



Freedom(s)

Learning activities
for secondary schools
on the case law
of the European Court
of Human Rights



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Freedom(s) – *Learning activities for secondary schools on the case law of the European Court of Human Rights*

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Preface

“Explore and Act for Human Rights” is a Council of Europe programme which seeks to engage students in learning about contemporary citizenship and the moral choices that come with living in a democracy. Its great strength is that it brings these subjects to life by locating them in actual cases which have been



brought before the European Court of Human Rights. In adopting this approach, we are not simply telling young people about our shared values. We are showing them what pluralism, democratic freedom and the rule of law mean in real, everyday life.

This is an extremely important endeavour. Each new generation is called upon to understand and safeguard the values which bind our continent together. Defending these traditions will eventually fall to them and we must help young people develop their capacity to think critically, in order that they can apply long-held principles in a fast changing world. Human rights are not static, nor are democratic citizens passive. It is therefore not by accident that the programme is entitled “Explore and Act for Human Rights”.

This collection complements other resources that are available for teaching human rights, and it makes a distinct contribution in three ways.

First, the focus is on cases where individuals are challenging established practices, and in so doing are indirectly advancing the interests of others. Some involve young people; a handful may be public figures; but most are ordinary people – and all have felt compelled to take a stand, all with wider implications and consequences.

Second, the cases relate back to key societal values, including tolerance, respect for others, fairness and protection against arbitrariness. Confronted with these themes, students soon begin applying them to their own relationships and communities. For example, *Opuz v. Turkey* involves the degree to which the police should intervene to protect citizens from serious threats of violence, but when do school students have a moral responsibility to step in and protect their classmates from bullying? *D.H. and Others v. the Czech Republic* considers the compatibility of separate teaching arrangements for Roma children, but also allows us to contemplate and address our own stereotypes and prejudices.

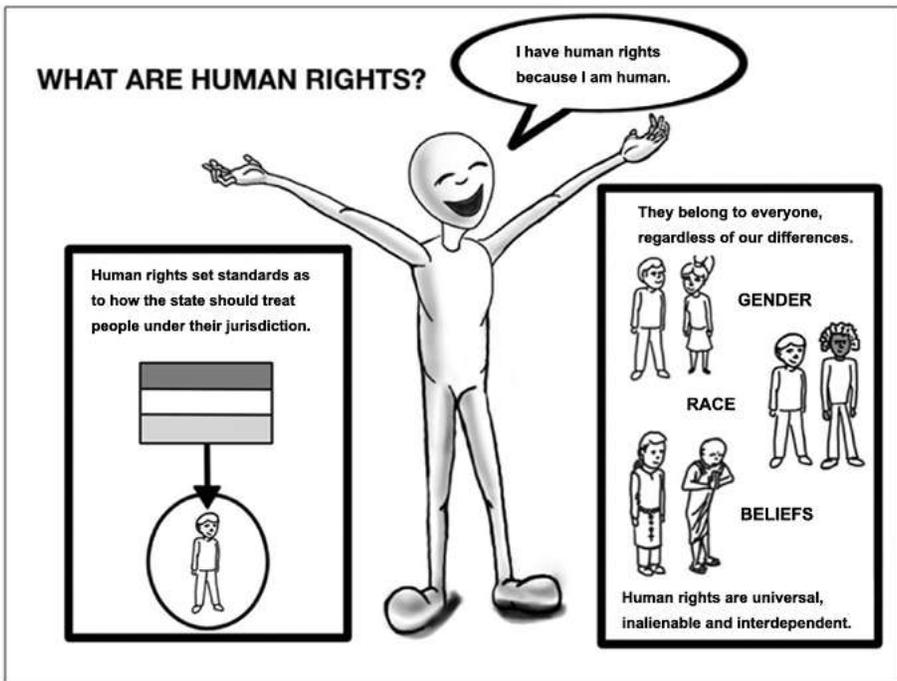
Third, these materials are for young people, by young people. They have been produced by talented and enthusiastic teams of students and recent graduates in law and education, drawn from a number of institutions across Europe, and field-tested in a range of schools. Different teams, with their varied backgrounds, have brought fresh and challenging perspectives. The result is a set of rich and nuanced materials which help young people grasp the role interpretation can play in the law.

So I am delighted to encourage Council of Europe member states and states parties to the European Cultural Convention to use this unique resource, adapting it to the specific needs of your classrooms, while teaching young people across our continent about the values and laws we all share.

Thorbjørn Jagland
Secretary General of the Council of Europe

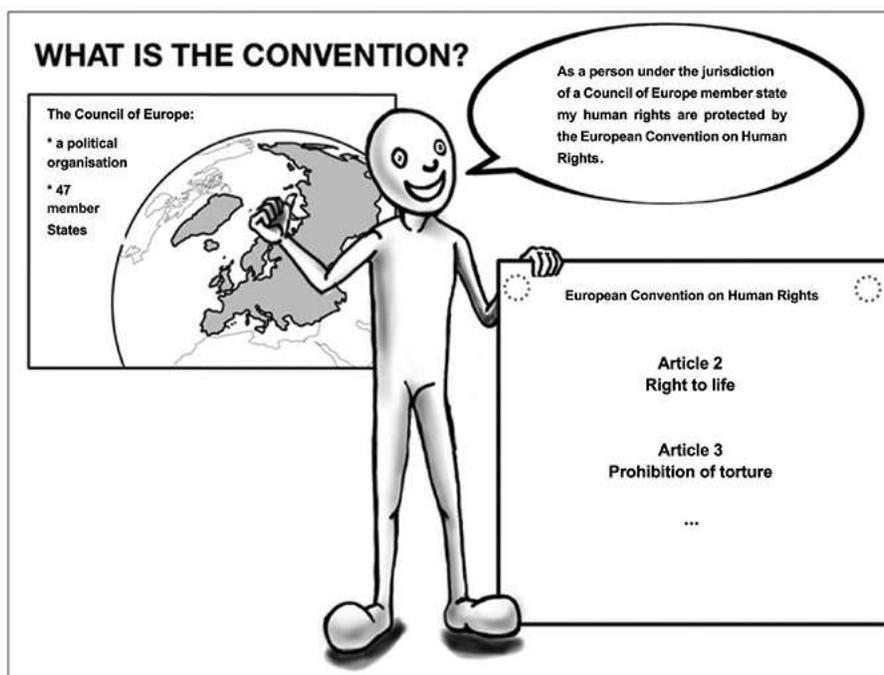
1. Introducing the European Convention on Human Rights and the Court

1.1. What are human rights?



Human rights are rights that all human beings possess simply by virtue of being human. There are many different theories of human rights, but the common idea is that there are certain inherent, fundamental human features (characteristics and capabilities such as autonomy, dignity, interests and needs) that we all share, irrespective of our circumstances. These “rights” are necessary for our well-being, but are vulnerable to attack by acts or omissions by others. Therefore, they need to be protected through human rights principles. Human rights prescribe how states are to treat persons under their jurisdiction. They are often classified into: civil and political rights (protection of life and physical and mental integrity, as well as personal and political freedoms); social, economic and cultural rights (right to work, education, social security, health); and “third generation” rights (right to development, peace and a safe environment).

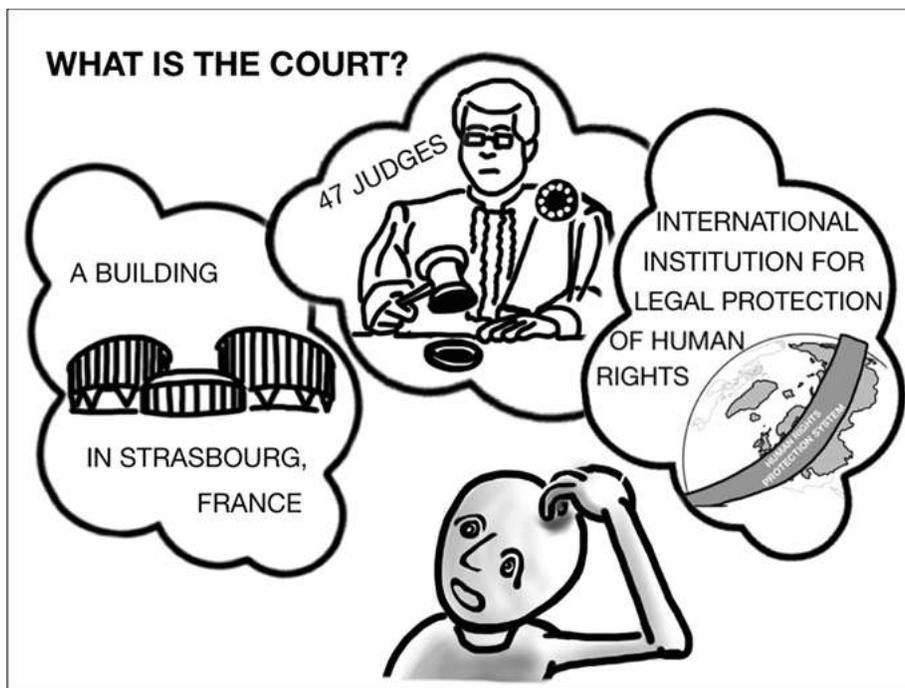
1.2. What is the European Convention on Human Rights?



The European Convention on Human Rights (hereinafter “the Convention” or “the ECHR”) is the first internationally binding instrument on human rights (adopted in 1950, entered into force in 1953). All the member states of the Council of Europe (a political organisation of 47 member states) have ratified the Convention. As of 3 February 2015, 16 Protocols to the Convention have been adopted (of which 14 are in force), some expanding the rights to be protected, and some amending the framework of the convention system.

The Convention provides for civil and political rights and freedoms (such as the right to life, freedom from torture, the right to private and family life, freedom of expression, etc.). With a few exceptions, rights conferred by the Convention (and its Protocols) are not absolute and must be balanced against the rights of others and the public interest. States can derogate from certain rights in the time of war or other public emergencies. As the Convention is conceived of as a “living instrument”, the rights have been interpreted dynamically, in light of present conditions, which has extended the scope of the Convention to situations that were unforeseeable when it was adopted. The Convention therefore does not only protect against conventional types of human rights violations in the form of direct interference by state agents (e.g. unlawful arrest, violence in police custody), but also against violations of rights by private individuals (e.g. sexual and domestic violence, trafficking) where the state fails to take necessary steps to prevent a violation, or fails to sanction it appropriately.

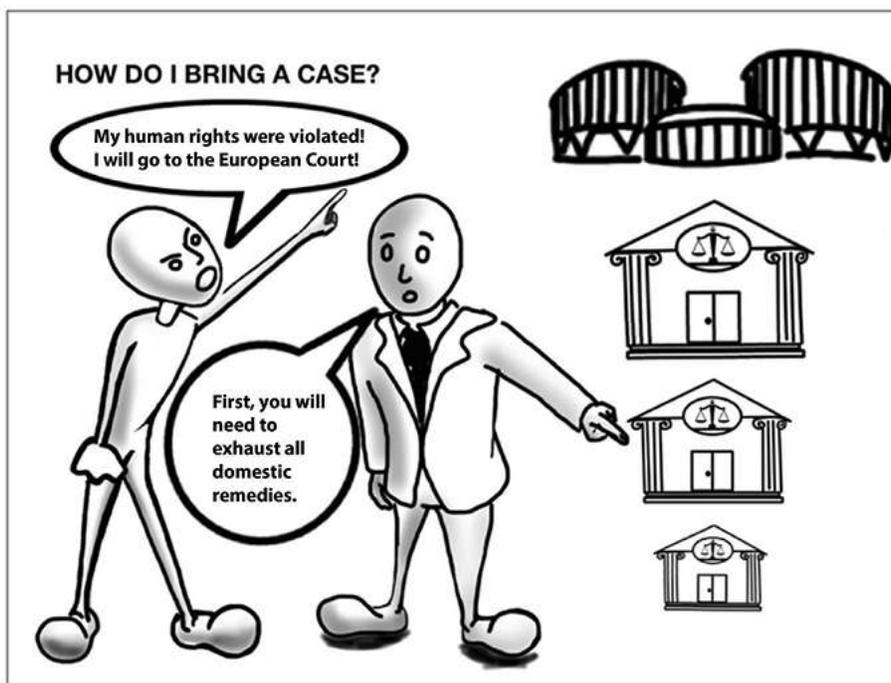
1.3. What is the European Court of Human Rights?



The European Court of Human Rights (hereinafter “the Court”) is the first international human rights court, established by the Convention in 1959, and it is still the only international court to which an individual can apply directly. The Court is considered the most effective international mechanism for the protection of human rights and acts as a quasi-constitutional court of Europe that establishes common European human rights standards. Since 1998, it has had sole responsibility for the enforcement of the Convention. It is a full-time court with 47 judges.

The Court’s jurisdiction is to examine and pass judgment on inter-state cases and applications by individuals against contracting states, and to provide advisory opinions on legal questions concerning the interpretation of the Convention when requested by the Committee of Ministers of the Council of Europe. Applications by individuals constitute the majority of cases heard by the Court. As of the end of 2014, 69 900 applications were pending before the Court.

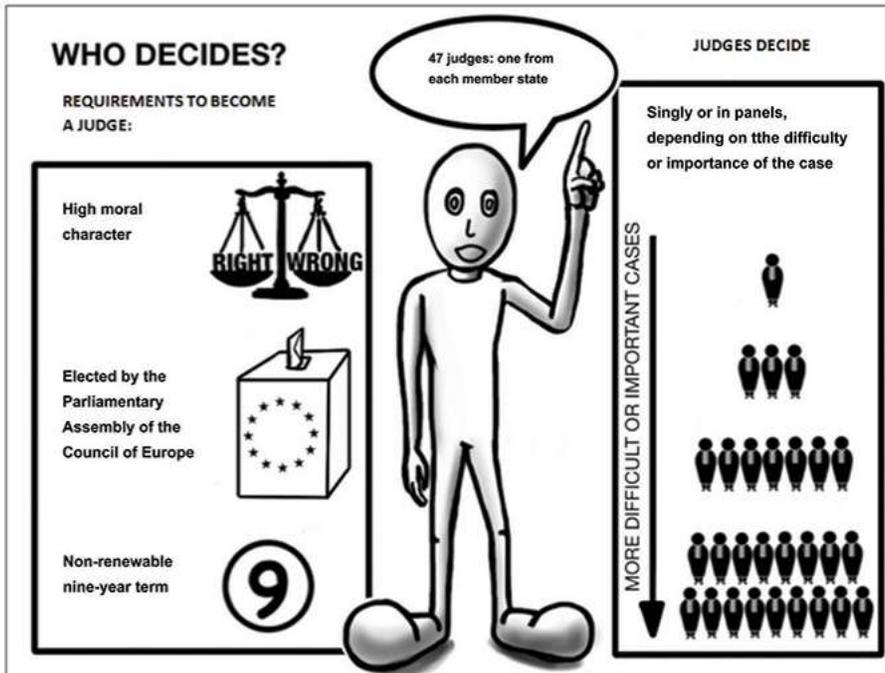
1.4. How do I bring a case to the Court?



You can bring a case to the Court if you consider that the state has violated your rights, but before the Court will consider your arguments you must have met the so-called “admissibility” requirements. One of the most important criteria is the rule of “exhaustion of domestic remedies”. Prior to the lodging of an application with the Court, all available and effective remedies that are available in your state have to have been exhausted (that is you need to go through your own country’s courts), and the application has to be submitted within six months of the delivery of the final decision. The application also has to concern a right that is protected under the Convention. The person complaining has to be directly affected, and must have suffered significant damages, unless respect for human rights as defined in the Convention and its Protocols requires an examination of the application on its merits. The application must not be “manifestly ill-founded”, or constitute an abuse of rights.

If you think that your application satisfies these criteria, you can submit an application on the official form. You do not need to be represented at the initial stage, although legal representation will be required from when the Court notifies the concerned state about the application. After that stage you can also be granted legal aid and you must write to the Court in one of its official languages. However, you can submit an application in your own language.

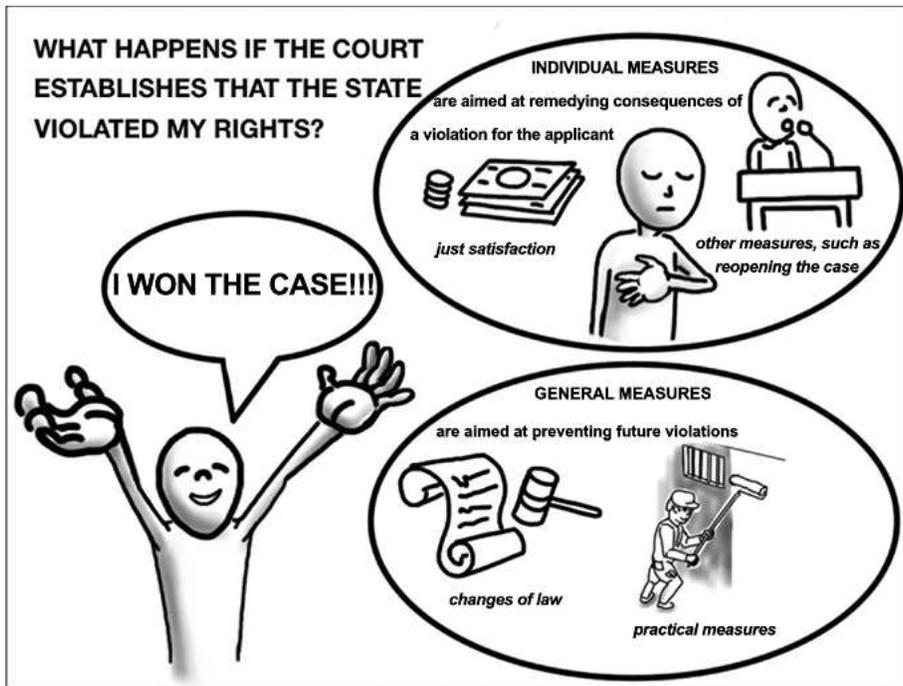
1.5. Who decides?



There are 47 judges at the Court, one from each member state. They must be of a high moral character and have relevant qualifications. Judges are elected by majority vote in the Parliamentary Assembly of the Council of Europe from the three candidates each contracting state nominates, for a non-renewable nine-year term. They perform their duties in an individual capacity and are independent. Judges sit in a Committee of three judges, Chambers of seven judges and a Grand Chamber of 17 judges. A single judge can reject plainly inadmissible applications (but may not examine applications against the state in respect of which he or she was elected). The three-judge Committee is empowered to declare applications admissible and decide on the merits of a case when it is already covered by well-established case law. The seven-judge Chamber decides on the merits of all other cases, except where jurisdiction is relinquished to the Grand Chamber.

The Grand Chamber can hear cases that raise serious questions of interpretation and application of the Convention, a serious issue of general importance, or cases that may depart from previous case law. A Panel of five judges decides whether the Grand Chamber accepts referrals. The Grand Chamber can also re-hear a case decided by the Chamber if the Panel accepts the request. The request can be submitted by any party to the case within a period of three months from the date of the judgment of the Chamber.

1.6. What happens if the Court establishes that the state violated my rights?



The contracting parties undertake to abide by the final judgments of the Court in the cases to which they are parties. The Court, however, does not generally specify what measures states need to take and it does not monitor the implementation of its judgments. This is the task of the Committee of Ministers (the intergovernmental body made up of foreign affairs ministers or their diplomatic representatives from the 47 member states and assisted by the Department for the Execution of Judgments of the European Court of Human Rights). There are two types of measures required: individual measures, aimed at remedying the consequences of a violation for an applicant (just satisfaction and other necessary measures such as re-opening of the proceedings); and general measures, aimed at preventing future similar violations, such as changes of law, policies or practical measures, for example refurbishing outdated prison facilities in case of a complaint related to prison conditions.

It is for the state to identify the measures in co-operation with the Department of the Execution of Judgments. The first step in implementation is for the state to produce an action plan within six months from the date that the judgment becomes final (three months from the date of delivery, unless the case has been submitted to the Grand Chamber). If the judgment is unclear regarding what is required for implementation, the Committee of Ministers may agree by a two-thirds majority vote to refer back to the Court (a referral decision) for clarification.

2. How to implement activities in the classroom

2.1. Specificities of human rights education

2.1.1. Defining human rights education

“**H**uman rights education” (“HRE”) has been defined by the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education as follows:

education, training, awareness raising, information, practices and activities which aim, by equipping learners with knowledge, skills and understanding and developing their attitudes and behaviour, to empower learners to contribute to the building and defence of a universal culture of human rights in society, with a view to the promotion and protection of human rights and fundamental freedoms.

2.1.2. Principles, goals, objectives and pedagogy of human rights education

This definition of the Charter leads us to specific principles, goals, objectives, providing a framework for the pedagogy of HRE:

- ▶ principles:
 - HRE is a lifelong process;
 - education for human rights should be realised in partnership and collaboration;
 - teaching should follow democratic and human rights values and principles;
- ▶ goals:
 - teaching should promote democratic and human rights values and principles and foster the empowerment and active participation of learners;
 - HRE should promote social cohesion and intercultural dialogue and the value of diversity and equality;
 - HRE should empower people with the readiness to take action in society in the defence and promotion of human rights, democracy and the rule of law;
 - given the international nature of human rights values and obligations and the common principles underpinning democracy and the rule of law, it is important for member states to pursue and encourage international and regional co-operation through such activities;

- ▶ objectives:
 - enhance knowledge about human rights, e.g. knowledge about the range of constitutionally protected human rights, as well as present-day declarations, conventions and covenants;
 - enable learners to develop a critical understanding of their life situation, e.g. through questioning the barriers and structures which prevent the full enjoyment of their rights and freedoms;
 - help learners in the process of value clarification as they reflect on such values as fairness, equality and justice;
 - bring about attitudinal changes, e.g. by teaching tolerance among and between members of different ethnic and national groups;
 - promote attitudes of solidarity, e.g. by helping people recognise the struggles of our fellow human beings, at home and abroad, as they seek to meet their needs and respond to violations of human rights;
 - effect behavioural change, e.g. by bringing about action that reflects people’s respect for one another;
 - empower people for participation, e.g. by enabling people to define and meet their own needs;
- ▶ these principles, goals and objectives provide for a pedagogy based on the following:
 - human rights exist in a context. This means that one of the objectives of HRE is to critically understand the real conditions that people live in;
 - activity is central to HRE. This means that the teacher should pay attention to knowing and creating the conditions for learners to freely express and use their prior knowledge;
 - creating problem-solving situations that challenge learners’ prior knowledge;
 - promoting collective participation in order to clarify and understand concepts;
 - dialectically addressing human rights-related issues. Different sources of information, data, evidence, etc. should always be considered;
 - analysing and developing questions that ask “why” and “how” will help learners explore cause-and-effect relationships; reflect, take up and defend positions; and help them see things from a different perspective.

2.1.3. Contextualising human rights

Human rights are not solely abstract concepts or values. They are related to everyday activities that, like values, exist in a concrete historical reality. Human rights violations and human rights protection are part of the same historical context. The following learning objectives are related to knowing and understanding this context.

By the end of the learning process, learners should be able to:

- ▶ provide examples of human rights violations;
- ▶ explain how human rights are violated;
- ▶ identify people or groups in their environment (school, community, region, etc.), whose human rights have been violated;

- ▶ identify people, groups or institutions in their environment violating human rights;
- ▶ identify people, groups or institutions in their environment that promote and protect human rights;
- ▶ explain why a convention (e.g. the European Convention on Human Rights) should be ratified by their national parliament;
- ▶ provide examples of laws that have to be changed or improved based on the European Convention on Human Rights and the decisions of the European Court of Human Rights.

