

HELP Online course on PRE-TRIAL INVESTIGATION AND THE ECHR

Background and summary

Individuals or groups of persons under pre-trial investigation are likely to see their rights and freedoms affected. They may be subject to observation, surveillance, search, questioning and detention, prior to their appearance at trial, which could expose them to interferences of their rights guaranteed under various Articles of the European Convention on Human Rights ('the ECHR'). Furthermore, the evidence gained at this stage of the proceedings can decisively influence the fairness of the criminal proceedings as a whole. Finally, for a pre-trial investigation to fulfill the standards set under a number of substantive Articles of the ECHR, it must be conducted in a specific manner and following certain criteria. Therefore, understanding the requirements of the various Articles of the ECHR and their application to the pre-trial stage of the criminal proceedings is fundamental for investigators and legal professionals active at this stage of the proceedings.

The HELP online course on Pre-trial Investigation and the ECHR explores where the ECHR and the exigencies of an investigation can conflict. It assists professionals who have roles in a pre-trial investigation to understand their obligations under the ECHR.

The course covers human rights standards governing the use of various pre-trial investigation techniques, such as covert investigation and search, as well as standards developed in respect of the imposition of pre-trial detention and the treatment during pre-trial detention, the fair trial guarantees relevant for the pre-trial stage of the criminal proceedings, and the requirements to conduct an effective investigation into alleged violation of certain ECHR Articles. It provides an overview of the relevant case law of the European Court of Human Rights developed under Articles 2, 3, 5, 6 and 8 of the ECHR.



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

Users will be led through the course by a hypothetical scenario which illustrates an on-going investigation.

The course was developed in 2016.

Target audience

This free on-line course is primarily addressed to legal professionals (criminal judges, prosecutors, lawyers or senior court staff) and law enforcement and other state authorities dealing with individuals at the pre-trial stage of the criminal proceedings.

Course outline (6 modules)

1. **Covert investigation** (justification for covert investigation; types of evidence; national security considerations and entrapment and incitement)
2. **Search** (powers of search and the ECHR; rules governing a search; judicial authorisation and searches of the person)
3. **Pre-trial detention** (detention and Article 5 of the ECHR; key concepts of deprivation of liberty and authorised detention)
4. **Treatment in detention** (standards under Articles 2 and 3; conditions of detention and forms of detention)
5. **Fair trial** (Article 6 concepts: criminal charge, independent/impartial tribunal, public hearing, presumption of innocence and equality of arms; retroactive application of the law)
6. **Effective investigation** (obligation to protect; effective investigation and key principles in human rights law)

Development of the course

The course was developed under the European Programme for Human Rights Education for Legal Professionals (HELP; www.coe.int/help) of the Council of Europe, by using the HELP methodology (<http://www.coe.int/en/web/help/help-training-methodology>).

The course was pilot-tested in Moldova in 2017.

Access the free online course

To access the course, you just need to enter the HELP online platform at <http://help.elearning.ext.coe.int/>. First you need to open yourself an account at HELP if you have not yet done so (2 minutes).

Then you can follow this link to directly access the online course:
<http://help.elearning.ext.coe.int/course/view.php?id=1750>

The course is available in English and Romanian.