

Summer Course “The European System of Human Rights Protection”

9 - 20 July 2018

Curriculum

<http://www.rewi.europa-uni.de/hrcourse>



Expert / Institution	Topic	Form of Teaching	Content	Main Literature
Prof. Dr. Hans-Joachim Heintze Ruhr University of Bochum Germany	Overview of human rights regimes and institutions	Lecture: 2 h Seminar: 2 h	<ul style="list-style-type: none"> • Historical background <ul style="list-style-type: none"> ○ Human Rights as an issue of international law; After WW I and After WW II • Emergence and evolution <ul style="list-style-type: none"> ○ UN: UN Charter; UDHR; Genocide Convention; CCPR and CESCR ○ OSCE • Council of Europe: ECHR • Treaty-Based systems <ul style="list-style-type: none"> ○ ECtHR; Inter-American Court of Human Rights; African Court of Human Rights 	- Albi, Ironies in Human Rights Protection in the EU, ELJ 2009, pp. 46-69 - Damrosch, Gross and Systematic Human Rights Violations, in R. Wolfrum (ed.), The Max Planck Encyclopedia of Public International Law, 2011 - Krause/ Scheinin, International Protection of Human Rights, 2009 - Scheinin, International Mechanisms and Procedures for Monitoring, 2013
Prof. Ryszard Piotrowicz Aberystwyth University United Kingdom	Prohibition of torture Art. 3 ECHR	Lecture: 2 h Seminar: 2 h	<ul style="list-style-type: none"> • Introduction • Scope of protection and interferences <ul style="list-style-type: none"> ○ Torture; inhuman treatment; degrading treatment or punishment • No justification of an interference • Positive obligations • Cases of ill-treatment <ul style="list-style-type: none"> ○ Police operations; treatment of detainees; expulsion and extradition; Ill-treatment by private persons 	- Deutsch, Soering Case, in R. Wolfrum (ed.), The Max Planck Encyclopedia of Public International Law, 2007 - Kretzmer, Prohibition of Torture, in R. Wolfrum (ed.), The Max Planck Encyclopedia of Public International Law, 2010 - Lerner, The UN Convention on Torture, IsrYBHR 1986, pp. 126-142 - McGlynn, Rape, Torture and the European Convention on Human Rights, ICCQ 2009, pp. 565 ff.

<p>Dr. Richard Burchill University of Hull United Kingdom</p>	<p>Prohibition of slavery and forced labour Art. 4 ECHR</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Introduction • Prohibition of slavery and servitude • Prohibition on forced or compulsory labour <ul style="list-style-type: none"> ○ The term “forced or compulsory labour”; exceptions to art. 4ECHR; work during detention; Military service; Services in case of emergency; Normal civil obligations • Prohibition on trafficking on human beings • Positive obligations 	<ul style="list-style-type: none"> - Allain, Rantzev v. Cyprus and Russia: The European Court of Human Rights and Trafficking as Slavery, HRLR 2010, pp. 546 ff. - Council of Europe, Guide on Article 4 of the Convention – Prohibition of slavery and forced labour, 2014 - Cullen, Siliadin v. France: Positive obligations under Article 4 of the European Convention on Human Rights, HRLR 2006, pp. 585 ff. - Thienel, The Burden and Standard of Proof in the European Court of Human Rights, GYIL 2007, pp. 543 ff.
<p>Moritz Birk LL.M. Ludwig Boltzman Institute of Human Rights Vienna Austria</p>	<p>Right to liberty and security Art. 5 ECHR</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Introduction • Protection against arbitrary detention; provision of procedural guarantees • Scope of application <ul style="list-style-type: none"> ○ Liberty; security; lawfulness; permissible grounds; detention on remand; detention of a foreigner • Proportionality • Procedural guarantees 	<ul style="list-style-type: none"> - Council of Europe, Guide on Article 5 of the Convention – Right to Liberty and Security, 2014 - Greer/Williams, Human Rights in the Council of Europe and the EU, EJI 2009, pp. 462-481 - Harris/O'Boyle/Warbrick, Law of the European Convention on Human Rights, 3rd edn., 2014 - Thienel, Momentous Judgements against Germany in the European Court of Human Rights: Zaunegger v. Germany, GYIL 2009, pp. 647-656
<p>Prof. Paul Mevis Erasmus University Rotterdam The Netherlands</p>	<p>Right to fair trial Art. 6 ECHR</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Introduction • Scope of protection <ul style="list-style-type: none"> ○ Determination of “Civil Rights”; Determination of a “Criminal Charge” • Guarantees of Article 6 in detail <ul style="list-style-type: none"> ○ “Tribunals”; Access to an independent tribunal; Fair hearing; Length of proceedings; Public hearing; Special procedural guarantees in criminal proceedings; Presumption of innocence 	<ul style="list-style-type: none"> - Council of Europe: Guide on article 6 of the European Convention on Human Rights (criminal limb), 2014 - Grabenwarter, European Convention on Human Rights – Commentary, 2014 - Oetheimer/ Palomares, European Court of Human Rights (ECtHR), in R. Wolfrum (ed.), The Max Planck Encyclopedia of Public International Law, 2013 - Trechsel, Human Rights in Criminal Proceedings, 2005