2.1.4. Respecting, protecting and promoting human rights

Knowledge is crucial but it is not enough. Attitudes and behaviours based on respect for others and actions to protect and promote them are indispensable for democracy as well as for HRE.

By the end of the learning process, learners should be able to:

- ▶ explain why democracy needs human rights protection;
- ▶ explain that human rights promotion and development is possible;
- ▶ design a set of measures or strategies for protecting human rights at individual, group and institutional levels.

2.1.5. International solidarity

In an increasingly interdependent global world, addressing human rights problems requires the intervention and the commitment of the international community.

By the end of the learning process, learners should be able to:

- ▶ identify forces on an international level that promote human rights;
- ▶ identify forces on an international level that influence the status of human rights in their country.

2.2. Structure of the activities

The 12 learning activities detailed in Chapter 3¹ are structured in a way that allows learners to get to know the facts of the case, analyse the article(s) of the Convention concerned and discuss the judgment and its implications. They also encourage learners to go beyond the actual case and link it to everyday life and/or situations they are familiar with.

The learning activities include elements that aim to familiarise learners with the procedural aspects of the Court, so that they learn how to use the human rights protection mechanisms at European level.

1. More activities are available on the USB key and the project website, available at <http://explore-humanrights.coe.int>, accessed 3 February 2015.

The activities are based on real cases and are presented in the same format: Part A presents the landmark decision, namely the legal context, while Part B addresses pedagogical issues.

Specifically, Part A presents the following:

- ▶ the applicant(s);
- ▶ the rationale: why the case has been chosen;
- ▶ the facts;
- ▶ the legal challenge: the basis of the case;
- ▶ the timeline of the legal actions relevant to the case;
- ▶ articles from the Convention that were invoked, along with the key questions before the Court;
- ▶ the response from the Court and a reminder of the main principles involved;
- ▶ what happened next, e.g. the impact of the Court's decision on national law.

Part B presents:

- ▶ an introduction to the activity;
- ▶ the concepts and topics involved;
- ▶ the learning objectives;
- ▶ the activity plan: guidelines on how to organise the 45-minute activity in terms of method, teacher activities and student activities;
- ▶ pedagogical material that may be used to support the activity.

2.3. How to include these activities in the classroom

To help you to choose the activity that fits your needs, the 12 activities are categorised under five main themes at the beginning of Chapter 3. Each activity is designed as a 45-minute session for secondary students, with all the necessary information and material provided in this handbook.

Though the activities are designed as complete in themselves, where possible it would be effective to propose homework before and/or after the lessons and also include the activities within a broader scope over a longer period of time. Before commencing the first activity, it is recommended that the teacher briefly introduce the Council of Europe and its objectives. For this purpose, the seven-page leaflet "The Council of Europe, guardian of human rights (2014)", available in 21 languages, may be used. The leaflet is available at:

<https://edoc.coe.int/en/an-overview/6206-the-council-of-europe-guardian-of-human-rights.html>

A more detailed 28-page brochure is available in English, French, German and Russian, "The Council of Europe: an overview (2013)", available at:

<https://edoc.coe.int/en/an-overview/5336-the-council-of-europe-an-overview.html>

You can also use the following video (seven minutes and 35 seconds), available here:
www.youtube.com/watch?feature=player_embedded&v=7SKqVzIHc9o



It is also important to differentiate the Council of Europe on the one hand, and the European Union, the European Council and the European Commission on the other.

Secondly, you should introduce the European Court of Human Rights, as part of the Council of Europe, and present the ways in which it can influence the national legislation of member states. You can use, for instance, the two-page leaflet “The Court in brief”, available at:

www.echr.coe.int/Documents/Court_in_brief_ENG.pdf

This brochure is an introduction to the Court, and provides the key dates in its history as well as a short summary of the European Convention on Human Rights. It is available in 38 languages.

For more information, you can use “The ECHR in 50 questions” (nine pages), available here:

www.echr.coe.int/Documents/50Questions_ENG.pdf

It is available in 38 languages.

You can also use a video (15 minutes and 50 seconds), “The conscience of Europe”, available in 25 languages. This is a documentary intended for the general public that provides specific examples of cases examined by the Court, and considers its prospects and the challenges facing it. This may be accessed in English at:

www.youtube.com/watch?v=IJdoe02cY0U&feature=plcp&context=C3494c3aUDOEgsToPDskLp5dEeCFO-YnqrLLvQAe_

Thirdly, you can introduce your students to the European Convention on Human Rights, available here in English:

www.echr.coe.int/Documents/Convention_ENG.pdf

The Convention is available in 38 languages.²

Depending on the age and level of your students, it may be useful to work on a simplified version of selected articles from the Convention and its Protocols:³

www.echr.coe.int/Documents/Simplified_Conv_ENG.pdf

There is also a short video (three minutes and 16 seconds), available in 38 languages, produced by the Court, that presents the main rights and freedoms in the Convention. This may be accessed in English at:

www.youtube.com/watch?v=MOcmUQTgjCw&list=PLT-6qb4oU5fj_2HYaZ7Rtq0jfGr6cAics&index=1

2. Available at www.echr.coe.int/Pages/home.aspx?p=basictexts&c=#n1359128122487_pointer, accessed 3 February 2015.

3. This takes its inspiration from the simplified version of the Universal Declaration of Human Rights produced by Amnesty International.

2.4. How to evaluate the students' achievements

As in any learning process, HRE needs evaluation to determine whether the students have acquired new knowledge and skills, or have modified their attitudes.

In fact, evaluation has a great impact on the whole process of learning and teaching. Very often, students learn what they are assessed for, and teachers teach what they expect to be tested. This is why the evaluation process is very important.

What do we have to evaluate in the field of Education for Democratic Citizenship (EDC) and HRE? In light of the definition provided by the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, the main objective of HRE is to prepare and empower young students to integrate human rights in their daily behaviour and to become citizens, aware of their rights and duties.

For this reason, HRE focuses on what students should be capable of doing rather than on what teachers should teach them. This means that the evaluation of students should be competence-based. By the end of their learning process, schooling or training students are expected to:

- ▶ know their human rights and understand the conditions they depend on (learning “about” democracy and human rights);
- ▶ have been trained in exercising their human rights and respecting the rights of others (learning “through” democracy and human rights);
- ▶ have the skills to be confident and willing to exercise their human rights, with a sense of responsibility towards others and their community (learning “for” democracy and human rights).⁴

This means that becoming familiar with human rights and their protection system is not enough unless accompanied with the development of decision-making, critical thinking and participatory skills. Effective and responsible citizenship requires not only knowledge and understanding but participation in the governance of schools, communities and countries.

All the activities developed in this manual are based on knowledge, skills and attitudes related to objectives. The quality of accomplishing them depends on the extent to which they fit the purpose. Assessing students, we aim to provide an answer to this question. The learning objectives of the activities and the aims of the whole project are the criteria for assessing and evaluating students' progress.

The educational objectives for the activities are structured as follows:

Knowledge and understanding

As a result of participating in this activity:

- ▶ the student will understand the key concepts of the case;
- ▶ the student will understand the principle of the right to a fair, independent and impartial trial within a reasonable time.

4. Gollob R., Krapf P. and Weidinger W. (eds) (2010), *Educating for democracy. Background materials on democratic citizenship and human rights education for teachers*, Volume I of EDC/HRE Volumes I-VI, Education for Democratic Citizenship and Human Rights in school practice. Teaching sequences, concepts, methods and models, Council of Europe Publishing, Strasbourg, p. 29.

Skills

- ▶ the student will understand the importance of critical thinking skills;
- ▶ the student will evaluate the cases where the right to a fair trial is violated;
- ▶ the student will take and defend his/her position, based on facts and arguments, considering the arguments of others;
- ▶ the student will be able to reach compromises.

Attitudes

- ▶ the student is motivated to implement the gained knowledge in his/her daily life;
- ▶ the student will be able to change his/her opinion based on new facts;
- ▶ the student will be able to reach compromises;
- ▶ the student will be able to take voluntary action for the common good.

The evaluation process deals with the learning results and it is based on observable behaviour. At the end of the activity, the teacher should reflect on the following questions:

- ▶ does the student understand the concepts of the case?
 - is the student able to:
 - identify the elements of the case?
 - describe their meaning?
 - explain the purpose?
- ▶ is the student able to reach compromises?
 - is the student able to:
 - identify opinions different from his/her own?
 - identify the value/strong points of others' opinions?
 - accept weak points in his/her opinions?
 - give up something from his/her interests?
- ▶ is the student able to change his/her opinion?
 - is the student able to:
 - identify facts that contradict his/her opinions?
 - accept the facts that contradict his/her opinions?
 - identify the weak points of his/her opinions?

One of the expected results of the learning and training process in HRE is that students will be willing to participate in the political processes of the community. This result has to do with participatory skills, that is students being able to:

- ▶ take actions to communicate with others, to ask, to answer, to take decisions, to build coalitions, to manage conflicts, to work in groups, to use media, etc.;
- ▶ monitor public policy in order to participate responsibly. This means being able to take part in civic life, to inform and be informed, to take and give interviews, to make public speeches, etc.;
- ▶ influence public policy, that is use the skills needed for this purpose at all levels, etc.

One of the aims of HRE is to change the behaviour and attitudes of students, allowing them to accept responsibility for all areas of their life. Thus:

- ▶ the student is able to be an independent member of society;
 - is the student able to:
 - take part, on a voluntary basis, in society, accepting the standards set by it, based on the common good?
 - accept responsibility for his/her own actions?
- ▶ the student is able to take part in society in a well-informed manner;
 - is the student able to:
 - ask for information before voting or taking part in a public debate?
 - prioritise the common good over his/her private interests?

2.5. How to use audiovisual resources

One of the 12 activities, *Campbell and Cosans v. the United Kingdom*, is illustrated with a video in two versions: a full-length version, more than 19 minutes in length, and a short one, around six minutes. We have offered both these versions for practical and pedagogical purposes.

With a six-minute video, you can expect your students' attention to be on the content and the subject of the video, especially if you introduce it and indicate what they should look out for beforehand. At the end of the class, you can recommend that your students watch the full video, and provide them either with an online link or a copy of the video.

In general, if you want to use a longer video during class, you will have to prepare by editing the video into shorter sections (between three to six minutes). You then introduce each section, specifying the content and the questions that you want your students to focus on. After viewing a section, the students should work on a specific activity prepared by you before moving on to the next section of the video.

From a cognitive point of view, it is important to show the full video at the end of the learning process or at least provide it to your students so they can watch it outside of school.

2.6. How to evaluate the activities

An online questionnaire for teachers who have used the activities in their classroom is available here:

https://docs.google.com/forms/d/1zWyJorxD1MTq3zNM_O2y64lWYlv_054Mns_OTbu-KA/viewform

Students can also provide feedback via this online questionnaire:

https://docs.google.com/forms/d/1Q4DYeGGdEJQ65RN9ics9e_9faGx3R4CqRzpTuTy5ZD0/viewform

Please do not hesitate to share with the authors your point of view and your experience, and invite your students to do the same.

3. Activities

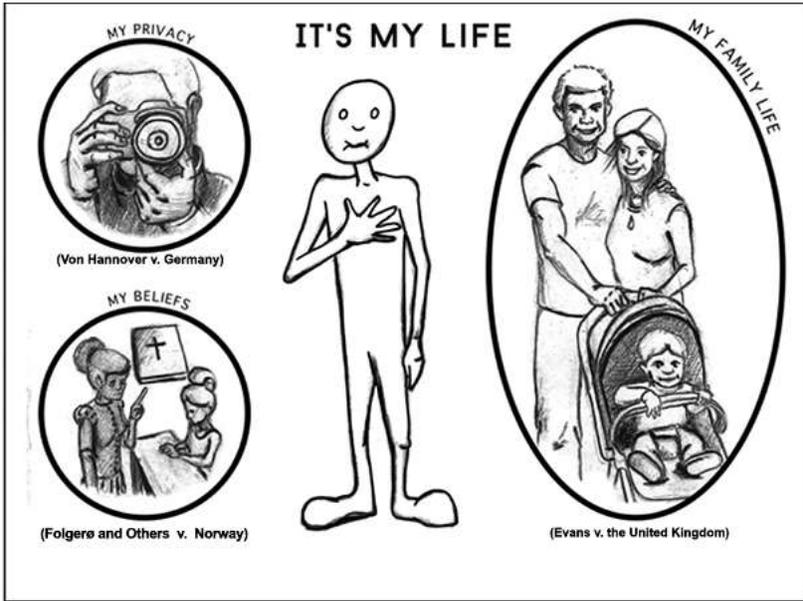
3.1. Introduction and table of activities

This handbook contains 12 case studies covering five broad themes. It is important to note that some cases may cover multiple themes, but we have focused each case study and learning activity on a single theme.

Themes	In the classroom	Convention article(s) referred to	Cases in handbook	Related subject areas
It's my life (personal identity, religious identity, sexual identity, family life)	"my own private life"	Articles 2 and 8	<i>Evans v. the United Kingdom</i>	Moral education, biology
		Articles 8, 9 and Article 2 of Protocol No. 1	<i>Folgerø and Others v. Norway</i>	Religious education, citizenship education, social studies
		Articles 8 and 10	<i>Von Hannover v. Germany</i>	Media studies
Don't do that to me (torture, human trafficking, protection from threats)	"bullying and exploitation of vulnerable persons"	Article 3 and Article 2 of Protocol No. 1	<i>Campbell and Cosans v. the United Kingdom</i>	History, languages
		Article 4	<i>Siliadin v. France</i>	Geography, economy

Themes	In the classroom	Convention article(s) referred to	Cases in handbook	Related subject areas
How do we treat others? (discrimination, abuse, domestic violence)	“non-discrimination towards minority groups, respect for others’ values, taking positive actions against mistreatment and stereotypes, respecting diversity”	Article 14 and Article 2 of Protocol No. 1	<i>D.H. and Others v. the Czech Republic</i>	Modern studies, history, politics, social studies
		Article 9 and Article 2 of Protocol No. 1	<i>Leyla Şahin v. Turkey</i>	Religious education, sociology
		Articles 2, 3 and 14	<i>Opuz v. Turkey</i>	Social studies
I want a voice (political freedom, intolerance)	“preparing young persons for citizenship through active participation”	Articles 11 and 14	<i>Alekseyev v. Russia</i>	Politics, religious studies, modern studies
		Article 10	<i>Jersild v. Denmark</i>	Media studies
Fairness for all (justice, hearings, punishment)	“respecting human dignity, respecting rules, punishing rule-breakers”	Articles 3 and 5	<i>Groni v. Albania</i>	Citizenship education
		Article 3 and 6	<i>Gäfgen v. Germany</i>	Philosophy, ethics

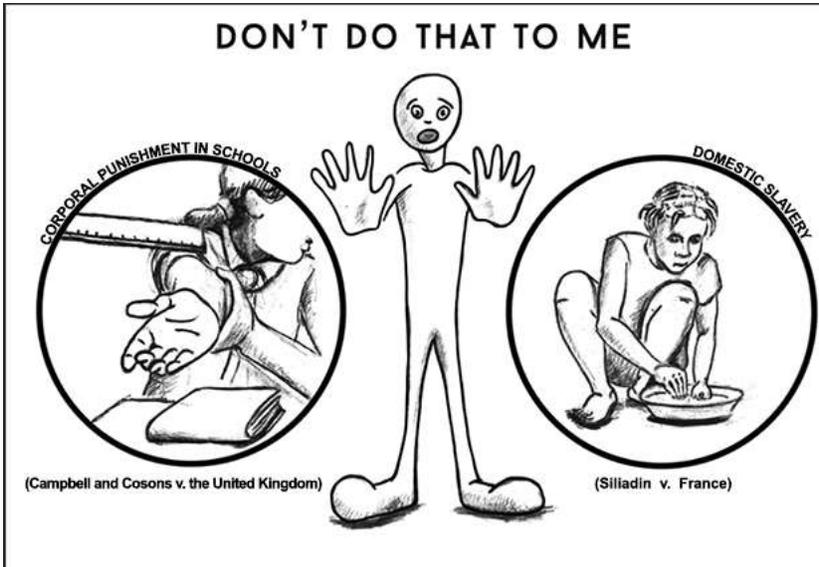
3.1.1. Theme 1 – It's my life



This theme highlights the fact that human rights protect essential aspects of who we are:

- ▶ our family and our ability to form relationships;
- ▶ our personal identity;
- ▶ our sexual identity;
- ▶ our beliefs and decisions.

3.1.2. Theme 2 – Don't do that to me



This theme concerns intrusions by the state into our physical or mental integrity:

- ▶ if the state kills an individual;
- ▶ if the state detains us or hurts us;
- ▶ if others hurt us and the state (that is the police) fail to protect us.

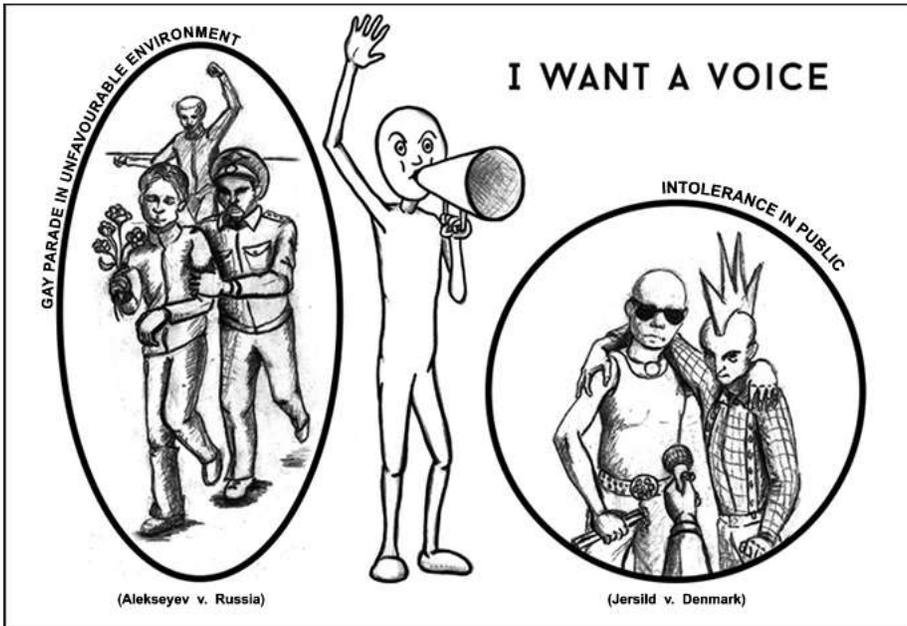
3.1.3. Theme 3 – How do we treat others?



This theme concerns the question of how we relate to people who are different from us. Do we treat them differently? Do we respect others' beliefs? What about people:

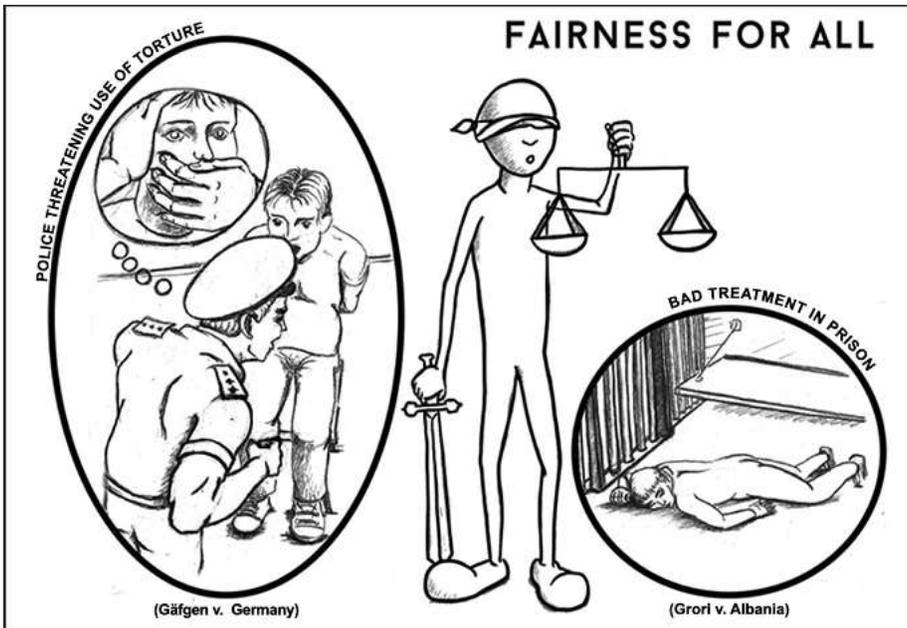
- ▶ from different races?
- ▶ from different countries?
- ▶ with different beliefs?
- ▶ with whom we are friends and family?

3.1.4. Theme 4 – I want a voice



Democracies need activists. Democracies thrive on free speech and protest. Sometimes, as recent events across the world show, states may respond inappropriately and oppressively.

3.1.5. Theme 5 – Fairness for all



If I do something wrong or am accused of having done something wrong, what protections do I need to ensure that justice is not only done, but is also seen to be done? In what circumstances can the state restrict my liberty by imprisoning me? How should I be punished and how should we punish serious wrongdoing by others?

3.2. Theme 1 – It's my life

Introduction to the theme and the cases

The three cases chosen represent different aspects of who we are and what we want to become:

- ▶ *Evans v. the United Kingdom*: whose consent is involved in starting a family?
- ▶ *Folgerø and Others v. Norway*: should the state (through schools) be able to shape our beliefs?
- ▶ *Von Hannover v. Germany*: what should others be able to see and read about us?

These case studies and the rights they concern apply to you, from how you go home and talk to your parents to how you relate to your friends in person or on Facebook!

► Evans v. the United Kingdom

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-80046#{"itemid":\["001-80046"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-80046#{)

Part A. Landmark decision

Applicant(s)

Mrs Natalie Evans, born in October 1971 in the United Kingdom.

Rationale

This case has been chosen as it demonstrates the difficulty of balancing the opposing rights of two people. It concerned a dispute between a woman, who wanted to become a mother (through artificial insemination), and her former partner, who had withdrawn permission to allow his sperm to be used in this process.

Facts

IVF: in vitro fertilisation is a process by which an egg is fertilised by sperm outside the body (*in vitro* = “in glass”). The resulting progeny are informally known as “test tube babies”.

June 2000: Natalie Evans and Howard Johnston became engaged.

October 2001: Mrs Evans found out, during a health inspection, that she had tumours in her ovaries.

November 2001: Mrs Evans underwent IVF treatment; 11 of her eggs were extracted and fertilised using Mr Johnston’s sperm; six embryos were frozen and placed in storage.

November 2001: Mrs Evans had her ovaries removed.

May 2002: the couple split up. Soon after, Mr Johnston wrote to the clinic and asked for the stored embryos to be destroyed.

July 2002: the clinic informed Mrs Evans of Mr Johnston’s request.

UK law: under UK law, both parties must give their consent for IVF to continue. Otherwise, the embryos must be destroyed.

Legal challenge

Mrs Evans began a legal challenge, arguing that if she had become pregnant naturally with the embryos in her body, then her partner would not be able to stop it.

