

Syllabus



Precedent practice of European Court of Human Rights in national justice

Higher education degree – master
Field of knowledge – 29 International relations
Specialty – 293 International law
Educational and Professional Program - International Law

Study year – 1 Semestr – 1

Number of credits : 5, Language of study: english

Head of the course:

Assoc. prof. of the Department of International Law and Migration Policy, PhD,
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Description of the discipline

The purpose of studying the discipline is for students to acquire systemic knowledge about the functioning of the human rights protection system within the framework of the Council of Europe and the skills of applying the decisions of the European Court of Human Rights in practical activities. Based on the application of the comparative method and the method of interpretation of the decisions of the ECtHR, protect human rights and fundamental freedoms on the basis of the provisions of the ECHR and the case law of the ECtHR.

This discipline should contribute to the formation of highly professional specialists in the field of jurisprudence.

Upon completion of the study of the discipline Precedent practice of European Court of Human Rights in national justice, students should be able to analyze the interaction of international law and international legal systems with the legal system of Ukraine based on the awareness of the main modern legal doctrines, values and principles of the functioning of law; conduct a comparative legal analysis of individual legal institutions of different legal systems, taking into account the relationship between the legal system of Ukraine and the legal systems of the Council of Europe and the European Union; have practical skills in solving problems related to the implementation of procedural functions of law enforcement entities. To take a productive part in the development of projects of regulatory and legal acts, to substantiate the social conditionality of their adoption, to forecast the results of their impact on relevant social relations.

Course structure

Hours (lec. /pract.)	Topic	Learning outcomes	Control measures
4 / 2	1. The European system of human rights protection.	Understand the concept of the European human rights protection system.	Tests, questions, cases
4 / 2	2. The procedure for applying and considering cases in the European Court of Human Rights.	Know the procedure for applying and considering cases at the European Court of Human Rights and be able to apply to the ECHR	Tests, questions, cases
2 / 2	3. Legal nature of ECHR decisions.	Understand the legal nature of ECtHR decisions and know the procedure for the application by courts of the European Convention for the Protection of Human Rights and Fundamental Freedoms and the practice of the European Court of Human Rights	Tests, questions, cases
4 / 2	4. The decision of the European Court of Human Rights regarding the protection of personal rights that ensure the natural existence of a natural person.	Know how courts apply the main decisions of the European Court of Human Rights regarding the protection of personal rights that ensure the natural existence of a natural person, be able to analyze and apply them in practice	Tests, questions, cases
4 / 2	5. The decision of the European Court of Human Rights regarding the protection of personal rights that ensure the social existence of an individual.	To know how the courts apply the decisions of the European Court of Human Rights regarding the protection of personal rights that ensure the social existence of an individual, to be able to analyze and apply them in practice	Tests, questions, cases
4 / 2	6. The decision of the European Court of Human Rights regarding the protection of	To know how courts apply the main decisions of the European Court of Human Rights regarding the protection of political and socio-economic rights of an individual, to be able to analyze and apply them in practice	Tests, questions, cases

	political and socio-economic rights of the individual.		
4 / 2	7. Execution of decisions and application of the practice of the European Court of Human Rights in Ukraine.	Know and understand the procedure for implementing decisions and applying the practice of the European Court of Human Rights in Ukraine	Tests, questions, cases
4 / 1	8. «Pilot decisions» of the ECHR.	To understand the nature of "pilot decisions" of the ECHR and to be aware of the peculiarities of their implementation	Tests, questions, cases

