

**UNIVERSITATEA „BABEȘ-BOLYAI” CLUJ-NAPOCA
FACULTATEA DE ISTORIE ȘI FILOSOFIE**

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**THE PHILOSOPHY OF HUMAN RIGHTS IN THE
EUROPEAN CONSTRUCTION
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SUMMARY

The Philosophy of Human Rights in the European Construction

Even though the problem of `human rights` seems to be a matter of the XXth century, and as Charles R. Beitz observes, it represents the materialization within the world politics of the idea that `each person is a subject of the global concern`¹, that `human rights have become a fact of the world which has a richness and a influence that astonishes the analysts of the international project of human rights`², it is not a new problem in the history of the humanity. The idea of `human rights` has its roots in the most ancient times, as for example the year 300 b.Chr., in the philosophy of Zenon. He affirmed that each individual has the right to ask for the recognition of his own dignity and to be respected as a person. In fact, Ancient Greek philosophy has placed at the basis of the entire European spirituality the anthropocentric dimension, the centrality of man in the entire aggregate of thoughts and facts of a society which must find a juridical and political expression and a real materialization. Since the Greek Stoics the philosophical thinking was concerned with the defining of what we call today the `rights of the individual`. At the beginning, the endeavors were of a philosophical nature, but latter, the famous Habeas Corpus and The Bill of Rights, The Declaration of Independence of the United States, and especially, the French Declaration of Human and Citizen Rights were the starter of the human rights coding process. The horrors that took place in the Second World War have convinced Humanity that it must rethink the right of a sovereign state to dispose according to its own will of its own citizens, because the regimes which have treated their own citizens in a barbarian manner have proved to be dangerous for other states and for the world peace. Conceived in this manner, in 1948, The Universal Declaration which formulated the universal and indivisible rights of the human person, a complete code of the human dignity: the right to life, to freedom, to the freedom of thinking and of

¹ Charles R. Beitz, *The Idea of Human Rights*, Oxford Univ. Press, Oxford, 2011, p. 1.

² Richard Rorty, „Human Rights, Rationality, and Sentimentality”, in vol. *On Human Right: The Oxford Amnesty Lectures*, Stephen Shute, Susan Hurley (edit.), Basic Books, New York, 1993, p. 134.

expression, to the presumption of innocence, to the prohibition of torture, the right to the freedom of movement, and also the right to a decent life, to work, to education, to paid leave and to medical assistance, etc. No member state of the United Nations did vote against The Universal Declaration.

The end of the Cold War has given the hope of some progress concerning the respect of the human rights, but the optimism since after the fall of the Berlin Wall was only partly entitled. The XXth century has continued to flaunt its atrocities: genocide in Rwanda, ethnic cleansing in Bosnia, slaughter and torture in Somalia, Chechnya and Sri Lanka. The disappearance of the great ideological confrontations did not make the international community more objective in sentencing the worst violations of human rights. Military and economic interests have passed on before the moral ones³.

But the end of the Cold War has caused a new revolution in the interpretation of the international legislation. `The noninterference in the internal affairs` has stopped to be a shield for the violation of human rights. On one hand, in order to stop some humanitarian disasters, armed interventions (risky, much discussed, and sometimes, with questionable effectiveness) took place in the North of Iraq, Somalia, Rwanda and Bosnia; on the other hand, in 1993, and 1994, by the decision of the Security Council, have been created two international Courts for the former Yugoslavia and Rwanda, charged with judging the perpetrators of the crimes against humanity and of genocide. Many lawyers and political men are convinced that both war crimes and the ones against humanity enter under the international jurisdiction, wherever they occur and whoever would perpetrate them⁴.

`The right of interference` and of bringing the suspects of crimes against humanity in the front of the international courts arises controversy. The authority of these courthouses, the coherence and the degree of coverage of the international legislation, the geopolitical interference in the starting of the trials and in the promotion of the sentences are all contested. More than that, there are still accusations that `the new legal international order` is not but a form of imperialism of the occidental cultural values⁵. The conclusion that imposes itself is that human rights and

³ Michael Freeman, *Human Rights: An Interdisciplinary Approach*, 2nd edition, Polity Press, Cambridge, 2011, pp. 164-166.

