

Final Report

On the comparative study carried out by the Bulgarian Lawyers for Human Rights Foundation in relation to the teaching of human rights and in particular on the European Convention on Human Rights in Bulgarian and other European Universities

And the findings of a survey among Bulgarian magistrates, lawyers, police and penitentiary officials on the education, the professional training and the sources of information in this area

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I. The situation and the problem

The protection mechanisms established by the main universal and regional treaties on human rights are based on the principle of subsidiarity. The member states are the main guarantee of the rights and freedoms, which they protect, and their protection should take place primarily on the national level. In this study, as within the entire project, during which it was planned and performed, the main focus was on the European Convention on Human Rights and Fundamental Freedoms (“**the Convention**” and “**ECHR**”) as a fundamental regional international treaty regulating the matter and establishing the most important European mechanism for control and protection of individual violated rights. According to Article 1 of the Convention the member states are obliged to ensure the rights and freedoms which it guarantees to any person under their jurisdiction. The fundamental idea in the case-law of the European Court of Human Rights (“**the Court**” and “**ECtHR**”) is that the Convention guarantees rights that are practical and effective, not theoretical and illusory. The responsibility to ensure precisely such protection falls on all national authorities – the courts, the administration, the legislature. Furthermore, the Convention, as the Court describes it, is a living instrument”. Its provisions are interpreted and applied in the light of the current conditions, of the evolution in the understanding of the content of the fundamental rights and freedoms and the requirements for their effective protection, including the establishment of a European consensus on many issues. It narrows the discretion of the national authorities in areas where previously there was a diversity of concepts with regard to the different moral views, historical, legal and cultural traditions. All this requires a basic knowledge of the Convention in the light, in which the Court interprets its provisions in an evolutive manner and applies them in its case law. Its effective application at the national level is an essential prerequisite for the proper functioning of the defense mechanism created with the Convention in order to avoid the excessive workload of the Court – often with activities inherent to a first instance court.

The Committee of Ministers of the Council of Europe insists on the need of measures for the effective application of the Convention at the national level in several key recommendations adopted in the period 2002 – 2004. Among these measures, together with the introduction of effective domestic remedies for protection of the rights guaranteed by the Convention, the provision of reliable mechanisms for enforcement of the decisions of the Court and the dissemination of its case law, also was indicated improving the education and professional

training in human rights – Recommendation Rec (2004)4 of 12.05.2004 on the European Convention on Human Rights in university education and professional training. The Committee recommends that such training is provided as a component of the core curriculum of law studies and additionally as an optional subject for those wishing to specialize, as well as a component of the preparatory programs for admission exams for the various legal professions and of the initial and ongoing training of judges, prosecutors and lawyers, and also police, penitentiary, immigration and other relevant categories of officers. The Recommendation underlines it is essential the teaching of the Convention be included in the programs of law faculties not only as an independent course, but also horizontally – in all legal disciplines.

Pursuant to the Regulation on the unified state requirements for Acquiring University Education in Law and Professional Qualification “Lawyer” (State Gazette, issue no. 69/2005) (“**The Regulation**”) the programs of relevant disciplines include teaching of Law of the European Union, which is also an obligatory discipline. There are no similar provisions for human rights and in particular for the Convention, respectively for the case-law of the Court on its interpretation and its application. They are not included in the obligatory or optional courses and there is no requirement for teaching them in the programs of the other relevant disciplines. It is left to the good will of the universities. Meanwhile, nearly 23 years after the ECHR entered into force for Bulgaria, the actions of national authorities still show unsatisfactory understanding and application of the Convention as a part of domestic law and insufficient knowledge of significant for our country case-law of the Court – not only the decisions against Bulgaria but also these cases against other countries that establish basic standards and/or resolve problems, which are relevant also to our reality. There are many Bulgarian cases, in which the Court has found lack of effective domestic remedies for the protection of rights guaranteed by the Convention, as well as repetitive violations thereof by the national authorities. The latest example is the recently pronounced pilot decision *Neshkov and others against Bulgaria*. The Court found that the national courts did not apply the Convention directly in the way its provisions are interpreted and applied in its own case law. It therefore accepts that, in view of the manner in which the Bulgarian courts’ case-law under Art. 1 of the State and Municipalities Responsibility Act in relation to the conditions of detention and imprisonment has evolved in the recent years, such proceedings may not still be considered as an effective domestic remedy (§ 194 of the decision). The courts did not review the controversial acts or omissions in line with the principles and standards laid down by the Court in its case-law – even though under Article 5 § 4 of the Constitution the Convention is part of Bulgarian law. Even in the few cases, in which they considered the general prohibition against inhuman and degrading treatment, which is in Article 3 of the Convention, the courts saw it more as an aid in the interpretation of a statutory or regulatory provisions rather than a

fully-fledged norm whose breach has to prompt in itself them to grant compensation in respect of Convention rights (§ 203). Similar are the Court's conclusions on the application of the existing preventive judicial remedies, as in Article 250 § 1 of the Code of Administrative Procedure (§ 209). This shows a fundamental problem of understanding for the application of the international treaties. Such understanding and thinking in the light of human rights should be created for the first time during the education. Unfortunately, the circumstance that according to the annual report of the Court for 2014 Bulgaria is no longer among the ten member states with the greatest number of judgments and pending applications is not because of the more effective application of the Convention at national level but rather due to the introduced by Protocol № 14 consideration by a single judge, the new system for filtering applications and of grouping of repeating applications. The dramatic reduction in the number of pending Bulgarian applications is mainly due to the multitude of them declared inadmissible by a single judge, indicating insufficient knowledge of the criteria for eligibility. The President of the Court also expressed a concern in relation to the repeating cases (which represent more than a half of all pending cases), which is an indication that the problems were not solved at national level according to the principle of subsidiarity.

After the adoption of Recommendation (2004)4 in 2006 the Council of Europe performed a survey on the teaching of the Convention and the Court's case-law at the universities through questions to the governments of the Member States, which is summarized below. So far it is concentrating his efforts to help states on the initial and continuing training of magistrates and attorneys. A review of this aspect of the Recommendation is planned in 2015. Lately the Council of Europe observed that between its measures in this direction and its measures in relation with the application of the Charter on School Education remains a gap on higher education – a gap in regard to university education. The expressed intention to fill the gap in the future motivates the Bulgarian Lawyers for Human Rights Foundation to focus this study precisely on university education in human rights and in particular on the ECHR and the practice of its application.

The issue of teaching human rights at the universities is relevant in the context of the conducted in the recent years studies and discussions on the Bulgarian legal education in general, which led to the findings of existing deficits (Legal barometer¹, discussion with the subject Law from the series Chivas 12 Chairs²). The University of Sofia also conducted such

¹ issue No. 8 and issue No. 9

² The participants agree that the problem is the outdated method of teaching, in which the students are asked to learn by heart the laws instead to reflect, to interpret and apply them to the facts, to put the facts and circumstances under one or more legal norms, also problematic are the lack of connection with the practice and the lack of a single state committee, which would examine all graduating students at the end.

a study. Some of their results support the need for rethinking also of the teaching of human rights³.

The insufficiency of the provided university education in human rights is showed also by the results of the survey, which was carried out by the Bulgarian Lawyers for Human Rights Foundation under the project, which are detailed and analyzed in a separate report published in the special section [Project Strengthening of the Protection of Human Rights in Bulgaria](#) on the website of the Foundation – www.blhr.org. The survey was focused on the received university education on human rights but the questionnaires – one for the police and penitentiary officials and the other for magistrates and lawyers – were structured in a way as to obtain data in three other main areas: evaluation of professional training after finishing the university education, sources for obtaining information on the Convention and the case-law of the Court, applying the acquired knowledge and information directly in the professional activities. The first target group included certain categories of police and penitentiary officials for whom it is essential to understand the Convention and the Court's case-law, as well as to apply the appropriate human rights standards (police investigators, police officers with security functions, officials of Directorate Security to the Justice Ministry and the supervisory guards in places of imprisonment). The survey demonstrated that among the persons, who learned about the Convention in the course of their studies, for the majority the university has provided only a general idea of ECHR. Persons from the target group, who received such detailed knowledge or knowledge with a practical focus, are symbolically represented. Regarding the participation of the persons interviewed in different training courses after finishing the respective level of education, the data do not show such a large deficit of received knowledge as the one found in the study of university education. In the second target group – magistrates and lawyers, it is found that in the course of university education the

³ The assessment of the interviewed lawyers on the compliance of the knowledge and competence acquired by the graduates of the law faculty of Sofia University “St. Kliment Ohridski” with the business needs, presented in the “Legal Barometer” issue No. 9 and obtained in the study on the project “Updating the curriculum of the law faculty of Sofia University “St. Kliment Ohridski”, with contract № BG051PO001-3.1.07-0020, financed under Operational Program “Development of Human Resources” through the European Social Fund, presented that the general preparation and competence in the legislation regulating human rights of graduates and employees in the relevant company/enterprise/firm of the persons interviewed is rated 4.24 (the evaluations are from 2 to 6 on the six-point scale). 16.7% of the persons interviewed cited the legislation regulating human rights as an area, in which there is a need to deepen the training of law experts. In the relevant questions from the interviews the human rights issues are separated from Constitutional Law and International Public Law. Meanwhile, according to 80% of the persons interviewed the overall legal training of graduates from the faculty of law of the University of Sofia is better than that of graduates of other faculties of law in the country, therefore the results for them would be even more alarming.

training in this sphere is sporadic, incomplete, insufficient, leaving almost no trace and could not assist future professionals in their professional activity. It is necessary to fill the gap of university education in parallel with the acquisition of professional qualification and experience in the course of the official activities, which burdens the persons interviewed additionally.

These results, which reveal a serious deficiency in the learning of human rights standards of the Convention in the framework of the education received in law faculties, were introduced at the Roundtable, held on February 18, 2015 and envisaged within the project (“**the Roundtable**”), which as a result of our invitation, was attended by representatives of the Bulgarian law faculties, of the Police Academy by the Ministry of Interior, representatives of three foreign universities and of the National Institute of Justice. We note with satisfaction that all Bulgarian participants shared our vision of the importance and timeliness of the discussion on the topic and the usefulness of the performed studies and recommendations.

That is why we believe that the teaching of human rights should be part of the reforms in the law education, the need for which is established both by academics themselves and lawyers in practice, as it is also included in the discussion of changes in the legislation, already underway in the Ministry of Justice.

II. The goal and the approach

The manner of teaching human rights is largely a matter of academic autonomy, and with regard to professional training - at the discretion of the relevant professional bodies. It is undisputed, however, that the authorities have an obligation to ensure compliance with the commitments made by Bulgaria in international treaties in relation to human rights. Instrument for fulfilling the obligation under Art. 1 of the Convention for the effective implementation of the Convention and the standards established in the case-law of the Court’s is, among others, the provision of adequate university education and professional training. As pointed out in Recommendation (2004)4, the education in courses as “Public Administration”, “Social Work”, “European Studies” is also of relevance. Our research, however, focuses on the teaching of human rights in the course Law and the respective courses at the Police Academy because of its fundamental importance.

In order to establish how human rights and in particular the Convention and the case-law of the Court in Strasbourg are studied in the course Law in the Republic of Bulgaria and how the

exams of received knowledge are performed, we analyzed the curricula of all Bulgarian universities that have law faculties, the educational programs and syllabuses for the relevant core disciplines and syllabuses for state exams. The data were collected from the sites of the respective universities, and in some cases, by questions to their faculty staff. The teaching of human rights at the Police Academy was also examined as knowledge of the matter and compliance with established international standards in this area is essential when exercising the professions, for which it is training specialists. In order to determine whether and to what extent for the acquiring of legal capacity, for initial appointment of judges and for registration as a lawyer exists the requirement to have received education in human rights the framework of the university education in law or in subsequent preparatory training courses in human rights we examined also syllabuses for the respective exams.