Recommended sources

1. Антипов В.І. Кримінальний кодекс України в контексті міжнародного права та практики Європейського суду з прав людини: правові норми, судова практика, науково-практичний коментар. Харків: Право, 2019.
2. Гайдулін О. О. Прецедентне право Європейського суду з прав людини щодо захисту прав уразливих верств населення: навч. посіб. О. О. Гайдулін, В. Ю. Худолей, І. М. Шаркова. Київ: ФОП Голембовська О.О. 2019. 300 с.
3. Довідник із застосування статті 5 – право на свободу та особисту недоторканність. Рада Європи. Європейський суд з прав людини. 2017. 46 с. URL: <https://cutt.ly/8tN6r7J>
4. Європейський суд з прав людини: як знаходити і розуміти практику суду. Рада Європи. Європейський суд з прав людини, 2019. 15 с. URL: https://www.echr.coe.int/Documents/CLIP_Finding_understanding_case_law_UKR.pdf
5. Захист права власності в практиці Європейського Суду з прав людини /упоряд. Л. В. Сидорова. К. : Видавничий Дім «Ратіо Дециденді», 2019. 132 с. URL: <https://cutt.ly/gtN9usG>
6. Конвенція про захист прав людини і основоположних свобод від 04.11.1950 р. URL: https://zakon.rada.gov.ua/laws/show/995_004#Text.
7. Мандриченко Л. Міжнародні механізми захисту прав людини. Право громадян України на звернення до конвенційних органів з захисту прав людини. *Тиждень права*. 12 грудня 2019 року. URL:<https://pl.dsns.gov.ua/ua/Tizhden-prava/17041.html>
8. Монаєнко А., Смирнова К. Застосування практики ЄСПЛ та суду ЄС на прикладі адміністративного судочинства. *Юридична газета online*. №8 (714). 2020. URL: <https://yur-gazeta.com/publications/practice/inshe/zastosuvannya-praktiki-espl-ta-sudu-es-na-prikladi-administrativnogo-sudochinstva.html>
9. Павлюковець Т. Роль та місце рішень ЄСПЛ в українській судовій системі. *Юридична газета online*. №22 (728). 2020. URL: <https://yur-gazeta.com/publications/practice/sudova-praktika/rol-ta-misce-rishen-espl-v-ukrayinskiy-sudoviy-sistemi.html>
10. Посібник за статтею 1 Протоколу №1. URL: https://protocol.ua/ua/posibnik_zh_statteyu_1_protokolu_1_konventsii_pro_zahistprav_lyudini_t

a_osnovopolognih_svobod_1/

11. Посібник зі статті 6 Конвенції про захист прав людини і основоположних свобод. Право на справедливий суд (кримінальний процесуальний аспект). I частина (пункти 1-299). Рада Європи. Європейський Суд з прав людини. 2019. 65 с.
12. Практика ЄСПЛ: український аспект. URL: <https://www.echr.com.ua/>
13. Про виконання рішень та застосування практики Європейського суду з прав людини: Закон України від 23.02.2006 р. Відомості Верховної Ради України. 2006. №30. Ст. 260.
14. Теорія та практика застосування конвенції про захист прав людини і основоположних свобод. Компендіум. Сердюк О. В., Щокін Ю. В., Яковюк І. В. Харків: Право, 2018. 374 с.
15. Case-law analysis. URL: <https://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis/guides&c>
16. Emmert, Frank; Carney, Chandler (2017). The European Union Charter of Fundamental Rights vs. The Council of Europe Convention on Human Rights and Fundamental Freedoms - A Comparison. *Fordham International Law Journal*. 40 (4).
17. European Commission of Human Rights. URL: https://www.echr.coe.int/Documents/European_Commission_BIL.pdf
18. Fikfak, Veronika (2018). Changing State Behaviour: Damages before the European Court of Human Rights. *European Journal of International Law*. 29 (4): 1091–1125.
19. Fikfak, Veronika (2020). Non-pecuniary damages before the European Court of Human Rights: Forget the victim; it's all about the state. *Leiden Journal of International Law*. 33 (2): 335–369.
20. Glas, Lize R. (2018). The Boundaries to Dialogue with the European Court of Human Rights. *European Yearbook on Human Rights 2018*. Intersentia. pp. 287–318.
21. Grover, Sonja C. (2020). *Judicial Activism and the Democratic Rule of Law: Selected Case Studies*. Springer Nature.
22. Istrefi, Kushtrim (2018). Kosovo's Quest for Council of Europe Membership. *Review of Central and East European Law*. 43 (3): 255–273.
23. Kleinlein, Thomas (13 November 2017). Consensus and Contestability: The ECtHR and the Combined Potential of European Consensus and Procedural Rationality Control. *European Journal of International Law*. 28 (3): 871–893.
24. Koenig, Matthias (2020). *Governance of Religious Diversity at the European Court of Human Rights. Religious Diversity and Interreligious Dialogue*. Springer International Publishing. pp. 59–72.
25. Law, Jonathan, ed. (2018). Just satisfaction. *Oxford Reference - A Dictionary of Law (9 ed.)*. Oxford University Press.
26. Protocols to the Convention. URL: https://www.echr.coe.int/Documents/Library_Collection_ProtocolsTable_ENG.pdf
27. Rules of Court. URL: https://www.echr.coe.int/Documents/Library_Collection_RoC_table_ENG.pdf
28. Theil, Stefan (2017). Is the 'Living Instrument' Approach of the European Court of Human Rights Compatible with the ECHR and International Law?. *European Public Law*. 23 (3): 587–614.
29. von Staden, Andreas (2018). *Strategies of Compliance with the European Court of Human Rights: Rational Choice Within Normative Constraints*. University of Pennsylvania Press.

