HELP online course on
Family Law and Human Rights

Course brief

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Background

Family law is a distinctive area of law because it is multi-layered (national, regional and international) and interdisciplinary (transcending private and public law, both domestically and internationally). Given the increasing mobility and internationalisation of the child and of families, it is also a complex topic.

The course discusses and analyses the influence of human rights law, notably Articles 8 (private and family life) and 12 (right to marriage) of the ECHR on national family law. It addresses key cases of the European Court of Human Rights on Articles 8, 12 and 14 (discrimination) ECHR and explores relevant European and international instruments including the UN Convention on the Rights of the Child (1989), with a view of showing how human rights law sets a minimum standard for family law in Europe. In the EU, although the substantive family law remains under the sole competence of EU countries, the EU is empowered to take measures concerning family law with cross-border implications on the basis of a special legislative procedure: all EU countries should agree (unanimity) and the European Parliament must be consulted.

The national differences in substantive family law can be bridged by private international law. The second perspective of this course is thus the rules on private international law in family matters. The process of harmonisation and unification of private international law within the EU and the work of the Hague Conference on Private International Law is given particular attention.

The course provides a comprehensive overview of International and European family law related standards, case-law and good practices. It is the first HELP course to provide a single resource on the topic, covering the extensive CoE standards and EU law, as well as soft-law instruments on the matter. It integrates training materials previously developed by the CoE and is complementary to the HELP courses on child-friendly justice and the other one on violence against women (both already available in several languages on the HELP e-learning platform).

The topics are explored in a practical way, by using presentations, interactive screens, knowledge tests and reflective exercises.

It is primarily addressed to legal professionals (judges, prosecutors, lawyers), but can be also useful for the court staff, law enforcement, social workers, NHRIs, civil society organisations, media and other professionals working in the field of family law.

The course was finalised in **January 2019.**

Course outline

The course consists of the following five substantive modules:

- ➤ **Introduction**
  Presentation of the course structure, course authors and learning objectives
  Key principles: Best Interest of the Child and Anti-discrimination

- ➤ **Rights Related to Couples**
  Status of the Relationship
  Rights Stemming from the relationship
  Migration Issues Related to Spouses and Partners

- ➤ **Relationship between Children and their Parents and Other Relatives**
  Status of the Relationship
  Rights Stemming from the Relationship
  Migration Issues

- ➤ **International Child Abduction**
  Introduction to the Legal Framework
  The Hague Convention of 1980
  The Brussels IIa Regulation
  The ECHR

- ➤ **Children's Rights: Key Challenges**
  The Protection of Children against Sexual Exploitation and Abuse
  The Rights of the Child in the Digital Environment

Development of the course

The course has been developed thanks to EU support, as it is jointly financed by the "EU-CoE HELP in the EU" Project and the EU-CoE Horizontal Facility Action "Strengthening the Human Rights Ombudsman to fight discrimination".

The course has been developed using the HELP methodology, in cooperation with the Children's Rights Division of the Council of Europe.

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