2003 to 2004: the UK courts rejected Mrs Evans’ arguments, stating that under UK law, the embryos had to be destroyed.

2005: Mrs Evans applied to the European Court of Human Rights.

10 April 2007: the Court also ruled against Mrs Evans.

Articles invoked and key questions before the Court

The applicant claimed that the following articles of the Convention had been violated:

Article 2: Right to life

Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

The applicant claimed that her embryos had a "right to life" and it was for the Court to consider whether this was the case.

Article 8: Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The applicant claimed that she had a right to choose to start a family life.⁵ A state can only interfere with this right if the condition in paragraph 2 of Article 8 is satisfied. The Court had to decide whether the law – which states that if a sperm donor refuses consent then embryos have to be destroyed – struck a fair balance between the rights of the applicant and the rights of her former partner.

Court response and main principles

Article 2

Under British law, an embryo does not have independent rights and interests. As there is no European consensus on this issue, the Court had to give a wide "margin of appreciation" to the views of the British lawmakers. Therefore, there was no Article 2 violation.

Article 8

The law which allowed embryos to be destroyed if one party removed their consent was supported by strong policy considerations when it was created; requiring consent of both parties provides legal certainty for everyone. The Court was reluctant to get involved in a private matter between two people in disagreement, both of whom

5. The applicant also made a claim under Article 14 (prohibition against discrimination), but this has been ignored for our purposes.

had different, opposing rights that they were trying to enforce. Had the Court found a violation of the Convention, they would have effectively been saying that a man's role in the process of IVF childbirth would end once an egg had been fertilised. In this difficult area of policy, the Court again deferred to the British lawmakers and found that there was no Article 8 violation.

What happened next?

As the Court did not find a violation of the Convention, there were no measures to be taken.

Part B. Educational activities

Introduction: this lesson examines the right to respect for private life and family life.

Concept/topic: the conflict of two rights under the Convention, and how the European Court of Human Rights addresses this conflict.

Learning objectives

The main objective of the proposed learning material is to present to the students the Convention and the work of the Court. The objectives of this learning activity are to:

- ▶ present to the students the importance of the right to private life and having a family;
- ▶ present to the students the restrictions and potential conflicts of rights that can occur;
- ▶ encourage students to come up with their own views on these issues;
- ▶ teach students how to extract relevant information from a legal act.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
5'	1) Introduction to <i>Evans v. the United Kingdom</i> The teacher introduces the students to the right to private and family life as presented in the Convention. This is followed by the presentation of the case of Mrs Evans.	Whole Class Teaching (WCT)	
30'	2) Group Activity The teacher announces to students that they will simulate a parliament: <ul style="list-style-type: none">▶ the teacher draws a diagram on the board (see the proposed scheme below) and presents instructions to the students;▶ the students represent a parliament that has to decide how to regulate the process of IVF (whose consent is required for the entry of the embryo into a woman's body, and who can withdraw their consent);▶ students can choose from the following options:<ul style="list-style-type: none">– the agreement of both is required (both can withdraw their consent, to be marked as "MW");	WCT and Group Activity	Material for students and teachers: questions for discussion

Time	Content Method – teacher activities – student activities	Assignment category	Material
	<ul style="list-style-type: none"> - the agreement of one is required: <ul style="list-style-type: none"> - any (consent can be withdrawn from both, to be marked as “M/W”); - the woman’s (only she can withdraw her consent, to be marked as “W”); - the man’s (only he can withdraw his consent, to be marked as “M”); - once an embryo is created, consent is no longer required (neither man nor woman can withdraw their consent, to be marked as “0”). <ul style="list-style-type: none"> ▶ prior to the vote, the teacher encourages a discussion of each of the options; ▶ students vote on what the law should be and the teacher clearly presents the decision of the class. 		
10'	<p>3) Whole class discussion</p> <p>Students justify the arguments for the positions offered in their simulation of a parliament.</p>	WCT	

B.2. Material

Handout 1: the basics of in vitro fertilisation and questions for the “parliament”

In vitro fertilisation (IVF) or extracorporeal fertilisation involves fertilisation with biomedical assistance. It is a process wherein the gametes of both donors (a man and a woman) are taken and combined outside the woman’s body to create an embryo that is then implanted in the woman’s body.

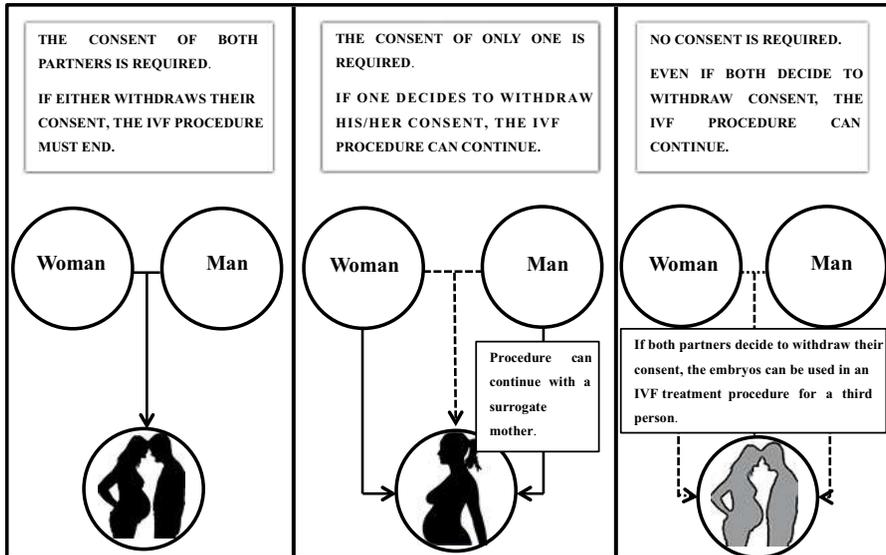
Students play the role of the parliament. They discuss the regulation of consent with regards to IVF, as when the male and female gametes are taken, the consent of both is required. The question is whose consent is required for use of these cells (entry into a woman’s body)?

The options at their disposal are the following:

- ▶ the agreement of both is required (both can withdraw their consent) (MW);
- ▶ the agreement of one is required:
 - any (the consent can be withdrawn from both) (M/W);
 - the woman’s (only she can withdraw her consent) (W);
 - the man’s (only he can withdraw his consent) (M);
- ▶ once an embryo is created, consent is no longer required (neither can withdraw their consent) (0).

Scheme

After the creation of an embryo, the withdrawal of consent by either partner may affect the continuation of IVF treatment (that is consent may be withdrawn before the embryo is inserted into the mother's uterus). The law could: require the consent of both parties; only require the consent of one party; or not require consent from either party.



Examples of questions

Possible questions for the situation where both the man and woman provide consent:

- ▶ is the autonomy of the individual important in a modern democratic society?
- ▶ is it necessary for each person to be able to decide whether or not to have children, and why?

Possible questions for the situation where only the man or only the woman provide consent:

- ▶ whose interests should be stronger, a man's or a woman's? Why?
- ▶ should the partner who wanted to withdraw his or her consent, but was unable to prevent the birth of the child, be required to care for the child, even financially?
- ▶ should the person who refuses to consent be indicated in the official records as a father or a mother of the child?
- ▶ should the person who was opposed to fertilisation have the right to care for the child?
- ▶ how strong is the interest of those who do not want to have children?

Possible questions for the situation where neither the man nor the woman provide consent:

- ▶ is an embryo at the level of a few cells already a human being and thus protected by the human right to life?

Questions for everyone:

- ▶ do you consider that in such situations there are clearly established rules and that all participants are informed in advance of their options before committing themselves to a procedure? Or should there be a commission which could make a decision according to the circumstances of the case?
- ▶ if you think there ought to be a commission, what should it take into account when deciding on the birth of a child?

► **Folgerø and Others v. Norway**

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-81356#{"itemid":\["001-81356"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-81356#{)

Part A. Landmark decision

Applicant(s)

The applicants, including Mrs Folgerø, were parents of schoolchildren who were required to take a class, titled “KRL”, which covered religious and philosophical education, but also Lutheran Christianity in particular depth. The applicants were Humanists and members of the Norwegian Humanist Association.

Rationale

This case has been chosen as it demonstrates the high level of consideration that needs to be given to the views of different parents when designing a school curriculum, and the obligation on the state to ensure that the views of parents are respected.

Facts

Humanism: a philosophical and ethical stance emphasising the value of human beings. It generally prefers critical thinking and evidence over ideas of religious faith.

Prior to autumn 1997: parents could apply to have their children exempted from lessons on Christianity at school.

Autumn 1997: the Norwegian primary school curriculum was changed with two separate subjects – Christianity and philosophy of life – replaced by a single subject known as KRL (covering Christianity, religion and philosophy).

Parents could now only apply to have their children exempted from parts of KRL, but some wanted to be able to ensure that their children did not have to attend any part of KRL.

Legal challenge

1998: some parents tried to challenge the curriculum through the courts in Norway.

2007: the European Court of Human Rights delivered a judgment based on the following:

- some parents, who were members of the Norwegian Humanist Association, and their children (who were in primary school at the time) applied to the European Court of Human Rights;

- ▶ the Court said that KRL focused too heavily on Christianity and that the partial exemptions system was not, in this context, enough. There was therefore a violation of Article 2 of Protocol No. 1 to the Convention.

Articles invoked and key questions before the Court

Article 8: Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9: Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 2, Protocol No. 1: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Under these articles, the Court had to consider:

- ▶ whether KRL was taught in an objective, critical and pluralistic manner;
- ▶ whether the partial exemptions gave enough weight to parents' views and beliefs.

Court response and main principles

The Court did not consider the case under Articles 8 and 9, considering that Article 2 of Protocol No. 1 was the most important point (and that any violation of this article would provide the applicants with the decision that they were looking for).

The Court scrutinised domestic measures, procedures and the KRL curriculum. It held that there were quantitative and qualitative differences in the teaching of Christianity

and other religions. Christianity accounted for around half of the subject, with other beliefs only marginally represented.

The Court then held that the system for partial exemptions from KRL was insufficient. Concerned parents would be required to keep abreast of the weekly curriculum and lesson plans – which could vary greatly from school to school, and among teachers. Additionally, parents could be required to reveal sensitive information about their private life related to their own beliefs in justifying the exemption. This might happen should parents feel compelled to justify an exemption by intimating their personal beliefs. The Court felt this diminished the purpose of the exemption. Further, the burden of differentiating teaching style based on individual teachers might indirectly discourage parents from requesting exemptions.

Accordingly, there was a violation of Article 2 of Protocol No. 1.

What happened next?

The applicants' children were no longer in compulsory education. Consequently, no specific measures could have been taken.

Regarding general measures, already prior to this judgment, Norway had amended its relevant Education Act, deleting the reference to Christianity as a starting point for KRL and removing the requirement of parental justification for exemption. Following the judgment, Norway rebranded KRL and specified that the new subject must be presented in an objective, critical and pluralistic way, in accordance with human rights. Additional provisions were put in place to ensure that the personal convictions of students and parents were respected.

Part B. Educational activities

Concept/topic: religion in the classroom; indoctrination.

Learning objectives

Knowledge and understanding

- ▶ the student will understand how the Court applies Article 2 of Protocol No. 1 and the concept of indoctrination;
- ▶ the student will understand the importance of cultural diversity in education and society;
- ▶ the student will understand the importance of balancing competing interests in a culturally diverse society.

Skills

- ▶ the student will be able to identify situations that could give rise to concerns from religious minorities, especially those that amount to “indoctrination” in education;
- ▶ the student will be able to participate in a discussion about balancing the interests of minorities with those of broader society;
- ▶ the student will be able to balance valid, though fictional, competing interests, at least to a rudimentary level.

Attitudes

- ▶ the student will appreciate the importance of neutrality in education, especially in respect of religion;
- ▶ the student will appreciate the importance of concessions for cultural differences.

Duration: 45 minutes

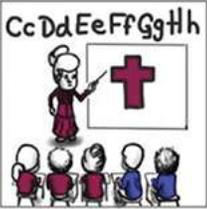
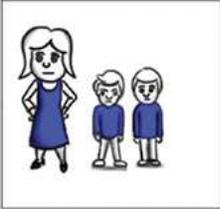
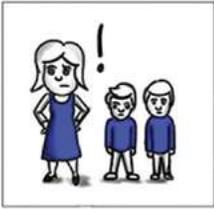
B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
5'	1) Discussing religion and education The teacher leads the class through the following questions: <ul style="list-style-type: none">▶ should every child be taught to think the same thing?▶ what happens to society when there is a lack of cultural diversity?▶ what happens to individuals when they cannot pursue their own beliefs?	Whole Class Teaching (WCT)	

Time	Content Method – teacher activities – student activities	Assignment category	Material
20'	<p>2) <i>Folgerø and Others v. Norway</i></p> <p>The teacher writes the following statement on a board:</p> <p>“Although individual interests must on occasion be subordinated to those of a group, democracy does not simply mean that the views of a majority must always prevail: a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position” (Paragraph 84(f) <i>Folgerø and Others v. Norway</i>)</p> <p>The teacher explains the statement to the class.</p>	WCT	
10'	In small groups, the students read Handouts 1 and 2 and discuss the outcome of the case.	Group Activity (GA)	Handouts 1 and 2
5'	<p>3) The meaning of indoctrination</p> <p>In groups of 4 or 5, the students generate a mind map for the concept of “indoctrination”. They are encouraged to put as much information as they can on paper, using both legal and non-legal definitions.</p>	GA	
5'	<p>4) Whole class discussion</p> <p>The meaning of indoctrination is discussed openly.</p>	WCT	

B.2. Material

Handout 1 – *Folgerø and Others v. Norway*: the facts of the case

		
<p>Norway has a large Christian population – almost 85% of the country is Lutheran.</p>	<p>Religion is taught in schools. A number of religions were taught, but Christianity received the most focus.</p>	<p>Mrs Folgerø, not being Christian, does not want her boys in the class and seeks a full exemption.</p>
		
<p>Full exemptions are not permitted. Partial exemptions are, but even they require reasons to be given. Mrs Folgerø could be asked to reveal sensitive information about her beliefs.</p>	<p>A partial exemption would also require Mrs Folgerø to keep up to date with every class; a great burden on any parent.</p>	<p>Unhappy, Mrs Folgerø, applies to the European Court of Human Rights. She feels that her children are being indoctrinated into Christianity against her wishes.</p>

Handout 2 – *Folgerø and Others v. Norway*: the judgment

Arguments in favour of Norway

Christianity is a key part of life for many people in Norway

Christianity is an important part of the culture and history of Norway

Arguments in favour of the applicant

Those exempted are still observing! That's just like participating.

A parent has to reveal very personal information to get an exemption

Christianity makes up 50% of the class – they go into more depth than with any other religion

The parent might not want to hassle a teacher frequently

The Grand Chamber of the Court voted. Nine judges find a violation of Article 2 of Protocol No. 1, whereas eight say that there has been no violation.

Norway hasn't respected the rights of parents to ensure education and teaching is in conformity with their own beliefs

► Von Hannover v. Germany

As well as these shortened summaries, it is recommended that teachers – where possible - read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61853#{"itemid":\["001-61853"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61853#{)

Part A. Landmark decision

Applicant(s)

Caroline, Princess of Hannover, the eldest daughter of Prince Rainier III of Monaco.

Rationale

This case has been chosen because it highlights the important and topical issue of the right to privacy of celebrities and public figures on the one hand, and the rights of journalists and others to freely express themselves on the other.

Facts

This case concerns the difficult balancing act between the right of the media to freedom of expression (protected under Article 10 of the Convention), and the right of individuals to have a private life (Article 8).

Princess Caroline Von Hannover, the eldest daughter of Prince Rainier III of Monaco, was born in 1957.

Her official residence is Monaco, but she lives in Paris most of the time. As a member of the royal family, she is the president of many foundations and organisations but does not perform any function on behalf of the state itself.

Between 1993 and 1997: the German magazine *Neue Post* published many photos of Princess Caroline in various locations, including:

- ▶ at a restaurant with an actor;
- ▶ on horseback;
- ▶ with her children;
- ▶ with her husband, skiing;
- ▶ at a horse show;
- ▶ leaving her house;
- ▶ playing tennis with Prince Ernst August Von Hannover;
- ▶ at a beach club, dressed in a swimsuit.

Legal challenge

1993 and 2000: Von Hannover brought multiple sets of legal proceedings in Germany. The German courts said that as a public figure she had to tolerate photos of her being published, even if they are in a private place.

24 June 2004: the European Court of Human Rights ruled that:

- ▶ although the paparazzi photographers had the right to freedom of expression in publishing photos, some of the photos which contained very personal or even intimate information violated the Princess's right to a private life;
- ▶ the general public did not have a legitimate interest in knowing her whereabouts or how she behaved in her private life.

Articles invoked and key questions before the Court

Article 8: Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 10: Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The key question before the Court was whether the publication of photographs, protected under Article 10, freedom of expression, could balance interference with Article 8, the applicant's right to privacy.

Court response and main principles

The domestic courts had found that the media were justified in publishing these photographs because the applicant was a "figure of contemporary society". The European Court of Human Rights disagreed.

The Court stated that the domestic courts were wrong to simply justify the paparazzi's behaviour on account of the applicant being a public figure in contemporary society. Legislation which allowed the paparazzi to take and publish photographs of public figures could not defeat the legitimate right that the applicant had to privacy; many

of these photographs were taken covertly and in places where the Princess would not have been expected to be photographed.

The rights under the ECHR need to be “practical and effective”, which means that the intrusion into the applicant’s private life could not be justified. Accordingly, there was a violation of Article 8 of the ECHR.

What happened next?

Despite being successful on this occasion, Princess Caroline has now gone before the European Court of Human Rights a total of three times in this long-running battle against the media. In the second and third case, also concerning German magazines publishing photographs, the Court seems to have taken a different approach, focusing on a discussion of the following five criteria:

- ▶ whether the information/images contribute to a debate of general interest;
- ▶ the notoriety of the person concerned;
- ▶ the prior conduct of the person concerned;
- ▶ the content, form and consequences of the publication;
- ▶ the circumstances in which the photographs were taken.

In these later cases, the Court has focused more on the fact that the Princess is a “public figure” and that the intrusion into her privacy, through the publication of the photographs, is justified, unless there are strong reasons to suggest otherwise.

Part B. Educational activities

Concept/topic: understanding the right to private and family life and the right to freedom of expression, as well as learning about the potential conflict between these two rights.

Learning objectives

Knowledge and understanding

- ▶ the student will be able to understand the scope of Article 8 (right to private and family life) of the Convention;
- ▶ the student will be able to understand how Article 8 is interpreted by the Court;
- ▶ the student will be able to understand when Article 8 can be legitimately interfered with by a state;
- ▶ the student will be able to understand Article 10 (right to freedom of expression) of the Convention and the potential conflict between Articles 8 and 10.

Skills

- ▶ the student will be able to identify the arguments of both sides from a set of facts;
- ▶ the student will be able to effectively communicate an argument;
- ▶ the student will be able to listen to and respect different points of view;
- ▶ the student will be able to recognise violations of Articles 8 and 10.

Attitudes

- ▶ the student will appreciate the importance of Articles 8 and 10 of the Convention.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
5'	1) Private and family life Paragraph 1 of Article 8 of the Convention is projected onto the wall. The teacher asks the students to stand and indicates that one side of the room is “yes”; the other side is “no”. The students have to position themselves between the two extremes when the teacher reads out the questions outlined in the Handout. Once they have taken up their positions, the teacher asks some of the students to explain their choice.	Whole Class Teaching (WCT)	

Time	Content Method – teacher activities – student activities	Assignment category	Material
5'	The teacher asks the class in which situations they think the state should be allowed to interfere with the right to privacy. The teacher projects the second part of Article 8 on the wall and the class discusses the situations where an interference is deemed acceptable.	WCT	
10'	<p>2) Freedom of the press</p> <p>The following issues are discussed in class:</p> <ul style="list-style-type: none"> ▶ why is the right to freedom of expression important in a democratic society? What are some examples from daily life? ▶ why is the right to private life important? ▶ which one of the above freedoms, expression or privacy, is more important? ▶ should the state be allowed to restrict these freedoms? When? 	WCT	
10'	<p>Article 10 of the Convention is projected onto the wall.</p> <p>The teacher asks the students if the structure of the article looks familiar and explains that it works the same way as Article 8 of the Convention (i.e. paragraph 2 contains the exceptions).</p> <p>The teacher asks the students what they think freedom of expression means and where this will come into play in real life (namely in newspapers, politics, religious beliefs, protests, etc.).</p>	WCT	
15'	In groups of 3 to 4, the students answer the questions outlined in the Handout.	Group Activity	Handout

B.2. Material

Handout – Case of *Von Hannover v. Germany*

Princess Caroline of Monaco attempted to prevent the publication of pictures of her and her family in tabloid newspapers. A whole series of photographs have been published including ones of her on holiday with her family, riding horses and attending private social engagements. The pictures were taken without her permission and she had not agreed to their publication.

Questions

1. Does this scenario involve Article 8 of the European Convention on Human Rights (ECHR)?
2. Does this scenario involve Article 10 of the ECHR?
3. If so, which do you think is more important?
4. What do you think the outcome of the case was?
5. Does it make a difference that Princess Caroline is a public figure/celebrity?

Guideline – Positioning game

1. Is a law that makes homosexuality illegal in violation of Article 8 of the ECHR?

Yes

Example: In *Dudgeon v. the United Kingdom*, laws in Northern Ireland making homosexuality illegal were deemed to be a violation of Article 8.

2. Is denying someone the right to legally change their gender in violation of Article 8 of the ECHR?

Yes

Example: Since *Christine Goodwin v. the United Kingdom* a positive obligation exists on states to alter the register of births or to issue modified birth certificates. This led to the Gender Recognition Act 2004 in the UK.

3. Is a government failing to prevent too much pollution building up near peoples' homes in violation of Article 8 of the ECHR?

Yes

Example: In *López-Ostra v. Spain*, the state was required to take steps to ensure the effective protection of the applicant's right to respect for her private and family life.

4. Is information that we place on Facebook public or private?

No correct answer – this is just for discussion.

3.3. Theme 2 – Don't do that to me

3.3.1. Introduction to the theme and the cases

- ▶ *Campbell and Cosans v. the United Kingdom*: how should children be disciplined in schools?
- ▶ *Siliadin v. France*: can one be made someone else's slave, particularly in light of "new" forms of slavery affecting young people who are away from home in the modern world?

These case studies raise the question of how people in positions of authority treat and punish young people. Should parents have the right to hit their children? Do young people from poor countries receive adequate protection from exploitation? Are outsiders treated well by their classmates?

► **Campbell and Cosans v. the United Kingdom**

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57455#{"itemid":\["001-57455"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57455#{)

Part A. Landmark decision

Applicant(s)

Mrs Grace Campbell and Mrs Jane Cosans, parents of two children who had been removed from school.

Rationale

This case is important as it was the first to consider the issue of whether it is acceptable to physically punish children in schools.

Facts

Corporal punishment: corporal punishment was a common and legal practice in many jurisdictions in the 20th century. In Scotland, where this case originated, corporal punishment involved striking the palm of the pupil's hand with a leather strap called a "tawse". For misconduct in the classroom, punishment was administered on the spot, in the presence of the class; for misconduct elsewhere or for serious misconduct, it was administered by the Headmaster, or his deputy, in his room.