The Roundtable had the goal to create a discussion among the directly involved in the teaching, the results of which were taken into consideration when preparing the final conclusions and recommendations in this report and they will be presented and discussed at the final conference provided under the present project with the participation of the competent state authorities. Bulgarian participants of the Roundtable contributed to refine and supplement the collected information, shared their views on the deficits and improving of the teaching of human rights, and in particular on the Convention and the case-law of the Court, which are reflected in the final report. As a basis for the discussion it was also examined how the Convention and the case-law of the Strasbourg Court in its implementation are taught elsewhere in Europe. The study was carried out by collecting information available on the Internet and through contacts with lecturers, who completed a questionnaire. From the presentations of the foreign participants who kindly responded to our invitation for the Roundtable, we also received more detailed information for the European University Viadrina in Frankfurt an der Oder, for the Warsaw University and for the University of Olomouc, and more generally for teaching human rights in Germany, the Czech Republic and Poland. The study did not aim to be exhaustive, but rather a collection of examples from other European countries. A comprehensive and thorough comparative study required capacities, with which neither Bulgarian Lawyers for Human Rights Foundation, nor probably any single university have at their disposal. With these studies, however, after supplementing the data collected and the conclusions resulting from the work of the Roundtable, we hope to contribute for the identification of both good practices and existing deficits and problems and to attract the attention of the legal community and the authorities on the need for changes in the Regulation and other appropriate measures that will help in future projects of the Council of Europe to assist member countries in improving university education of the Convention and its application.

III. The teaching of human rights and in particular of the ECHR and the case-law thereon in Bulgarian universities

A. At the law faculties

In the table are set out data collected from explored curricula, study programs and syllabuses of the nine Bulgarian universities having a law faculty – University of Sofia ‘St. Kliment Ohridski’ (SU), New Bulgarian University (NBU), University of National and World Economy (UNWE), Plovdiv University ‘Paisi Hilendarski’ (PU), Veliko Tarnovo University ‘St. St. Cyril and Methodius’ (VTU), Ruse University ‘Angel Kanchev’ (RU), South-west University ‘Neofit Rilski’ in Blagoevgrad (SWU), Free University of Varna ‘Chernorizets Hrabar’ (VFU) and Burgas Free University (BFU). The hyphen set in some cells mean that no information was found.

University	Independent course on human rights/ the Convention	Obligatory or optional course, educational credits	Class hours Type of activities	In which year it is taught	Practical or other special aim of the course	Focus on the case-law of the Court in relation to Bulgaria	Teaching of the Convention and the case-law of the Court in the core mandatory disciplines	Extracurricular forms of teaching, legal clinics, Moot Courts, Summer courses in human rights

SU	Human rights	Optional 2	30 hours of lectures (18 hours extramural studies) and independent study – 30 hours	Second year – First semester	No	No	<p><u>Constitutional law</u> – “Mechanisms of Protection according to the Convention”</p> <p><u>International Public Law</u> – “Regional Systems for Protection of Human Rights”</p> <p><u>Law of the European Union</u> – “Political Rights of the Citizens of the European Union. Other Rights, Guaranteed by the Law of the European Union. Protection of Human Rights in the European Union.”</p> <p><u>Penal Procedure Law</u></p>	-
NBU	Fundamental rights of citizens and their protection	Optional 3	30 hours lectures	First year, First semester	Yes	No	<p><u>Constitutional Law</u> – “International Protection of the Fundamental Rights of the Person and of the Citizen. Conditions and Procedures for Protection According to the Convention (the role and the case-law of the Court are presented)</p> <p><u>International Public Law</u> – “Regional Systems for Protection of Human Rights”</p> <p><u>Law of the European Union</u> – “European Citizenship and the Human Rights in the European Union. The Charter of Fundamental Rights of the European Union.”</p>	<p>solving cases</p> <p>A legal clinic on human rights focusing on refugee law, but also anti-discrimination-national issues and others started</p>
UNWE	International protection of human rights	Optional -	-	-	No	No	-	-
	Human rights	Obligatory 3	30 hours lectures, 60 hours independent preparation	First year, second semester for regular students; second year,	No	No	<p><u>Constitutional Law</u> – “Protection of Fundamental Rights”</p> <p><u>International Public Law</u> – “Fundamental International Acts for Human Rights and their Protection. The Rights of Women as Human Rights. International Protection for People from the Minorities”</p> <p><u>Law of the European Union</u> – “Fundamental Rights and Freedoms in the European Union. The Charter of Fundamental Rights of the European Union. Accession of the European</p>	<p><u>Legal clinics</u></p> <p>“Legal defense in criminal matters”, “Legal defense in labor matters”, “Legal protection of consumers”;</p>

PU				third semester for extramural students			Union to the Convention”	“Working with NGO’s”; “Preparation of prosecutorial acts”; “Preparation of judicial acts” and others. <u>Student’s legal academy</u>
VTU	International protection of human rights	Facultative 4	30 hours lectures for regular students 15 hours lectures for extramural students	2 year, 4 semester	No	No	<u>International Public Law</u> – “Regional Systems for Protection of Human Rights” <u>Law of the European Union</u> – -	-
RU	International protection of human rights	Optional 3	30 hours lectures	3 year, 5 semester	No	No	<u>International Public Law</u> – „Regional Systems for Protection of Human Rights” <u>Law of the European Union</u> – “European citizenship. Fundamental Rights according to the Treaty on European Union”	<u>Legal clinics</u> “Administrative law and Process”; “Family and Inheritance Law”; “Labor Law”
SWU	Protection of human rights	Optional 3.5	45 hours lectures 75 hours extracurricular	4 year, 7 semester	No	No	<u>Constitutional Law</u> – “Constitutional and International Protection of the Rights of Individual” <u>International Public Law</u> – „Fundamental Human Rights and Freedoms according to the Contemporary International Law” <u>Law of the European Union</u> – “Fundamental Rights and Freedoms of the Citizens of the European Union. The Nature of the Charter of Fundamental Rights of the European Union. Accession of the European Union to the Convention.”	<u>Legal clinics</u> for administrative, civil and penal law and processes Educational court room, inaugurated with a moot court simulating a procedure before ECtHR Cooperation with

								Regional and Appellate Court – Blagoevgrad, with the regional representation of the Commission for Combating Traffic of People
VFU	Protection of human rights	Optional 3	30 hours lectures 60 hours extracurricular activities	2 year	Yes	No	<p><u>International Public Law</u> – “International Protection of Human Rights. Fundamental Human Rights and Freedoms according to the Contemporary International Public Law.”</p> <p><u>Law of the European Union</u> – “Citizenship of the European Union and Fundamental Rights”</p>	Solving cases with actual problems related to human rights
BFU	Legal protection according to the Convention	Optional 4	20 hours lectures 20 hours lectures for regular studies; 25 hours lectures for extramural studies	5 year	Yes	Yes.	<p><u>International Public Law</u> – “Fundamental International Treaties and Systems for the Protection of Human Rights. The Convention and its Importance in Contemporary Conditions. The Court – its Origins, Characteristics and Conclusions of its Previous Activity.”</p> <p><u>Law of the European Union</u> – “Fundamental Rights of the European Union. The Charter of the Fundamental Rights of the European Union. The Convention.”</p> <p><u>Penal Procedure Law</u></p>	Legal clinic

1. Teaching of human rights as an independent discipline

The curricula of the universities with a law faculty show that everywhere within the course Law human rights are taught in individual courses. The only Bulgarian university with a law faculty, in which the discipline “Human Rights” is mandatory, is the Plovdiv University. The other universities have not exercised their right under Art. 7, para. 4 of the Regulation to make this discipline obligatory and at seven of them it is optional; at the Veliko Tarnovo University it is facultative.

The hours of study vary between 15 and 45 hours of lectures and extracurricular activities, which consist of individual work in a library or with resources. Only at the Burgas Free University seminars take place for the regular students. The assessment is made on the basis only of the exam, with the exception of Burgas Free University, where the participation in discussions at seminars and a prepared paperwork to an assignment is taken into account. At the South-west University it is also stated that it is taken into account an assessment throughout the entire course.

As a rule, at the universities are taught the nature of human rights and their classifications, philosophical and historical developments that are also often regarded within Constitutional Law, the universal and regional systems for protection. The theory of the Convention and the Court are present on a varying degree.

Within the discipline “Human Rights” at **the Sofia University** they are considered in 12 of the total 30 hours of lectures (9 for extramural learning). Thus they are allocated a relatively large space as compared with **the University for National and World Economy**, where they are subject only of the themes “General Characteristics and Structure of the Convention” and “Bodies and Procedures for Handling Applications under Art. 33 and 34 of the Convention. Advisory Opinions under Art. 47 of the Convention” from out of 20 themes. However, it is clear that at the Sofia University for the provided time it is not possible to enter in deeper analysis of the content of the individual rights and freedoms and the case-law of the Court. After the general review of the Convention and the organization of the Court, remain six hours, including two focused on the procedure. Therefore, for us the purpose stated in the curricula is doubtfully feasible – the students in the second year should acquire “skills to understand, analyze and comment on judgments related to the topic”, as well as “to work independently with the acts on the protection of human rights” and “to make an analysis of cases related to violation of human rights”. At the Plovdiv University the Convention is regarded generally – the creation and mechanism of application and the case-law of the Court is a single topic. With the one in relation to Protocol № 12, the topics on the Convention are three out of total 27. At the New Bulgarian University is taught “Fundamental Rights of Citizens and Their Protection”, which discusses the individual rights, but it seems to focus more on constitutional rather than on the international guarantees. At the Veliko Tarnovo University, half of all 20 topics are dedicated to the Convention and the Court and in four of them the right to life, prohibition of torture, the right to privacy and freedom of thought, conscience and religion are considered. At the Ruse University all rights under the Convention and the Protocols thereto are considered in four of the 19 topics and the procedure before the Court is not taught at all. At the South-west University one topic is focused on the

Convention and two on the Court, from a total of 24 topics, but the hours for lectures are the most. At the Varna Free University to the Convention is dedicated one of the 18 topics and one on the case-law of the Court. A deeper analysis of the Convention rights is performed actually only in the discipline at the Burgas Free University, which is focused only on the Convention and includes a detailed study of the case-law of Court and there are seminars carried out.

There is a variety of solutions adopted regarding the time for teaching the independent course in the framework of the five years education in law, but more often it is performed within the first two years. It is uncertain at that time to what extent the students have received knowledge on the main legal disciplines, enabling effective acquiring of the standards on individual rights, which concern extremely diverse substantive issues and also procedural questions, which are taught at the end of the law education. Along with the hours of study, the forms of education and the content of the respective courses, this fact also gives information to what extent this discipline can really provide students who want additional expertise in human rights and in particular in the Convention and the case-law of its application, as provided in § 1, item 2 from the Additional Provisions of the Regulation. It has to be concluded that in the large number of law faculties it provides in practice only general knowledge, i.e. it is rather introductory into the course of Law. Such introduction is positive and valuable, but alone in itself it cannot give an adequate preparation for future lawyers to apply international treaties, in particular the Convention.

At the Roundtable the professors of human rights from the Czech Republic and Poland argued that the study of human rights at the beginning of the legal education is more appropriate because they are somewhat a separate matter, in the sense that the application of international standards requires rather knowledge of the case-law – primarily of the Court, than national law, which could always be consulted, on the other hand, in that way the students get more sensitive to the issues and the thinking from the perspective of human rights, which is useful in the latter learning of the fundamental legal disciplines. As an argument for the study of human rights in first courses representatives from the New Bulgarian University indicated the circumstance that in the last courses the students' workload is very big and then begins the preparation for state exams, which do not include International and European Law – according to Associate Professor Katerina Yocheva it's a gap that should be filled in the future, and the same leads to less interest in the matter at the end of the law education. In addition, at the New Bulgarian University it is planned as from next year that in the last courses will start three specializations and it is possible to discuss that the topic Human Rights be present more seriously in one of them.

On the question, whether it is better that the special discipline is mandatory or optional, at the Roundtable the Czech professor express an opinion that with regard to student motivation there is no big difference between mandatory and optional disciplines. The advantage of obligatory disciplines, according to his observations, is lost when the students lack motivation to engage seriously, but by the optional disciplines their motivation is often associated with the fact which course requires less preparation.

