

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 5 May 2017

DH-SYSC(2017)001

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

---

COMMITTEE OF EXPERTS ON THE SYSTEM OF THE EUROPEAN  
CONVENTION ON HUMAN RIGHTS  
(DH-SYSC)

---

**Proposals concerning Recommendation Rec(2004)4 on the  
European Convention on Human Rights in university education  
and professional training**

---

## **Proposals concerning Recommendation Rec(2004)4 on the European Convention on Human Rights in university education and professional training**

### *Context*

1. According to specific task v) of its terms of reference, the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) is invited to “submit, if appropriate, proposals to the Committee of Ministers regarding the following recommendation [...] (deadline: 31 December 2017):

- [Recommendation Rec\(2004\)4 on the Convention in university education and professional training](#), along with the development of guidelines on good practice in respect of human rights training for legal professionals; [...]”.

2. The Committee of Ministers had the opportunity to underline the importance of Recommendation (2004)4 within the framework of [its reply](#) to Parliamentary Assembly [Recommendation \(2039\)2014](#) on “the European Convention on Human Rights: the need to reinforce the training of legal professionals”. As noted by the Committee of Ministers, “the declarations adopted at the Interlaken (2010), Izmir (2011) and Brighton (2012) High-level Conferences on the Future of the Court also emphasised this issue”.

3. The key role of the training of legal professionals in the implementation of the Convention was recently underlined and put into perspective by the Brussels Declaration which calls on States to: “increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integral part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe, as well as to the training programmes of the Court and to its publications”(B. 1. b)).

4. In accordance with the decisions taken at the 2<sup>nd</sup> DH-SYSC meeting (see Item 7, § 27-31 of the meeting report of the DH-SYSC, doc. DH-SYSC (2016)R2), the Secretariat prepared a compilation, containing information provided by member States in the framework of their national report concerning the implementation of the Brighton Declaration, regarding in particular its paragraphs 9 c (iv) – (vi)<sup>1</sup>, as well as information received from members of the HELP network on the basis of a questionnaire prepared by the HELP Secretariat with regard to

---

<sup>1</sup> “9. The Conference therefore: [...]

c) In particular, expresses the determination of the States Parties to ensure effective implementation of the Convention at national level by taking the following specific measures, so far as relevant: [...]

iv) Enabling and encouraging national courts and tribunals to take into account the relevant principles of the Convention, having regard to the case law of the Court, in conducting proceedings and formulating judgments; and in particular enabling litigants, within the appropriate parameters of national judicial procedure but without unnecessary impediments, to draw to the attention of national courts and tribunals any relevant provisions of the Convention and jurisprudence of the Court;

v) Providing public officials with relevant information about the obligations under the Convention; and in particular training officials working in the justice system, responsible for law enforcement, or responsible for the deprivation of a person’s liberty in how to fulfil obligations under the Convention;

vi) Providing appropriate information and training about the Convention in the study, training and professional development of judges, lawyers and prosecutors; and [...]”

the implementation of Recommendation (2004)4.<sup>2</sup> A preliminary first analysis of the information gathered appear in Appendix.

### *Initial stocktaking*

5. The recommendation refers to three complementary types of action, namely:<sup>3</sup>
- i. the incorporation of appropriate education and training on the Convention and the caselaw of the Court, notably in the framework of university law and political science studies, as well as professional training of legal and law enforcement professions;
  - ii. guaranteeing the effectiveness of the education and training, which implies in particular a proper training for teachers and trainers; and
  - iii. the encouragement of initiatives for the promotion of knowledge and/or awareness of the Convention system.
6. Alongside the efforts made by the States Parties and other bodies of the Council of Europe, the HELP Programme, set up as a response to the abovementioned recommendation and conducted within the framework of the HELP network.<sup>4</sup> National training institutions are increasingly incorporating them into their national curricula. The work conducted over recent years demonstrates some **important developments in the following areas**:
- Developments achieved in the area of training, both in terms of content and methodology, as shown notably by the following facts and examples:
    - The [catalogue](#) of some 20 HELP courses has gradually expanded with new courses designed following increased demands from HELP Network members.<sup>5</sup>
    - Regarding methodology, HELP courses merge knowledge and skills and are developed “by legal professionals for legal professionals”, taking into consideration their busy schedule and difficulties of balancing learning and working. Once the master course is ready (usually in English), HELP courses can be adapted to national legislation and are translated into national languages in collaboration with national training institutions and

---

<sup>2</sup> The HELP Network consists of representatives from national training institutions for judges/prosecutors and Bar associations of the 47 CoE’s member States: HELP Focal points and Info points. Focal points liaise between the HELP Secretariat and the national training institutions. They act as a contact person for judges and prosecutors regarding Human Rights training. Info points liaise between the HELP Secretariat and the national Bar associations.