⁴ Rhona K. M. Smith, *Textbook on International Human Rights*, 3rd edition, Oxford Univ. Press, Oxford, 2007, pp. 55-56.

⁵ Id.

the philosophy that inspires them are more largely supported and defended in the contemporary world, which justifies the idea that their debate is of great interest, as it is shown by the conceptions that discuss them.

Those conceptions are usually related to the humanistic dimension of the European culture affirmed since Antiquity, reproduced by the Renaissance humanism and strongly reaffirmed nowadays. The use of the term `humanism` has its beginnings in Italy, at the end of the XVth century and the beginning of the XVIth century, and was used in order to name the teachers who taught disciplines as: grammar, rhetoric, poetry, history and moral philosophy or in other words, `studia humanitatis`. This last concept has its beginning in the XIVth century and means the difference between the study of `humanity` and the study of divinity, of the natural philosophy, of the law and medicine. The humanists of those times have concentrated on the study of the classic literature of the Ancient Greece and Rome, because they have found in it the ideal of human life⁶.

Pico della Mirandola – humanist of those times – has concentrated, in his work *On the Dignity of Man*, on the reconciliation of the literature and of the thinking of the Ancient world and the Christian religion. By the celebration of the distinctly human capacity and of the free will, Pico marks the traditional Christian vision about human nature. In Germany of the XIXth century, the term `humanism` was used by Jacob Burckhardt in his work *Die Kultur der Renaissance in Italien*, published in 1860, in which the author wrote about `humanism` not only as an educational curricula, but as a cultural phenomenon much wider, referring, at the same time, to a potential conflict with the Christian Church. The same conception about `Renaissance humanism` was spread in England by John Addington Symonds in his work *The Renaissance in Italy*⁷.

As Stephan Law shows, the term `humanism` has a variety of meanings. According to one of them, `humanism is more than a system of thinking in which values, interests and human dignity are considered important`. In the introduction to his work *Humanism: A Very Short Introduction*, the author enumerates a series of aspects which can be associated to humanism: the trust in science, atheism or at least agnosticism, rejection of reincarnation and of the belief in `the afterlife`, the engagement to the existence and importance of the moral value, the individual moral autonomy, the indifference to the existence of God, the secularization, the democratic

⁶ Ibid., pp. 8-9.

⁷ Ibid., pp. 9-10.

society, the neutral position towards the religion, the protection of the individual freedom, the critical position⁸.

Unlike Norman, Law identifies the Ancient roots of humanism in the Indian thinking, in Confucianism, in Ancient Greece (making reference especially to Thales, Anaximander, Anaximenes, Pythagoras, Plato, Aristotle, Epicurus and Democritus) and in Ancient Rome⁹.

Along with the Stoics we enter in the universality of human rights because thinkers as: Seneca, Epictetus and Domitian have overturned Aristotle's arguments regarding the natural inequality of man and have outlined the idea of the natural law of men as human beings endowed with reason. The idea of natural equality, stemmed from the resemblance between (free and endowed with reason) people has represented the starting point of the Roman Law in the time of Cicero for whom, 'a single law must govern all peoples and a single God shall be the guide for all'.

Along with Christianity, equality, freedom and brotherhood accompany the idea of love for the author, men being all divine creation and so, equal. The morality of the social life is based on the ideas of help, tolerance and equality. We assist to a desacralization of the state which becomes a temporal institution, being in the service of the people from where the laws of its representatives emanate. So, we foresee the distinction of the modern world between legal law (justice) and moral law (Concordia)¹⁰.

Some authors consider that human rights are now in a crisis period because humanism itself is passing a crisis period due to the fact that man is forgotten as a real being, his need to live a democratic, prosperous life, in solidarity with the others, based on a moral which to be the base of the universality of human rights is forgotten.