In our view, these issues need to be considered in the light of the whole curriculum, so that within the mandatory courses to be obtained both a solid basic preparation in human rights and in particular in the Convention, and a deeper knowledge through horizontal teaching of the relevant matter in each discipline. Thus, the university education should provide the minimum necessary knowledge and skills in order that the future lawyers be able to apply in their work the international human rights treaties as part of our domestic law and in particular the Convention, in the light of the case-law of the Court in Strasbourg. Moreover universities should be encouraged to introduce more widely also optional courses for supplementary specialization in the matter, and for those wanting to expand their knowledge further – to offer special programs for graduates of law.

2. Teaching of human rights in the framework of the mandatory core legal disciplines

a) In most of the law faculties the international legal protection of human rights is more or less represented when teaching **Constitutional** and **International Public Law**. Perhaps because of the approach adopted by all Bulgarian law faculties of teaching human rights in an individual discipline, from the time spent on it in the curricula or, where it is not indicated, from their relative importance it does not seem that a detailed study of the contents of the rights guaranteed by the international treaties, and in particular the Convention is carried out. In the program of Constitutional Law at the New Bulgarian University the theme dedicated to the fundamental rights in the curriculum, for example, is stated the teaching of the conditions and procedures for protection under the Convention and the role and the case-law of the Court – but given the total amount of information on the matter, it apparently only gives a general presentation than their detailed teaching. At the Sofia University, to the topic “The Constitutional Status of the Human and of the Citizen of the Republic of Bulgaria” was allocated a total of 6 of the 150 hours of lectures and 4 of the 63 questions in the syllabus, and in the other faculties the situation is similar. That is hardly enough, and also it does not seem that a detailed comparison is performed between the contents of the rights in the Constitution and in the Convention and the reasons for their limitation, when it is admissible. Within the

discipline International Public Law to the international legal protection of human rights are devoted four out of ninety hours in both published curricula and one question in the syllabus of the Sofia University, which indicates that most likely a review is made of the functioning of the international human rights treaties in the internal legal order and general knowledge of the Convention and the Court, the same is happening also at the other faculties. At the Roundtable representatives of the New Bulgarian University stated that within the 30 hours of individual preparation in International Law an analysis of judgments of the Court in Strasbourg is assigned to the students.

b) It was examined to what extent the Convention and the case-law of its application are studied within the discipline **Law of the European Union**, which according to Art. 7, para. 2 of the Regulation is among the mandatory disciplines in Law. The Charter of Fundamental Rights of the European Union is part of the taught matter in this discipline and most of the rights and freedoms, which it guarantees are in line with those in the Convention and their meaning and scope are the same as those laid down in the Convention (Art. 52, § 3 of the Charter), i.e. they should be interpreted and applied in light of the case-law of the Court. The curriculum of this course in the law faculties shows, however, that the fundamental rights generally do not hold an important place and seems that seldom the case-law of the Court is being taught.

c) As regards **the other mandatory core disciplines**, the curricula of **Criminal Law and Procedure, Administrative Law and Procedure, Civil Procedure, Family Law** were studied, insofar as they are available on websites of the respective law faculties or were provided to us. These are not the only courses, in which issues relevant to the human rights are studied, of course, but they include issues closely related to the rights and freedoms guaranteed by both the fundamental universal international treaties and by the Convention, and there is a lot of case-law of the Court on these matters and therefore these courses cannot be understood by the future practicing lawyers without taking into consideration the said case law.

Only in some of the curricula of **Criminal Procedure** it is expressly provided that the teaching of the material is to be carried out in the light of the standards in the Convention. Thus, according to the curriculum of the Sofia University issues regarding the evidence gathering and the guarantees for a fair trial are taught in the light of the case-law of the Court, but there are no express questions in the syllabus in that light. At the Burgas Free University among with these questions a general theme is also included: “Nature and Goals of the Criminal Process and its Compliance with the International Instruments on Human Rights (the

Convention, the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights and others)”. In the other law faculties the curricula and syllabuses do not contain guidelines for teaching and examining in the light of the Convention and its case law.

While the absence of explicit instructions in the curricula or the syllabuses does not mean necessarily that the discipline is not studied in this light, the express and consistent provision of teaching and exams in the respective disciplines, which includes the international standards for human rights, in particular of the Convention and the relevant principles and criteria deduced from the case-law of the Court, would exclude the reliance on the goodwill of the professor and will also contribute to the effective exercise of control within the system for assessing and maintaining the quality of education. Participants at the Roundtable from the Plovdiv University shared our view that it is essential that all lecturers in the various legal branches teach the texts of the Convention, which relate to the matter, and the case-law of the Court on them, the more that there are many Bulgarian cases, which provide a lot of issues to consider.

Of course, there is also the issue of the adequate preparation of professors in the respective disciplines on the matters of human rights, also including the issue that the preparation should be always up to date as the case-law of the Court is constantly developing. A problem in this regard was confirmed at the Roundtable by the representatives of the Plovdiv University and the Varna Free University. Parts of the problem are the existing obstacles to invite guest speakers – the provisions of Art. 8 and Art. 9 of the Regulation allow only for facultative courses derogation from the principle that lectures are conducted only by professors and associate professors or by people with educational and scientific degree “doctor” in the respective scientific field. This limits, in our view unduly, the possibility to overcome the existing deficit in teaching by inviting Bulgarian and foreign practicing lawyers and other experts with a proven expertise in the relevant field and is problematic especially when the educational forms are limited only to lectures. We share the opinion⁴ already expressed that the explicit legal regulation of the possibility to invite such lecturers also in the mandatory disciplines would support the undoubtedly necessary strengthening of the practical orientation of teaching. As Milena Kotseva, director of “Legal representation of Bulgaria before the ECtHR” of the Ministry of Justice, recommended at the roundtable that the capacity, for example, of the former Bulgarian judges and of ad hoc judges at the Court should be used as they often possess considerable experience in the teaching of human rights, but also the

⁴ For example, in *Legal Barometer*, issue No. 9

government agents could be invited to give lectures. In this regard, Professor Petar Hristov, dean of the legal faculty of the Varna Free University, put also the question of the method to ensure quality of education and expressed the opinion that in our country unfortunately the method is entirely administrative rather than entrepreneurial, economic – so the goal is to get more “points” (when the university is being accredited) and not to ensure quality. In his opinion, the regulation is severe, the many quantitative indicators set out in the University Education Act, the Regulation and finally in the adopted by the National Agency for Assessment and Accreditation *Criterial system for institutional accreditation* – providing mandatory disciplines, the number of professors and associate professors, in conjunction with the measures related to age of the professors, who have their main labor contract with the university, are too restrictive and sometimes inexplicable. We share the concerns of the excessive regulation and the weight given to quantitative indicators. The philosophy of the criterial system is to reduce the subjective element that occurs in the absence of clearly defined and sufficiently differentiated in detail indicators for assessment of the respective sphere, but fixed quantity indicators always pose the risk of formalism by the assessment. The statutory minimum of professors and associate professors was introduced as an institutional guarantee for high quality of teaching. In that regard, the old age of professors is hardly a greater threat than the desire of the universities to reduce the requirements for becoming professor or associate professor in order to fulfill the criteria. Such a trend was observed after the adoption of the Development of Academic Staff Act. Since its entry into force the number of specialists in different fields, who have received academic degrees and titles rose incredibly, because all universities were given the possibility to announce competitions for associate professors and professors at very favorable conditions in comparison with the repealed Academic Degrees and Titles Act.

3. Other disciplines and Master’s programs related to the human rights

Along with the said independent core disciplines, within which are taught human rights, the curricula contain also other closely related subjects. For example, at the Sofia University are taught the optional disciplines “Organization of the Law Enforcement Institutions” (the Convention is reviewed in two of the 30 hours of lectures), “Legal Regime of Classified Information” – also taught at the Varna Free University), “Environmental Law” (also studied at the New Bulgarian University, the South-west University, the Ruse University, the Varna Free University, the Burgas Free University) and the obligatory “Information Law”; at the New Bulgarian University – the optional discipline “International justice” (also at the Burgas Free University), “Police Law” (also at the South-west University, the Plovdiv University, the Ruse University, the Varna Free University), “Legal Regulation of Electronic Media”,

“Refugee Law” (also at the Plovdiv University) ; at the South-west University – optional subjects are: “Protecting the Rights of the Child” (also at the Plovdiv University and the Ruse University), “Migration and Refugee Law” (also at the Burgas Free University); at the Plovdiv University – the optional subjects “Constitutional Justice” (also at the Ruse University), “International Criminal Law” (also at the Ruse University, the Varna Free University), “Medical Law”, “Police intelligence”, the facultative “Equal opportunities and actual gender issues”, “Legal framework of regional international organizations”, “International Legal instruments for combating terrorism”; at the Burgas Free University – the optional subject “Media Law” and other disciplines.

It should be noted, however, that from their curricula it is not always clear if and to what extent the matters are examined in the light of the Convention or the judgments of the Court, although there is significant case-law in relation to many of the issues within these subjects.

At the Roundtable the participants from the New Bulgarian University added that there the Convention is studied also in the discipline “Foreign Policy”, which is mandatory and is taught in the first year – the active preparation and participation of students is provided through the presentations made by them on every single Article of the Convention. Within the 30 hours given for independent preparation in International law, for several years it is assigned to make an analysis of judgments by the Court. It was also pointed out that at this university are presented also general courses – in one semester or two semesters, within some of which human rights are also presented, as it is understood that it is good not only for lawyers but also for other students to acquire information in this field, as well that there are additional disciplines with such courses, which their students take mostly as a second course – for example “The Legal System and Legal Protection in the European Union”, with 30 hours devoted only to the system under the Convention and its amending acts. The South-west University is conducting a project, whose goal is to approbate a new course related to the combat against human trafficking. The South-west University also stressed that the course “Protection of Human Rights” is studied not only in the course Law, but in “International Relations”, “European Studies” and “Public Administration”. It is the same situation at the Sofia University, the New Bulgarian University and other Bulgarian universities and this should be noted, although, as already said, our research was focused on the teaching of human rights in the course Law.

The Sofia University participates in the European Master's program for human rights and democratization (E.MA).

4. Recommended Reading for preparation

The performed study shows the lack of modern books on human rights among the recommended literature in the syllabuses. For example, a book often recommended is “The human rights in the world today” by A. H. Robertson and J. D. Merils – edition from 1994, which is no longer “today” and “The European Convention on Human Rights - Theory and practice” by P. Van Dyke and G. H. van Hoof from 2000, which has a newer edition. The Recommended textbooks, monographs and studies by Bulgarian authors, which examine the case-law under the Convention, are also often quite outdated. Such books, of course, have not lost their value in many key aspects and the negatives, which the presence of older sources brings under the criteria system for the accreditation of the program, are hardly justified in each single case. Similarly, the large number of textbooks and publications in the last five years as an indicator does not show if they are valuable or not. But the matter of human rights is dynamic and it is for sure necessary to use contemporary literature. Obviously there is a problem with the availability of relevant translated literature, reflecting the latest developments in the interpretation and the application of the Convention and changes in procedure, and the need to stimulate research and publications in the area from the Bulgarian academic staff and more generally from the legal community. Works like “Theory and Practice of Judicial Proceedings in Criminal Cases. Adversarial Nature of Proceedings in the Light of the ECHR” by Ivailo Tsonkov – publishing Ciela, 2014 or „The Family Code – Commentary for Application” Collective of authors, Labour and Law, 2015, in which a number of issues (for example adoption, relations between parents and children) are analyzed in the light of established case-law of the Court’s standards should be welcomed. As pointed out at the Roundtable by Mrs. Milena Kotseva for updating the curricula on human rights at the universities and for the facilitation of the professors in their horizontal teaching will contribute the Bulgarian translation of the renowned up-to-date edition of the University of Oxford work by Harris, O’Boyle and Warbrick on the Convention, which will be published in 1000 copies and will be distributed free of charge among all law faculties, in the framework of the project performed by the Ministry and funded again by the Norwegian legal mechanism.

B. At the Academy to the Ministry of Interior

At the Academy to the Ministry of Interior human rights are studied as an obligatory discipline in those courses, which are in the table.