<sup>3</sup> See paragraph 4 of the Appendix of the Recommendation.

<sup>4</sup> The HELP Network is composed of representatives from national training institutions for judges and prosecutors and Bar associations of the 47 member States of the Council of Europe. It is a peer-to-peer European Human Rights Training Network, which gather annually to share best practices, provide advice and adopt a roadmap with priority topics to be developed in future HELP curricula and materials.

<sup>5</sup> Only in the period of 2015-2016, seven new courses were added in the areas of asylum, business and human rights, data protection, fight against racism, xenophobia and homophobia, labour rights, personal integrity (bioethics) and reasoning of criminal judgments. By the end of 2017, four new ones will be completed: international cooperation in criminal matters, trafficking in human beings, violence against women and domestic violence, and child-friendly justice and children’s rights. Courses are available for free in the [HELP e-learning platform](#).

Bar associations. HELP Network members are also increasingly demanding Training-of-Trainers (ToT). In 2016, a joint ToT was organised with the French *Ecole Nationale de la Magistrature*. Such joint HELP/NTI events are good practices worth replicating. ToT are also increasingly organised in the West Balkans, Turkey, Russia or Georgia.

- Ever-expanding HELP Network, with new requests to become members or partners every year. It is to be noted that until 2014, HELP had raised more interest from non-EU member States of the Council of Europe. Then, in 2015, the EU entrusted HELP with the largest training programme on fundamental rights for legal professionals in the EU, and EU MS became also increasingly involved.

- The implementation of permanent structures for judges and prosecutors.

The establishment of national training institutions for judges and prosecutors in the CoE member States can be considered as achieved. The last country not to have a permanent training structure, Cyprus, is in the process of setting up its Judiciary School. The role of NTIs in HELP training could therefore be underlined in the Recommendation.

- New methods of open training.

The exponential increase of number of users of the HELP platform reveals the growing importance of open training. Online training offers flexibility and takes into consideration the workload of legal practitioners. Online training facilitates reaching out to larger audiences, particularly important for vast countries (i.e. Russian Federation) or training institutions for lawyers. Still, the authorities need to adopt incentive measures to facilitate legal training through new methods of open training, including on line training notably through recognising credits for on line training. Good examples to mention are the incorporation of the online HELP introductory course for new entry lawyers in Paris and for new entry Spanish judges (the latter as of 2018).

#### 7. The following **challenges however remain**:

- The objectives of CM/Rec(2004)4 remain valid but their implementation is lagging behind. Authorities need to adopt incentive measures to facilitate legal training, including on line training (i.e. recognising credits for on line training). It is crucial for national authorities to (i) allocate sufficient human and financial resources and (ii) demonstrate political will by the incorporation of human rights education in initial and continuous education/professional training.
- The need for becoming familiar on European human rights standards before the professional career with a view to fostering future legal professionals' sensitivity to human rights issues that may arise in any legal area and building their capacity to identify such issues at an early stage (creating a so-called "human rights reflex"). The advantages for Universities to use and promote the free HELP courses on human rights accessible on line in the [HELP e-learning platform](#) should be recalled. This is also valid for post-graduate studies on education on the ECHR or shorter Programmes.
- The importance of including professional training on human rights from the earlier stages of professional life (initial education) of legal professionals and law enforcement officers

and then throughout their professional careers with a view to having a “human rights reflex” without the need to becoming a human rights expert *per se*.

- The need for quality, targeted and accessible training that will take into consideration the workload of legal professionals.
- The lack of a transversal approach on human rights training;  
When included in university education, human rights are often taught as part of international (public) law. Still, human rights issues should be mainstreamed in most areas of substantive law which are also applicable at national level. Otherwise, there is the risk of human rights being perceived as too general and therefore disregarded. By doing so, it may contribute to the fact that the Convention and other Council of Europe standards are not perceived as an alien source of law but rather applicable domestically.
- Difficulties encountered by national training institutions in carrying out their work as well as the need to examine closely the connection (or lack thereof) between university training and professional training insofar as the first is a *sine qua non* prerequisite for the second. It is clear that the level (or lack) of education on human rights at university will have a positive (or negative) impact on the work of legal practitioners protecting human rights and their interest in pursuing professional training on human rights throughout their career.

### ***The way forward: updating the Recommendation***

8. In light of the importance placed on the follow-up to the Brussels Declaration by the Committee of Ministers,<sup>6</sup> and, in particular, on a more effective implementation of the European Convention at national level, work on Recommendation (2004)4 is of an increased relevance today.