Mrs Campbell's son Gordon

Mrs Campbell's son Gordon was born in 1969.

Up to 1979: Gordon attended a school in Strathclyde, Scotland which practised corporal punishment. Mrs Campbell made requests to the Council for a guarantee that her son would never be punished in such a way, but these requests were refused. Gordon went to this school until July 1979. He was, in fact, never punished in this way.

Mrs Cosans' son Jeffrey

Mrs Cosans' son Jeffrey was born in 1961.

Up to 1976: Jeffrey attended a school in Fife, Scotland which practised corporal punishment.

23 September 1976: Jeffrey was told to report to the Assistant Headmaster to be punished. On his father's advice, he reported to the office but refused the punishment. Jeffrey was suspended and never returned to school.

Legal challenge

Scottish law stated that it was for the teachers in each school to determine the disciplinary measures needed.

30 March and 1 October 1976: both mothers applied to the European Commission of Human Rights (the special tribunal that back then determined individual access to the European Court of Human Rights).

25 February 1982: the Court said that the UK had to respect parents' objections to corporal punishment in schools. By failing to respect the parents' views, the UK was in violation of Article 2 of Protocol No. 1.

Articles invoked and key questions before the Court

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

The Court had to consider whether physical punishment in schools constituted inhuman or degrading treatment.

Article 2, Protocol No. 1: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the rights of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

The Court had to consider whether the existence of corporal punishment as a disciplinary measure in the schools attended by the applicants' children violated this article as a result of going against the philosophical convictions of the applicants. It is important to note that neither child was in fact physically punished; it was the possibility of the punishment being used in future that was the cause of the complaint.

Court response and main principles

The Court found no violation of Article 3 – it did not believe corporal punishment was severe enough to constitute inhuman treatment or torture, and found that there was no psychological proof that the threat of corporal punishment degraded the students (it is important to note that neither child was actually punished this way; it was just the threat of this punishment which was at issue).

The Court found a violation of Article 2 of Protocol No. 1. Jeffrey Cosans, who had been suspended from school as a result of his refusal to accept the punishment, had been denied his right to education (the first sentence of Article 2). The Court also found a violation of the second sentence of Article 2 for both applicants because

the philosophical convictions of the applicants (the parents) were not respected by the school authorities in allowing such a punishment to exist.

What happened next?

This judgment and other Court decisions on applications made by UK schoolchildren and their parents effectively led to the abolition of corporal punishment in all state-supported education in the UK in 1987. However, it remained legal for pupils in private schools not receiving state support until September 1999.

Part B. Educational activities

Introduction: this lesson will look at the issue of corporal punishment for children.

Concept/topic: the human rights implications of using corporal punishment for children, particularly regarding the right to education; the right to be free from torture and degrading treatment; and the importance of children's rights.

Learning objectives

Knowledge and understanding

- ▶ the student will understand the human rights issues surrounding corporal punishment;
- ▶ the student will understand the reasoning of the Court in the Campbell and Cosans case;
- ▶ the student will understand the content and application of Article 2 Protocol No. 1 and Article 3 of the Convention.

Skills

- ▶ the student will be able to effectively communicate an argument;
- ▶ the student will be able to critique an argument and clearly set out reasons why;
- ▶ the student will be able to listen to another's point of view.

Attitudes

- ▶ the student will identify and address controversial issues maturely and sensitively;
- ▶ the student will appreciate the importance of human rights for children and young people;
- ▶ the student will appreciate that the Convention is a living instrument.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Materials
20'	<p>1) Introduction to <i>Campbell and Cosans v. the United Kingdom</i></p> <ul style="list-style-type: none">▶ the teacher begins by explaining what corporal punishment is. Students are then asked to discuss the human rights issues related to corporal punishment that they are aware of;	Whole Class Teaching (WCT)	Video clip, projector

Time	Content Method – teacher activities – student activities	Assignment category	Materials
	<ul style="list-style-type: none"> ▶ the video clip is played to the class; ▶ the teacher describes Article 2 Protocol No. 1 and Article 3 to the pupils, before then providing them with the text of Article 2 Protocol No. 1 and Article 3. The students are then asked to explain the way these two articles apply in this case. ▶ the main points arising from the judgment are explained, with the teacher stimulating discussion wherever possible. Key questions include: <ul style="list-style-type: none"> – why is corporal punishment in this case a breach of the pupils' right to education? 		
	<ul style="list-style-type: none"> – why do state schools have a duty to protect the rights of pupils? Do private schools also have this duty? – why, in this case, was the pupils' Article 3 right to be free from torture and degrading treatment not engaged? – under what circumstances can corporal punishment constitute a breach of Article 3? – how do society's attitudes change over time and how should the Convention adapt to these changes (it is a "living instrument")? 		
15'	<p>2) Corporal punishment from a human rights perspective, e.g. the views of different religions, cultures or societies</p> <ul style="list-style-type: none"> ▶ the class is divided into groups of 3 to 5 students, each with a copy of Handout 1; ▶ pupils are asked to consider the facts in Handout 1, and come to solutions in the same manner as the judges in the Court. Pupils should be prepared to justify their decisions to the rest of the class. 	Group Activity	Handout 1, paper for each group
10'	<p>3) Whole class discussion</p> <p>Pupils are asked to report back to the rest of the class on their findings. The teacher supplements the discussion using the answer key in Handout 2.</p>	WCT	Handout 2

B.2. Material

Handout 1

Facts	Is this a breach of the European Convention on Human Rights (the Convention)?
<p>Alison was punished by her mother with a leather belt after breaking a vase with a football. The punishment caused a small bruise. She attempted to seek prosecution in the UK courts, but was told that this was reasonable punishment and so acceptable under UK law. Alison disagreed, and petitioned the European Court of Human Rights (the Court) under a breach of her Article 3 right.</p>	
<p>Thomas, Alison's brother, was slapped twice by his father after he was caught truanting. No mark was left on his skin. He too attempted to seek prosecution in the UK courts but was again told that this was reasonable punishment. He decided to petition the Court, citing a breach of his Article 3 right.</p>	
<p>Craig, a pupil at a private Catholic school in Fife, Scotland, was caned for failing to do his homework. The school claimed that banning corporal punishment in the classrooms would be a breach of the parents' right to freedom of religion. In addition, the school stated that it is not run by the state, and so does not have to abide by the same laws.</p>	
<p>A court in Dundee, Scotland, advocates judicial birching for young people who are convicted of crimes. They promise that they will only recommend the punishment for serious offences, and claim that it will save the state a significant amount of money.</p>	
<p>Sandra believes that corporal punishment is the best way of disciplining her children. She argues that if the court intervenes, it would be a breach of her right to a private and family life.</p>	

Handout 2 – Answer key

Facts	Is this a breach of the European Convention on Human Rights (the Convention)?
<p>Alison was punished by her mother with a leather belt after breaking a vase with a football. The punishment caused a small bruise. She attempted to seek prosecution in the UK courts, but was told that this was reasonable punishment and so acceptable under UK law. Alison disagreed, and petitioned the European Court of Human Rights (the Court) under a breach of her Article 3 right.</p>	<p>Yes. This level of punishment would undoubtedly count as degrading treatment under Article 3. Alison could receive compensation from the UK for failing to adequately protect her Convention right.</p> <p><i>A v. the United Kingdom, 1998</i></p>
<p>Thomas, Alison's brother, was slapped twice by his father after he was caught truanting. No mark was left on his skin. He too attempted to seek prosecution in the UK courts but was again told that this was reasonable punishment. He decided to petition the Court, citing a breach of his Article 3 right.</p>	<p>No. There is a threshold level of violence which must be met for Article 3 to be engaged. As Thomas's father only used his hand and did not leave a mark on Thomas's skin, this would probably satisfy the definition of reasonable chastisement and therefore is permitted.</p> <p><i>Costello-Roberts v. the United Kingdom, 1993</i></p>
<p>Craig, a pupil at a private Catholic school in Fife, Scotland, was caned for failing to do his homework. The school claimed that banning corporal punishment in the classrooms would be a breach of the parents' right to freedom of religion. In addition, the school stated that it is not run by the state, and so does not have to abide by the same laws.</p>	<p>Yes. Birching is undoubtedly degrading treatment and thus a breach of Article 3, and cannot be justified by the parental right to freedom of religion.</p> <p><i>Admissibility decision, Philip Williamson and Others v. the United Kingdom, 2000; application no. 55211/00</i></p>
<p>A court in Dundee, Scotland, advocates judicial birching for young people who are convicted of crimes. They promise that they will only recommend the punishment for serious offences, and claim that it will save the state a significant amount of money.</p>	<p>Yes. The Court has held that the judicial birching of a child is "inhuman or degrading treatment" and thus breaches Article 3 of the Convention.</p> <p><i>Tyrer v. the United Kingdom, 1978</i></p>
<p>Sandra believes that corporal punishment is the best way of disciplining her children. She argues that if the court intervenes, it would be a breach of her right to a private and family life.</p>	<p>Yes. The Court has stated that a child's right to be free from torture and degrading treatment is more important than the parent's right to a private and family life.</p> <p><i>Admissibility decision, Seven Individuals v. Sweden, 1982; application no. 8811/79</i></p>

► **Siliadin v. France**

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-69891#{"itemid":\["001-69891"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-69891#{)

Part A. Landmark decision

Applicant(s)

Ms Siwa-Akofa Siliadin (a Togolese national), who lived in Paris.

Rationale

This case has been chosen as it demonstrates that the notion of slavery, rather than being something purely historical, still exists in modern-day Europe in different forms.

Facts

Ms Siwa-Akofa Siliadin was born in 1978.

26 January 1994: at 15 years of age, the applicant moved to France along with Mrs D – a French national of Togolese origin. The applicant had a passport and tourist visa.

It was agreed that the applicant would work at Mrs D's home until the cost of her airplane ticket was repaid. In reality, she became an unpaid housemaid and her passport was taken away.

Late 1994: Mrs D "lent" the applicant to Mr and Mrs B so that she could assist them with household work. She worked seven days a week without a day off, starting each day at 7.30 a.m. and going to bed at 10.30 p.m. She slept on a mattress on the floor in a baby's room and also had to look after him. She was never paid except for perhaps one or two 500 French franc notes.

December 1995: the applicant was able to escape with the help of a Haitian national, who gave her appropriate accommodation and paid her 2 500 French francs a month to assist with housework.

Afterwards, she had to return – on instruction from her father – to Mr and Mrs B in the same conditions as before.

28 July 1998: the police raided Mr and Mrs B's home.

Legal challenge

10 June 1999: a French court sentenced Mr and Mrs B to 12 months' imprisonment each, imposed a fine and ordered payment of 100 000 French francs to the applicant.

19 October 2000: a French appeal court acquitted Mr and Mrs B as they did not believe they could establish that the applicant was in a state of vulnerability or dependence, since she was often left alone in the house for considerable periods of time. In other words, she could have just left.

11 December 2001 and 15 May 2003: further French court decisions again stated that Mr and Mrs B could not be held criminally liable as it was not proven that the applicant's lifestyle was incompatible with human dignity. They did order her to be paid a backdated salary, however.

17 April 2001: the applicant applied to the European Court of Human Rights under Article 4 of the Convention claiming that the criminal law provisions in France did not give her sufficient and effective protection against "servitude" or at the very least the "forced or compulsory labour" that she had been required to perform.

Servitude: a state of subjection to an owner or master (i.e. a slave).

Articles invoked and key questions before the Court

Article 4: Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term "forced or compulsory labour" shall not include:
 - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
 - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
 - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
 - (d) any work or service which forms part of normal civic obligations.

The Court had to decide whether this was even a case involving Article 4 by assessing whether the applicant had indeed been subjected to forced labour. The Court then had to determine whether the treatment was serious enough to be considered "slavery, servitude or forced labour" and whether French criminal law offered sufficient protection to Ms Siliadin.

Court response and main principles

The Court concluded that as the applicant had been held against her will, and as a 15-year-old child unlawfully present in France and afraid of arrest, these circumstances amounted to “forced labour” according to the meaning of Article 4. This was the first violation of Article 4 that the Court had found.

Although the Convention did not define the terms servitude or “forced or compulsory labour”, reference should be made to the relevant international conventions in this field to determine the meaning of these concepts. In the example case, importance had to be attached in the instant case to the criteria laid down by both the United Nations and the Council of Europe for identifying modern forms of slavery and servitude. These were closely linked to trafficking in human beings, and to the internationally recognised necessity of affording children special protection on account of their age and vulnerability. The applicant had been obliged to work as a result of the trafficking to which she had been subjected by Mrs B.

Whilst it was difficult to establish if she had been held in “slavery” in the traditional sense of the concept, her vulnerability and isolation – as a result of forced labour, which she could not leave, lasting 15 hours a day – supported the conclusion that the applicant had also been held in “servitude”.

The Court also confirmed that Article 4 imposed an obligation upon states to prosecute and punish acts which subjected a person to “slavery, servitude or forced labour”. The Court found that French law was inadequate as neither slavery nor servitude were classified as criminal offences.

What happened next?

In terms of individual measures, the applicant received the sums due to her in respect of unpaid wages, and also €15 245 in compensation for the “important psychological trauma” she had suffered.

For general measures, changes were made to French law to make it easier to convict a person for subjecting someone to forced labour, and the penalties were increased. France also ratified the Convention on Action Against Trafficking in Human Beings on 9 January 2008.

Part B. Educational activities

Concept/topic: the positive obligation on the state to protect against forced labour, slavery and servitude.

Learning objectives

Knowledge and understanding

- ▶ the student will understand that Article 4 carries positive obligations on the state;
- ▶ the student will gain an understanding of how Article 4 is interpreted by the Court;
- ▶ the student will understand the considerations the Court must take into account when deciding whether a state failed to protect an applicant under Article 4;
- ▶ the student will appreciate the areas in which the case law on Article 4 is developing.

Skills

- ▶ the student will be able to identify arguments on both sides from a set of facts;
- ▶ the student will be able to effectively communicate an argument;
- ▶ the student will be able to listen to another's point of view;
- ▶ the student will be able to critique an argument and clearly set out reasons why they have formed a certain opinion.

Attitudes

- ▶ the student will appreciate the importance of Article 4 and how it can be applied in modern society;
- ▶ the student will appreciate the need for the state to protect vulnerable citizens and the role of the Convention and Court in this.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
10'	1) <i>Siliadin v. France</i> and the development of Article 4 of the Convention The students are provided with the facts and questions for the case, as well as the text of Article 4. They are asked to answer the questions individually.	Individual Activity	

Time	Content Method – teacher activities – student activities	Assignment category	Material
10'	In groups of 3 to 4, the students discuss their answers.	Group Activity (GA)	
15'	In groups of 3 to 4, the students discuss the case studies in the Handout.	GA	Handout
10'	<p>Three volunteers are invited to come forward. These students are asked to line up, facing the same way, and to cover their eyes. There must be some space both behind them and in front of them.</p> <p>The teacher reads out the cases from the Handout and asks the students to decide, based on the knowledge they have garnered, if they think that the Court decided that there was a violation of Article 4, or no violation of Article 4. If they think there has been a violation, they should take a step forward. If they think there has been no violation, they should take a step backwards.</p> <p>In the end, the teacher presents the judgments of the Court and the answers are discussed by the whole group.</p>	Whole Class Teaching	Handout and Guidelines

B.2. Material

Handout – Case studies

Case A

The applicant, a student advocate, was called upon to provide free legal services to assist poor defendants. He complained that this represented forced labour.

Case B

The applicant was convicted of theft and ordered to be placed, upon completion of his two-year prison sentence, at the disposal of the state for a number of years, during which time he could be recalled for detention. He complained that he was being held in servitude given that he was subjected “to the whims of the administration”.

Case C

The applicant was the father of a young Russian woman who died in Cyprus, where she had gone to work in March 2001. He complained that the Cypriot police had not done everything possible to protect his daughter from trafficking while she had been alive and to punish those responsible after her death. He also complained about the failure of the Russian authorities to investigate his daughter's trafficking and subsequent death and to take steps to protect her from the risk of trafficking.

Case D

Four boys aged between 15 and 16 enlisted in the British navy for a period of nine years. Their requests to be discharged from service for different personal reasons were refused by the authorities, following which they complained that they were being held in servitude.

Case study guidelines – Answer key

Case A

The applicant, a student advocate, was called upon to provide free legal services to assist poor defendants. He complained that this represented forced labour.

Judgment of the European Court of Human Rights (Van der Musselle v. Belgium)

The Court found no violation of Article 4 of the European Convention on Human Rights: the free legal aid service the applicant was asked to provide was connected with his profession, he received certain advantages for it (e.g. the exclusive right to audience in the courts) and it contributed to his professional training; it was related also to Article 6 paragraph 1 of the Convention (the right to legal aid) and could be considered part of "normal civic obligations" allowed under Article 4 paragraph 3. Finally, being required to defend people without being paid for it did not leave Mr Van der Musselle without sufficient time for paid work.

Case B

The applicant was convicted of theft and ordered to be placed, upon completion of his two-year prison sentence, at the disposal of the state for a number of years, during which time he could be recalled for detention. He complained that he was being held in servitude given that he was subjected "to the whims of the administration".

Judgment of the European Court of Human Rights (Van Droogenbroeck v. Belgium)

The Court held that there had been no violation of Article 4 of the Convention. It stressed that the applicant's situation could have been regarded as servitude only if it had involved a particularly serious form of denial of freedom, which had not been the case. Further, the work which he had been asked to do had not gone beyond what was ordinary in that context since it had been calculated to assist him in reintegrating himself into society.

Case C

The applicant was the father of a young Russian woman who died in Cyprus where she had gone to work in March 2001. He complained that the Cypriot police had not done everything possible to protect his daughter from trafficking while she had been alive and to punish those responsible after her death. He also complained about the failure of the Russian authorities to investigate his daughter's trafficking and subsequent death and to take steps to protect her from the risk of trafficking.

Judgment of the European Court of Human Rights (Rantsev v. Cyprus and Russia)

The Court found that Cyprus had violated Article 4 of the Convention because it had failed to put in place an appropriate legal and administrative framework to combat trafficking, and the police had failed to protect Ms Rantseva (the applicant's daughter) despite circumstances suggesting that she might have been a victim of trafficking. There had also been a violation of Article 4 by Russia on account of its failure to investigate how and where Ms Rantseva had been recruited and, in particular, to take steps to identify those involved in her recruitment or the methods of recruitment used.

Case D

Four boys aged between 15 and 16 enlisted in the British navy for a period of nine years. Their requests to be discharged from service for different personal reasons were refused by the authorities, following which they complained that they were being held in servitude.

Judgment of the European Court of Human Rights (W., X., Y. and Z. v. the United Kingdom)

The Commission found that the applicants' military service did not amount to servitude in the sense of Article 4 paragraph 1 of the Convention and declared the applications inadmissible.

3.4. Theme 3 – How do we treat others?

3.4.1. Introduction to the theme and the cases

- ▶ *D.H. and Others v. the Czech Republic*: how do we treat minority groups like Roma people? Can schools separate children of different races into different classes?
- ▶ *Leyla Şahin v. Turkey*: how do we treat those who want to express their religion in public? Can the right to manifest one's religion be restricted to defend other rights?
- ▶ *Opuz v. Turkey*: how do we treat people in our families? Is domestic violence a form of discrimination?

These activities are designed to make the class think about how school students treat those from minorities or those who have different values or beliefs. It also aims to encourage reflection on how students treat those who are similar to themselves, how they stand up to bullying, and how they can help protect victims.

► D.H. and Others v. the Czech Republic

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{"itemid":\["001-83256"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256#{)

Part A. Landmark decision

Applicant(s)

A group of 18 Czech nationals of Roma origin, born between 1985 and 1991, and living in the Ostrava region of the Czech Republic.

Rationale

This case is unique as the judgment heavily criticises the education system of a State Party to the Convention. It addresses indirect discrimination against Roma in access to non-specialised classes and finds that this system leads, in practice, to the segregation of Roma and non-Roma children.

Facts

1996 to 1999: the applicants were assigned to special schools for children with learning difficulties:

- ▶ the head teacher was obliged by law to base his decision on the results of a child's intellectual capacity test;
- ▶ the test was only carried out if the child's legal representative had given their consent.

Legal challenge

After placement: 14 of the applicants asked the Ostrava Educational Authority for a review of their head teachers' decisions, claiming that:

- ▶ the tests were unreliable;
- ▶ the authorities had not fully informed the parents of what would happen if they consented to the tests being carried out on their children;
- ▶ the Authority found that the head teachers' decisions were in accordance with the law;
- ▶ 12 of the applicants appealed to the Constitutional Court, arguing that:
 - placing Roma in the special schools is a "general practice" which results in segregation and racial discrimination;

- it led to two different, independent educational systems running alongside each other, where Roma were excluded from the “ordinary” primary schools which the majority of the population attended.

20 October 1999: the Constitutional Court dismissed the appeal.

18 April 2000: the applicants lodged a complaint to the European Court of Human Rights, arguing that:

- ▶ they had been put in special schools for children with learning difficulties because they were Roma and had therefore suffered from discrimination with regards to their right to education.

13 November 2007: the Grand Chamber of the Court found that the applicants had been placed in the special schools as a result of their Roma origin and not their intellectual capacity, and therefore found a violation of Article 14 in conjunction with Article 2 of Protocol No. 1.

Intellectual capacity test: a test which measures a child’s intellectual capacity, carried out in an educational psychology centre, resulting in the examiner’s recommendations for the head teacher.

Segregation: the action or state of setting someone or something apart from others.

Racial discrimination: the unjust or prejudicial treatment of different categories of people on the grounds of race.

Articles invoked and key questions before the Court

The applicants claimed that the following articles of the Convention had been violated:

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

In conjunction with:

Article 2, Protocol No. 1: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical conviction.

The applicants argued that they had been placed in special schools for children with learning difficulties on account of their Roma origin, and thus suffered discrimination

regarding their right to education. Various non-governmental organisations intervened in the case, supporting the applicants' claim.

Court response and main principles

7 February 2006: the Chamber decided (by six votes to one) that there had been no violation of Article 14 read in conjunction with Article 2 of Protocol No. 1. It held that the system of special schools had not been introduced exclusively to accommodate Roma children and that these schools aimed to support children with special needs to acquire a basic education. The case was referred to the Grand Chamber.

13 November 2007: the Grand Chamber held that:

- ▶ there was a ground to presume that Roma children were indirectly discriminated against as various reports confirmed that the number of Roma children in special schools was disproportionately high;
- ▶ although all the children examined were assessed according to the same test, irrespective of their ethnic origin, the Czech authorities had acknowledged that Roma children with sufficient intellect were assigned to special schools on the basis of psychological tests which did not take Roma culture into consideration. The Grand Chamber thus feared that the tests were biased;
- ▶ regarding parental consent, many parents of Roma children, being members of a minority group and often poorly educated, were not able to weigh up the consequences of giving their consent;
- ▶ the difference in treatment could not be objectively and reasonably justified, and the measures taken were not proportionate to the objective pursued.

In conclusion, the Grand Chamber established that the applicants had been placed in special schools as a result of their Roma origin rather than their intellectual capacity. It thus found a violation of Article 14 of the Convention read in conjunction with Article 2 of Protocol No. 1.

Main principle

- ▶ Indirect discrimination (discrimination in practice): for a measure or law to be discriminatory it is not necessary that its discriminatory purpose is explicitly stated. Rather, under certain circumstances it is sufficient for it to have discriminatory effects.