Faculty	Independent university subject	Mandatory or optional credits	Hours of lectures Type of activities	In which year	Special master's programs in human rights	Practical or other special focus of the discipline	Does it concern the case-law of the Court in regard to Bulgaria	Teaching of the Convention and the case-law of the Court in other disciplines	Extracurricular forms, legal clinics, summer courses
Police	Protection of human rights	Optional 2	30 hours lectures and 30 extracurricular activities	1 year	-	-	-	-	Practical internship at the Police station and the protection of human rights
Combating crime and maintaining public order (Bachelor)	Protection of human rights	Mandatory 5	30 hours lectures and 120 hours extracurricular activities	1 year	-	-	-	-	Practical internship at the Police station and the protection of human rights
Public administration (Bachelor)	Protection of human rights	Mandatory	30 lectures and 90 extracurricular activities	3 year	-	-	-	-	Practical internship

Furthermore, in the courses for Bachelor in “National Security”, in “Combating Crime and Maintaining Public Order” is taught the optional subject “Organization of Law Enforcement Institutions”, the obligatory course “Police Law” and other disciplines. Human rights are not studied in the courses “Strategic Direction and Management of Security and Public Order” (Master’s) and “Protection of National Security” (Master’s).

In addition to the said, at the Roundtable was stated that the issues of human rights are reviewed in the framework of different legal disciplines - Administrative, Constitutional, Criminal law and others. During the last year within the Master’s program “Public Administration” a new discipline has been launched – “Protection against Discrimination”, which within 30 hours it presents the international standards on protection of human rights, including the European system and the national Anti-discrimination Law with an emphasis on the Commission for protection from discrimination, as well a special module “Hate Crimes”.

It was observed that the students in the Master's program have interest in it and that it is carried out together with the Commission for Protection against Discrimination – in particular its members are invited to present the practical aspect of its work. The Academy also offers a special module “Police Protection of Human Rights”, but it is taught in the initial professional training of officials from the Ministry of Interior, who finished other universities. In Border police last year was conducted training for trainers on human rights, developed with the agency *Frontex*, which is planned to be carried out systematically. Apart from that, the Academy is actively involved in various projects related to the protection of human rights as “Police without Discrimination”, a course for police investigators on issues related to anti-discrimination legislation, hate crimes and working with victims of such crimes.

IV. Syllabus

The syllabuses for state exams in public, criminal and civil law, for legal capacity, the competitive exams for initial appointment of judges in civil, administrative and criminal law, as well as in exam for lawyers and junior lawyers do not include the Convention or its application in practice. Our opinion that an exam in this matter is necessary and, among other things, would promote the systematic teaching of the Convention and the interest in it was shared at the Roundtable by the Associate Professor Katerina Yocheva, who, as already mentioned, believes that a separate state exam in International and European Law should be made. Associate Professor Gabriela Belova from the South-west University also supported the view that this problem should find a place in the state exams, with which students, who study Law, graduate.

V. The teaching of human rights and in particular the ECHR and the case-law thereon in other European universities

A. Information from a study of the Council of Europe published in 2006⁵

⁵ Tables on the implementation of the five recommendations, STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH), Strasbourg, 7 April 2006, CDDH(2006)008 Addendum II

The survey was performed by asking the Governments of the Member States. It was found that **at the Western European universities** the Convention and case-law on its interpretation and application are taught for decades in lectures and seminars in the law faculties – horizontally within the core legal disciplines and as separate obligatory or optional courses.

For example, in **Norway** the education on the Convention and the Court’s case-law for many years is part of the obligatory disciplines like Constitutional Law, Criminal Law, Criminal and Civil Procedure, Administrative Law, Civil Law. The law faculty of the University of Oslo offers a Master's in human rights. In **the Netherlands** in all core disciplines attention is devoted to the Convention and in all universities “Human Rights” is taught as an additional subject. Similar is the situation in **Belgium**, where some universities offer specialized Master’s programs (“Certificates”) in human rights within one academic year (Brussels Free University and the faculties Saint Louis in Brussels and Notre Dame in Namur). In **Denmark** the obligatory for a Bachelor’s degree subjects include core disciplines in International Law and Law of human rights and also the Convention and the case-law of the Court are incorporated in other obligatory subjects like Constitutional, Criminal, Procedural and Administrative Law. The Master’s degree offers numerous courses in International Law and Law of human rights, most of which are either dedicated solely on the Convention, or at least include the Convention as a substantial part. Article 10 of the Convention is covered in detail in courses of “Media Law”. In **Finland**, at the faculty of law of the University of Turku an education relating to the Convention is provided at all study levels and the Convention is the core of the European Law and its application occupies a central place. In Constitutional Law, the focus is on domestic aspects of Human Rights and the connection between the Convention and the national system. At the University Of Helsinki, is offered a special course – “The European Convention of Human Rights” and the requirements in Constitutional Law include a compulsory examination in the Convention. At the University of Tampere, the human rights are integrated in the first cycle degrees, and in Public Law there is a compulsory section in fundamental rights. In all law faculties the Convention principles are introduced in the discipline Constitutional Law, which is one of the core courses in the Bachelor’s degree. The Convention and the case-law of the Court are also discussed in other required courses. At the master’s level, law students have the possibility to follow a wide range of courses in international law and human rights. At the University of **Iceland**, one course is based solely on the Convention and the case-law of the Court. In all law faculty in Iceland principles of the ECHR are studied in courses on Constitutional Law, which is a core discipline for a Bachelor's degree; Convention and the ECtHR case-law are also discussed in other mandatory

courses. The students in Master's programs may be able to choose between several courses in International Law and human rights, at the University of Iceland a complete course is devoted exclusively to the Convention and the Court.

The study shows that after the ratification of the ECHR in **universities in the former socialist states** are also widely introduced **special courses** on human rights. At that time, in some states it is left to the choosing of the universities (**Azerbaijan**) and in others (**Estonia**) the authorities approved national curriculum, which involve the study of human rights. In different universities the special disciplines "Human Rights" are either obligatory, or optional. In **Poland**, for example, at the time of the survey, the independent course "Human Rights" is obligatory only at the University Nicholas Copernicus in Torun. In **Slovakia** there is a mandatory course only in the faculty of law at the University of Trnava, as is stated, it gives the opportunity to deal in detail with the case-law of the Court. In **Lithuania**, a special discipline "Human Rights in Europe and European Union" is obligatory for students specializing in the matters of International and European Union law and is an optional discipline for students of others specializations. It is noteworthy that some of the disciplines on human rights offered in the other post-communist countries are more concentrated on the ECHR and the case-law compared to the subjects taught at the Bulgarian universities – for example, in **Armenia**, at the Yerevan State University started the following discipline: "The European Judicial System of Human Rights Protection", which mainly covers issues regarding the ECHR and its practice; in **the Czech Republic**, at University of Olomouc – the only one (at that time) from the state universities with a law faculty in the country in which the independent subject is mandatory, it is "European Protection of Human Rights". In **Moldova** as of the academic year 2003-2004, at the Moldovan State University is taught the discipline "Law of the ECHR". **The teaching of the Convention in the programs of the core mandatory legal disciplines** is indicated by **Poland** (Constitutional, International, Criminal and Civil Law), **Bosnia and Herzegovina** (Constitutional and International Law, European Union Law, Criminal Law and others), **Croatia** (where the Convention and its application in the case-law at that time are not taught as an independent discipline, but make up a significant part of the programs of Constitutional Law and International Law), **Lithuania** (where at the Vilnius University the Convention is seriously studied in the lectures on Constitutional, Criminal and Civil Procedures and others). Some countries have reported that the study of human rights and in particular the Convention at police academies. For example, in **the Czech Republic** the independent subject, including the studying of the Convention is set out as in principle obligatory at the academy. In **Armenia**, according to the given information the discipline covers the case-law under the Convention. In **Latvia** the human rights and in particular the Convention and the ECtHR case-law are mandatory subjects in the

educational programs for police, penitentiary, migration and other similar categories of officers and in the Master's is included an optional course "Human Rights".

In many European states, **practical training** in human rights is provided by moot courts - as **Austria, Norway**, where law students participate in the annual competition *Sporrong and Lönnroth*, moderated by professors, judges and lawyers. In **Denmark** the universities of Copenhagen and Aarhus have a distinctive profile in preparation for participation in international competitions – simulated processes, and they regularly send teams, including in the famous competition of the Scandinavian states, with a focus on the ECHR. The University of **Latvia** is supporting financially the participation of students in international competitions – simulated processes in International Law, and the European Association of Law Students (ELSA) is active in a similar competition between Latvian law faculties, which involves real problems of human rights in the state. Within the education **France**, for example, shows as a measure to improve university education on the Convention the invitations to prominent experts in its application, like judges from the Court and members of the Registry, teachers in the specialized third cycles of the university education, lawyers and members of the specialized governmental structures participate in activities with the students.

From the countries, which provided information on exams and competitions for access to the legal profession, a good example is France, where the exams systematically include the Convention. Within the competition for admission to the National School of Magistracy are conducted examinations in Public and European Law and the admission in the regional centers for professional training for attorneys is made after a practical written exam – one of the options at that time being is Community and European Law, exposé on an issue related to the Protection of Fundamental Rights and Freedoms and an oral exam, which may have as an object Community and European Procedures. The knowledge of International Law, including human rights is checked at the competitions for the appointment of prosecutors in **Estonia** and **Latvia**. In **Lithuania** the case-law of the Convention is included in the syllabuses of the special exams for judges, prosecutors, attorneys and enforcement officers prepared by the Ministry of Justice.

B. Information presented at the Roundtable

Professor Carmen Thiele from the University Viadrina in Germany presented his specific role and his programs in "Human Rights" and the participants from the Czech Republic and from Poland – the current situation with the teaching of human rights in their states.

1. Human Rights Teaching at the University Viadrina in Frankfurt an der Oder

It is the first to act as a bridge between the Eastern and Western European countries after the fall of the communist regime. By agreement between it and the University Adam Mickiewicz in Poznan in Poland was created the so called *Collegium Polonisum* – an institution established by German and Polish Universities on both sides of the river Oder. Between them there is a bridge – not only in a geographical sense but in the sense of cooperation between Eastern and Western European states, especially Germany and Poland. The University has only three faculties – Legal, Economic and Cultural Studies and differs by its international concept (the most international University in Germany in regard to students and also professors), an interdisciplinary approach (students from each faculty have the duty to take mandatory courses in the other two) and the particular attention being paid to the learning of foreign languages (there is a special centre for languages).

At the law faculty various programs are covered, as the main program is aimed at preparing the students for the first state exam, after which they can choose a second area of specialization. In Germany in Law and Medicine the Bologna process is not accepted, but the University offers Master's programs, additional for the students from Germany and abroad. The first course at the law faculty of Viadrina is "German law", which prepares the students for the first state examination. For practitioners – lawyers or judges, however, it is necessary not only to pass the said exam but also a second state exam. At Viadrina the preparation as a rule includes the first – 9 to 10 semesters, i.e. 4 – 5 years, after which the students have to pass a mandatory traineeship and only then prepare for the second state exam. The second course is "German and Polish Law", which can be studied both in the Bachelor and Master's program. This is something special for the University because of its function as a "bridge". The students from Germany and Poland learn together – the German law at "Viadrina" and Polish law – at "*Collegium Polonicum*" and at the end of their studies receive two certificates – in German and in Polish law. Here the Bologna process applies, but those, who successfully passed this program, cannot be judges or lawyers in Germany. More than half of the students graduating from this program continue in the first program and prepare for the first state exam. The third course is the new Bachelor program in German – "Law and Economics", which has an interdisciplinary character. In the third semester students can decide whether to specialize law or economy, so there are two streams – "Law and Economics" or "Economics and Law". In the next year it is envisaged to create a course "Law and Political Science", respectively "Political Science and Law". The fourth program is a Master's and it is carried out exclusively in English – "International Law of Human Rights and International Humanitarian Law". In the preparation for the first state exam in the course "German Law" is taught the subject "Constitutional Human Rights" i.e. a subject, concentrated on human rights

– 30 hours, which are mandatory for all students, while “International Law of Human Rights” – the universal system and the European system, mainly the ECHR is an optional subject. The students in “German Law“ in the fifth semester have the opportunity to choose between ten specializations, including “International Law“. If they choose this, they go through a mandatory course “International Law of Human Rights”, which provides an in-depth knowledge of substantive and procedural law through lectures, seminars and moot courts, providing practical skills. For students – bachelors and masters in the course “German and Polish Law“, “Constitutional Human Rights” is a compulsory subject, while “International Law of Human Rights“ is optional. “International Law of Human Rights” and “Humanitarian Law” are Master’s programs (LL.M.) in English and the students, who study in this course dedicated to the human rights, learn various fields thereof. The course is taught for three semesters.