This is the reason why in the 1st article of the Universal Declaration of the Human Rights is stated that: 'All human beings are born free and equal in dignity and in rights'. This means that, even before we are born we obtain certain rights of which we can prevail. In this context, human rights have been defined by Wichard Woyke as being 'rights that belong to all people, which protect them of possible abuses of the state and which are eternally valid, and which cannot be limited by the state. Ever since the fight against absolutism, they have been considered to be 'innate' and

⁸ Stephen Law, *Humanism: A Very Short Introduction*, Oxford Univ. Press, Oxford, 2011, pp. 1-3.

⁹ *Ibid.*, pp. 8-29.

¹⁰ *Id.*

`inalienable` rights. (...) At the basis of the human rights and of the fundamental rights we find human dignity, the right to the free development of the personality, the equality before justice and the unfavorable treatment, religious and conscience freedom, the freedom of expression, of press, of information and of education, the freedom of assembly and association, the freedom of movement, the freedom of profession and work, the inviolability of the home, the guaranteeing of the property and of the right to inheritance, the right to asylum and to petition, but also legal rights as, for example, the warranty that nobody shall be unduly arrested (...)`¹¹.

From a political point of view, `human rights` designate `those freedoms that are inherent to the quality of human being, that a community must ensure, for ethical reasons, by its laws. There are `natural`, `pre-state` and `inalienable` rights, by which compliance and defense a political system legitimates (...)`¹².

The syntagm `human rights` joins the philosophy of the `natural law and the law of the nations` and it stands at the basis of the `social contract` theory of Jean-Jacques Rousseau. Its formulation has been made, for the first time, in the XVIIIth century, being materialized during the rebellion of the English colonies from the North America against the Great Britain, in 1776, and of the bourgeois revolution from France, in 1789. We must recall here the two documents that expressly contain the syntagm `human rights`. First of all, it is the Declaration of Independence of the English colonies from America, adopted on the 4th of July 1776 in Philadelphia, which declares the principle of equality between the individuals, the right to life and freedom as inalienable rights and the establishment of the governments with the consent of the governed ones, and it is also the Declaration of the French Revolution concerning human and citizen rights, from the 26th of August 1789, which is the expression of the natural law and which establishes the principle of the equality of all people before the law, as a principle on which the other rights and liberties establish, as for example: the right to property, to security, to resistance to oppression, the freedom of thought, and of expression. The concrete application of these rights, both in U.S.A., and in France was made by the written Constitutions.

The protection of human rights through legal instruments which transpose those rights in legal provisions, have become a necessity of the international community after the Second World War, but more as a consequence of revealing the

¹¹ Wichard Woyke, Handwörterbuch Internationale Politik, Verlag Barbara Budrich, Verlag, 2008.

¹² Bertelsmann Discovery Lexikon, Verlag, 1997.

atrocities committed by the Nazis, and later, also as a consequence of the continuous practice of violating human rights in states with totalitarian regimes. This necessity has resulted in regulations with an universal or regional character after signing the UN Charter on the 26th of June 1945. The Universal Declaration of Human Rights, proclaimed and adopted by the UN General Assembly on the 10th of December 1948 is the first document with universal vocation in this field and establishes an unitary conception of the international community about the rights and freedoms of man, opening the way towards a system of international protection of the human rights. After the adoption of this document, the UN General Assembly has adopted in this field over 60 conventions and declarations through which it was also taken into consideration the establishment of some specific mechanisms of protection of those rights¹³.

The philosophy of the natural law also inspires the modern doctrine of human rights, this way transforming the philosophical idea of the universality of the natural law inherent to the human nature, into a public institution. Montesquieu, Rousseau, Diderot and others have approached in a different manner the idea of the human rights considering that they remain valid whatever the historical, social and political circumstances. The theory of the `social contract` (Rousseau), of the separation of powers in state (Montesquieu) are expressions of the ideas of cohabitation in a society, of democratic organization of the moral life¹⁴.

The ones who are marginalized from the economic and political processes, will eventually be removed also from the process of spreading their conceptions concerning human rights. Despite Kant's efforts of defending common universal responsibility, of defending the needy ones from the economic difficulties, he entrusted, in the revolutionary spirit of his times, only active citizens, with the right to vote, owners, men, exactly the opposite of the passive citizens, meaning men and women without properties. The question about who would fit as active citizen has produced many debates and social rollover during and after the enlightenment. Indigenous people from the European colonies, slaves from Africa, the ones without properties, women, Hebrews and their defenders have also asked full rights under the dome of universalism.