What happened next?

No general measures were recommended by the Court since the relevant legislation had already been repealed. The Committee of Ministers made recommendations regarding the education of Roma children in Europe.

Part B. Educational activities

Concept/topic: minority rights and the prohibition of discrimination in education.

Learning objectives

Knowledge and understanding

- ▶ the student will understand the adverse effects of discrimination;
- ▶ the student will be aware that discrimination is often implicit;
- ▶ the student will understand the adverse effects of exclusion.

Skills

- ▶ the student will recognise discrimination and react accordingly;
- ▶ the student will learn to appreciate another person's point of view.

Attitudes

- ▶ the student will empathise with victims of discrimination;
- ▶ the student will show a positive attitude towards marginalised students and other individuals.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
15'	1) Defining discrimination In groups of 3 the students discuss what discrimination means to them and agree on a definition that they write on flipchart paper.	Group Activity (GA)	
5'	The whole class forms a circle. The teacher screens Article 2 of the Universal Declaration of Human Rights and Article 14 of the Convention on the wall. The definitions written down by the students and the definitions enshrined in the two documents are discussed openly: <ul style="list-style-type: none">▶ on which grounds can somebody be discriminated against?▶ which individuals are discriminated against in your country?▶ what forms can discrimination take?	Whole Class Teaching (WCT)	Guideline 1

Time	Content Method – teacher activities – student activities	Assignment category	Material
15'	<p>2) Discussing the D.H. case</p> <p>The facts of the case and the judgment are explained and/or distributed to the students. In groups of 3, the students discuss the following questions:</p> <ul style="list-style-type: none"> ▶ has anyone been discriminated against in the D.H. case? ▶ how can the situation be changed (from the point of view of both Roma and the rest of the population)? <p>The students note key words on slips of paper and pin them to the wall.</p>	GA	Slips of paper
10'	The teacher picks out a few key words to explain how the prohibition of discrimination works within the European system, namely that it can be claimed only in conjunction with another right.	WCT	Guideline 2

B.2. Material

Guideline 1 – Defining discrimination

Article 14, European Convention on Human Rights

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 2, Universal Declaration of Human Rights

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Questions:

- ▶ on which grounds can somebody be discriminated against?
- ▶ which individuals are discriminated against in your country?
- ▶ what forms can discrimination take?

Guideline 2 – The prohibition of discrimination in the European system

In the European system, discrimination is prohibited in two ways.

The European Convention on Human Rights protects from discrimination related to other rights guaranteed in the Convention. This derives from the wording of Article 14 of the Convention:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 14 of the Convention can thus only be invoked in combination with another provision of the Convention or one of its additional Protocols. Yet, Article 14 of the Convention does have an autonomous function within the system of the Convention in that invoking this provision does not necessarily presuppose a violation of the provision it has been linked to. This means that Article 14 can be violated in relation to a certain right guaranteed in the Convention or one of its additional Protocols even though, independently of Article 14, no violation of this specific right would be found.

Recognising the importance of prohibiting discrimination in general and not only in relation to other rights protected under the Convention system, on 4 November 2010, the State Parties adopted additional Protocol No. 12 enshrining a general prohibition of discrimination in its Article 1:

1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.

By ratifying this Protocol, the State Parties accept the possibility of individual applications based on a claim that an individual or a group of individuals has been discriminated against even if this discrimination cannot be linked to one of the other provisions of the Convention or the Protocols.

► Leyla Şahin v. Turkey

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-70956#{"itemid":\["001-70956"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-70956#{)

Part A. Landmark decision

Applicant(s)

Ms Leyla Şahin is a Turkish national, born in 1973. She had lived in Vienna since 1999 and comes from a traditional family of practising Muslims. She considers it her religious duty to wear the Islamic headscarf.

Rationale

In the Leyla Şahin case, the Court examined when it is legitimate to restrict one's manifestation of religion and the legal methods to tackle this issue. It also raises many interesting questions as to how we regard religious freedom in a contemporary, multicultural Europe; the state's role in these matters in the field of education; and Turkey's constitution in light of its international human rights obligations.

Facts

Prior to 1998: Ms Leyla Şahin had spent four years studying at the University of Bursa, Turkey, during which period she wore an Islamic headscarf.

1998: the applicant enrolled at Istanbul University, as a fifth-year medical student, and continued to wear a headscarf.

February 1998: the Vice-Chancellor of Istanbul University issued a notice stating that students whose "heads are covered" (including students with beards), must not be admitted to lectures, courses or tutorials. The notice also stated that where these students refuse to leave after being asked to do so, they shall be subject to disciplinary measures.

The following three months: Ms Şahin was denied access to two written examinations, admission to a lecture and enrolment to a course. She was issued with a warning by the dean of the faculty.

February 1999: an unauthorised assembly (including Ms Şahin) protested the issue of dress outside the deanery of the Faculty of Medicine. Disciplinary proceedings were brought against many students including Ms Şahin, and after the hearing, she was suspended from university for a semester.

Legal challenge

Turkish court proceedings

- ▶ an application made by Ms Şahin to the Istanbul Administrative Court to set aside the aforementioned notice (submitting that it infringed on her right to manifest her religion) was unsuccessful, since the Turkish Higher Education Act and settled case law of the higher courts established that the Vice-Chancellor was entitled to regulate students' dress to maintain order;

- ▶ 2001: Ms Şahin's appeal was dismissed by the Supreme Administrative Court (SAC, the highest domestic court);
- ▶ a second application was lodged in the same court for an order quashing the decision to suspend Ms Şahin. This was also dismissed, given the settled case law on the subject, as the measure was not illegal. Therefore, neither the regulations nor the measures were considered to be illegal;
- ▶ 2000: a law entered into force which provided for students to be given an amnesty in respect of penalties imposed for disciplinary offences and for any resulting disability to be annulled. Ms Şahin was granted one releasing her from all the legal consequences of her acts;
- ▶ the SAC held that it was unnecessary to examine the merits of an applicant's appeal and that Ms Şahin could return to the university;
- ▶ 1999: in the meantime, however, Ms Şahin had moved to study at Vienna University, where she pursued the rest of her university education.

European Court of Human Rights proceedings

- ▶ 21 July 1998: an application was lodged with the Court;
- ▶ 10 November 2005: the Court held that there were no human rights violations.

Amnesty: a legislative or executive act by which a state declares that those who may have been found guilty of an offence are restored to their original legal status, without changing the laws defining the offence.

Articles invoked and key questions before the Court

Ms Leyla Şahin submitted that the ban on wearing the Islamic headscarf in institutions of higher education constituted an unjustified interference with her right to freedom of religion, in particular, her right to manifest her religion.

She relied on the following articles of the Convention:

Article 9: Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

It is important to note that an interference (paragraph 1) is not a violation if it can be justified by the state (see paragraph 2). The Court also examined whether the measure infringed on the applicant's right to education (Article 2 of Protocol No. 1), private and family life (Article 8), freedom of expression (Article 10) or if it had been discriminatory in nature (Article 14).

Article 2, Protocol No. 1: Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Court response and main principles

The Court emphasised that freedom of religion, while one of the pillars of a democratic society, is not an unrestricted right. Article 9 does not protect every act motivated by a religion or belief and in a pluralist society sometimes restrictions are needed to promote tolerance and ensure that everyone's rights are respected. Given that the significance of religion in society evolves according to time and the community in which it is expressed, the state concerned is responsible for regulating the wearing of religious symbols in educational institutions, as the national context is relevant. This "margin of appreciation" (the state's margin of discretion granted by the Court to implement Convention rights in light of its own traditions and society) goes hand in hand with Court supervision to ensure that the Convention guarantees are still being upheld.

The Court found that:

- ▶ the applicant's decision to wear the headscarf was motivated by her religion and the university regulations constituted an interference with her right to manifest her religion;
- ▶ the interference was prescribed by Turkish law, read in light of the relevant case law of the domestic courts. The restrictions and penalties for non-compliance should have been made clear to the applicant when she started her studies at Istanbul University;
- ▶ the interference pursued the legitimate aims of protecting the rights and freedoms of others and of protecting public order. The Turkish courts based the interference on two principles: secularism and equality. Secularism prevents the Turkish state from manifesting a preference for a particular religion or belief, defining its role as an impartial arbiter and thereby restricting religious freedom while protecting against extremist movements which impose their religious practices on society as a whole. With regards to gender equality, the Court considered that wearing a headscarf may negatively impact those who choose not to wear it in a country where the majority adheres to the Islamic faith. The Court held that Article 9 could be restricted to defend these principles;
- ▶ in the context of the university, where pluralism, respect for the rights of others and gender equality are prevalent, it was acceptable that the relevant authorities wished to preserve the secular nature of the institution and therefore to consider it contrary to such values to allow religious attire to be worn;
- ▶ the Court established that there was a reasonable relationship of proportionality between the means employed and the legitimate objectives pursued by the interference. The university regulations were implemented over the course of

several years during which time a broad debate was taking place in Turkish society and the teaching profession. Other forms of religious attire at university were also prohibited shortly after the notice. The university authorities tried to adapt to the evolving situation, so as not to bar access to the university to students wearing headscarves, through continued dialogue with those concerned, while ensuring order and compliance with the regulations were maintained. The restrictions were deemed “necessary in democratic society”.

Court conclusion: the Court unanimously found no violation of Articles 8, 10 and 14 and Article 2 of Protocol No. 1.

Main principle

Freedom of religion is not absolute. It can be interfered with if:

- ▶ the interference is prescribed by law;
- ▶ the interference pursues a legitimate aim;
- ▶ the interference is necessary in a democratic society (justified in principle and proportionate to the aim pursued).

The Court grants a wide margin of appreciation to states in cases relating to freedom of religion.

What happened next?

Since no violation of Article 9 was found, there were no specific or general measures to be taken. However, in 2008, the Turkish Parliament amended the constitution, allowing women to wear the headscarf in Turkish universities, arguing that many of them would not seek an education if they could not wear it. This amendment was soon annulled by the Constitutional Court. Nevertheless, from 2010, most universities, including Istanbul University, have informally permitted students to wear headscarves in class.

Part B. Educational activities

Concept/topic: learning how the Court interprets Article 9 of the Convention by analysing the *Leyla Şahin v. Turkey* case.

Learning objectives

Knowledge and understanding

- ▶ the student will know how freedom of religion and the right to education are defined by Article 9 of the Convention and Article 2 of Protocol No. 1 respectively;
- ▶ the student will understand the Court's interpretation of Article 9 of the Convention with respect to religious attire in educational institutions.

Skills

- ▶ the student will apply a multi-perspective approach to analysing the content of Article 9 of the Convention by taking into account the arguments made by Ms Leyla Şahin, the Turkish authorities, and the Court;
- ▶ the student will work in a group and provide arguments for different interpretations of Article 9 of the Convention;
- ▶ the student will negotiate while arguing different positions;
- ▶ the student will recognise different types of violation of the right to freedom of thought, conscience and religion by relying on the Court's interpretation of Article 9 of the Convention.

Attitudes

- ▶ the student will demonstrate openness towards different religious symbols and ways of expressing religion;
- ▶ the student will show respect for different ways of expressing religious beliefs and opinions;
- ▶ the student will value, appreciate and stand for the right to freedom of thought, conscience and religion as defined by Article 9 of the Convention.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
5'	<p>1) Article 9 of the Convention and Article 2 of Protocol No. 1</p> <p>The teacher projects the text of Article 9 of the Convention and Article 2 of Protocol No. 1 on the wall. Any questions are discussed.</p>	Whole Class Teaching (WCT)	
10'	<p>2) The facts of the case</p> <p>The teacher elaborates on the Leyla Şahin case. While listening, the students develop a timeline of the case with the relevant events in a chronological order. The facts are discussed in class and the teacher makes any clarifications necessary. Handout 1 is then distributed to the students.</p>	WCT	Handout 1
	<p>For a better understanding of the case the students are told about the steps of the procedure before the Court and the reasoning of the judgment. The teacher elaborates on the key questions that appeared before the Court, as well as the Court's answers and conclusions, while students use Handout 1 for illustration and ask for clarifications.</p>	WCT	

Time	Content Method – teacher activities – student activities	Assignment category	Material
10'	<p>3) Debate</p> <p>The students are asked to think of the way the case could be solved; the arguments they would use if they were in Leyla's position; and how they would negotiate with the Vice-Chancellor and the professor who banned her from taking the exam. Other students think of the arguments they would use as the Vice-Chancellor and the professor. Roles:</p> <ul style="list-style-type: none"> ▶ Leyla; ▶ three students protesting with Leyla against the Vice-Chancellor's notice; ▶ the Vice-Chancellor; ▶ the professor who bans Leyla from taking the exam. <p>The scene is set in the Vice-Chancellor's office. Leyla and two other students present at the protest are talking with the Vice-Chancellor and the professor about the situation. Leyla and the students defend their right to education and their right to manifest their religion. The Vice-Chancellor and professor defend public order and the rules of the educational institution.</p>	Group Activity (GA)	Handout, 2 scarves, suitable pieces of clothing for Vice-Chancellor
	<p>The aim is to find a common language between the two sides that will generate solutions without violating a human right. Was the Vice-Chancellor's notice really necessary, and was it the proper way to act?</p> <p>The teacher divides the class into groups of 6 students. Each student gets one role.</p>		
10'	The students are asked to play the scene out in front of the class.	GA	

Time	Content Method – teacher activities – student activities	Assignment category	Material
10'	<p>The teacher leads the class into the group discussion with the following questions:</p> <ul style="list-style-type: none"> ▶ how did you feel playing your role? ▶ what does wearing the headscarf mean for Leyla and for the university authorities? ▶ What do you think of the solution the students managed to negotiate? ▶ what does the right to education mean to you? ▶ how would you feel if you were banned from a class for wearing, for example, a cross? ▶ wearing a headscarf is a controversial issue in the West. Some people think that the headscarf marks the separation of women; some argue that it is a tool for discrimination of women, and yet others think that it makes face-to-face communication impossible. What do you think about these views? Should a woman's wish to wear a headscarf be given priority over these issues? 	WCT	

B.2. Material

Handout 1 – Working materials for groups

Working material for group 1

Statement: the right to manifest religion is not as important as other human rights.

- a) Do you think that all human rights are of equal importance? Is it possible to say that some should be respected more than others?
- b) Can you think of an example where a right wasn't of relevance to you at a certain moment but was of crucial importance to another person, and vice versa?
- c) Discuss the sentence: "There are no such things as more important and less important rights, as all should be respected equally." How can that be achieved in your school or community?

Working material for group 2

Statement: culture or nationality play no role in one's religious convictions.

- a) Which factors influence our religious choices? Are we aware of them all the time?
- b) Discuss the sentence: "If we had been, perhaps, born in a different culture, our beliefs would be different, and thus we have to respect those whose are different to us." In your school, with which specific behaviour can the teachers and the students show that they respect those who have different religious beliefs?

Working material for group 3

Statement: people should give up their right to manifest their religion if asked to do so by the state.

- a) In which ways can states protect the human right of freedom to express a religion? If you were responsible for managing your school, for example, how would you act to create an environment in which the right to express religion can be enjoyed and expressed fully?
- b) Discuss the sentence and think of an example: "It may happen that everyone's human rights cannot, at all times, be respected to the full extent, but this does not mean that we no longer possess this human right."

Working material for group 4

Statement: those who fail to comply with the rules of an educational institution can be deprived of their right to education.

- a) Is the right to education an inalienable human right or is there anything that can limit a student's right to have access to institutions of education?
- b) Which values are regarded as student's responsibilities to educational institutions?
- c) Discuss the sentence: "The role of schools is to educate why certain behaviours aren't acceptable and to facilitate dialogue with those who disobey the rules." If you were responsible for managing your school, how would you facilitate this dialogue?

Handout 2 – The case before the European Court of Human Rights

A fictional conversation between a judge of the European Court of Human Rights (the Court) and a student:

Judge: What is the problem we have here?

Student: The Turkish state has forbidden us from wearing the Islamic headscarf in institutions of higher education.

Judge: The state is limiting the right of the individual? Under what conditions may we find these limitations acceptable? Let us see what the European Convention on Human Rights says:

Article 9: Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Judge: So, what are the questions the Court has to consider?

Student: Has the ban on wearing the Islamic headscarf in institutions of higher education limited Leyla’s freedom to manifest her religion? If so:

Was this limitation:	
<i>Prescribed by law:</i>	The limitation cannot be an arbitrary decision made by someone in charge, it has to be rooted in the law: clear, precise and accessible to everyone.
<i>Pursuing a legitimate aim:</i>	The limitation can only be established in the interests of public safety, order, health or morals, or for the protection of the rights and freedoms of others. Only these reasons are able to justify the limitations.
<i>Necessary in a democratic society:</i>	In addition to the limitation being justified in principle, is it really necessary in a democratic society? Are the consequences of such an interference proportionate to the aim pursued?

Student: What happened in the end?

Judge: Here is what the Court said:

Interference with the freedom to manifest religion?	Prescribed by law	Legitimate aim Protecting public order and the rights and freedoms of others	Necessary in a democratic society?
Leyla’s decision to wear the Islamic headscarf was motivated and inspired by religion and, thus, the restriction constituted an act which interfered with her right to manifest her religion.	a) The Turkish Constitutional Court had previously found that the constitution did not give citizens the right to wear headscarves in higher education institutions.	a) The state needs to remain secular in order to ensure everyone has equal protection for their right to freedom of religion and to protect from extremist movements seeking to impose their religious views on society as a whole.	a) The decisions are a product of many years of public debate within Turkish society and the teaching profession.

Interference with the freedom to manifest religion?	Prescribed by law	Legitimate aim Protecting public order and the rights and freedoms of others	Necessary in a democratic society?
	b) Restrictions on wearing the Islamic headscarf on Istanbul University premises have existed since 1994, even though the notice introducing liability for doing so was not introduced before February 1998.	b) The university is a place of pluralism and gender equality; what kind of impact would wearing such a symbol, presented or perceived as a compulsory duty, have on those who choose not to wear it in a country where the majority of the population is Muslim?	b) Other habitual forms of Muslim observance are still allowed.

► Opuz v. Turkey

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-92945#{"itemid":\["001-92945"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-92945#{)

Part A. Landmark decision

Applicant(s)

Mrs Nahide Opuz, born in 1972. She is a Turkish national living in Diyarbakir, Turkey. In 1990 Mrs Opuz started living with H.O. In 1995 they got married. They had three children in 1993, 1994 and 1996.

Rationale

Domestic violence had long been considered a private affair in which the authorities had no right to intervene. Drawing on international documents and practice, this judgment clearly states that domestic violence is an issue of public interest rather than a private or family matter. It states that authorities have to strike a balance between the right to privacy and the right to the physical and mental integrity of the victim and that they must take appropriate measures to protect victims of domestic violence. This is the first judgment of the Court to establish that violence against women is a form of discrimination, since states fail to protect women to the same degree as men.

Facts

1995 to 1998:

- ▶ the Turkish authorities were informed of four incidents of H.O.'s violent behaviour towards Mrs Opuz and her mother, including: several beatings, a fight involving a knife and H.O. running down the applicant and her mother with his car, where both women sustained life-threatening injuries;
- ▶ three criminal complaints were filed for death threats, bodily harm and attempted murder;
- ▶ H.O. was arrested twice but then released before the trial, as the applicant and her mother withdrew the complaints, causing the domestic courts to discontinue the cases;
- ▶ however, given the seriousness of the mother's injuries, the proceedings continued and led to H.O.'s three-month imprisonment, which was later changed to a fine.

2001 to 2002:

- ▶ H.O. stabbed the applicant seven times, was fined and then released.

- ▶ the applicant's mother requested that H.O. be detained, as she and her daughter had been forced to withdraw earlier complaints by H.O. Four complaints were filed by them between 1998 and 2002, claiming they were in imminent danger;
- ▶ H.O. was questioned several times and subsequently released;
- ▶ On 11 March, when the applicant and her mother were moving to Ismir, H.O. forced the removal van to stop, opened the passenger door and shot the mother to death.

Legal challenge

- ▶ 15 July 2002: an application was lodged with the European Court of Human Rights;
- ▶ March 2008: H.O. was sentenced to life imprisonment for murder and illegal possession of a firearm. However, since H.O. claimed he was provoked by his mother-in-law and had "good conduct" during the trial, the sentence was mitigated to 15 years and 10 months' imprisonment;
- ▶ April 2008: another complaint was lodged, asking the authorities to act to protect the applicant and her boyfriend after her now ex-husband threatened to kill them;
- ▶ May 2008: the applicant complained to the Strasbourg Court about the Turkish authorities' failure to take protective measures;
- ▶ 21 November 2008: following several exchanges of information between the Court and the national authorities, the Turkish Government informed the Court that specific measures had been taken to protect the applicant from her former husband.

Articles invoked and key questions before the Court

Considering the aforementioned events and the decisions rendered by the domestic courts, the applicant decided to submit a complaint to the Court. She invoked the following articles of the Convention:

Article 2: Right to life

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

The applicant maintained that the authorities and society tolerated domestic violence, leading to impunity of perpetrators. She alleged that:

- ▶ the authorities had not taken any measures to protect her and her mother from H.O.;
- ▶ the sentence imposed on H.O. was considerably less than the sentence usually imposed for murder, due to the murder in this case being considered an "honour crime".

Honour crime: involves violence committed by those who aim to protect the reputation of their family or community.

Article 3: Prohibition of torture

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

The applicant complained that the authorities did nothing to prevent her from being subjected to violence, injury and death threats several times, which caused her pain and fear.

Article 14: Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The applicant alleged that:

- ▶ Turkish legislation was discriminatory towards women, since it treated women as second-class citizens and a woman's life as inferior, in the name of family unity. The fact that H.O. received a sentence of 15 years reinforced this misconception;
- ▶ while she acknowledged criminal and civil law amendments, domestic violence continued to be inflicted by men and impunity prevailed.

Court response and main principles

On 9 June 2009, the Court held that with regards to:

Article 2: Right to life

- ▶ Contracting States to the Convention have a positive obligation to take appropriate measures to protect the life of the individuals within their jurisdiction;
- ▶ for domestic violence, analysing the practices of the different member states shows that the more serious the offence and the greater the risk of further offences, the more likely the prosecution should continue even if the complaints are withdrawn;
- ▶ since there had been escalating violence against the applicant and her mother by H.O, the authorities should have taken appropriate protective measures to prevent further, foreseeable, violence. The authorities failed to consider the reasons for the withdrawals of the complaints and should not have considered domestic violence as a purely "private matter". This was an insufficient justification for the authorities not intervening in the applicant's case.

Article 3: Prohibition of torture

- ▶ the state had a positive obligation to prevent abuses by non-state actors;
- ▶ the psychological and physical violence the applicant had suffered amounted to ill-treatment within the meaning of Article 3 of the Convention;
- ▶ although the state had taken certain measures to protect the applicant, those measures were not sufficient and the state thus failed to display due diligence.

Article 14: Prohibition of discrimination

- ▶ due to the legislative reforms in 2002 and 2004, the national law had been brought into line with international obligations. However, the general attitude displayed by local authorities and judicial passivity in cases where women reported domestic violence resulted in discrimination.

Conclusion: the Court held unanimously that the judicial system in place did not fulfil its required role in preventing a violation of the applicant's mother's right to life and ill-treatment of the applicant and her mother. Furthermore, the Court established that the authorities' attitude regarding domestic violence resulted in discrimination. It consequently found a violation of Articles 2, 3 and 14.