As a form of the multiple arrangements under the “Socrates” – now “Erasmus“, is created a new program – **the summer course “The European System for Protection of Human Rights“**, which began in 1999. Every September international summer courses are held for two weeks, in which participate about 60 people from around the world. The professors are around 15 – from different European partner universities. In this summer course students, young lawyers and professors discuss together current issues concerning human rights, and enrich their knowledge on the existing mechanisms for their protection, especially in Europe. They receive in-depth knowledge on three systems: the Council of Europe – the European Convention on Human Rights; the European Union – The Charter of Fundamental Rights; the Organization for Security and Cooperation in Europe – mainly the Copenhagen Document. The program of the summer course gives an interdisciplinary approach, which provides the students with not only legal, but also philosophical, political and economic overview of the issues discussed and at the same time helps to acquire also practical skills for the use of the mechanisms in their daily work. The aim of the program is to expand the knowledge in connection to the human rights in a transnational European context, the acquiring of knowledge about the three mentioned mechanisms and providing intercultural communication and knowledge exchange, as well as providing practical skills to use these defense mechanisms for protection, especially the mechanism of the individual application before the ECtHR. The inclusion of professors from other European universities gives as well diverse approaches to the teaching of human rights and this diversity is valued high by the students. As professionals always are invited representatives of the European Union Agency for Fundamental Rights in Vienna and the German Red Cross, which emphasizes the desire to bring together theory and practice, as well as different approaches to teaching. The composition of the students is international – they are not only from Europe, but also from

America, Africa and Asia. The program consists of lectures, seminars and moot court. In the first week in the morning are conducted lectures and in the afternoon there are seminars focused on the deeper studying of the questions posed in the lectures, which are discussed with the professors and then are discussed current problems of human rights in Europe. A moot court is carried out mainly in the second week, as the students work on a case that they should present before the Court. They are divided into three groups – applicants, government agents and judges – and have the opportunity to discuss and prepare their written observations and pleadings within a few days and at the end an oral hearing takes place, which is the emphasis of the summer course. As for the themes of the lectures – philosophical concepts and historical aspects are taught, a comprehensive view of the institutions and mechanisms for protection of human rights is provided – not only the European, but the universal and other regional systems. This is necessary due to the diversity of students, who could also make a comparison between the diverse systems, as well the European lawyer has to get acquainted with the universal systems, which are available for him. If, for example, the deadline for submitting an application before the Court has expired, lawyers have to know that it is possible to submit an application before the Committee on human rights in Geneva, pursuant to the International Covenant on Civil and Political Rights and the Facultative Protocol thereto. The Charter of Fundamental Rights of the European Union is discussed, as well. The substantive law, which is examined, covers, for example, the right to life, the prohibition of torture, the right to a fair trial, communication rights: freedom of expression, freedom of assembly and association, etc., the link between human rights and humanitarian law, refugee and migration law, the procedure for submitting an application before the Court and others. Prof. Thiele emphasized on the many benefits of these summer courses. At the end of them the students acquire a certificate for participation, which gives 10 ECTS and these are a lot compared to the credits acquired during an entire semester. Thus, this is a good opportunity because the program is very intense – the whole course consists of 80 hours, equivalent to 10 ECTS. Over the weekend between the two weeks an educational visit to Berlin, to the Parliament and to other Polish and German cities is provided.

Very often the participants in the summer courses wanted to acquire additional knowledge and obtain a Master's degree, therefore, following their idea „**International Master's Program in Human Rights and Humanitarian Law**“ was created. This program focuses on the European human rights because the Convention is the basis for other regional systems for human rights. It is three semesters, which provide 90 credits, it is unique in Germany and is very successful. The summer course is conducted in English. Its objectives are education in human rights in time of peace and during armed conflicts, intercultural communication, as the professors and students are also from many different countries, as well as preparation of the

students with practical skills that they could apply independently under the existing mechanisms and procedures in everyday life. The lecturers are the same as in the summer courses, more specialists from the Red Cross and from the European Centre for Human Rights participate. There is a lot of diversity again as regards the students. The number of students from Asia is prevailing and from 40-50 students only 3-4 are Germans. The Master's program also has three parts – obligatory module, optional module, where the students can acquire theoretical and practical skills, and experience in practice – traineeship and thesis at the end. The mandatory part consists of an introduction to the International Law of Human Rights and Humanitarian Law. In principle, the program is for law students, but as exception students from similar courses as International Relations could participate therein. Introductory course in the basis of International Law, its principles and sources is offered to enable all students to start the program at the same level. Further, the obligatory module deepens the knowledge in the diverse aspects of human rights – civil and political rights, economic, social and cultural rights, then continues with special themes – prohibition of discrimination, rights of women and children, minorities, provision of shelter, personal criminal responsibility and state responsibility, personal criminal liability in cases of violations, State liability for the breach of human rights or of international humanitarian law, etc. The optional module includes education in conflict prevention and management thereof – one of the most successful modules at the faculty because it has a special Centre for prevention and management of conflict with an extensive experience in conflict situations, and then it continues with the basic principles of management and the administration of interests, massive violations, research and writing. As to the practical training, students have the right to choose to apply in an administrative authority or in a NGO in Germany, in their country of origin, in an international organization or in a third country and they must receive approval from the Academic Council for the particular internship. At the end, they prepare a thesis. The students have the possibility to adapt the program to their own personal and professional live through the offered options for full-time or part-time education that lasts respectively three or six semesters. Various certificates are provided – by 30 credits they acquire Certificate in Human Rights and Humanitarian Law, by 60 – a diploma, and by 90 – a Master's degree. To enter the course it is required, except to have been graduated in Law or in another similar course, which should be considered by the Council for admission, motivation for the program, fluent English and payment of a fee. For the summer course it is 490 euros, as scholarships from German academic exchange councils are provided. In comparison with other summer courses, the cost of this one is very low, thanks to the services at affordable prices from the Polish side. The fee for the Master's program is € 4 900 and scholarships are also offered. Many students benefit from them, because they are applying before various German foundations. The graduates of the programs have a very successful career – in the registries of the International Court in The

Hague, at the ECtHR, at the Court in Luxembourg. They have done study tours of the Strasbourg Court, as the professors prepare them for the case, which is going to be considered, and study tours are carried out also of the other two courts.

2. Teaching human rights in the Czech Republic

Mr. Jan Kratochvil, professor of human rights at the University Palacky in Olomouc, underlined that in the Czech Republic according to a decision of the Constitutional Court the Convention and the other international treaties form part of the Constitution and as the competent authority to interpret the Convention is the European Court of Human Rights, whenever the Convention is applied at the national level the case-law of the Court should be taken into account. The Constitutional Court has also accepted that if a party before any court puts an argument based on the case-law of the Strasbourg Court and the court does not respond thereto, this may be a breach to the right to a fair trial. Although the ordinary courts must apply the Convention and the case law, however, they are rarely doing it, which according to Mr. Kratochvil can be explained also by the lack of education in human rights, especially in the past.

Systematic teaching within modules on human rights has started a few years ago and the currently working judges in the Czech Republic do not possess the needed knowledge. In the Czech Republic there are only four law faculties, in one of which there were problems and although it is functioning, in its website are not listed special courses on human rights, which are probably studied as part of the discipline “Constitutional Law“. Mr. Kratochvil presented data how human rights are taught in the other three law faculties.

At the Prague University there are both mandatory and optional courses. “Constitutional Law“ is the only mandatory discipline, in which students learn about the Constitution and human rights – a module at the beginning of the education, the second and third semester and at the end of the course there are four lectures: Introduction to Human Rights, Civil Rights, Political Rights and Economic and Social Rights. The students do not study case law, which according to Mr. Kratochvil makes the discipline insufficiently effective. Furthermore, there are several courses that are optional. The first one is “International Protection of Human Rights“ – created in 1990, but it is only taught through lectures – it is focusing mainly on the system of the United Nations. There is a lecture on the European Convention, but the professor is just reading it and Mr. Kratochvil said as a student he heard that lecture, but he does not remember nothing of it, as well as of the lectures on human rights in the subject “Constitutional Law“. A new module was created - “European Protection of Human Rights“, it was thought as much more interactive when it was first introduced a few years ago – the students had to explore the case-law and then they had to discuss it and apply the case-law in

specific cases within the seminars. However, this plan is fulfilled only partly, as it lacks systematization. The classes are taught by different lecturers and although it is assumed that the students prepare in advance, some teachers prefer to just read their lecture, while others rely on an interactive seminar and thus it is difficult for the students to prepare, though they are generally satisfied that they might get familiar with the case-law and are positive about the discipline. The topics, which are discussed, change every year, depending on who is teaching the discipline – they are usually connected with the right to liberty, the prohibition of torture, the discrimination, the fair trial and others. The last course in relation to human rights in Prague, is something similar to a Legal Clinic – it was an Anti-discrimination Clinic although now the name has changed, it is still focusing on anti-discrimination issues and consists of two parts – a theoretical part, where students acquire knowledge on anti-discrimination law, including on the Convention, as well as case law, and a practical part, including traineeship by the Ombudsman, which is a focal point, based on the anti-discrimination directives, where students can apply their theoretical knowledge.

The Brno University first introduced an obligatory course on human rights called “Human Rights and Justice“ in the eighth semester of law education, which in the Czech Republic is a total of 10 semesters – 5 years. The course consists of 12 lectures covering fundamental rights as the right to life, right to liberty, protection from torture and others. The main focus is on the Czech Charter of Fundamental Rights, as well as the jurisprudence of the Constitutional Court, but since the Convention and the Czech Charter are to a great extent inseparable and interchangeable and generally the jurisprudence of the Constitutional Court copies that of the ECtHR, they are very similar. Within the course are also analyzed cases of the ECtHR. The main problem is that every week there are lectures, but only six seminars – one on every two weeks, which are insufficient for discussions with the students on important issues, regarding human rights. The seminars are based not so much on the fundamental rights or the case-law as on the skills – how to write a good constitutional application, how to use arguments in connection to human rights – which is good, but the professors said they would like to have more time for discussions on fundamental rights. That is why one of the lecturers in Brno - Pavel Molek leads an optional discipline, which is called “Current Issues of Human Rights“ and represents an “advanced course“. Motivated students, who want to work with human rights and learn more, to read case-law and discuss problems and cases, take part in it. This course is a very effective way of learning – it manages to keep the interest of the students, who are motivated. Usually about 50 people apply for it, then the professor sends an e-mail to the students, with which he warns them that there will be a lot of reading and learning and sets his own requirements for active participation by them. Finally, 15 or so students remain, who come to the lectures, but they really work, and it is worthed. The case-law included in the

education is not only of the Strasbourg Court, but of the Supreme Court, Constitutional Court, Court of Justice and others. The teacher always conducts one seminar on various topics - for example, “The Implementation of Human Rights in Horizontal Relations“ by choosing a few cases that are being discussed, or “How the Court is Dealing with the Ghosts of the Past“, on crimes during the Second World War, during the Nazi regime, the Communist regime and others. The last course at the Brno University is a legal clinic, which according to Mr. Kratochvil, is the best clinic for human rights in the Czech Republic because it cooperates with many NGO’s, human rights organizations, based in Brno, refugees organizations, and therein the students apply what they have learned in practice.