9. The DH-SYSC may decide to undertake work on the update of the recommendation in order to incorporate the elements previously mentioned. The updated recommendation could furthermore be accompanied by a compilation of good practices that could be a useful source of inspiration at national level. It is suggested that this work appear in the terms of reference of the DH-SYSC for the biennium 2018-2019.

---

<sup>6</sup> See decisions taken at the 125th session of the Committee of Ministers, 19 May 2015.

Appendix

**Preliminary analysis of the information on the implementation of Rec(2004)4**

1. Are adequate university education and professional training concerning the European Convention on Human Rights and the case law of the Court a **component of the common core curriculum of law** and, as appropriate, political and administrative science degrees?  
Please indicate the **modalities** as well as examples of **good practice** or **possible difficulties** encountered.

In most Member States, the European Convention on Human Rights and the case law of the Court are at least to some extent a component of the curriculum of law studies. The modalities noted among the states mainly include lectures, seminars and independent study. Another modality is moot courts; for example, several universities in Switzerland participate in moot courts such as Concours Renée Cassin and the moot court of the University of Fribourg. Not much information was given regarding the question whether adequate training and education in the European Convention on Human Rights and the case law of the Court are a component of the common core curriculums of political and administrative science degree.

Among the possible difficulties concerning the inclusion of adequate training in the Convention and the case law of the Court in the common core curriculum, we can note language barriers due to lack of documents in the national language(s), lack of well-specialized local training experts and lack of financial resources.

<b>Adequate training in both law courses, professional training and other degrees</b>	<b>Adequate training in Law courses and professional training only</b>	<b>Some training</b>
<i>Belgium</i> <i>Ireland</i> <i>Luxembourg</i> <i>Malta</i> <i>The Netherlands</i> <i>Serbia</i> <i>Slovakia</i> <i>Sweden</i> <i>Switzerland</i>	<i>Armenia</i> <i>Austria</i> <i>Bulgaria</i> <i>Croatia</i> <i>Czech Republic</i> <i>Estonia</i> <i>France</i> <i>Greece</i> <i>Montenegro</i> <i>Norway</i> <i>Georgia</i> <i>United Kingdom</i> <i>Ukraine</i>	<i>Lithuania</i> <i>Russian Federation</i>

2. Are they offered as **optional disciplines** to those who wish to specialize?  
Please indicate the modalities as well as examples of **good practice** or **possible difficulties** encountered.

In general, there are optional disciplines offered for those who wish to specialize (Armenia, Austria, Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Ireland, Luxembourg, Malta, Moldova, Montenegro, the Netherlands, Norway, Russian Federation, Serbia, Slovakia, Sweden, Switzerland and United Kingdom). Only a few member States report not having any such optional courses available. Among the modalities, there are, *inter alia* interactive and practical classes, real cases context as well as current issues being highlighted in the optional courses offered. One difficulty reported is that it may be difficult to attract future and practicing lawyers towards this area of law that may seem too general.

3. Are they a **component of the preparation programmes** of national or local **examinations for access to the various legal professions** and of the initial and continuous training provided to judges, prosecutors and lawyers?  
Please indicate the **modalities** as well as examples of **good practice** or **any difficulties** encountered.

The Convention and the case law of the Court are included in the initial and continuous training provided to judges, prosecutors and lawyers in almost all member States in various modalities. These modalities often consist of courses and seminars on the Convention and the Court organised by the national bodies responsible for the training of future and practicing judicial professionals. In many States, courses are organised for legal professionals on the preparation of applications and the application procedure of the Court, mainly in the curricula of the Bar schools and within other training for legal professionals. Furthermore, several States mention cooperation with the Council and HELP. In some member States, courses on fundamental rights and freedoms are integrated throughout all the different courses and subject areas included in the education and training of judiciary.

Regarding examinations for access to various legal professions, in some member States the Convention and the case law of the Court constitute a component of the examinations.

In several member States, study visits to the Court and the Council are organised in the initial and continuous training provided to lawyers, prosecutors and judges. In Spain, the continuous training programme for prosecutors and judges includes language training on the vocabulary of European human rights law.

One challenge mentioned is that the Convention may be treated as a marginalized issue. Other difficulties mentioned are language barriers and insufficient financial resources.