<p>Prof. Gerard C. Rowe European University Viadrina Frankfurt (Oder) Germany</p>	<p>Prohibition of discrimination Art. 14 ECHR</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Introduction • Scope of protection • Determination of a discrimination <ul style="list-style-type: none"> ○ Unequal treatment of persons; Grounds of discrimination • Justification <ul style="list-style-type: none"> ○ Legitimate aim; the principle of proportionality; Grounds of discrimination • Positive obligations 	<ul style="list-style-type: none"> - Council of Europe: European Court of Human Rights, Handbook on European non-discrimination law, 2011 - Packer/ Myntti, The Protection of Ethnic and Linguistic Minorities in Europe, 1993 - Tobler, Equality and Non-Discrimination under the ECHR and EU Law - A Comparison Focusing on Discrimination against LGBTI Persons, ZaöRV 2014, pp. 521-561 - Wintemute, Within the Ambit: How Big is the „Gap“ in Article 14 European Convention on Human Rights?, EHRLR 2004, pp. 366 ff.
<p>Dr. Robert Frau European University Frankfurt (Oder) Germany</p>	<p>Freedom of religion Art. 9 ECHR</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Introduction • Scope of protection <ul style="list-style-type: none"> ○ Personal scope; Material scope; Freedom of religion and belief • Interferences • Justification <ul style="list-style-type: none"> ○ Prescribed by law; Legitimate aim; Necessary in a democratic society • Positive obligations 	<ul style="list-style-type: none"> - Jacobs/White/Ovey, The European Convention on Human Rights, 6th edn., 2014 - Mowbray, Cases, Materials, and Commentary on the European Convention on Human Rights, 3rd edn., 2012 - Taylor, Freedom of Religion – UN and European Human Rights Law in practice, 2005 - Uitz, Freedom of Religion in European constitutional and international case law, 2007
<p>Dr. Agata Fijalkowski, Lancaster University United Kingdom</p>	<p>Freedom of expression Art. 10 ECHR</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Introduction • Scope of Protection <ul style="list-style-type: none"> ○ Freedom of: expression; information; the press; academic work • Interferences • Justification <ul style="list-style-type: none"> ○ Prescribed by law; legitimate aim; necessary in democratic society; restriction on political activity of aliens • Positive obligations 	<ul style="list-style-type: none"> - Ash, Defying the Assassin’s Veto, New York Review of Books, 2015 - Cram, Coercing Communities or Promoting Civilised Discourse? Funeral Protests and Comparative Speech Jurisprudence, Human Rights Law Review Vol. 12, 2012, pp. 455-478 - Jacobs/White/Ovey The European Convention on Human Rights, 6th edn., 2014, - Keane, Cartoon Violence and Freedom of Expression, Human Rights Quarterly Vol. 30 No. 4, 2008, pp. 845-873