The last University – in which Mr. Kratochvil teaches human rights and which according to him has the most “luxurious“ conditions for that is **the University Palacky in Olomouc**. The education on fundamental rights is obligatory and is two semesters – the second and third semester, i.e. it continues a whole year. The lectures are 24 and the seminars are 18 – within the first semester one time on every two weeks, in those way all fundamental rights, including the case-law on them, are cover in depth.

The course is on the Czech Charter of Human Rights and the European Convention. The lectures provide an overview and for the seminars the students should read and prepare about 3 cases – of the ECtHR or of the Constitutional Court, and then during the seminar discussions are made and cases for educational purposes are developed, within which students must apply their knowledge. They learn how to work in practice on the facts concerning human rights. There is also a legal clinic on human rights, but it is not quite operational and was never really practically oriented because it does not deal with many real-life problems, but mainly with cases for educational purposes – the students can prepare for moot courts; so it is not proper to call it a legal clinic; it is considered the legal clinic is going to be changed. Simulation trials are used everywhere in the Czech Republic. Each year a national competition – a Moot Court in Human Rights is carried out, within which students from all law faculties, who are not participants in this clinic, could participate. There is also a course “International Law of Human Rights“, in which Mr. Kratochvil teaches, but it is more concentrated on the system of the United Nations, as the European system is studied in the obligatory discipline.

3. Teaching human rights in Poland

It was presented by Mr. Adam Ploszka, professor of “Human Rights” at the **Warsaw University**. In Poland there are many law faculties - 20 public and 40 private, respectively there are many ways to teach human rights. Similarly to Germany, the law education is not part of the Bologna system – the graduation is after a Master’s degree after five years of study and there is no Bachelor degree. Until 2011, a regulation by the Ministry of Science and

University Education was in force, with which uniform requirements existed for each educational field, including the subjects, which are to be included in the program of every law faculty. Human rights were not on the list of obligatory disciplines. After 2011 the universities received a bigger autonomy to create their own programs but the situation has not changed dramatically. Most of the courses of human rights in Poland are optional and there are few mandatory. There is no Master's program in human rights, which according to Mr. Ploszka is due to the requirement that for the admission to the practice five years of studies in law need to be completed. Over the past 10 years several attempts to organize postgraduate training in human rights was made – particularly in private Universities, but there was no interest in them.

As for the time of the study of human rights, according to Mr. Ploszka a good example is the **University Nicholas Copernicus**, where from many years the law education starts with a one-year obligatory subject on human rights. Then the students are taught Roman law, Introduction to the Law, History of Polish Law and other similar disciplines and for them is much more interesting to study human rights, which is a real legal issue, with real problems, and it could be noticed that in this situation they have the desire to prepare a thesis connected with human rights. Many professors, who teach at this University, shared that when later on they conduct courses in Civil Law and Civil Procedure and Criminal Procedure, students always look at them through the human rights prism, which would be different without this course on human rights. A second good example is the only summer school on human rights, which the University Adam Mickiewicz in Poznan conducts since 1992 in cooperation with the Poznan Center for Human Rights. The course is well known to the students, who are interested in the theme. In the universities (public and private), however, there are quite a lot of legal clinics, as well there are those conducted by NGOs. The number of professional legal counsels is not as big as it should be, and people, especially the poor ones, who cannot afford an attorney, often visit these clinics to solve their diverse problems. Most universities have legal clinics on human rights, which are concentrated on skills to prepare applications before the ECtHR, since the majority of people, who visit these clinics, do not have a domestic remedy to use.

The Warsaw University, where Mr. Ploszka is teaching, offers 7-8 optional courses in human rights. The students could study them in any year of their studies, but usually they do that after finishing Constitutional Law and International Public Law. Similarly to the Czech Republic, they are looking for the easiest possible discipline to take. When the students understand that in a particular course on human rights they should read case law, they choose to enroll in the subject, which consists of lectures. The available courses are, inter alia, “The

European Convention on Human Rights and the Legal System“, „Human Rights and European Law“, „Public Administration and Individual Rights and Freedoms“, „National and International Institutions for Protection of the Human Rights (judicial and Ombudsmen)“ and others. To successfully complete the subject, the students must write an essay and to solve a test and a case, therefore in the education too few students participate, who want to specialize in the field of human rights. The courses continue a semester – approximately 30 hours, they provide 5 credits and from over 1 000 students, who are admitted to the University each year, only about 25 – 30 participate. The courses have a serious focus on the system of the Convention and the students are interested mainly how in practical terms to submit an application to the ECtHR, although the broader perspective, which the professors try to give them.

Human rights are also taught in other disciplines, in particular during the subjects Criminal Law and Criminal Procedure. The case-law of the ECtHR has an important place in Poland, there are a lot of publications in regard to the case-law of the ECtHR. Each student learns to take into account not only the Poland legal system, but the whole European system – the Council of Europe and the European Union. The professors try to show exactly these three perspectives by finding something in their subjects related to the case-law of the ECtHR. During the discipline Constitutional Law is presented, a lot of attention is paid to it, but rather in a way, which contributes to interpretation of the rights, protected by the Constitution. In the Polish Constitution similarly to the Czech Republic, there is a complete catalog of rights almost identical to those within the Convention. Therefore, especially in the courses on Constitutional Law the students have the opportunity to learn about the different standards because in any decision of the Constitutional Court there is a section concerning the standards of the Court. The human rights and the Convention are mentioned also in the lectures in International Public Law, but in a rather general way, to receive an overview, that there are such international mechanisms because the issue is very complicated and the time for teaching it is limited. There is only one lecture in relation to human rights and more attention is paid to other themes such as Maritime Law, Space Law and others. Most of the teachers who teach European Law – mandatory for the students try to explain the European Convention in its connection to the Charter of the Fundamental Rights. At the Warsaw University there is a legal clinic with two sections - „Migration Law“ and „International Institutions for Human Rights“, the latter focuses primarily on how to submit applications before the Court. At the university, as well as generally in Poland, there are many student organizations, including those that deal with practical issues related to human rights – workshops on lodging applications before the Court, constitutional complaints and how they are written. They are conducted by professors from the university, but have no formal structure and are open to all

interested students, which according to Mr. Ploszka makes them more useful than the obligatory courses.

Mr. Ploszka believes that one of the findings of the Court from the statistics on the number of inadmissible applications against Poland is the lack of adequate training in human rights. This is due, according to him, to two factors: the higher requirements of the new Protocols to the European Convention and that the students are not taught how to write applications to the European Court of Human Rights. The same thing could be observed during their preparation for the Bar. A colleague, who had an education in human rights at the Bar, shared that the course lasted only three hours and he was taught by an attorney who wrote only one application to the European Court and it was declared inadmissible. Mr. Ploszka thinks that a study as the present one should also be conducted in Poland, to see what in the education in human rights should be improved.

C. Other collected data

Through a questionnaire addressed to representatives of the academia in other European countries within the framework of the current study and also through Internet the following data have been collected (the hyphen placed in some cells means that the respondent did not provide a reply or that no information was available):

University	Separate academic course on human rights/ on the Convention	Mandatory or optional Credits	Number of hours Type of activities	In which year of study the discipline is taught	Practical or other special aim of the course	Focus on the case-law of the Court in respect of the country in which the course is taught	Teaching of the Convention and the case-law of the Court in other disciplines	Extracurricular forms of teaching, legal clinics, moot courts, summer courses

National and Kapodistrian University of Athens	Yes, for the Bachelor and for the Master degrees	Mandatory optional course for the Bachelor programme (in a group of 4 courses among which a student has to choose 2); mandatory for the Master programme	4 hours per week (3 lectures + 1 tutorial); for the Master - 2 hours per week, interactive lectures, tutorials at the discretion of the professor	2nd year of study for the Bachelor degree	Yes	Yes	International, Constitutional, Criminal and Civil law	Legal clinics In 2014 students of the Law Faculty won the final (including the prize for the best oralist) at the European Human rights Moot Court Competition organised by ELSA
Union University of Belgrade	Not for the Bachelor degree (the ECHR is taught in Public International Law); Yes, in the special master programme in European law in cooperation with the Washington & Lee University, Virginia	is not mandatory in so far as there is no legal obligation to follow a Master programme	Lectures and tutorials	In the Master programme, first semester	Practical orientation	Rather no, as the students come from two very different countries – USA and Serbia	Public International Law and to a lesser extent, at the discretion of the professor in Constitutional, Criminal law and Criminal Procedure, Civil Procedure, Family Law, Property Law, Media Law, Environmental law	No
Catholic University of Lisbon	Yes	Optional	1 semester, lectures and tutorials at the discretion of the professor	2nd year of study	at the discretion of the professor	Yes	International Law, Criminal law and Criminal Procedure	Summer courses

University of Zurich	Yes	Optional and mandatory	Different for the different levels and courses	3rd year of study	No	It has a priority meaning	Constitutional, Criminal Law and Criminal Procedure	No
University of Wroclaw	Yes	Optional Mandatory for the Bachelor degree in International law	30 hours	-	-	Yes	Constitutional law, European and International Law, Criminal law and Criminal Procedure, Civil Procedure, Family law	Summer courses and legal clinics (not on a permanent basis); annual film festival on human rights, organised by a student association and an NGO
Moscow State University	Yes	Optional	1 semester lectures + tutorials	4th year of study	No	-	International law, Criminal law and Criminal Procedure, Labour law	No, but such are planned in the future
University of Vienna	Yes	Optional	2 hours, 1 semester	-	No, but practical orientation is envisaged through legal clinics	No	International and Constitutional law	Straniak Academy for Democracy and Human Rights, organised in Budva, Montenegro, in which education on the ECHR is seriously covered
Maastricht University	Yes, in the Bachelor degree in EU law	Optional	8 -week course	-	Focused on the right to life, prohibition of torture, right to liberty and freedom of expression	The course has a special focus on the ECHR and the case-law of the Court	-	-

Middlesex University	Yes, in the Bachelor degree in law	Optional	Tutorials + lectures	2nd year of study	ECHR and transposition of its standards in the Human Rights Act	-	-	-
Tilburg University	Part of Tort law Bachelor degree in law	-	12 lectures	2nd year of study	Focuses on the impact of the Convention on the legislation in the field of the tort law	-	-	-
Trinity College Dublin	Yes, in the Bachelor degree in law	Optional	3 hours of lectures per week	1 st year of study, 2nd semester	ECHR and the case-law on the prohibition of torture, the right to personal and family life, freedom of religion, freedom of expression	-	-	-
University of Utrecht	Part of the European and International Criminal law Master programme in Law	Mandatory optional discipline	-	Master programme	Focused on the European and international integration in criminal law; Europol, Eurojust and the conventions of the Council of Europe are taught	-	-	-
National University of Ireland Galway	Yes	-	3 semesters	Master programme	-	-	-	-

University college London	Two separate courses in the Master programme “Human Rights in Europe” and “Human Rights in Europe – theory and practice of the ECHR”	-	20 lectures + 2 hours tutorials /Human Rights in Europe / 10 lectures + 2 hours tutorials / Human Rights in Europe – theory and practice of the ECHR/	Master programme	ECHR (right to life, freedom of expression, prohibition of torture, case-law of the Court, procedure and methods of interpretation of the Convention	-	-	-
University of Montenegro	“International law on Human Rights”	Mandatory	60 hours – 45 lectures and 15 tutorials	4th year of study	Case-law of the Court	No	International Public Law	Straniak Academy for Democracy and Human Rights, organised in Budva, Montenegro

In respect of the above-mentioned in the table master programme of the **Union University of Beograd** it is interested to note that the Serbian judge in Strasbourg give lectures through a special programme called *WebEx*, allowing various options for distance trainings. The course includes a study visit to the Court, at a hearing of the Grand Chamber on a priority-selected case.

The **University of Athens** also offers a course “Transnational Crime and Law on Human Rights” (the standards of the EU and the Council of Europe) aimed at judges and lawyers, which consists of 6 three-hour sessions. In the course, along with other international instruments and mechanisms and the special conventions of the Council of Europe in the field, the Court’s case-law is taught in-depth, in particular its standard-setting judgments which outline the limits placed by the safeguarded right to life, right to freedom, to a fair trial and the prohibition of torture, inhuman and degrading treatment and punishment in the fight against transnational crime. In addition, the same university provides a course on International Criminal Law, in which, among other things, the difference and mutual interaction with international human rights law are studied.