Main principles

Positive obligation of a state to protect individuals from domestic violence

There is an obligation on Contracting States to protect individuals within their jurisdiction from human rights abuses by non-state actors. This also applies to domestic violence, in some cases even in the absence or after withdrawal of a complaint. This protection must be effective, practical and legal.

Violence against women as a form of discrimination

If a state fails to adequately respond to gender-based violence, this failure amounts to discrimination in violation of Article 14 of the Convention, since violence against women is a manifestation of discrimination by law or in practice.

What happened next?

In terms of specific measures, the applicant was paid "just satisfaction". However, the criminal proceedings against H.O. were ongoing and the Committee of Ministers is still awaiting information as to what decision was taken. An example of the general measure taken is the National Action Plan 2007-2010, prepared to combat violence against women.

Part B. Educational activities

Concept/topic: the obligation of the state to protect victims from domestic violence.

Learning objectives

Knowledge and understanding

- ▶ the student will understand the consequences of domestic violence;
- ▶ the student will understand the scope of Articles 2, 3 and 14 of the Convention in connection with domestic violence;
- ▶ the student will understand the reasoning of the Court in the Opuz case;
- ▶ the student will understand why gender-based violence is a form of discrimination;
- ▶ the student will understand that domestic violence is an issue of public interest, rather than a family matter.

Skills

- ▶ the student will be able to explain the Opuz case and its importance;
- ▶ the student will be able to discuss the impact a judgment of the Court can have;
- ▶ the student will be able to discuss domestic violence from a human rights perspective.

Attitudes

- ▶ the student will show compassion for victims of domestic violence;
- ▶ the student will not remain passive when facing a situation of domestic violence.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
15'	<p>1) Introduction to the Opuz case</p> <p>The students form a circle. They share their hypotheses about what happened.</p> <p>The teacher screens a short summary of the case on the wall (without the judgment). A student reads the summary aloud. Afterwards the class discusses the facts of the case. One of the students takes notes on the blackboard or a flipchart. If the discussion stalls, the teacher can ask the following questions:</p> <ul style="list-style-type: none"> ▶ is H.O allowed to beat up and threaten his wife? ▶ do H.O and his wife Nahide have the same rights? ▶ which rights can Nahide invoke to sue her husband? ▶ what can we do if we are being abused or treated unfairly? How can we react? ▶ what would happen if the state of Turkey did nothing? ▶ Is there a higher and more powerful authority than the state? 	Whole Class Teaching (WCT)	
15'	<p>2) Group work</p> <p>The students are divided into two groups. One represents the applicant (Nahide), the other one represents Turkey. Both groups are given the facts of the case and the text of the Convention. The students must then identify the articles which can be applied to the case. They also think about arguments that can support their case. They list the articles and arguments on flipchart paper.</p>	Group Action (GA)	Flipchart paper
	<p>One student per group presents the results to the class. The teacher collects the listed articles and arguments on the blackboard (clustering). The two groups can ask each other questions about their arguments. The teacher then provides the students with the judgment.</p>	WCT	

Time	Content Method – teacher activities – student activities	Assignment category	Material
10'	3) Closing The students are divided into 5 groups. The groups discuss what impact the case could have had on the following topics: gender roles; media; domestic violence; and international human rights practice. They write their thoughts on small pieces of paper and attach them to the prepared posters. They also add the photographs taken at the beginning of the activity.	GA	Four posters with key words: gender roles; media; domestic violence; and international human rights practice.
5'	In a summarising discussion, the class discusses the findings. The teacher closes the session with some concluding remarks.	WCT	

3.5. Theme 4 – I want a voice

3.5.1. Introduction to the theme and cases

- ▶ *Alekseyev v. Russia*: how should we deal with a protest that advocates democratic freedom but may upset the majority of people?
- ▶ *Jersild v. Denmark*: if faced with intolerance, is it best to cover it up or bring it out into the open in order to better tackle extremism?

How do we prepare young people for active participation in political life? What are the limits to freedom of expression? The importance of learning to voice an opinion while respecting the opinion of others is one of the most important examples of “rights and responsibilities” that most young people will hear about.

► **Alekseyev v. Russia**

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-101257#{"itemid":\["001-101257"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-101257#{)

Part A. Landmark decision

Applicant(s)

Nikolay Alekseyev, an LGBT activist born in 1977 and living in Moscow.

Rationale

Article 11 of the Convention protects the freedom of association and peaceful assembly, one of the cornerstones of a democratic society. It includes the right to join trade unions and protest peacefully, for example, in the form of parades, marches and processions. This is an expression of democracy and an essential way to bring about change in society. Article 11 often interacts with many other rights (Articles 8, 10, 5, etc.). This case explores the unjustified restriction of Article 11 based on discrimination on the grounds of sexual orientation.

Facts

2006 to 2008: the applicant helped to organise marches to be held in Moscow to raise public awareness about discrimination against the gay and lesbian community in Russia and to promote tolerance and respect for human rights.

15 May 2006: organisers informed the mayor's office of their intention to hold the marches and undertook to co-operate with the law enforcement authorities in ensuring safety and respect for public order and to comply with noise restrictions.

18 May 2006: permission to hold the marches were refused on public order grounds after petitions were received from people opposed to the marches. The authorities felt there was a risk of a violent reaction which would lead to disorder and mass riots.

18 to 23 May 2006: organisers subsequently informed the mayor's office of their intention to hold short pickets instead, but were again refused permission.

26 May 2006: the mayor and his staff were also quoted in the media saying that no gay parade would be allowed in Moscow under any circumstances "as long as the city mayor held his post" and that the mayor further called for an "active mass media campaign ... with the use of petitions brought by individual and religious organisations" against the gay pride marches.

Legal challenge

September and November 2006 (respectively): the applicant launched unsuccessful challenges in the domestic courts against the decisions not to allow the marches or the pickets.

17 September 2009: an application was lodged with the European Court of Human Rights.

21 October 2010: the Court found a violation of Articles 11, 13 and 14.

Articles invoked and key questions before the Court

The applicant sought to rely on Articles 11 and 14 of the Convention (as well as Article 13).

Article 11: Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

It was accepted that the prohibition of the parades was an interference with Mr Alekseyev's right to freedom of assembly and association. The applicant disputed that the planned marches were not in accordance with the law as neither the Russian Assemblies Act nor any other legislative instrument provided for bans on public protests. The applicant further disputed the legitimate aims relied on by the Russian Government, namely:

- ▶ the protection of public safety and the prevention of disorder: as the pickets and parades were intended to be peaceful and the Russian Government had not assessed the likelihood of disorder counter-protesters would create;
- ▶ the protection of morals: as the Russian Government defined "morals" as the dominant attitudes of public opinion, which does not encompass the notions of diversity and pluralism that underline the Convention;
- ▶ the protection of the rights and freedoms of others: as the parades were not to harm but to be of benefit to Russian society, to promote tolerance and respect for the lesbian and gay community.

The Court also had to determine whether the bans were "necessary in democratic society" and proportionate to the aims pursued.

Article 14: Freedom from discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The applicant argued that the way in which the Russian authorities dealt with his applications to hold the protests was discriminatory, based on his sexual orientation and that of other protesters.

Court response and main principles

- ▶ Article 11 protects demonstrations that may annoy or cause offence to an opposition, in order that society can share different views on issues that may offend the sensitivities of the majority. The state has a duty to take reasonable and appropriate measures to enable lawful demonstrations to be carried out peacefully. No proper assessment of the risk the counter-protests would pose was conducted by the state;
- ▶ the circumstances of the protests would not result in the controversy that the state warned of;
- ▶ taking into account the statements made by the mayor, etc., the decisions made to ban the parades were not based on an acceptable consideration of the relevant facts. They did not satisfy any “pressing social need” and were not “necessary in a democratic society”. Therefore, the Court found a violation of Article 11 in this case;
- ▶ the Court found that, given the undeniable link between the mayor’s comments and the ban, the main reason the protests were prohibited was the Russian Government’s disapproval of demonstrations which they believed would promote homosexuality. The margin of appreciation afforded to states in cases concerning sexual orientation is narrow. The Court therefore also found a violation of Article 14.

Main principles

- ▶ in deciding whether an interference with Article 11 is proportionate to a legitimate aim, the Court will perform a balancing exercise between the applicant’s right and the competing interests;
- ▶ Article 11 protects protests that may cause offence to people opposed to the ideals it wishes to promote;
- ▶ the state is obliged to take reasonable and appropriate measures to guarantee peaceful protests;
- ▶ the margin of appreciation afforded to states in cases concerning sexual orientation is very narrow.

What happened next?

The Committee of Ministers has expressed concern over the non-implementation of this judgment, as the applicant is still unable to organise gay pride parades in Moscow. In 2013, laws prohibiting “homosexual propaganda” were also created.

Part B. Educational activities

Introduction: this lesson will look at the scope and limits of freedom of assembly and association.

Concept/topic: the limits of freedom of assembly and association and the balancing act between an individual's right to peacefully protest on the one hand, and the protection of public safety, the prevention of disorder, the protection of the rights of others and the protection of morals on the other.

Learning objectives

Knowledge and understanding

- ▶ the student will understand the different types of freedoms protected by Article 11 of the Convention;
- ▶ the student will understand how Article 11 is interpreted by the Court when balancing it against other rights and competing interests;
- ▶ the student will understand the application of Article 14 of the Convention by the Court in light of discrimination based on sexual orientation;
- ▶ the student will understand the considerations the Court must take into account when deciding on whether a state has legitimately restricted freedom of assembly and association.

Skills

- ▶ the student will be able to understand the reasoning of the *Alekseyev v. Russia* case;
- ▶ the student will be able to identify arguments of both sides from a set of facts;
- ▶ the student will be able to effectively communicate an argument;
- ▶ the student will be able to listen to another's point of view;
- ▶ the student will be able to critique an argument and clearly set out reasons why.

Attitudes

- ▶ the student will appreciate the historical and contemporary relevance of Article 11 of the Convention in a democratic society;
- ▶ the student will appreciate that Article 11 can create conflicts with the rights of others;
- ▶ the student will appreciate the importance of Article 14 protection when exercising the freedom of assembly and association.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
10'	<p>The teacher will prepare quotes on activism, empowerment and action, as well as social activism symbols (e.g. the peace symbol, LGBT rainbow) and display them throughout the classroom for students to read when entering and leaving.</p> <p>1) Class discussion on general issues</p> <p>The following issue is discussed in class: why is the right to freedom of assembly and association important in a democratic society?</p> <p>A whole class brainstorm is held to create a conceptual diagram on a whiteboard or other visible surface around the concept of “past democratic changes”, e.g. the emancipation of women, the abolition of apartheid, smoking bans. Explain to students how Article 11, protecting assembly and association, is a key freedom in driving democratic change.</p>	Whole Class Teaching (WCT)	
10'	<p>2) Introduction to Articles 11 and 14 of the Convention</p> <p>The meaning of Article 11 of the Convention, particularly paragraph 2 and the criteria which must be met to justify an interference, are explained to the class. The meaning and scope of Article 14 is explained.</p> <p>3) Facts of the <i>Alekseyev v. Russia</i> case</p> <p>The facts are relayed to the class, the judgment explained and the main principles outlined.</p>	WCT	
25'	<p>3) “We are all activists” simulated demonstration group task</p> <ul style="list-style-type: none"> ▶ split the class into groups of 3 to 5 students; ▶ give each group 5 minutes to brainstorm the question “where do you see injustice in your community/school/country/world” and decide on one “cause” the group feels most strongly about as a whole; ▶ allow 5 minutes for each group member to create banners for their group, with slogans and symbols for their “cause” which advocate change; 	WCT	Blank sheets of paper for banners, felt tip pens, (flipchart for each group)

Time	Content Method – teacher activities – student activities	Assignment category	Material
	<ul style="list-style-type: none"> <li data-bbox="270 227 776 354">▶ allow 7 minutes for whole class feedback where each group gets a minute to stand up and hold up its banners, explaining its “cause” to the rest of the class; <li data-bbox="270 364 776 800">▶ allow 7 minutes to ask students to raise their hands if they felt unhappy or disagreed with any of the other “causes”, explaining why. The teacher relates this back to the balancing act of rights and considerations when applying Article 11. The teacher can also ask students to vote for other groups’ causes and ask students to imagine what the demonstration would have been like were the group with the least votes not permitted to present their “cause” to the rest of the class. This will also highlight the importance of Article 14 (or the teacher can include this as a role play). 		

► **Jersild v. Denmark**

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57891#{"itemid":\["001-57891"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57891#{)

Part A. Landmark decision

Applicant(s)

The applicant, Jens Olaf Jersild, is a Danish journalist employed by the Danish Broadcasting Corporation. The applicant worked on the broadcaster's Sunday news television programme.

Rationale

Freedom of expression is considered an essential right within democratic societies. The media enjoys protection under Article 10 of the Convention, while having certain responsibilities in terms of exercising freedom of expression. This case portrays a perceived conflict between the right to freedom of expression and competing public interests (here, the protection of the rights of minorities). The Court, in such cases, had to weigh the different interests against one another in order to determine whether a fair balance was struck at national level.

Facts

31 May 1985: the applicant contacted and interviewed members of a group of youths, referred to as the "Greenjackets", who had attracted attention in the Danish press due to their strongly racist attitudes.

21 July 1985: the footage filmed was edited by the applicant, and the final programme included members making several racist and derogatory remarks about immigrants and minority ethnic groups in Denmark. The journalist claimed that his intention was not to promote intolerance, but rather to challenge complacency about racist attitudes in Danish society. A complaint was made about the programme. The individuals involved were interviewed and convicted of making public statements threatening, insulting or degrading a group of persons on the basis of their race, nationality or ethnic origin.

24 April 1987: the applicant was convicted and fined by a Danish court for assisting and encouraging the individuals to commit the crime in question. He was sentenced to pay a fine or undergo five days' imprisonment.

Legal challenge

Mr Jersild's subsequent appeals were unsuccessful as the Danish courts found that by contacting the youths and editing the programme to include racist comments, the applicant had caused the racist statements to be made public. He had assisted in the publication of the statements.

13 February 1989: when balancing the interests of protecting those insulted by the comments against that of informing the public, the domestic courts held that the news value of the statements was not enough to justify their publication.

25 July 1989: an application was lodged with the European Court of Human Rights.

23 September 1994: the Court found a violation of Article 10 of the Convention. It considered that, taking the broadcast into account as a whole, the programme did not have the purpose of spreading racist views and ideas.

Articles invoked and key questions before the Court

The applicant claimed that his conviction and sentence were in violation of his right to freedom of expression under Article 10.

Article 10: Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

It was accepted that the applicant's conviction was an interference with his right to freedom of expression. It was also agreed that this interference was prescribed by law, as the offence was set out in legislation. Similarly, it was not disputed that the interference had pursued a legitimate aim, namely to protect the reputation and rights of those who had been the subject of the racist remarks.

The only issue in dispute was whether the conviction was necessary in a democratic society. Did the conviction and sentence strike a fair balance between the applicant's right to free speech and the protection of others? Or was the interference disproportionate to the aim? Did the Danish courts provide relevant and sufficient reasons to justify the conviction and sentence?

Court response and main principles

The Court identified the competing interests in this case, namely the applicant's right to freedom of expression and the protection of others from racial hatred. The Court highlighted the importance of tackling racial discrimination as well as the importance of freedom of expression in a democratic society and, in particular, the special protection given to the press. Not only is it important for the press to convey information and ideas to the public, the public also has a right to receive them. For the interference to be justified, a fair balance had to be struck between these competing interests. To reach a decision, the Court looked at the interference in light of the case as a whole.

Taking the broadcast as a whole, the Court considered that the programme did not have the purpose of spreading racist views and ideas. There was no reason to doubt that the programme aimed to contribute to an existing public debate, by drawing attention to the mentality and social background of certain racist youths. Moreover, the Court saw no reason to question the informative value of the programme, which was intended for an educated audience. Although it did not expressly identify the immorality and dangers of promoting racial hatred, the applicant's conduct during the interviews showed that he did not share the views of the Greenjackets.

Although the remarks for which the youths were convicted did not enjoy the protection of Article 10, the Court reiterated that the purpose of the applicant in producing the programme was not racist. Therefore, the Court concluded that there had been a violation of Article 10 of the applicant's right to freedom of expression.

Main principles

- ▶ in deciding whether an interference with the right to freedom of expression is proportionate to a legitimate aim, the Court will perform a balancing exercise between the applicant's right and the competing interests;
- ▶ in performing this exercise, the Court will look at the interference in light of the case as a whole;
- ▶ the press enjoy special protection under Article 10 of the Convention, due to the public function they perform by informing debate on topics of public interest;
- ▶ the Court will examine whether domestic courts have provided relevant and sufficient reasons to justify an interference with free speech.

What happened next?

Following the judgment of the Court, a Danish court decided on 24 January 1995 to allow the case against the applicant to be re-examined. In relation to general measures, subsequent domestic decisions concerning freedom of the press have followed the principles set out in the Jersild judgment.

Part B. Educational activities

Introduction: this lesson will look at the limits of freedom of expression.

Concept/topic: the limits of freedom of expression and the balancing act between an individual's right to express himself or herself and the protection of the rights of others, including freedom of religion.

Learning objectives

Knowledge and understanding

- ▶ the student will understand the different types of freedoms protected by Articles 9 and 10 of the Convention;
- ▶ the student will understand how Article 10 is interpreted by the Court when balancing it against another right, for example, freedom of thought, conscience and religion or when there are competing interests;
- ▶ the student will understand the considerations the Court must take into account when deciding on whether a state has legitimately restricted freedom of expression.

Skills

- ▶ the student will be able to identify arguments of both sides from a set of facts;
- ▶ the student will be able to effectively communicate an argument;
- ▶ the student will be able to listen to another's point of view;
- ▶ the student will be able to critique an argument and clearly set out reasons why.

Attitudes

- ▶ the student will appreciate the importance of Articles 9 and 10 of the Convention in a democratic society;
- ▶ the student will appreciate that Article 10 can create conflicts with the rights of others;
- ▶ the student will appreciate the relationship between Articles 9 and 10 and the balance required when they conflict.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
5'	1) Facts of the <i>Jersild v. Denmark</i> case Handout 2 is distributed to the class.	Whole Class Teaching (WCT)	Handout 2

Time	Content Method – teacher activities – student activities	Assignment category	Material
15'	<p>2) Introduction to Articles 9 and 10 of the Convention</p> <p>The meaning of Articles 9 and 10, particularly paragraph 2 of Article 10 and the criteria that must be met to justify an interference, are explained to the class with the help of Handout 1.</p>	WCT	Handout 1
20'	<p>3) Class discussion on general issues</p> <p>The following issues are discussed in class:</p> <ul style="list-style-type: none"> ▶ why is the right to freedom of expression important in a democratic society? What are some examples of freedom of expression in daily life? ▶ why is the right to freedom of thought, conscience and religion important in a democratic society? What are some examples of freedom of religion in daily life? ▶ is one of the above freedoms, that of expression or religion, more important than the other? <p>Should the state be allowed to restrict these freedoms? When?</p>	WCT	
5'	<p>4) Conclusion: general principles deriving from the judgment</p> <p>Distribute Handouts 3 and 4 with the principles to be taken from the Jersild case concerning the Court's interpretation of Article 10 and the balance to be struck with competing interests such as Article 9.</p>	WCT	Handouts 3 and 4

B.2. Material

Handout 1 – The text of Articles 9 and 10 of the European Convention on Human Rights (ECHR)

Article 9: Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 9 explained

Article 9 protects freedom of thought, conscience and religion. Paragraph 1 clearly states that this includes two freedoms: (i) the freedom to hold or change your religion, thought or belief; and (ii) the freedom to manifest that religion, thought or belief by, for example, teaching it, worshipping or practising it, such as by wearing religious attire or symbols.

The former freedom is called the *forum internum*, meaning literally the "internal forum". It is up to individuals to decide which religion, thought or belief they wish to hold and there is nothing the state can do to stop them. This freedom is therefore "absolute". Importantly, the freedom to not hold any religion, thought or belief is protected as well; a person cannot be forced to believe something.

The latter freedom – to manifest a religion, thought or belief – is called the *forum externum*, meaning literally the "external forum". This is, as noted above, the freedom to display your belief or religion. This freedom, however, can be limited by the state, as shown in paragraph 2 of Article 9. If someone complains to the European Court of Human Rights (the Court) that they have had their freedom to manifest their belief or religion unfairly limited by the state, the Court must assess whether the specific limitation was in violation of Article 9. The test the Court applies to decide this is the same as the test for the limitation of expression, and is explained below with regards to Article 10.

Article 10: Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 10 explained

Article 10 protects freedom of expression, which is widely recognised as central to the proper functioning of a liberal democratic society. Paragraph 1 shows that it protects a broad range of ideas, and the Court has ruled that it also includes ideas

which may “shock, offend or disturb”. These ideas can be conveyed through, amongst others, speech, protest or any media sources including the Internet.

Article 10 also includes the right of an individual or group to receive and impart information. For example, if a state closes down a newspaper press because it does not agree with what was being published, this act may violate the freedom of the public to read the newspaper as well as the freedom of the newspaper to express its opinions and to impart them to the public.

Limitations of the freedoms contained in Articles 9 and 10

Articles 9 and 10 are not “absolute”, meaning an individual or group’s expression or freedom to manifest religion or belief can be interfered with by the state. The second paragraph of both articles allows for certain restrictions and limitations by the state, but only when they meet three key criteria:

- ▶ when they are clearly in accordance with a law;
- ▶ when they serve a legitimate aim/purpose listed in paragraph 2 of each article (e.g. prevention of disorder or crime);
- ▶ when they are “necessary in a democratic society”.

As regards the third criteria, the Court has the task of deciding when a measure restricting free expression or freedom to manifest religion or belief is “necessary in a democratic society”. The Court has, through its case law, described this as when:

- ▶ there is a pressing social need for the measure (i.e. does society demand the measure?);
- ▶ there are relevant and sufficient reasons for the measure (i.e. can the state give a good enough reason for the measure?);
- ▶ the measure is proportionate to the legitimate aim/purpose pursued (i.e. could the state have used a less severe measure to, say, prevent public disorder? Was it really necessary?).

Only if the Court is convinced that these three sub-criteria are met will the measure the state took be deemed “necessary in a democratic society”, and thus not in violation of Article 10.

Handout 2 – A short summary of the facts and reasoning in *Jersild v. Denmark*

Timeline

The applicant contacted and interviewed members of a group of youths, referred to as the “Greenjackets”, who had attracted attention in the Danish press due to their strongly racist attitudes.

The footage filmed was edited by the applicant, and the final programme included members making several racist and derogatory remarks about immigrants and minority ethnic groups in Denmark. The journalist claimed that his intention was not

to promote intolerance, but rather to challenge complacency about racist attitudes in Danish society.

Following a complaint made about the programme, the individuals involved were interviewed and convicted of making public statements threatening, insulting or degrading a group of persons on the basis of their race, nationality or ethnic origin. The applicant was convicted and fined by a Danish court for assisting and encouraging the individuals to commit the crime in question. He was sentenced to pay a fine or undergo five days' imprisonment. His subsequent appeals were unsuccessful. The Danish courts found that by contacting the youths and editing the programme to include racist comments, the applicant had caused the racist statements to be made public. It was therefore clear that he had assisted the publication of the statements. Acknowledging that the interests of protecting those insulted by the comments had to be weighed against that of informing the public, the domestic courts held that the news value of the statements was not enough to justify their publication.