<p>Prof. Dr. Jernej Letnar Černič University of Ljubljana Slovenia</p>	<p>Freedom of assembly and association Art. 11 ECHR</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Introduction • Scope of protection <ul style="list-style-type: none"> ○ Freedom of assembly; Freedom of association • Interferences • Justification <ul style="list-style-type: none"> ○ General requirements; Limitation clause for state employees; Restrictions on political activity of aliens • Positive obligations 	<ul style="list-style-type: none"> - Grabenwarter, European Convention on Human Rights – Commentary, 2014 - Harris/O'Boyle/Warbrick, Law of the European Convention on Human Rights, 3rd edn., 2014 - Kovacs, the Right to Strike in the European Social Charter, Comparative Labor Law & Policy Journal Vol. 26, 2006, pp. 445 ff. - Weiß, Freedom of Assembly – International Protection, in R. Wolfrum (ed.), The Max Planck Encyclopedia of Public International Law, 2013
<p>Dr. Ulrike Brandl University of Salzburg Austria</p>	<p>Migration and refugees</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Political, sociological and demographic background of migration • Regulatory sources • Exegesis <ul style="list-style-type: none"> ○ Public International Law obligations; Universal Human Rights Instruments; ECHR; European Union Law; Migrant Workers • Enforcement, case law <ul style="list-style-type: none"> ○ Human Rights Committee; ECtHR; CJEU • Exegesis <ul style="list-style-type: none"> ○ Convention on Refugees; Non-refoulement; Other Forms of status; Other rights guaranteed in the Convention; Asylum; Procedures 	<ul style="list-style-type: none"> - Azoulai/ de Vries, EU Migration Law, 2014 - Cholewinski, Migrant Workers in International Human Rights Law, 1997 - Goodwin-Gill, The Refugee in International Law, 2nd edn., 1996 - Hyndman, Refugees under International Law with a Reference to the Concept of Asylum, ALJ 1986, pp. 148-155
<p>Prof Dr. Manfred Mohr IALANA Germany</p>	<p>Human rights and the protection of environment during armed conflicts</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Environmental protection in times of war <ul style="list-style-type: none"> ○ Cases: Agent Orange; Salto di Quirra; Iraq and Syria • Applicable law – 3 pillars • Human Rights in armed conflict <ul style="list-style-type: none"> ○ Advantages of HRL; Victim perspective; Concept of humanitarian disarmament; Right to a healthy environment; Management of hazardous 	<ul style="list-style-type: none"> - Atapattu, Emerging Principles of International Environmental Law, 2006 - Brunnee/ Ping, With Consent: Lawmaking under Multilateral Environmental Agreements, LJIL 2002, pp. 1-52 - Carr, Multinational treaties and the environment: a case study in the formation of customary international law, DJILP 1999, pp. 313-335 - Kellay, Pollution Politics: Power, Accountability and Toxic Remnants of War, 2014 - Weir, A healthy environment must be a human right – especially in armed conflict, 2016

			<p>substances</p> <ul style="list-style-type: none"> • Implementation schemes • Advocacy, campaigning, networking 	
<p>Prof. Dr. Silvio Devetak University of Maribor Slovenia</p>	<p>Cultural rights and equality principle</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Achievements after the Dissolution of cold war division of Europe <ul style="list-style-type: none"> ○ Improvement of the rights of ethnic minorities; The European law on elimination of discrimination; Prohibition of discrimination • Under the surface of European harmony exist dangerous reefs <ul style="list-style-type: none"> ○ Raising trends of xenophobia, discrimination and violence in Europe; Five outstanding social problems within the EU • Urgent need for re-considering the implementation of the EU basic principle of Unity in diversity 	<ul style="list-style-type: none"> - Baker, Capitalism's Achilles Heel: Dirty Money and How to Renew the Free-Market System, 2005 - Bell, Advancing EU anti-discrimination law: The European Commission's proposal for a new directive, The Equal Rights Review Vol. 3, 2009, pp. 7-18 - Bernhardt, Human Rights Aspects of Racial and Religious Hatred under Regional Human Rights Conventions, IsrYBHR 1992, pp. 17-29
<p>Prof. Pablo Pareja Alcaraz University Pompeu Fabra Barcelona Spain</p>	<p>UPR of the UN Human Rights Council and Europe</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Preliminary remarks • UN Human Rights Council • Advisory Committee • Universal Periodic Review (UPR) <ul style="list-style-type: none"> ○ Mechanism; Rationale, Objectives and Modalities; Process and steps; Actors involved • Final Remarks <ul style="list-style-type: none"> ○ Role of Europe within the UN Human Rights Council; Europe's participation in the UPR Mechanism; Implications of the UN HRC and the UPR Mechanism for Europe as a global actor 	<ul style="list-style-type: none"> - Blackburn/ Polakiewicz, Fundamental Rights in Europe, 2001 - Harris/O'Boyle/Warbrick, Law of the European Convention on Human Rights, 3rd edn., 2014 - Rathgeber, Reviewing the UN Human Rights Council. Perspectives from Civil Society, International Policy Analysis, 2010 - Van Rijn/ Van Dijk/ Van Hoof/ Zwaak, Theory and Practice of the European Convention on Human Rights, 4th edn., 2006