The **University of Wrocław** offers courses on International Human Rights Law in English (30 hours of lectures and individual consultations; 3/6 credits; the programme includes training on the European system and on preparation of an application to the Court and working with its case law) and Criminal Justice and Human rights (30 hours of lectures with discussions, 6 credits). The programme envisages two general topics – “International and European Protection Systems” and “Council of Europe – Characteristics and Role in Human Rights Protection”, the remaining 9 hours are dedicated to the Court, the individual application to the ECtHR and the right to life, to a fair trial, the right to no punishment without law, right to appeal in criminal cases, prohibition of torture, degrading and inhuman treatment and the right not to be sentenced and punished twice.

Human rights courses are offered as well in the master programmes of the **Zurich University** - for example the one on International Human Rights Law in the double degree programme offered in cooperation with the Strasbourg University,⁶ which provides training in seminar format (1 semester, 6 credits), by requiring students to analyse a significant number of cases and materials, to give a short presentation on selected issues and to carry out their own research.

For more than 20 years already, the **Strasbourg University** offers a master programme in Human Rights. Following one general course, the programme is then divided into three areas of specialisations aimed at deepening the knowledge respectively of Human Rights in Europe, the Rights of Minorities and Humanitarian Law. Academics and practitioners teach in the programme. The general course covers the Convention (20 hours) and other Council of Europe conventions (10 hours), The EU and the Human Rights (20 hours), OSCE (3 hours), International Human Rights Law (20 hours), Philosophy of Law, Theories of Justice and Human rights (10 hours) and the Organisation for Islamic Cooperation and Human Rights (3 hours). Moot courts and other practical modules are organised. Following the division, in the first specialisation are studied Comparative Human Rights law (15 hours) and the relations between various systems for human rights protection (15 hours); in the second specialisation – European Law on Minorities (38 hours, 5 hours of which are dedicated to the Convention, 5 hours to the Framework Convention on National Minorities and 5 hours to the Commissioner on National Minorities), Indigenous Peoples Law (10 hours), Constitutional law for National Minorities (10 hours), International law on Minorities (10 hours), Law on the New Minorities (10 hours). In the third specialisation are studied Humanitarian issues law (15 hours), NGO Comparative Law (8 hours), International Humanitarian law (15 hours), Management of a

⁶ http://www.degrees.uzh.ch/uebersicht.php?lang=de&SC_SAP_id=50625204&org_SAP_id=50000002.

Humanitarian NGO or Human rights NGO (12 hours), Career and Professional Prequalification of the Humanitarian NGO personnel (10 hours), The Humanitarian profession and the Human Rights Profession (15 hours). In the last semester students choose between Master thesis or at least 3-month internship.

In more detail has been examined the **Advanced Master's European and International Human Rights programme of Leiden University**,⁶ which has the following structure:

Course – Semester – Credits

International Human Rights Law – 1 – 10

European Human Rights Law – 1 – 10

European and International Human Rights Law in Comparative Perspective – 1 – 5

Discrimination law: Transnational Perspectives – 2 – 5

Human Rights, Security and Fair Adjudication of Justice – 2 – 5

Making Human Rights Work: Legal and Non-Legal Strategies – 2 – 5

Children's Rights from an International Comparative Perspective – 2 – 5

Human Rights Conceptions in a Pluralist World – 2 – 5

Master thesis – 1 or 2 – 10

In total: 60 credits

During the first semester are explored the universal and regional human rights law systems. In the description of the programme it is underlined, that the European protection system (the Council of Europe and the EU), probably the most advanced system in the world, has a range of mechanisms for protection and promotion of human rights. Furthermore, the Convention and the case-law of the Court in Strasbourg had a major impact on the human rights in and outside Europe. The importance of the manner in which the Court approaches complex issues, such as balancing human rights or the margin of appreciation, which should be left to the national authorities, when setting international standards and their implementation into the national legal order, goes beyond the European context. The high level of the programme is achieved by comparison between the various elements within and between the regional systems and the UN, and by analysing their strengths and weaknesses, opportunities and limits in the promotion of human rights, taking into consideration their social, political and legal context. An intensive course, aimed at training students in conducting comparative

⁶ <http://en.mastersinleiden.nl/programmes/european-and-international-human-rights-law-advanced/en/programme>

research and analysis on human rights and presenting their findings orally and in writing is offered. Every week the professor assigns a concrete human rights problem and students are required to quickly study and analyse how the issue should be addressed by means of the different human rights mechanisms, while searching relevant materials and presenting their findings in writing. After the second semester, students write a thesis. The thesis must have a comparative perspective, which means that it has to address at least two different human rights law systems or elements thereof, notwithstanding the concrete topic. The teaching methods include working in small groups and constant communication between students and professors. Professors use a range of interactive methods such the Socratic Method, oral presentations, role model games, structured debates with specific positions, free discussion and questions and answers. The courses are offered successively during the two semesters, from September till June. Usually seminars include between two- or four- hour sessions, from two to four times per week. Students are required to attend classes well prepared. Blackboard platform is used for communication and discussion where needed. Examinations may be in various forms – writing an essay or writing on a specific topic, oral presentations, written exam or homework. Recognised human rights experts with significant experience contribute to the diversity of the program and reinforce the ambition to apply the learned in practice. They give lectures and tutorials or work with students in others ways. Former and present members of the UN Human Rights Committee, the Committee on Social, Economic and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Court and the Dutch Human Rights Institute contribute to the program, by sharing their thoughts and experiences with students. In addition, many experts from the NGOs such as Amnesty International, Human Rights Watch and African Legal Aid transmit their knowledge while teaching at the faculty or when students visit their respective organisations. The program also includes a study visit to several human rights organisations in Strasbourg and Geneva.

Finally, it should also be mentioned the widespread practice in the relatively new parties to the Convention (such as Poland, Cheque Republic, Serbia, Bosnia and Herzegovina, Latvia, Slovakia) to set up within universities or separate institutions - human rights centres and institutes, which in cooperation with similar institutions, NGO and national and international bodies and human rights organisations provide information and materials, training, professional consulting, carry out research and attract experts, make specialised publications and serve as a database and centre for cooperation between academic and research institutions. A major part of them are members of the Association of Human Rights Institutes. (AHRI),⁸ which facilitate the scientific research, training and discussion in the field of human

⁸ Association of Human Rights Institutes

rights, by organising forums for academic discussion, promoting cooperation in research and training activities and initiating new activities, facilitating the exchange of staff and PhD students among its members, on request or on its own initiative give advice or provide consultancy to intergovernmental organisations and other international bodies, governments, parliaments, political parties, the judiciary, the legal profession, public institutions and groups. In Iceland, for instance, the human rights institute is an independent institution, set up jointly by the University of Iceland, the Icelandic Bar Association and Icelandic Judges Association; it maintains a specialised human rights library. The Norwegian Centre for Human Rights offers two-year Master program in Human Rights, organises seminars and provides continuous professional training and it is part of the 2002 established Scandinavian network for research in the field of human rights whose goal is to coordinate and increase the effectiveness of these studies. In the Netherlands, apart from a human rights institute, a human right centre is also established – *F.M. van Asbeck* in Leiden; in 1995 the universities of Maastricht, Leiden, Rotterdam, Tilburg and Utrecht, jointly with the *T.M.C. Asser* have established an inter-university school for research in the field of human rights.

VI. Conclusions

A. In respect of the university education on human rights

In the majority of Bulgarian and other examined European universities human rights are taught in separate courses – mandatory or optional. The review of their teaching in the Bulgarian law faculties reveals that in the framework of the separate courses on human rights students receive only general theoretical knowledge on the matter. In the curricula of the different Bulgarian law faculties the Convention and the Court's case-law on its interpretation and application are covered to various extents, but overall students get a general idea, without going into more in-depth analysis of the content of the individual rights and freedoms as outlined in the standard-setting case-law of the Court. Ensuring the necessary basis and a general overview are undoubtedly a positive trend, but this should not in any case overlap or replace the teaching of the matter in the Constitutional Law and Public International Law disciplines, neither it could be regarded as sufficient if not complemented by horizontal study of the Convention in the mandatory core subjects and by the possibility to acquire further in-depth specialised knowledge and skills to implement the Convention provisions. In Bulgaria, despite, in some cases, the declared practical approach in human rights teaching, in particular the Convention, the lack of tutorials in most of the human rights courses and the absence of

significant extracurricular activities, which in view of the existing legal framework remain the only appropriate form for attracting in the teaching process practising lawyers specialised in the matter, the actual acquiring of practical analytical skills is at least doubtful.

The comparative review shows the relatively small place given to the Convention in Public International Law and EU law. As discussed at the Roundtable, this can be explained – but not justified – by the large volume of the materials covered by these subjects and the emphasis put on the EU Charter after the Lisbon treaty. The Charter, however, cannot be understood and implemented without having knowledge of the case-law of the Court i.e. both systems should be studied on an equal footing in their relationship and interaction in the framework of every relevant legal discipline, and more serious and thorough theoretical and practical training on the application of their matching, to a greater extent, guarantees should be provided in the curriculum. In view of the absence of mandatory study (as provided in Article 7 (3) of the Regulation in respect of the discipline “EU Law”) and of practical guarantee as to the integrated teaching of the Convention and the case-law on its application in the core legal disciplines, and the lack of their adequate coverage in the closely-linked-with-human-rights special subjects to deepen these basic theoretical knowledge and to create practical skills, it cannot be assumed that it is ensured that graduated law students are prepared to apply them as part of domestic law of our country. Initial and continuous professional training is hardly able to fill this gap, nor it would be correct to leave the training on the Convention essentially to them. By contrast, it can be seen that the majority of other European universities offer full-fledged disciplines on the Convention, as well as horizontal human rights teaching with emphasis on the Convention and the Court’s case-law- not only in the Constitutional law, International and European law courses, where as a rule they have a significant place, but also in other mandatory core legal disciplines, at all level of the legal higher education. At the Roundtable the advantages of early teaching of human right have been outlined and they are indisputable, but the provided overview of teaching in the field by the Cheque and Polish participants in their countries shows that it is effective, if it includes study of the jurisprudence and building practical skills, and if further integrated education in the core legal disciplines and a large variety of specialised courses focusing on some aspects of the Convention or entirely dedicated to it, including the Court’s case law, are ensured. In the “older” parties to the Convention horizontal education has since long time been established, skills and a way of thinking in the light of Convention standards have been created. Even though human rights education might be left at the discretion of the respective professor, it can be reasonably assumed that in these countries it is more likely to happen as something natural and implicit. Even the most cursory review of the case-law of the domestic courts, mentioned in the Court’s case law, reveals that judges in the “old” member states

apply the Convention as existing law and that they take their decisions after a careful analysis, following the steps and criteria applied by the Court in Strasbourg. This has already been achieved in some of the recent member states, but still not in Bulgaria. In our opinion, it is therefore advisable that the curricula of all relevant disciplines explicitly include - as separate modules or in other appropriate forms – training on the respective Convention provisions and the Convention case-law including both cases against Bulgaria and the standard-setting case-law for the interpretation and application of the relevant Convention provisions.

A difference between the Bulgarian and the other examined European universities is also found in the availability of a range of summer courses and special Master programmes in human rights that focus on the Convention and the case-law of the Strasbourg Court, but also on the interaction between various human rights protection systems, and provide opportunities for deepening the law graduates' knowledge in this field. The variety of extracurricular activities, such as human rights law clinics and moot courts, observed in other European countries are not present in Bulgaria. The connection between real-life problems and the practice is one of the tools for creating motivation and interest to the subject in students along with the high quality and modern methods of teaching. The examined programmes of the other European universities provide enough good ideas in this regard. Participation in international competitions – moot courts is also a valuable exercise for acquiring skills for the practical application of the acquired knowledge, developing and presenting a position on a specific case, but it also increases the students' interest in the matter and motivates them. For instance, the winners of the European competition *Rene Cassin*, which oral rounds are held at the Council of Europe and the final - in the hearing room of the Court – are awarded traineeship at the Court and in the French Conseil d'Etat. In this respect, the intention of the Bulgarian Agents Office before the ECtHR to prepare a Bulgarian team for the competition, announced at the Roundtable, should be welcomed.