¹³ Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*, Univ. of Pennsylvania Press, Pennsylvania, 1999.

¹⁴ *Id.*

According to other authors, natural law means the `totality of the innate rights, inherent to the human nature`. On the basis of this definition, all men have equally natural rights (for example the right to life and to physical integrity or to personal freedom), whatever the sex or the age, the social position, the time, the place or the state order in which they live. Natural rights are supranational rights and for this reason they cannot be modified and are unlimited in time. They are different from the national provisions and from the legal norms which can change over the history and which are part of the positive law¹⁵.

The roots of the natural law can be found in Greek Antiquity, in the philosophy of some Sophist in the Vth and the IVth centuries b. Chr., in Plato's and Aristotle's philosophies, being at the centre of the Stoic concerns (beginning with the IIIrd century b. Chr.). They have been developed later on by the Greek and Roman followers of this current, by Cicero, Seneca and Epictetus. In the philosophy and theology of the Middle Age, and especially in the one of Tomas de Aquino and of the other scholars, natural rights have been considered a reminiscent of the divine law which `actions within man`¹⁶. From a political point of view, the relevance of the natural rights has outlined in the enlightenment (in the XVIIth and the XVIIIth centuries). The theory of the natural rights based on reason (rational rights), theory developed by J. Althusius and H. Grotius, and then by S. Pufendorf, Chr. Thomasius, Chr. Wolff, J. J. Rousseau, I. Kant and others was used for the philosophical justification of the French Revolution from 1789 and of the other bourgeois revolutions from the XVIIIth and the XIXth centuries, becoming an important instrument of the bourgeoisie in the fight against the feudal system and of the absolutist state and for the state law. Later on, natural rights have found their materialization in the fundamental rights of man and citizen on which the modern state law is based.

In the XIXth century there was a movement against natural rights, the so called `positivism`, according to which only positive laws in force are valid, no matter their content¹⁷. After the Second World War, the law was reanalyzed, especially insisting on the natural law. Within United Nations it has been tried the transposition of the natural law under the form of human rights with a universal and mandatory

¹⁵ Reinhard Beck, *Sachwörterbuch der Politik*, Kröner Verlag, Stuttgart 1986, p. 637.

¹⁶ John Finnis, *Natural Law and Natural Rights*, Oxford Univ. Press, Oxford, 2011, p. 396.

¹⁷ David Ingram, *Law: Key Concepts in Philosophy*, Continuum International Publishing Group, London, 2006, p. 47 and the following.

character. This was a compromise between the two extreme positions. Despite the priority of those who enjoyed the written laws, it was believed that in those cases in which they incorporated principles which were contrary to justice, the man was not obliged to comply with them, but only with the idea of `justice` which resulted from the documents recognized at a global level. In order to observe the difference between natural law and positivism, we considered that a short presentation of them must be done in the following **Table**.

Table 1 – Differences between natural law and positivism¹⁸

Natural Law	Positivism
There is a superior natural law, always valid, above all other positive norms.	Law that derives from positive norms, regardless their content.
The classical theory of the natural law considers the legal contents as being absolute.	Positivism considers the form of the laws as being absolute.
`There are principles that are stronger than any other legal provision. If a law contradicts these principles, it is considered invalid. These principles are named natural rights or rational rights. Certainly that around them float some doubt, still the centuries that have surpassed them have sketched a stable component, reuniting them into so-called Declarations of Human and Citizen Rights`.	Politics has the right to establish the legal contents. `We must recognize the compulsory character of all laws, no matter how they would be, so long as they are correctly produced from a formal point of view`. `The truth is that legal power can impose the laws it desires`.
The judge has the necessary authority to pass his rational judgments before the written laws.	The judge is related to the laws emitted by the state.

¹⁸ www.dadalos.org/rom/menschenrechte/grundkurs_2.htm.

