

Right to Liberty and Security

Article 5 of the European Convention on Human Rights

HELP

Human Rights Education for Legal Professionals
Council of Europe

COUNCIL OF EUROPE



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RIGHT TO LIBERTY AND SECURITY

HELP ONLINE COURSE

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Accomplishment

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Council of Europe
Human Rights Education for Legal Professionals (HELP) Programme

2016

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Background

The right to liberty and security is a fundamental human right and one of the rights of highest importance in a democratic society. It has a key place in the structure of the European Convention on Human Rights (the ECHR). Article 5 of the ECHR guarantees that all individuals should be free from arbitrary or unjustified deprivation of liberty. The structure of Article 5 indicates that there is a presumption that everyone should enjoy liberty and that a person can only be deprived of it in exceptional circumstances. Any deprivation of liberty must be “in accordance with a procedure prescribed by law” and must fall under at least one of the situations provided for in Article 5.1 of the ECHR. A person deprived of his/her liberty must be promptly informed of the reasons of his arrest, must be brought promptly before a judicial authority and must be tried within a reasonable time or released pending trial. Furthermore, an individual must have resort to proceedings to contest the lawfulness of his/her detention and must be compensated in case of unlawful detention.

In seeking to give effect to these requirements of Article 5, the interpretation of its text by the European Court of Human Rights (the ECtHR) is vital. The ECtHR has analyzed in detail and interpreted all of the aspects of the protection of liberty under the four paragraphs of Article 5. This is why legal professionals who decide deprivation of liberty cases must be well acquainted with the massive body of ECtHR case law developed under this Article.

This HELP free online course is designed to equip judges and other legal professional to effectively apply the standards developed under Article 5 of the ECHR in their daily work. It introduces the users to the concept of liberty and its meaning and provides a detailed overview of the guarantees against arbitrary deprivation of liberty, as interpreted by the ECtHR. It also helps understand the autonomous concepts developed under Article 5 by the ECtHR, including the principle of lawfulness. All 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 an interactive audio-visual scenario. At the end of the course they will be able to engage in a case-study exercise.

The course was developed in 2016.



About 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>).

National Training Institutions or Bar Association's interested in developing national adaptations of the course can contact the HELP Secretariat at DGI-Help-Programme@coe.int.

Target audience

This free on-line course is primarily addressed to legal professionals (judges, prosecutors and lawyers), as well as law enforcement and other state authorities which are dealing with cases of deprivation of liberty.

Course outline

The course consists of **4 substantive modules**:

1	Module 1 : Introduction <ul style="list-style-type: none"> • The philosophy of liberty, the spheres of liberty, liberty and security • Autonomous concepts: law and the ECtHR • Autonomous concepts: during arrest
2	Module 2 : Justifications in Article 5 <ul style="list-style-type: none"> • The structure of Article 5 • Detention after conviction, detention for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law, arrest or detention for the purposes of bringing the person before a competent legal authority, detention of a minor, detention for prevention of spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants, detention to prevent an unauthorized entry into the country or detention of a person against whom action is being taken with a view to deportation or extradition • Information on the reasons for arrest • Right to be brought promptly before a judge



	<ul style="list-style-type: none"> • Right to have the lawfulness of the detention speedily examined by a court • Right to compensation
3	<p>Module 3 : Scope of application of Article 5 and lawfulness</p> <ul style="list-style-type: none"> • Deprivation of liberty vs. restrictions of movement • Arrest or detention • Criteria to be applied • Deprivation of liberty outside formal arrest or detention • Positive obligations in respect of deprivation of liberty • Article 1 of Protocol No. 4 • Lawfulness: general principles, national law, secret detentions, reasons for detention, arbitrary detentions, national legal jurisdiction, secret detentions
4	<p>Module 4 : Case study</p>

How to access the HELP online course

To access the course, you just need to enter the HELP e-learning 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 course: <http://help.elearning.ext.coe.int/course/view.php?id=1782>.

