOI: <https://doi.org/10.1017/S1574019612001137>

6. Trykhlí K., Lemak V. Autonomous Interpretation by the European Court of Human Rights and Margin of Appreciation. *International and Comparative Law Review*. 2022. Vol. 22, Iss. 1. Pp. 135 – 148. DOI: 10.2478/iclr-2022-0009 URL: <https://sciendo.com/pdf/10.2478/iclr-2022-0009>

7. Huber P. M. The principle of Proportionality, in: Schroeder W. (ed.). *Strengthening the rule of law in Europe: from a common concept to mechanisms of implementation*. Oxford and Portland, Oregon: Hart Publishing. 2016. Pp. 98 – 112.

8. Barak A. Proportionality. Constitutional Rights and their Limitations. Cambridge University Press, 2012. 638 p.

9. Möller K. Proportionality: Challenging the critics. *International Journal of Constitutional Law*. 2012. Vol. 10. Issue 3. Pp. 709 – 731.

10. Huscroft G. Proportionality and the Relevance of Interpretation, in: Huscroft G., Miller B. W., Webber G. (eds.). *Proportionality and the rule of law: Rights, Justification, Reasoning*. New York: Cambridge University Press, 2014. Pp. 186 – 202.

Topic 4. Article 2. Right to life

Structure:

- 1. Right to life and prohibition of death penalty*
- 2. The essence of the right to life and the scope of application of Art. 2 ECHR*
- 3. Understanding of the concept of “life” under Art. 2 ECHR*
- 4. State obligations under Art. 2 ECHR*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf
2. Harris D., O’Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.
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7. Habermas J. The concept of human dignity and the realistic utopia of human rights. *Metaphilosophy*. 2010. Vol. 41, No. 4. Pp. 464 – 480. URL: www.jstor.org/stable/24439631.
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11. Möller K. Proportionality: Challenging the critics. *International Journal of Constitutional Law*. 2012. Vol. 10. Issue 3. Pp. 709 – 731.
12. Huscroft G. Proportionality and the Relevance of Interpretation, in: Huscroft G., Miller B. W., Webber G. (eds.). *Proportionality and the rule of law: Rights, Justification, Reasoning*. New York: Cambridge University Press, 2014. Pp. 186 – 202.
13. Oberleitner G. Human Rights in Armed Conflict: Law, Practice, Policy. Cambridge: Cambridge University Press, 2015. 431 p.

Topic 5. Article 3. Prohibition of torture

Structure:

- 1. State obligations under Article 3 ECHR. It's scope*
- 2. Torture*

3. *Inhuman treatment or punishment*

4. *Degrading treatment or punishment*

5. *The protection from torture, inhuman or degrading treatment or punishment administered by non-State actors*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf

2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.

3. Trykhlil K. Analysis of autonomous concepts in the practice of the European Court of Human Rights. *Comparative Law Review*. 2022. Vol. 28. P. 459 – 484.
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12. Oberleitner G. Human Rights in Armed Conflict: Law, Practice, Policy. Cambridge: Cambridge University Press, 2015. 431 p.

II. JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS

Topic 6. Article 5. Right to liberty and security

Structure:

- 1. General considerations. Scope of application of Art. 5*
- 2. Lawfulness of the detention under Art. 5 § 1*
- 3. Authorised deprivations of liberty under Art. 5 § 1*
- 4. Guarantees for persons deprived of liberty*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf
2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.
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12. Oberleitner G. Human Rights in Armed Conflict: Law, Practice, Policy. Cambridge: Cambridge University Press, 2015. 431 p.

Topic 7. Article 6. Right to a fair trial

Structure:

- 1. Right to a fair trial: the scope and main features*
- 2. Right to a court*
- 3. Institutional requirements*
- 4. Procedural requirements*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf
2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.

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Topic 8. Article 8. Right to respect for private and family life

Structure:

- 1. The structure of Art. 8 ECHR*
- 2. The concept of private and family life*
- 3. Protection of home*
- 4. Protection of correspondence*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf

2. Harris D., O’Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.

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Topic 9. Article 9. Freedom of thought, conscience and religion

Structure:

- 1. The scope of application*
- 2. Interference in the exercise of the rights secured under Art. 9*
- 3. The right to conscientious objection*
- 4. State obligations*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf
2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.
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Topic 10. Article 10. Freedom of expression

Structure:

- 1. General considerations. The scope of application.*
- 2. The ECtHR's examination of interference under Art. 10.*
- 3. Possible restrictions*
- 4. State obligations*

Literature:

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11. Möller K. Proportionality: Challenging the critics. *International Journal of Constitutional Law*. 2012. Vol. 10. Issue 3. Pp. 709 – 731.
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Topic 11. Article 11. Freedom of assembly and association

Structure:

1. *The scope of the right to freedom of assembly. Positive obligations of a state*
2. *Restrictions on the right to freedom of assembly*
3. *The scope and types of the right to freedom of association. Positive obligations.*
4. *Freedom to form and join trade unions*
5. *Restrictions on the members of armed forces, the police and the state administration*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950
URL: https://www.echr.coe.int/documents/convention_eng.pdf
2. Harris D., O'Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.

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Topic 12. Protocol No. 1. Article 1. Protection of property

Structure:

- 1. The scope of protection. The concept and different types of “possessions”*
- 2. Interference with the right to the peaceful enjoyment of one’s property*
- 3. Positive obligations on member States*

Literature:

1. European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950

URL: https://www.echr.coe.int/documents/convention_eng.pdf

2. Harris D., O’Boyle M. & Warbrick: Law of the European Convention on Human Rights. Forth Edition. Oxford: Oxford University Press, 2018. 1056 p.

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