Dangers: legal instability, abuses.	Dangers: `Unfair` laws of a dictator are applied <i>ad literam</i> .
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The relations between a philosophy of the human rights and their legal coding is done by Montesquieu. Contrary to Hobbes' vision, Montesquieu, as well as Rousseau, was convinced that the life of people, in its natural state, is peaceful, violence and war being the products of the social life. Man, gifted with intelligence and with free will, systematically violate the natural order which is established for him, because he is exposed to the `ignorance and error, as well as all finite intelligences` and that he is exposed to thousand passions: `Once people are in the society, they lose the feeling of their weakness; the equality between them stops and the state of war begins. Each particular society comes to feel its force, aspect which produces a state of war from one nation to another. Individuals, in each society, begin to feel their force; they try to turn in their advantage the main advantages of this society; which determine, between them, a state of war. These two ways of the state of war determine the establishment of laws among people`¹⁹. This idea is supported, on the basis of some different arguments, in other modern writings, from Grotius to Kant.

`The quintessence of the political lightening from the modern age was the unity between human rights, the separation of powers and democracy. The real efficiency of human rights manifests itself in the justice, and then in the principle of the separation of powers. Because only then the sovereign is related to a law, he can also be related to human rights. But he is related only to the laws from the system of the separation of powers, there where the executive is imposed rules by the constitutional bodies and by the legislative ones and where the independent judges watch to the respect of the rights. (...) The development of human rights means the existence of a democratic system, the freedom of the people to elaborate its laws and to control the three powers of the state. The circle closes: the separation of powers and democracy result from the idea of human rights and end with it. These three elements: human rights, separation of powers and democracy represent an institutional unity of law. Their political reality is the condition of the respect of the unity and justice, of

¹⁹ Id., p. 15.

the freedom and of the human dignity. If one of these three elements is detached from the others, none of them could no longer exist²⁰.

Therefore, we can affirm that fundamental rights are at the bases of the democracy, and the democratic system promotes, in turn, fundamental rights. It is clear that the problem of human rights has become a subject of the contemporary philosophy which is debated from different perspectives, but which is considered central for the understanding of what man is in the world that he creates for himself. On the other hand, in his work *The Idea of Human Rights*, Charles R. Beitz sees that human rights have become a component of the international relations which has been developed on several fronts: in the international law, in the global and regional institutions, in the foreign affairs of the states and in the activity of several NGOs. At the same time, the doctrine of human rights is affected by a skepticism which consists of a ignorance of the human rights as foundations for a political action. Some elements of the human rights can even be the source of this skepticism, namely the unclear character of the interests' area which are protected by human rights, the elasticity with which are allowed the intervention and the inability to see the contemporary doctrine of human rights as 'universal'. To these we can add the confusions which seem to surround the doctrine: why certain standards and not others must be considered human rights, on who the responsibility to satisfy those rights falls or why should they be considered reasons for the international political action. This way, it is believed that, as much as we try to appreciate more the sphere of action of the doctrine and the variety of the purposes for which we turn to the doctrine, it is more difficult to assimilate any idea of common moral²¹.

In order to clarify what human rights mean, UNO has elaborated the 'Universal Declaration of Human Rights' which was adopted on the 10th of December 1948. In this Declaration are listed all human rights, grouped on different categories. 'Universal Declaration of Human Rights' marks the beginning of the endeavors of political and legal popularization and universalization of human rights. This Declaration desires to disband the national frontiers and to impose these rights at a universal level.

²⁰ Martin Kriele, *Befreiung und politische Aufklärung*, Plädoyer für die Würde des Menschen, Freiburg 1980, p. 42.

²¹ Charles R. Beitz, op. cit., p. 1.