The applicant sought recourse through the European Court of Human Rights (the Court), claiming that his conviction and sentence were in violation of his right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR).

The Court's decision and reasoning

It was accepted that the applicant's conviction was an interference with his right to freedom of expression. It was also agreed that this interference was prescribed by Danish law, as the offence was set out in legislation. Similarly, it was not disputed that the interference had pursued a legitimate aim/purpose, namely the "protection of the reputation and rights" of those who had been the subject of the racist remarks.

The only issue in dispute, and the question which the Court had to answer, was whether the conviction was "necessary in a democratic society". Did the conviction and sentence strike a fair balance between Mr Jersild's right to free speech and the protection of others? Or was the conviction and sentence disproportionate to the aim? Did the Danish courts provide relevant and sufficient reasons to justify the conviction and sentence?

The Court identified the competing interests in this case, namely the applicant's right to freedom of expression, and the protection of others from racial hatred. The Court highlighted, on the one hand, the importance of tackling racial discrimination. On the other hand, the Court emphasised the importance of freedom of expression in a democratic society and, in particular, the special protection given to the press. Not only is it important for the press to convey information and ideas to the public, the public also has a right to receive them. For the interference to be justified, a fair balance had to be struck between these competing interests. To reach a decision, the Court looked at the interference in light of the case as a whole.

Taking the broadcast as a whole, the Court considered that the programme did not have the purpose of spreading racist views and ideas. There was no reason to doubt that the programme aimed to contribute to an existing public debate by drawing attention to the mentality and social background of certain racist youths. Moreover, the Court saw no reason to question the informative value of the programme, which

was intended for an educated audience. Although the programme did not expressly identify the immorality and dangers of promoting racial hatred, Mr Jersild's conduct during the interviews demonstrated that he did not share the views of the Greenjackets.

Although the remarks for which the youths were convicted did not enjoy the protection of Article 10, the Court reiterated that the purpose of the applicant in producing the programme was not racist. The Court considered that the Danish courts had not taken this factor into account. The Court therefore ruled by 12 votes to 7 that there had been a violation of Mr Jersild's freedom of expression.

Dissenting opinion

As noted, seven judges disagreed with the Court's majority decision. They wrote two dissenting opinions.

A dissenting opinion of four judges considered that the Danish courts had already carefully performed the balancing exercise between freedom of expression and protection of the rights of others, and it was not for the Court to substitute its own assessment. The Danish courts had acted within their discretion and their findings could not be considered to violate Article 10.

A separate dissenting opinion of three judges emphasised that the statements reproduced in the programme encouraged racial hatred. This minority considered that the applicant had made no real attempt to challenge the racist views expressed, which was necessary if their impact was to be counterbalanced. The conviction was therefore not considered to violate Article 10.

Conclusion

Prescribed by law:

The offence was set out in legislation.

Legitimate aim:

As set out in paragraph 2 of Article 10, the decision to charge and convict Mr Jersild was to protect the reputation and rights of those who were the subjects of the racist remarks.

Necessary in a democratic society:

The purpose of the programme was to contribute to public debate over the origins of youths with such views, not to be racist; Mr Jersild did not hold the views of those interviewed; it was thus unnecessary to charge and convict him.

Dissenting opinions:

The Danish courts had properly considered the balance between expression and protection of those subjected to the remarks, so there was no need for the Court to interfere; Mr Jersild made no attempt to challenge the racist views expressed, so the conviction was necessary.

Handout 3 – General principles to be taken from the Jersild case

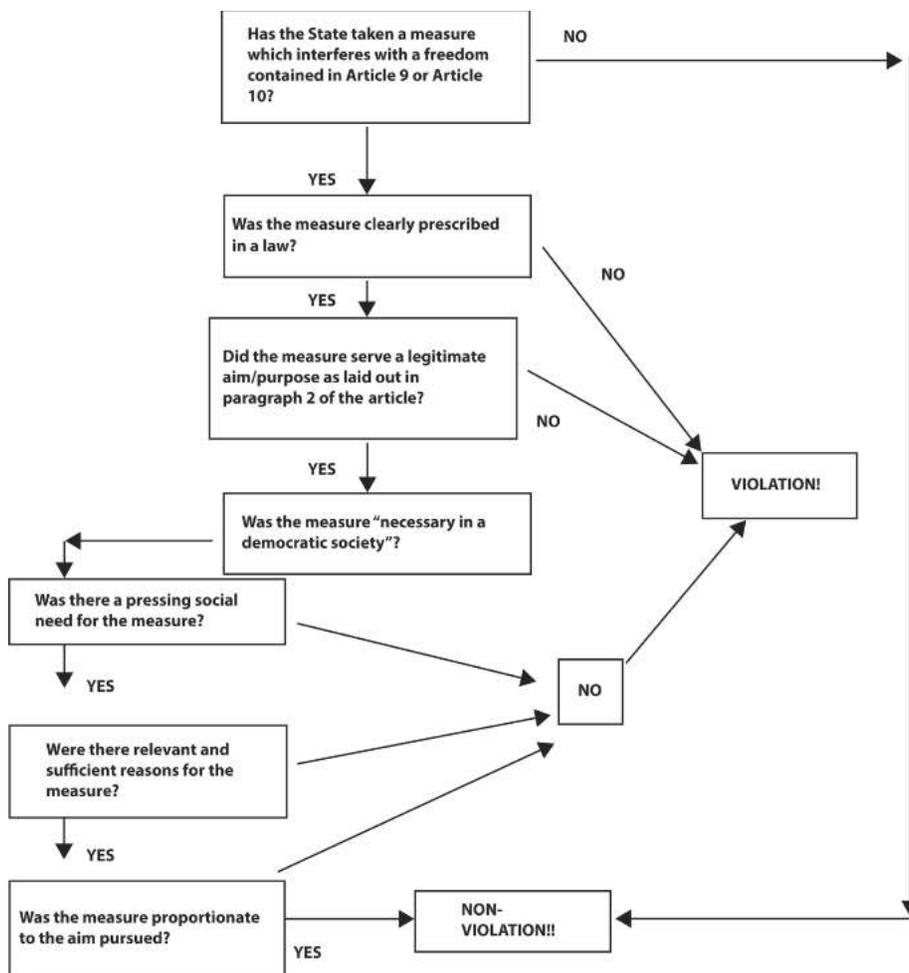
General interpretation of the European Convention on Human Rights (ECHR)

1. When deciding if a measure was prescribed by a national law, it is a point of principle that it is primarily for the national authorities to interpret and apply their own laws.
2. When considering the “proportionality” of a measure, much depends on the specific circumstances of the case. Often the question that needs to be asked is: “Could the authorities have taken a less severe measure in the circumstances?”
3. When there is a wide degree of difference in attitude across European countries on a certain issue, for example, the importance of religion in society, the European Court of Human Rights (the Court) should acknowledge that the national authorities of a state are in a better position to gauge the severity of the issue. This is called giving the state a “margin of appreciation”. However, the Court must be strict in making sure that the state is considering the correct principles in its decision.
4. When two rights/issues seem to clash – for example, freedom of expression and the freedom of religion, or the freedom of expression and the protection of others from racial discrimination – a balance must be struck depending on the specific facts of the case.

Interpretation of Articles 9 and 10 of the ECHR

1. Despite Articles 9 and 10 occasionally conflicting with each other, it should be remembered that they are also closely connected; when you practise your religion you are also expressing yourself, so those freedoms protected by Article 9 are also protected by Article 10.
2. Freedom of thought, conscience and religion encapsulates the freedom to hold or change a belief or religion, or indeed no belief or religion, and the freedom to manifest the said belief or religion. The latter can be interfered with by the state. Freedom of religion is one of the most vital elements that make up the identity of believers and their conception of life. However, believers must tolerate and accept the denial of their beliefs by other people, and even views totally hostile to their faith.
3. Freedom of expression is central to the proper functioning of a liberal democratic society. Article 10 protects the freedom to hold opinions and to receive and impart information and ideas. The demands of a democratic society mean that freedom of expression includes the freedom to express ideas or to communicate information that shocks, offends or disturbs the state or any sector of the population.
4. All those exercising their rights and freedoms contained in Article 10 have various “duties and responsibilities”. For example, one such duty or responsibility could be an obligation to avoid, as far as possible, expressions that are pointlessly offensive to others and which therefore do not contribute to any form of public debate. Depending on the circumstances, it may be considered necessary to prevent or sanction such expression, always provided that the measure used is proportionate to the legitimate aim pursued.

Handout 4 – The Court’s checklist when deciding on a violation of Article 9 or 10 of the European Convention on Human Rights (ECHR)



3.6. Theme 5 – Fairness for all

3.6.1. Introduction to the theme and the cases

- ▶ *Groni v. Albania*: should we send people to prison for punishment or as a punishment?
- ▶ *Gäfgen v. Germany*: can we hurt someone – or threaten to hurt someone – in order to protect someone else?

How do we resolve disputes with friends or other schoolmates? If I do something wrong, how should I be punished?

► **Groni v. Albania**

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-93410#{"itemid":\["001-93410"\]}](http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-93410#{)

Part A. Landmark decision

Applicant(s)

Mr Groni, an Albanian national born in 1971, who is currently serving sentences of life imprisonment and 15 years' imprisonment in Peqin High Security Prison (Albania).

Rationale

Inadequate medical treatment in prison facilities can constitute a violation of Article 3 of the Convention if inmates are seriously ill, as well as, in certain circumstances, grounds for release from prison to avoid further suffering. The execution of criminal judgments issued by foreign courts, in the absence of any international agreement, is invalid.

Facts

The Italian authorities sentenced the applicant *in absentia* to life in prison on charges of murder and another five years for illegal possession of firearms.

2001: Mr Groni was detained in Albania based on an international warrant issued in Italy, on the suspicion of his involvement in drug trafficking. The Rome Interpol station urged the Albanian authorities to commence criminal proceedings against the applicant for crimes committed in Italy.

July 2002: the Prosecutor General's Office charged Mr Groni with the crime of international drug trafficking.

June 2006: the Albanian courts declared him guilty and sentenced him to 15 years in prison.

The Italian authorities could not require the execution of the sentence in Albania, because at the time neither of the states was part of any international agreement in this area. However, while he was detained pending criminal proceedings in Albania on counts of drug trafficking in Italy, the court issued a decision to place him in custody.

- Mr Groni complained before the Albanian courts that no claim for the validity of the sentence *in absentia* issued against him in Italy was made by the Italian authorities. He also claimed that there had been no international agreement in force between the two countries at the time in question so as to validate the legal power of the decision;

- ▶ the local courts decided against him, holding that co-operation between countries could also occur in the absence of bilateral treaties, on the basis of goodwill, and the generally recognised norms and principles of reciprocity.

2003 to 2004: Mr Grori requested a medical examination given the deterioration of his health. He was diagnosed with multiple sclerosis.

Legal challenge

July 2004: Mr Grori lodged an application with the European Court of Human Rights.

2005: he complained of negligence in providing medical treatment and being treated primarily with drugs for rheumatism.

2008: because of the grave health situation of the applicant, the Court ruled that he should be transferred to a civilian hospital. The transfer was made 17 days after this decision.

Warrant: a document issued by a legal or government official authorising the police or another body to make an arrest or do something else for the administration of justice.

Articles invoked and key questions before the Court

The applicant sought to rely on (in addition to others) Article 3 and Article 5 paragraph of the Convention.

Article 3: Prohibition of torture, inhuman and degrading treatment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 5: Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law.

The applicant argued that:

- ▶ he had received inadequate medical treatment in prison, which had caused the deterioration of his health;
- ▶ the execution of the sentence issued by the Italian courts was invalid.

Court response and main principles

In exceptional cases, where a detainee is so seriously ill that their condition is absolutely incompatible with detention, Article 3 may require the release of such a person under certain conditions. There are three particular elements to be considered in relation to the compatibility of the applicant's health with his stay in detention:

- ▶ the medical condition of the prisoner;
- ▶ the adequacy of the medical assistance and care provided in detention;
- ▶ the advisability of maintaining the detention in view of the state of health of the applicant.

The Court emphasised that Article 3 does not lay down a general obligation to release detainees on health grounds. However, it does impose an obligation on the state to protect the physical well-being of detained persons. The Court held that the negligence of the Albanian authorities in providing Mr Grori with adequate medical treatment, combined with the applicant's physical suffering, amounted to inhuman treatment and violated Article 3.

With regards to Article 5, given that the international law relied upon by the domestic courts to justify detaining the applicant was not in force in Albania at the time of the applicant's detention, the interpretation of the law was wrong and therefore Article 5 paragraph 1 had been violated.

Main principles

- ▶ where a detainee is so seriously ill that their condition is absolutely incompatible with detention, Article 3 may require the release of such a person under certain conditions;
- ▶ the state must protect the physical well-being of detained persons;
- ▶ detention of a person will be arbitrary if not in accordance with a procedure prescribed by law which is in force at the time of detention.

What happened next?

The Court awarded Mr Grori just satisfaction for non-pecuniary damage, caused by the lack of access to adequate medical treatment during his detention and the unlawfulness of his detention from 2002 to 2003. The domestic legal framework has been updated: the Law "On the rights and treatment of prisoners and detainees" was adopted in April 2014; the General Prison Rules are being reviewed as are internal regulations for each institution on the Execution of Prison Sentences. Periodic and continuous training is provided to medical staff in penitentiary hospitals. The international law instruments that were not yet in force in Albania at the time of the violation are now incorporated into domestic law.

Part B. Educational activities

In this activity the main focus will be on Article 5 paragraph 1.

Key concepts: freedom, security and proportionality

Learning objectives

As a result of participating in this activity:

Knowledge and understanding

- ▶ the student will understand the content of Article 5 of the Convention;
- ▶ the student will become familiar with the principle of proportionality;
- ▶ the student will understand the way the principle of proportionality is implemented in practice.

Skills

- ▶ the student will identify violations of Article 5 of the Convention;
- ▶ the student will be able to identify and communicate ideas or positions of both parties in a trial;
- ▶ the student will implement the principle of proportionality in practice.

Attitudes

- ▶ the student will listen to and appreciate others' viewpoints.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category
15'	Article 5 is written on the blackboard. The students are invited to answer the following questions: <ul style="list-style-type: none"> ▶ what does freedom mean from the perspective of Article 5? ▶ in what cases can individual freedom be limited by law? 	Whole Class Teaching (WCT)
10'	The class is divided into groups of 4. The task is to answer the following questions: <ul style="list-style-type: none"> ▶ what are the rights that should be guaranteed to individuals when detained in a police station? ▶ have they ever been under these or similar circumstances? 	Group Activity (GA)
15'	Case study In groups, the students will explore the facts related to the case <i>Groni v. Albania</i> and develop their answers in writing: <ul style="list-style-type: none"> ▶ is it legal for an individual who is punished by a court in one country to go to jail in a different country? ▶ is it right that a prisoner should be released if there has been a violation of Article 5? ▶ what do you think about implementing the principle of proportionality in the decision-making process? ▶ what rights would students use in these circumstances to protect themselves from state violation? 	GA
5'	The teacher then presents the judgment to the students and discusses the group exercise.	WCT

► Gäfgen v. Germany

As well as these shortened summaries, it is recommended that teachers – where possible – read the judgment of the European Court of Human Rights in this case, available here:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-99015#{"itemid":\["001-99015"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-99015#{)

Part A. Landmark decision

Applicant(s)

The applicant is Mr Gäfgen, a German law student, born on 11 April 1975 in Frankfurt.

Rationale

Article 3 of the Convention establishes an absolute prohibition on torture or inhuman or degrading treatment. This means that the state can never justify such treatment, regardless of the circumstances of the case. This protects human dignity. The Court held in this landmark case that extorting statements from suspects is prohibited and that Article 3 has no exceptions. It also confirmed that the mere threat of torture constitutes inhuman treatment and thus violates Article 3. This case highlights the limits upon authorities, even where many people would think it is legitimate to sacrifice this right in order to protect the rights of others (the classic example of torturing someone to find the location of a “ticking time bomb”). This maintains the clearly defined boundaries of Article 3 and avoids the risk of abuses of power, even in the name of pursuing legitimate objectives.

Extorting: obtaining information through force or threats.

Facts

27 September 2002: Mr Gäfgen kidnapped a young boy, J. (the 11-year-old brother of his friend and the youngest son of a well-known banking family from Frankfurt), strangled him in his apartment and sent the boy’s parents a handwritten ransom letter demanding €1 000 000 and safe passage from the country. He hid the body of the boy under a pier at a pond an hour’s drive from Frankfurt.

30 September: the boy’s parents paid the ransom to Mr Gäfgen at the tram station in Frankfurt. Upon the acceptance of the ransom the police placed him under observation and arrested him the same day, taking him to the police station. He was legally (correctly) given instructions on his rights. After a 30-minute consultation with his lawyer, he made a statement that the child was being kept by two kidnappers in a hut by the pond.

1 October: a police officer threatened Mr Gäfgen for about 10 minutes, telling him that specially trained staff members would inflict severe pain upon him (but not in a way which would show visible results on his body) if he did not disclose the boy’s

location. He was also told he would be imprisoned in a cell with two “tall blacks” who would sexually abuse him. An officer allegedly hit him in the chest, pushed his head into a wall and shook him vigorously. This prompted Mr Gäfgen to disclose the boy’s location, where he also directed the police. The applicant admitted he kidnapped and killed the boy himself. The autopsy of the boy’s corpse confirmed that he had died of suffocation.

Legal challenge

15 June 2005: Mr Gäfgen lodged an application to the Court claiming a violation of Articles 3 and 6 of the Convention.

Articles invoked and key questions before the Court

Article 3: Prohibition of torture, inhuman and degrading treatment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Did the police’s conduct match that which is prohibited by Article 3? Was it sufficiently serious to constitute a violation (that is does it meet a minimum level of severity)? Is the right under Article 3 absolute, namely is it possible to interfere with it in exceptional circumstances where, for example, the state believes it is necessary to protect the lives of others?

Article 6: Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. ...

3. Everyone charged with a criminal offence has the following minimum rights: ...

(b) to have adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require.

Was the process as a whole fair and therefore in accordance with Article 6, despite the fact that in the process material evidence was obtained by violating Article 3? Was the applicant’s right to an effective defence from Article 6 paragraph 3 violated?

Court response and main principles

The three behaviours prohibited by Article 3 can be distinguished as follows:

- ▶ torture represents the most severe form of prohibited conduct in which the suffering caused, either mental or physical, is the highest;
- ▶ inhuman treatment is caused by intense suffering which is somewhat milder than torture;
- ▶ degrading treatment involves an element of humiliation, causing feelings of inferiority and the devaluing of human dignity.

Any conduct which meets the above descriptions must be of a “minimum level of severity” to violate Article 3. The Court applies this standard on a case-by-case basis, taking into account: the nature and context of the treatment; manner and method of the enforcement; the duration; physical and mental consequences suffered by the victim; and in some cases, the sex, age and state of health of the victim.

The Court held that the threat, in the eyes of the applicant, were direct and realistic and evoked in him a strong sense of fear (that he would suffer severe pain if he did not make the statement) and mental suffering. The police were acting in order to obtain a statement from the applicant and the threats lasted 10 minutes. The Court took these facts into account, found that the treatment constituted inhuman treatment and found a violation of Article 3. The Court emphasises the absolute nature of this right, irrespective of the applicant’s conduct and even under life-threatening circumstances.

The Court held that, given the fact that it was not the evidence obtained in violation of Article 3 that led to the applicant’s conviction, but the applicant’s second confession in court, the applicant’s right to defence in court was respected and the process was fair as a whole. No violation of Article 6 was found.

Main principles

- ▶ the Court found a collision of rights between the need to protect human life and allow for the effectiveness of the prosecution of a crime on one hand, and a prohibition of inhuman treatment and the right to physical and mental integrity on the other hand;
- ▶ Article 3 is absolute, irrespective of the offence at hand and any other considerations, to avoid the abuse of state power;
- ▶ while threats cannot be made to extract information and will violate the Convention, a second confession later on may – looking at the proceedings “as a whole” – be acceptable as a basis to convict a person.

What happened next?

Germany was ordered to pay €1 723.40 to the applicant within three months.

Part B. Educational activities

Concept/topic: the absolute prohibition of torture; the European Convention on Human Rights and its protection before the European Court of Human Rights.

Learning objectives

The main objective of this lesson plan is to present to the students the European Convention on Human Rights and its protection before the European Court of Human Rights. The proposed lesson plan presents the Convention through the prohibition of torture and inhuman treatment. The more specific objectives of the proposed lesson plan are the following:

Knowledge and understanding

- ▶ the student will understand the content of Article 3 of the Convention;
- ▶ the student will understand the absolute nature of the prohibition in Article 3.

Skills

- ▶ the student will identify violations of Article 3 of the Convention;
- ▶ the student will be able to identify treatment which may be incompatible with Article 3.

Attitudes

- ▶ the student will consider the case from the perspective of all the parties involved;
- ▶ the student will listen to and appreciate others' viewpoints.

Duration: 45 minutes

B.1. Activity plan

Time	Content Method – teacher activities – student activities	Assignment category	Material
5'	<p>1) Introduction</p> <p>The teacher presents to the students the topic and the working method.</p>	Whole Class Teaching (WCT)	
10'	<p>2) Presentation of the case and Article 3 of the Convention</p> <p>The teacher presents the facts of the particular case, the arguments and the court's decision.</p>	WCT	
20'	<p>3) Role playing – Prohibition of torture</p> <p>The teacher distributes the learning material (half the students receive story A, the other half story B) and explains the instructions to the students:</p> <ul style="list-style-type: none"> ▶ when reading the stories, the students should not think about whether the stories are true or what their outcomes are, but instead about how they would act themselves in the story situation or how they would like to be treated; ▶ the students should take notes on their deliberations. <p>The teacher explains to the students that the stories talk about a person who is suspected of kidnapping and that the two groups have different roles: in story A, students should identify with the role of the parents of the abducted child; in story B, students should identify with the role of a friend of the person who is suspected of kidnapping.</p> <p>The teacher encourages a discussion about the stories (s/he asks the students whether anyone wants to write down her/his own opinion).</p> <p>The teacher swaps the stories between the two groups and explains that the fictional stories are two aspects of the same situation.</p>	Group Activity (GA)	Guidelines 1 and 2
10'	<p>4) General discussion</p> <p>The teacher encourages a discussion with the students about the judgment and reasoning of the Court, so that students express their own views.</p>	WCT	

B.2. Material

Students are strongly encouraged to read the material beforehand in order to familiarise themselves with the basic issues dealt with in the judgment. At the same time, teachers themselves are encouraged to prepare a set of questions in order to guide students' work at home.

Guideline 1: List of possible questions

Possible questions for a discussion with students

- ▶ is it admissible that the police threatened the suspect (why “yes” or why “no”)?
- ▶ would this be admissible under other circumstances (when “yes” and when “no”), or would such threats be admissible in order to try to save the life of another person? What about the lives of 1 000 people?
- ▶ would such threats be admissible if the police were sure that they had the right suspect?
- ▶ should the court consider the obtained evidence, knowing that it was obtained under duress (why “yes” or why “no”)?
- ▶ which values do we protect if we allow such threats and which ones if we ban them?
- ▶ does the end always justify the means? Or are particular objectives or values so absolute that they can never be justified in such a way?