Another difference worth being mentioned concerns the verification of the acquired knowledge and skills in so far as such are created, and their assessment. As a rule, in Bulgaria the grading mark in the special human rights discipline does not include the results of the work throughout the course, which is a natural consequence of the lack of tutorials and interactive forms of teaching. Even where, in the course of an individual preparation, analyses, case studies and presentations are assigned to students or in the framework of the mandatory disciplines, like Constitutional law and Public International Law, where human rights are taught and there are tutorials, there is no indication that in the examination process it is checked to what extent students have acquired practical skills in applying the international legal provisions.

In Bulgaria the scientific research in the field of human rights is insufficient; there is no indication that any significant inter-university cooperation exists nor that forms such as the described human rights institutes and centres which improve the opportunities for professors to increase their qualification and to maintain their continuous development and scientific research; but also increase the students' opportunities for training and access to specialised literature and information, are in place. As already mentioned above, in this respect there is a clear shortage. It also seems that the various opportunities offered by organisations such as the European Inter-University Centre for Human Rights and Democratisation (member of AHRI) are not sufficiently explored.

It is true that many human rights courses and specialised Master's programmes in other European countries, such as those already mentioned, and for example the programme on Human Rights in Central European University in Budapest, also a member of AHRI, which has offered for the first time in the region a Master program in International and European Human Rights Law, are in principle available to Bulgarian lawyers too. It should be sought to increase their accessibility by teaching in law faculties foreign languages with focus on the legal terminology, which is also important for the enjoyment of the inter-university exchange by students. This does not remove, however, the Bulgarian authorities' obligation and the universities' responsibility to ensure at national level higher education in the field of human rights, constituting a sufficient basis on which similar specialised trainings and initial and continuous professional training could further build in order to meet our country's obligation to effectively guarantee the safeguarded by the Convention rights through national legislation, administrative practice and legal adjudication.

Our conclusions of the presented at the roundtable survey and the data collected about the university human rights education in Bulgaria are also supported by a simplified control poll, which was carried out among Bulgarian lawyers in the Registry of the Court and seconded Bulgarian judges. They have summarised the results and have compared the human rights training they did receive during they studies in Bulgaria with the training of the newly arrived lawyers provided at the Court: "In the universities at the moment of our graduation 2002-2005, the approach was quite different from the current training at the Court. There was a separate discipline "Human Rights" in which the origin and the historical development of the human rights were taught. It was studied at the end of the first or second year of study, when students were introduced in the area of law. The main drawback was that the Convention was not taught in relation to the opportunities of its direct implementation by lawyers, including at national level, but as theoretical knowledge in historical context. In view of our experience

gained at the Court, we could share that the teaching approach adopted by the Court for new lawyers is quite different. We consider it as a successful combination of theoretical knowledge and jurisprudence. There are various workshops concerning each Convention provision in which the respective landmark cases, developing the main application standards, are studied. The goal is to acquire knowledge and skills in examining the facts of a case in the light of the main principles developed in the case-law of the Court. These workshops are not like lectures, but require preparation in advance and active involvement of the participants. Each participant receives beforehand the cases that he/she needs to prepare, and in some cases that he/she has to present before the other participants in the training. In this way the creativity of each lawyer is provoked. The different approach of each participant towards the facts of a case is appreciated. Thus the participants acquaint themselves with the case-law of the Court and develop skills in interpreting themselves the Convention's provisions and in applying them in their work.

B. In respect of the professional training in human rights

As already mentioned in section I above, although the survey among Bulgarian magistrates, lawyers, police officials and penitentiary personnel focused on the received university human rights education, the survey questionnaires were structured so as to obtain also information in three main aspects: assessment of the professional training after graduation, sources of information about the Convention and the case-law of the Court, applicability of the knowledge and the information gained in direct professional activity. The results described in detail in the special report on the survey, likewise reveal shortages in relation to the professional training on human rights:

1. In respect of the selected categories of police officers and penitentiary personnel

- A conclusion that training on the Convention is significantly neglected is likewise drawn.
- The share of the investigating police officers among the studied group that have followed some training on the Convention human rights standards, is symbolic.
- The serious potential that representatives of the target group be trained on the Convention within the course of their professional activity which has also been supported by the results of the survey, remains still unexplored for a major part of the studied group and many of the territorial units in the country.

2. In respect of the magistrates

- Mandatory forms of training cover a small number of magistrates and there are shortcomings in respect of the training's consistency and comprehensiveness.

3. In respect of the attorneys

- The nature of the free profession does not allow a training course to be compulsory and despite the existing indicative lists of topics in relation to human rights issues, it is upon the respective bar association to choose such topic for a subject of a seminar. Even if the Training centre for attorneys decides to offer such course, the minimum number of participants for conducting the training might not be reached. This contributes to the apparent deficiency in the human rights knowledge of an important part of the attorneys.

C. In respect of the sources of information about the Convention and the case-law of the Court and the applicability of the knowledge and information gained in direct professional activity

The survey has shown the need for further efforts to raise the level of awareness among police officers and penitentiary personnel. The results have revealed that the relevant institutions, when willing to do so, are apparently able to provide on their own motion information about the case-law of the Court. The problem is that these options are not only sufficiently applied, but also they are not equally implemented in various regions. The survey has further demonstrated that the case-law of the Court has a certain place in the professional work of these officials, although for the time being a big proportion is given to theoretical knowledge assisting their work at the expense of the direct applicability of the Court's judgments in the decision taking regarding their everyday professional tasks.

The information obtained from the interviews with the magistrates shows that judges from the criminal section of the Supreme Court of Cassation regularly received on their professional email translations of important judgments of the European court – both against Bulgaria and against other states. In the other two sections - no single channel of information exists. The European court itself and the Ministry of Justice provide information about important judgments but there is no single unit, responsible for following the case-law of the international courts in Strasbourg and Luxembourg. The appellate and the regional courts do not have their own information system, nor they have resources to maintain such system. Although the case-law of the European Court has a certain place in the professional work of the studied group, it is still not sufficiently known.

The Supreme Bar Council takes serious and constant measures to ensure that attorneys are aware of the important judgments of the Court not only against Bulgaria but also against other states, but apparently more and constant efforts are needed in this respect.

VII. Recommendations

Based on the survey and the comparative studies, at the Roundtable we have proposed for discussion to the representatives of the academic legal community, who responded to our invitation for participation, recommendations for improvement of the human rights teaching in Bulgarian law faculties, in particular the Convention and the case-law on its application. Some of the recommendations were addressed **to the law faculties** themselves:

- In the academic curriculum and the exam questionnaires of the relevant mandatory core academic disciplines and all specialised courses covering human rights matters should be reflected that the relevant issues are examined in the light of the respective international human rights standards, in particular the Convention and the case-law of the Court.

- Academic curricula of Constitutional law, Public International Law, of the separate subject “Human rights” and specialised courses which include human rights issues should be jointly reconsidered - on the one hand, to avoid the overlap in the teaching of main questions regarding historical and philosophical developments, types of rights and their protection, and on the other hand, to ensure a sufficient basis for horizontal human rights teaching, including the Convention and the Court’s case law, in all relevant mandatory disciplines studied in law faculties, and to acquire more in–depth special knowledge in the optional courses.

- More weight should be given to the teaching on the Convention and the case-law of the Court within the disciplines “Human Rights” by considering and introducing a separate course entirely dedicated to the Convention and the case-law on its application.

- Tutorials for the disciplines “Human Rights”, which at present are not provided in most of the law faculties, should be introduced.

- Introducing practical exercises such as case studies, moot courts and specialised legal clinics to ensure the practical and social orientation of the human rights teaching.

- Measures should be taken ensuring the necessary human rights training of professors teaching core legal disciplines, increasing the qualification of the professors teaching human rights and their continuous training on the evolving case-law on the application of the Convention.

- Regularly attracting in the respective forms of study guest lectures and practicing lawyers experienced in human rights, in particular in the Convention and the case-law on its application.

- Special Master programmes and postgraduate specialisations in the field of human rights should be introduced.

- The opportunities provided by the inter-university cooperation and national and international exchange should be used to a greater extent, including considering setting up a resource and coordination human rights centre to assist human rights teaching and to provide adequate educational material and qualification to academic staff.

We note with satisfaction that the deans and the professors who took part in the Roundtable regarded as useful the data about the human rights teaching given in the comparative study report and presented at the Roundtable, and shared our conclusions as to the existing problems. Based on our conclusions drawn by the survey and the comparative study and the discussion at the Roundtable, we could make **to the competent Bulgarian authorities** the following recommendations:

- Human rights teaching, in particular the Convention and the case-law on its application, should be statutory regulated in the curriculums of all relevant academic disciplines, similarly to the EU law teaching (Article 7 (3) of the Regulation).

- The current barriers (Articles 8 and 9 of Regulation) to attract Bulgarian and foreign practising lawyers and other experts with recognised competence as guest lectures in the optional and mandatory legal disciplines should be removed by explicitly allowing it.

- Assessment and accreditation criteria in respect of higher education should be reconsidered and applied in such a way as to avoid that objective quantity indicators become a burden instead of a guarantee ensuring the quality of the education. The quality should be measured, including and most importantly, by creating awareness among students as to the role of the law and the lawyers' duty to contribute in every professional sphere to the

establishment of the rule of law and to the effective protection of human rights. Institutional and programme requirements and their implementation should drive the law faculties to ensure minimum necessary knowledge and skills as well as awareness and motivation in this regard.

- Questions about international human rights standards, in particular the Convention and the case-law of the Court, should be included in the questionnaires for the state examinations, the exams for acquiring legal capacity, for initial appointment of judges and prosecutors, for entering the Bar association, with a view to ensuring the necessary level of their knowledge upon graduation from the law faculty and upon entering the legal profession as well as assessing the knowledge gained in the course of the legal studies or in subsequent preparatory or other trainings in view of their continuous improvement. In so far as the examinations also include a case study; the cases given at the exams should likewise reflect the human rights matters.

- Studies and research in the field of human rights should be encouraged, particularly on the Convention examined in the light of the case-law concerning its interpretation and application.

- The established serious potential that police officers and penitentiary personnel could be trained on the Convention in the course of their professional activity should be fully revealed by putting further efforts for more comprehensive and full deployment of the training within their professional work. Special attention should be given to the training of the investigating police officers by requiring administrative managers to take timely measures to organise their adequate training at work. Strengthening the practical orientation of the training during the enjoyment of professional duties of the target group by looking for possibilities to actually encourage them to apply the established human rights standards in their daily work.

- Preparing schedules according to which all magistrates regularly undergo training concerning the Convention's standards and the case-law of the Court which are to be included also in the teaching of every other relevant matter. Representatives of the investigating services should put efforts to include more investigators in such type of trainings. At the same time it would be appropriate to offer more forms of distance training in this regard in order to facilitate the participation of professionals and their better involvement in the trainings without losing sight of their work.

- Information channels of the various institutions in respect of the case-law of the Court should include a special section or make a reference to the relevant case-law of the Court on leading Bulgarian and other states' cases regarding different important issues. It is recommended to consider the possibilities for optimizing the existing databases.

- The possibility to establish at regional level (covering the five appellate regions) special consulting teams composed of magistrates and lawyers who have followed a longer training (especially the seconded judges assisting the work of the Bulgarian section in the Court in Strasbourg) should be discussed. They could be involved not only as trainers but also as advisers on complex issues concerning violation of the fundamental rights safeguarded by the Convention.

- The additional qualification in the human rights field, acquired through continuous professional training or through other available forms of education on human rights should be taken into consideration in the appraisal and career development of magistrates, police officers and penitentiary personnel as well in respect of all other relevant officials.

The **bodies of the Bar Association** should continue their efforts to provide opportunities for attorneys to receive full-fledge education on all Convention standards and the case-law of the Court in the centre “ Kr. Tsonchev” where a range of lecture courses on the Convention have already been conducted. These standards should be covered in the teaching on every relevant legal matter.