Recommended desicions

1. Burmich and others vs. Ukraine URL: <https://rm.coe.int/attachment-1-judgment-burmych-gc-46852-13-ukr-translation-/168078eb76>

2. Kharchenko v. Ukraine URL: <https://www.globalhealthrights.org/kharchenko-v-ukraine/>
3. Oleksandr Volkov v. Ukraine URL: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-115871%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-115871%22]})
4. Vasiliy Ivashchenko v. Ukraine URL: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-112481%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-112481%22]})
5. Балицький проти України URL: https://zakon.rada.gov.ua/laws/show/974_726#Text
6. Веренцов проти України URL: https://zakon.rada.gov.ua/laws/show/974_945#Text
7. Каверзін проти України URL: https://zakon.rada.gov.ua/laws/show/974_851#Text
8. Рішення щодо України, винесені ЄСПЛ URL: <https://minjust.gov.ua/m/rishennya-schodo-ukraini-vineseni-evropeyskim-sudom-z-prav-lyudini>

Evaluation policy

- Policy on deadlines and rescheduling: Rescheduling of modules takes place with the permission of the dean's office if there are good reasons (for example, sick leave).
- Academic Integrity Policy: Copying during tests and exams is prohibited (including using mobile devices).
- Attendance Policy: Attendance is a mandatory component of assessment. For objective reasons (for example, illness, international internship, and other reasons), training can take place online with the permission of the university administration.

Evaluation

The final score (on a 100-point scale) from the internship is determined as a weighted average value, depending on the specific weight of each component:

Credit module 1	Credit module 2 (rector's control work)	Credit module 3 (current grades, final grade according to CPIT)	Credit module 4 (written exam)	Total
20%	20%	20%	40%	100 %
1. Oral survey during classes (2 topics of 20 points each) – 40 points. 2. Written work - 60 points.	1. Oral survey during classes (6 topics of 5 points each) – 30 points. 2. Written work - 70 points.	1. Writing CPIT - 80 points. 2. Completing tasks during training - 20 points.	1. Tests (15 tests of 2 points each – max. 30 points). 2. Task 1 – max. 35 points. 3. Task 2 – max. 35 points.	100

Student evaluation scale:

ECTS	Marks	Content
A	90-100	excellent
B	85-89	good
C	75-84	good
D	65-74	satisfactorily
E	60-64	enough
FX	35-59	unsatisfactory with the possibility of reassembly
F	1-34	unsatisfactory with a mandatory repeat course