Guideline 2: Stories A and B

Story A

Your friend is an extremely successful entrepreneur. He is the father of two children: an 11-year-old boy and a slightly older daughter. One day, his son does not return from school and he is informed that his son has been kidnapped by four strangers who want a high ransom. He calls the police and together they make a plan to deliver the ransom, and also attempt to apprehend or at least identify the kidnappers and save the child. Though the money is delivered, the child is not at the agreed place and the police arrest a single suspect, who claims that he did not kidnap the child. After several hours of questioning, police officers (trained in psychological assessment) become convinced that the suspect knows where the child is. Nevertheless, they fail to elicit information from the suspect so they resort to the only tactics that remain: they threaten to hit him in such a way that his body will not be marked, leaving him unable to prove that he has been assaulted. They also threaten to physically harm his family members. Under the pressure of threats (which the police never intended to carry out), the suspect confesses his participation in the kidnapping and leads the police to the scene of the crime.

Story B

You are sitting in a car parked in front of a shopping centre with your friend, an otherwise calm law student. Your friend explains to you that he is waiting for his ex-girlfriend. Shortly afterwards, a limousine passes by in which four gentlemen are sitting, three of them with headphones. Since you are in a hurry, you go home. In the evening, your friend calls you and asks you to come to the police station as his defendant: he is in detention for alleged involvement in a kidnapping. Your friend claims that he does not know anything about the incident. You identify among the investigators at the station one of the men who was in the limo in front of the shopping centre. Your friend is questioned all night. Every time he exits the interrogation room, he looks increasingly tired, nervous and desperate. Later, he tells you that he was constantly threatened and that he feared for his health and life. Because he could no longer withstand the pressure, he claims, he confessed to what the police wanted to hear – that he had kidnapped a boy and demanded a ransom from his parents.

4. Table of further activities

You can find other activities on the USB key and the project website, available at <http://explorehumanrights.coe.int>. The following table presents their main points of interest for pedagogical use.

Theme 1: It's my life

Case name	Convention articles	Relevance	Related subject areas
<i>Osman v. the United Kingdom</i> (app. no. 23452/94)	Article 2	This case has been chosen as it demonstrates when and how a state must take action to protect the life of its citizens.	Moral education, modern studies, social studies, ethics, history.
<i>Iglesias Gil and A.U.I v. Spain</i> (app. no. 56673/00)	Article 8	This case looks at the issue of child abduction and the positive obligation on states to obtain the return of children that have been unlawfully taken from one of their parents.	Moral education, modern studies, social studies, ethics, geography.
<i>Neulinger and Shuruk v. Switzerland</i> (app. no. 41615/07)	Article 8	This is another case which looks at the issue of unlawful child abduction, but this time considers whether it is always in the "best interests" of the child to be returned.	Moral education, religious education, modern studies, social studies, ethics, geography.
<i>Christine Goodwin v. the United Kingdom</i> (app. no. 28957/95)	Articles 8 and 12	This case looks at whether states must legally recognise transsexual persons (i.e. allow them to have their new identity registered on their passport, ID cards, etc.).	Moral education, religious education, social studies, biology, modern studies, politics, history.
<i>X and Others v. Austria</i> (app. no. 19010/07)	Articles 8 and 14	This case looks at the need for equality of treatment for same-sex couples with regards to adoption.	Moral education, religious education, social studies, modern studies, politics, history.

Theme 2: Don't do that to me

Case name	Convention articles	Relevance	Related subject areas
<i>Rantsev v. Cyprus and Russia</i> (app. no. 25965/04)	Articles 2, 3, 4 and 5	A case that discusses the issues caused by modern forms of slavery, namely, human trafficking.	Moral education, social studies, ethics, history, art, music.
<i>Kalashnikov v. Russia</i> (app. no. 47095/99)	Article 3	This case draws attention to the particular vulnerability of prisoners who are mistreated in prison.	Moral education, social studies, ethics, modern studies, history, politics.
<i>Selmouni v. France</i> (app. no. 25803/94)	Articles 3 and 6	The first European Court of Human Rights to find that someone had been so badly mistreated by the police as to amount to being "tortured".	Moral education, social studies, ethics, modern studies, history, politics.
<i>M.C. v. Bulgaria</i> (app. no. 39272/98)	Articles 3 and 8	This case looks at the European Court of Human Rights' classification of what amounts to rape.	Moral education, social education, ethics, politics, modern studies, history.

Theme 3: How do we treat others?

Case name	Convention articles	Relevance	Related subject areas
<i>Mubilanzila Mayeka and Kaniki Mitunga v. Belgium</i> (app. no. 13178/03)	Articles 3, 5 and 8	This case looks at how a state must treat even those who illegally migrate to their country, particularly if they are children.	Moral education, social education, ethics, politics, modern studies, geography.
<i>Šečić v. Croatia</i> (app. no. 40116/02)	Articles 3 and 14	This case looks at the state's response to a racially motivated attack (a Roma citizen).	Moral education, social education, ethics, politics, modern studies, geography, history.
<i>Lautsi and Others v. Italy</i> (app. no. 30814/06)	Article 9 and Article 1 of Protocol No. 1	This case considers whether having a religious symbol prominently displayed throughout a school (i.e. a crucifix) may go against the religious views of those children and parents who share a different set of beliefs.	Religious education, moral education, social education, politics, modern studies, history.

Theme 4: I want a voice

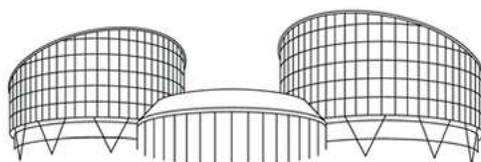
Case name	Convention articles	Relevance	Related subject areas
<i>Otto Preminger-Institut v. Austria</i> (app. no. 13470/87)	Article 10	This case looks at the difficult issue of where the right to freedom of expression comes into conflict with the religious views of others.	Religious education, moral education, social education, politics, modern studies, media.
<i>Vogt v. Germany</i> (app. no. 17851/91)	Articles 10 and 11	This case looks at whether teachers, who are meant to provide a neutral and objective view of things, can also be members of political parties.	Citizenship studies, politics, modern studies, ethics, social education.

Theme 5: Fairness for all

Case name	Convention articles	Relevance	Related subject areas
<i>Soering v. the United Kingdom</i> (app. no. 14038/88)	Article 3	This case looks at the issue of the death penalty and whether it is acceptable to send someone from Europe to a state which uses the death penalty and which will put them on "death row".	History, geography, moral education, modern studies, social studies, ethics, politics.
<i>Witold Litwa v. Poland</i> (app. no. 26629/95)	Article 5	This case discusses the circumstances where the police can legally detain an individual.	Ethics, moral education, modern studies, social studies, politics.
<i>Doorson v. the Netherlands</i> (app. no. 20524/92)	Article 6	This case looks at the importance of both sides (the individual and the state) being able to examine witnesses in a criminal trial.	Ethics, moral education, modern studies, social studies, politics.
<i>Salduz v. Turkey</i> (app. no. 36391/02)	Article 6	This case looks at the issue of legal representation for those who have been detained by the police.	Ethics, moral education, modern studies, social studies, politics.

Case name	Convention articles	Relevance	Related subject areas
<i>Oršuš and Others v. Croatia</i> (app. no. 15766/03)	Articles 6, 14 and Article 2 of Protocol No. 1	This case looks broadly at issues which may arise in a courtroom that could prevent a fair trial from taking place.	Ethics, moral education, modern studies, social studies, politics, religious education, languages, history.
<i>Burdov v. Russia</i> (app nos. 59498/00 and 33509/04)	Article 6 and Article 1 of Protocol No. 1	This case looks at the issue of a fair trial and whether compensation payments ordered by a court are “property”.	Ethics, moral education, modern studies, social studies, politics, economics, science.
<i>Streletz, Kessler and Krenz v. Germany</i> (app. nos. 34044/96, 35532/97 and 44801/98)	Article 7	This case looks at whether a state can prosecute someone for something done which, at the time of committing the act, was not a crime under the state’s law.	Ethics, moral education, modern studies, social studies, politics, geography, history.
<i>Scoppola v. Italy (No. 2)</i> (app. no. 10249/03)	Articles 6 and 7	This case looks at the issue of convicting someone for something which was not a crime at the time it was committed, and it also looks at prisoner voting rights.	Ethics, moral education, modern studies, social studies, politics, history, citizenship studies.
<i>Lebedev v. Russia</i> (app. no. 4493/04)	Article 5	This case looks at the clear legal basis that is required in states to legally detain individuals, to ensure that people cannot be deprived of their liberty unless it is necessary.	Ethics, moral education, modern studies, social studies, politics, citizenship, economics.
<i>Silih v. Slovenia</i> (app. no. 71463/01)	Article 2	This case looks at the duty of states to investigate deaths and ensure that justice must not only be done, but be seen to be done.	Ethics, moral education, modern studies, social studies, politics, history, science.

5. Simplified version of selected articles from the European Convention on Human Rights and its Protocols⁶



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

5.1. 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.

5.2. Selected articles

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.

6. This document was prepared by the Directorate of Communication. Please note that this simplified version is included for educational purposes only and takes its inspiration from the simplified version of the Universal Declaration of Human Rights produced by Amnesty International and others. The only texts which have a legal basis are to be found in the official published versions of the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols.

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 proved 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 a 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 includes 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.

Article 15 – Derogation in time of emergency

In time of war or other public emergency, a government may do things which go against your rights, but only when strictly necessary. Even then, governments are not allowed, for example, to torture you or to kill you arbitrarily.

Article 16 – Restrictions on political activity of aliens

Governments may restrict the political activity of foreigners, even if this would be in conflict with Articles 10, 11 or 14.

Article 17 – Prohibition of abuse of rights

Nothing in this Convention can be used to damage the rights and freedoms in the Convention.

Article 18 – Limitation on use of restrictions of rights

Most of the rights in this Convention can be restricted by a general law which is applied to everyone.

Such restrictions are only allowed if they are strictly necessary.

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 – Inquiries 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.

5.3. 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

You cannot be condemned to death or executed by the state.

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

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

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

You have the right to compensation if you have been convicted of 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.

6. Resources from the USB key

The USB key contains:

- ▶ the digital version of the handbook;
- ▶ the *Campbell and Cosans v. the United Kingdom* video (complete and short versions);
- ▶ the other cases mentioned in Chapter 4;
- ▶ short videos about the Court and the Council of Europe;
- ▶ official and legal texts;
- ▶ the resources mentioned in Chapters 7 and 8.

7. Resources from the website and the repository

The project website, “Explore and act for human rights”, can be accessed at:

<http://explorehumanrights.coe.int>

Here you can find:

- ▶ information about the project, the Council of Europe, the European Court of Human Rights, some legal texts, and other relevant materials;
- ▶ a choice of resources in different languages (video clips, posters, etc.).

The repository can be accessed at:

<http://coe-repository.org>

Here you can find hundreds of pedagogical resources in English and French. The portal offers several tools to search for the resources which are relevant for your needs.

7.1. The repository and its objectives

To complete the textbook and its 12 main activities (and a further 20 supplementary activities), on which Chapter 1 of this methodology is built, the project team decided to facilitate access for teachers, as well as students in secondary schools and in higher education, to the educational resources developed by the Council of Europe on human rights and democratic citizenship. In order to do this, the working group created a bank of educational resources available online via a portal and a search interface.

In addition, there are extracts from publications (such as handbooks) which can be used by a teacher without having to download entire books, in order to maximise efficiency. Handbooks are often lengthy and cover an array of topics, so the benefit of having access to extracted sections is that a teacher will only require the relevant pages to conduct the activity.

The repository contains, on one hand, documents as PDF texts which can be downloaded, and also links to other resources such as videos on YouTube. On the other hand, data describing these resources, namely metadata, are also available.

The database also contains reference texts, such as conventions and charters.

7.2. Different ways to search

The portal interface offers several ways of searching through the resources. Please go to the main page to discover them with us:

<http://coe-repository.org/page/>

The screenshot shows the homepage of the 'Explore & Act for Human Rights' portal. At the top, there is a banner with the Council of Europe logo and a search bar. Below the banner, there are three main search options: 'Advanced Search', 'Browse', and 'Navigational Search'. Each option has a brief description and a 'Start searching' button.

- Advanced Search:** Allows you to search for resources by crossing Resource Languages, Resource Types, End User Roles and Educational Levels. [Start searching](#)
- Browse:** Browse through all the educational resources, distributed between Resource Languages, Educational Levels and Resource Types. [Start browsing](#)
- Navigational Search:** Allows you to search for resources moving through a semantic tree of Human Rights concepts. [Start searching](#)

- ▶ direct search: you can enter a term in the search box;



- ▶ advanced search: you can search for resources by combining language, resource type and level of education;

The screenshot shows the 'Advanced Search' page on the portal. It features a search bar, a 'Search' button, and several filter options: 'All words' (selected), 'Exact phrase', 'Title', 'Keywords', 'Description', 'Filter by language', 'Filter by type of resource', 'Filter by intended end user role', and 'Filter by educational level'. A note on the right side of the page reads: 'Please, use the upper search for a simple search, or the search form from the aside for an advanced search'.

- ▶ browse: this allows you to see all the resources distributed by language, teaching or resource type level;

By Language

- English 850
- French 269

By Educational Level

- Pre-primary Education 6
- Primary Education 336
- Secondary education 400
- Post-secondary education 114

By Resource Type

- Assessment 1
- Case Study 99
- Course 23
- Demonstration 5
- Exercise 167
- Game & role play 0
- Enquiry-oriented activity (student research) or Experiment 0
- Exploration or Simulation 1
- Information or Sensitization 42
- Glossary or Definition 4
- Guide 125
- Learning asset (data/fact/example) 0
- Legal Text 36
- Lesson plan 323
- Project 1
- Study or Analysis 1
- Tool 23

Search results

1 2 3 4 ... 85 ... Next

60 years of the European Convention on Human Rights

A short video intended for the general public. It shows images inside and outside the ECHR, especially recent images.

Keywords: ECHR, history **Learning Resource Type:** video/wmv
Format: video/wmv
[View extended info](#)

ECHR video on admissibility conditions

A short video intended for the general public. Similar to an ad. With very contemporary and lively visual presentation, it describes the conditions to for an application to be admissible at the...

[more](#)

Keywords: ECHR, admissibility, ECHR, application, conditions **Learning Resource Type:** animation
Format: video/wmv
[View extended info](#)

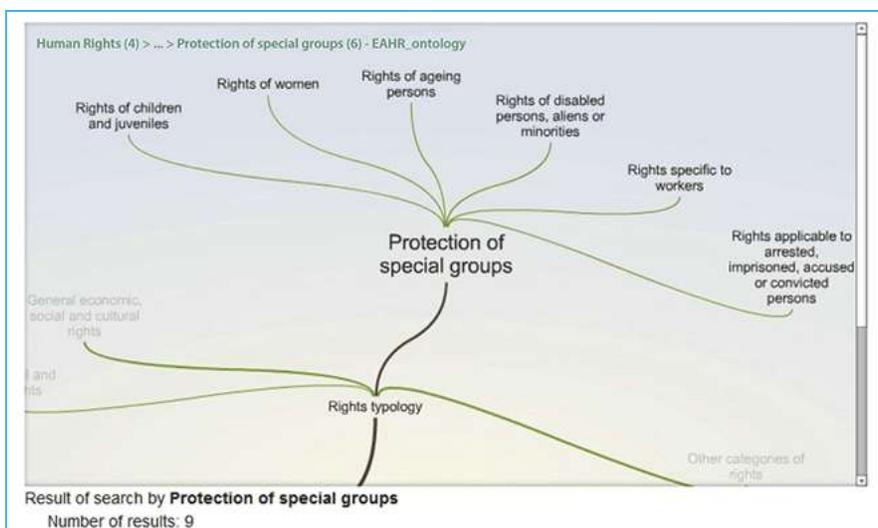
Educating for democracy - Assessment of students, teachers and schools

Chapter for teacher training - 26 pages - Includes 18 work files - Presents different forms of evaluation in a non-judgemental manner. It advises teachers on perspectives, forms and standard of...

[more](#)

Keywords: Journal, logbook, portfolio, evaluation, formative, summative, achievement, processes, **Learning Resource Type:** narrative text
Format: application/pdf

- ▶ navigational search: look for resources by browsing a semantic tree of concepts related to human rights. Clicking on a “node” – a concept – will open branches/leaves linked to it, and below the tree you will find a list of resources related to the concept.



Exploring children's right - We are wizards

Student project plan to be done in 4 lessons (sittings). Written for elementary school teachers – 5 pages long
The teacher learns how to show children to find original and creative solutions to real-life problems by imagining themselves as wizards.

7.3. What you get

In all cases you will obtain a list of resources, which will appear as below, on your screen. In this example, the search was for “death penalty” and the database found eight resources:

Search results 8 results found.

Death is not justice

The brochure addressed to the general public explains why death is no justice and the relationship between abolition of the death penalty and the society. It gives answers to most asked questions. - 4... [more](#)

Keywords: Death penalty, justice, democracy, Human Rights

Learning Resource Type: Guide (advise sheets)

Format: application/pdf

[View extended info](#)

The Death Penalty: Soering v UK

This lesson plan uses the case of Soering v UK to consider the death penalty and the human rights implications of this topic. -12 pages-

Keywords: article 2, article 3, right to life, torture, inhuman, degrading, treatment, human rights, EDC, HRE, CoE

Learning Resource Type: lesson plan

Format: application/pdf

[View extended info](#)

Why abolish? Questions and answers about the death penalty

Explanations and argumentation in favor of abolition of the death penalty. - 17 pages - This argumentative text is addressed to the general public but requires some level of language and abstraction... [more](#)

Keywords: death penalty, human rights, democracy, justice, deterrence, crime rate, prison

Learning Resource Type: Demonstration

Format: application/pdf

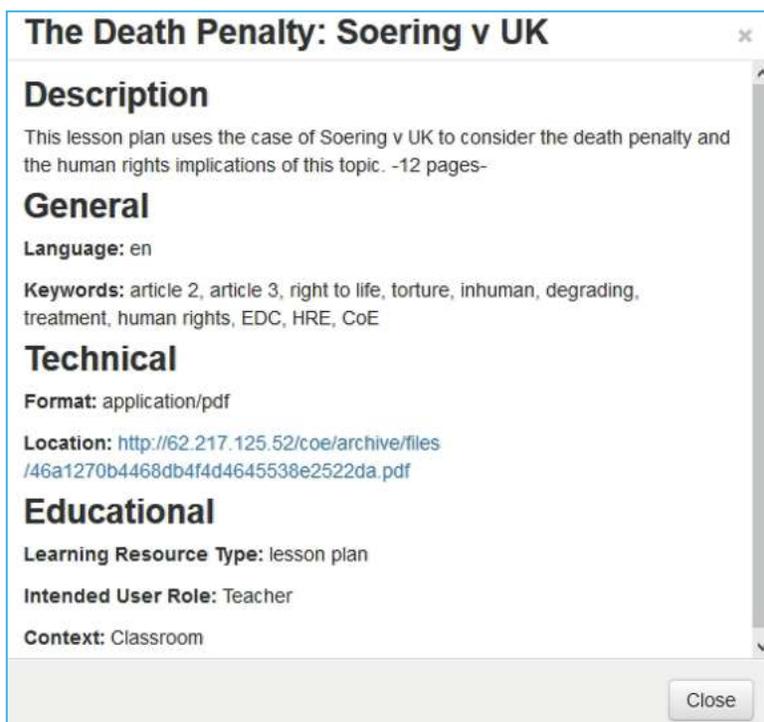
[View extended info](#)

This list gives you the opportunity, at first glance, to gain an idea of the resources from the repository that fit your search criteria. Depending on the length of the description, a “more” button may appear. Clicking on it enables you to see the full description.

You can obtain more information by clicking on “View extended info”. By doing so, you can access the following information:

- ▶ description: a few lines on the resource with the number of pages if it is a text or the duration if it is a video;
- ▶ language;
- ▶ keywords;
- ▶ format, e.g. as PDF for texts;
- ▶ location: link to the resource;
- ▶ Learning Resource Type: demonstration, reference text, exercise, lesson plan, etc.
- ▶ Intended User Role: learner, teacher, etc.

This information will help you to find the right document(s) you need for your classroom from among hundreds of resources.



The screenshot shows a window titled "The Death Penalty: Soering v UK" with a close button in the top right corner. The window content is organized into sections:

- Description**: This lesson plan uses the case of Soering v UK to consider the death penalty and the human rights implications of this topic. -12 pages-
- General**
 - Language:** en
 - Keywords:** article 2, article 3, right to life, torture, inhuman, degrading, treatment, human rights, EDC, HRE, CoE
- Technical**
 - Format:** application/pdf
 - Location:** <http://62.217.125.52/coe/archive/files/46a1270b4468db4f4d4645538e2522da.pdf>
- Educational**
 - Learning Resource Type:** lesson plan
 - Intended User Role:** Teacher
 - Context:** Classroom

A "Close" button is located at the bottom right of the window.

All documents are free of charge and if they are PDF documents you can download them directly from the repository.

8. Main publications on the European Convention on Human Rights

- ▶ *Handbook on European non-discrimination law*
www.echr.coe.int/Documents/Handbook_non_discri_law_ENG_01.pdf
- ▶ *Handbook on European non-discrimination law: Case-law update. July 2010-December 2011*
www.echr.coe.int/Documents/Handbook_non_discri_law_ENG_02.pdf
- ▶ *Handbook on European law relating to asylum, borders and immigration*
www.echr.coe.int/Documents/Handbook_asylum_ENG.pdf
- ▶ *Handbook on European data protection law*
www.echr.coe.int/Documents/Handbook_data_protection_ENG.pdf
- ▶ *Practical impact of the Council of Europe monitoring mechanisms*
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007feea>
- ▶ *Rights and freedoms in practice*
www.echr.coe.int/Documents/Pub_coe_Teaching_resources_ENG.pdf
- ▶ *Human rights and the fight against terrorism*
www.un.org/en/sc/ctc/specialmeetings/2011/docs/coe/coe-rights_guidelines_en.pdf

9. Other publications on human rights education

- ▶ *Compass – A manual on human rights education with young people*
<http://eycb.coe.int/compass/en/contents.html>
- ▶ *Companion – A campaign guide about education and learning for change in diversity, human rights and participation*
http://eycb.coe.int/compass/en/pdf/Companion_final.pdf
- ▶ *Domino – A manual to use peer group education as a means to fight racism, xenophobia, anti-Semitism and intolerance*
www.coe.int/t/dg4/youth/Source/Resources/Publications/DOMino_en.pdf
- ▶ *Education pack – Ideas, resources, methods and activities for informal intercultural education with young people and adults*
www.coe.int/t/dg4/youth/Source/Resources/Publications/Education_Pack_en.pdf

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This human rights education textbook presents 12 learning activities based on landmark decisions of the European Court of Human Rights. It aims to familiarise secondary school students with the key principles of European law related to human rights to help them understand how the European Court of Human Rights works. It also seeks to foster the role and responsibilities of the teacher as a key actor in ensuring the effective implementation of the principles of the European human rights system.

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

<http://book.coe.int>

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