<b>Component of Examination</b>	<b>Component of initial and continuous training</b>	<b>Component of both</b>
<i>Armenia</i> <i>Austria</i> <i>France</i> <i>Lithuania</i> <i>Monaco</i>	<i>Bulgaria</i> <i>Croatia</i> <i>Denmark</i> <i>Estonia</i> <i>Finland</i> <i>Germany</i> <i>Greece</i> <i>Luxembourg</i> <i>Moldova</i> <i>Montenegro</i> <i>The Netherlands</i> <i>Norway</i> <i>Poland</i> <i>Russian Federation</i> <i>Serbia</i> <i>Slovakia</i> <i>Slovenia</i> <i>Switzerland</i> <i>Ukraine</i> <i>Turkey</i>	<i>Czech Republic</i> <i>Ireland</i> <i>Spain</i> <i>Sweden</i> <i>United Kingdom</i>

4. Are they a **component in the initial and continuous professional training** offered to personnel in **other sectors responsible for law enforcement** and/or to personnel **dealing with persons deprived of their liberty**, as well as to personnel of immigration services, in a manner that takes account of their specific needs?  
Please indicate the **modalities** as well as examples of **good practice** or **any difficulties** encountered.

The European Convention on Human Rights and the case law of the Court are a component **in the initial and continuous professional training** offered to personnel in **other sectors responsible for law enforcement** and/or to personnel **dealing with persons deprived of their liberty**, as well as to personnel of immigration services, in several member States (Armenia, Bulgaria, Finland, Ireland, Serbia, Slovakia, Georgia, Monaco, Montenegro, the Netherlands, Poland, Russian Federation, Sweden, Switzerland and Ukraine).

It appears clear that it is in particular the training of police forces which is made inclusive of European human rights standards in the Convention and the Court's case law. Sometimes the focus of the training of the police is the case law of the Court that relates specifically to the State in question. For example, in Armenia, trainings are held for relevant law enforcement



agencies and officials in the judicial system on how to fulfil the requirements under the Convention after every delivery of a judgment in respect of Armenia by the Court. Another example of a good practice is in Belgium, where the Federal Police holds a specific training called “Maîtrise de la violence” (Control of violence), aiming to deter the use of violence of coercion in the profession. In Finland, the training material for the police includes Recommendation Rec(2001)10 of the Committee of Ministers on the European Code of Police Ethics.

5. Are human rights education and training incorporated into **stable/permanent structures** – public and private?  
Please provide examples of **good practice** in this field and indicate any **difficulties encountered**.

All states with access to the relevant information have answered ‘yes’ to this question except Georgia, whose government has plans to implement such structures. Most States have higher education institutions, like various universities within the country, offering human rights education. Additional education and training is often given by training institutions for legal professionals. Some courts and national institutes organise seminars and conferences and publish journals with commentary on judgments by the Court.

No specific difficulties encountered were mentioned.

6. Is training delivered **by persons with a good knowledge of the Convention concepts** and the case law of the Court as well as with an adequate knowledge of **new professional training techniques**? Please provide examples of good practice in this field and indicate any **difficulties encountered**.

All those who answered confirm that training is delivered by experts on the Convention and the case law, but only a few mentioned that trainers have knowledge of new professional training techniques.

No specific difficulties encountered were mentioned.

7. Please provide examples of **initiatives** aimed at **the training of specialised teachers and trainers** in this field. Please also indicate any **difficulties encountered**.

Many of the countries work together with HELP. There are a variety of courses and trainings for trainers held across the member states, mostly organized by different authorities such as national bar associations and judicial institutions.

No specific difficulties encountered were mentioned.

8. Could you provide **examples of non-state initiatives for the promotion of awareness and knowledge of the Convention system**, such as the establishment of special structures for teaching and research in human rights law, moot court competitions and awareness-raising campaigns?

In several member States, student organisations such as ELSA, non-governmental organisations, and local or regional branches of foreign organizations take initiatives promoting awareness and knowledge of the Convention system. There exist across the member States several regularly held moot courts and other pleading competitions, mainly held by universities and student organisations but also to some extent by non-governmental organisations. There exist also some specialized degree programmes in human rights which include the Convention mechanism at many universities. Some states have also human rights monitoring institutes, which observe the respect for these rights and fundamental freedoms.

9. Is there any **impact assessment of the effectiveness** of Human Rights education/training in your country? How is this ensured?

Only few member States (such as Bulgaria, Estonia, the Czech Republic and Croatia) carry out evaluations of their training. This is mostly done through evaluation forms.

10. Could you provide **examples of cooperation/connection** between Human Rights training for legal professionals and university education?

It is not unusual that some aspects of university education include participation from working legal professionals, for example as teachers in some courses or as participators in workshops and seminars. University and legal professionals are also connected through study visits for students to legal institutions. (Armenia, Croatia, United Kingdom) As mentioned in point 8 above, in many states, moot courts are hosted by universities and student associations where the judges are played by real, practicing judges. (For example Greece) In Lithuania, there is an initiative “A Day with a Judge”, where university students get to spend one day at a court working with a judge and get to ask questions and observe the judge’s work and court hearings. Another example is Norway, where there is cooperation between the Norwegian Court Administration and PluriCourts (University of Oslo), which organizes one day seminars for judges in the country.