<p>Katja Schöberl LL.M. German Red Cross</p>	<p>Relationship between human rights protection and international humanitarian law</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Definition and fields of application of IHL and HRL • Relationship between IHL and HRL • Classification of Human Rights • Systems of protecting human rights <ul style="list-style-type: none"> ○ Convention for the wounded in armies in field; Hague Convention X; Convention for the treatment for prisoners of war; Additional Protocols • Regional Frameworks of Human Rights Protection • Possibility of Derogation 	<ul style="list-style-type: none"> - Abbott, A Brief Overview of Legal Interoperability Challenges for NATO Arising from the Interrelationship between IHL and IHRL in Light of the European Convention on Human Rights, IRRC Vol. 96, 2015, pp. 107 ff. - Clapham, Protection of Civilians under International Human Rights Law, in: Willmot, Mamiya, Sheeran and Weller, Protection of Civilians, 2016, pp. 141 ff. - Doswald-Beck, Human Rights in Times of Conflict and Terrorism, 2011
<p>Dr. Agata Hauser Adam Mickiewicz University Poznan Poland</p>	<p>Economic, social and cultural rights</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • Protection of economic, social and cultural rights <ul style="list-style-type: none"> ○ Introduction; classification; Principle of progressive realisation; examination; Right to Work; Right to social security; Right to health; Right to education • Protection of these rights by different systems <ul style="list-style-type: none"> ○ ICESCR; ECHR; OSCE; AU; NGOs • Institutions for monitoring • Monitoring mechanisms – ECHR; ECJ 	<ul style="list-style-type: none"> - Baderin/ McCorquodale, Economic, Social and Cultural Rights in Action, 2007 - Craven, The International Covenant on Economic, Social and Cultural Rights – A Perspective on its Development, 1998 - Samuel, Fundamental Social Rights: Case-Law of the European Social Charter, 2nd edn., 2000 - Ssenyonjo, Economic, Social and Cultural Rights in International Law, 2nd edn., 2016
<p>Prof. Dr. Carmen Thiele European University Viadrina Frankfurt (Oder) Germany</p>	<p>Self-determination and minorities</p>	<p>Lecture: 2 h</p>	<ul style="list-style-type: none"> • Right to self-determination <ul style="list-style-type: none"> ○ Content; Subjects • Enforcement • Critical assessment and expectations for future development • Minority protection <ul style="list-style-type: none"> ○ Definition; Types of minorities; Rights as citizens or human rights • Enforcement <ul style="list-style-type: none"> ○ Treaty-based and non-treaty-based monitoring mechanisms • Critical assessment and expectations for future development 	<ul style="list-style-type: none"> - Cassese, Self-Determination of Peoples, Vol. 12, 2008 - Council of Europe, Mechanisms for the Implementation of Minority Rights, 2004 - Moltchanova, National Self-Determination and Justice in Multinational State, 2009 - Pentassuglia, Minority Groups and Judicial Discourse in International Law, 2009

<p>Dr. Marton Sulyok University of Szeged Hungary</p>	<p>Individual application to the European Court of Human Rights (ECtHR)</p>	<p>Lecture: 2 h Seminar: 2 h</p>	<ul style="list-style-type: none"> • International/Regional - PHR <ul style="list-style-type: none"> ○ Local: Principle of national protection; Global protections; Right of individual complaint • How to apply • Admissibility Criteria <ul style="list-style-type: none"> ○ Exhaustion of domestic remedies; Violation of a conventional right; Victim status • Victim status <ul style="list-style-type: none"> ○ Being personally effected; Groups or organizations; Third parties • New criteria 	<ul style="list-style-type: none"> - Bjørge, Domestic Application of the ECHR: Courts as Faithful Trustees, 2015 - Grabenwarter, European Convention on Human Rights – Commentary, 2014 - Leach, Taking a Case to the European Court of Human Rights, 3rd edn., 2011 - Trindade, The Access of Individuals to International Justice, 2011
<p>Linda Aguilar LL.M.; Shimels Belete LL.M. European University Viadrina Frankfurt (Oder) Germany</p>	<p>Moot Court ECtHR</p>	<p>16 h</p>	<p>Simulation of a court hearing before the European Court of Human Rights</p> <p>Assessment:</p> <ul style="list-style-type: none"> • Preparation of a written individual application, memorial of the state or judgment of the court • Presentations in the oral hearing 	<p>Individual complaint procedure: http://www.echr.coe.int/Pages/home.aspx?p=applicants&c=#n1365511805813_pointer</p>

Language: English
Assessment: written and oral
Total hours: 80
ECTS-Points: 10