The systematization of human rights is imposed in order to follow the way in which different categories of rights are bearing some specific human needs. These are the rights of a man, they belong to the human being and they rise from his specific needs. There are certain rights which can belong to the: states, institutions, children and minorities. In the research literature have been identified several criteria according to which the different rights of man have been determined. So, according to *criterion of the field* that defines them and in which they manifest, human rights can be: economic, social (civic), legal and cultural; after *the way in which they have appeared and they manifest*, rights can be: written and unwritten; after the *criterion of the owner or subjects*, we can discuss about: individual rights and collective rights; after *the criterion of the contents* there are: negative rights/freedoms and claim rights; after *the criterion of the implementing procedures* we can identify: justice seeker rights and program rights. Rights can be: subjective and objective. Subjective rights are defined by the following elements: a subject, owner of rights, individual; a protected content; and a penalty which can be obtained as the result of a procedure, in a manner that ensures its respect. These elements are independent to each other, so there can be distinguished several categories of subjects, of contents and of punishment procedures. In turn, objective law is the totality of legal norms in force within a state at a certain moment²².

International law of human rights is that part of natural rights to which states must associate themselves in order to translate them into positive rights, meaning into rights that establish common principles and which can be applied within an effective international jurisdiction. Contemporary legal texts of protection of human rights formulate a great number of philosophical notions which can represent a basis of consensus. These texts of the international law of human rights concentrate on the relation between the individual and the authorities, on the legitimacy of the action of these last ones on the conditions of coexistence between individuals that are equal in rights. Starting from the respect of each individual and of the equality in rights and dignity, human rights represent a system opened towards the coexistence of a plurality of cultures, beliefs, practices and social organization. The fundamental sources of the human rights can be the: conventions, pacts, treaties – instruments with legal force, as for example: UN Charter, The European Convention of Human Rights, The European

²² Maria Voinea, Carmen Bilzan, *op. cit.*

Convention of Children Rights, etc.; the declarations, resolutions, proclamations – instruments with a political value, and not a legal one, for example: The Universal Declaration of Human Rights, The Declaration of Children Rights; and international tradition²³.

‘All human beings born free and equal in dignity and in rights. They are endowed with reason and consciousness and must behave with each other within the spirit of brotherhoods’²⁴. This principle is written in the first article of the Universal Declaration of Human Rights. It is a consequence of the inalienable rights of man as human being. All human beings are gifted with the same fundamental rights and are the subject of the same respect and dignity no matter the numerous difference that nature and life create. This equality is in rights and in dignity. It does not mean in any way uniformity. On contrary, it allows the foundation of the respect for the differences. This principle of the ‘equality in dignity and in rights’ represents a fundamental base for the structure of the international law of human rights²⁵.

‘Each person can prevail of all rights and freedoms proclaimed in the present Declaration, with no exception, regarding the race, color, sex, language, religion, public opinion or any other opinion, national or social origin, fortune, or of something else. In addition, there will be no differentiation based on the political, legal or international statute of a country or of the territory to which a person belongs, be this country or territory independent, under guardianship, unautonomous or submitted to a various elimination of sovereignty’²⁶. ‘No one shall be the object of any arbitrary interference in his or her private, family life, field or in his or her correspondence, nor of any other attacks on his or her honor or reputation. Any person has the right to legal protection against such interferences or attacks’²⁷.

In 1949, the European Council through its Statute has established ‘The European Convention of Human Rights’, signed on the 4th of November 1950 at Rome and entered into force in 1953. The decision making bodies of the Council were the Council of Ministers (composed of the Foreign Ministers of the parts to the Convention) and the Parliamentary Assembly. The Convention establishes a number of rights and fundamental freedoms, especially the right to life, the prohibition of

²³Id.

²⁴ The 1st of the Universal Declaration of Human Rights - http://www.onuinfo.ro/documente_fundamentale/declaratia_drepturilor_omului/

²⁵ Maria Voinea, Carmen Bilzan, op. cit.

²⁶ The 2nd Article of the Universal Declaration of Human Rights, op. cit.

²⁷ The 12th Article of the Universal Declaration of Human Rights, op. cit.

torture, of slavery and of the forced work, the right to freedom and security, the right to a fair trial, the legality of the punishment, the right to the respect of the private and family life, the freedom of thought, consciousness and religion, the freedom of expression, of assembly and association, the right to marriage, the right to an effective appeal and the prohibition of discrimination²⁸.

The additional Protocols of the Convention protect other rights too (the right to the respect of goods, the right to education, in the first protocol, the competences of the institutions, in the second, the right to free movement on the territory of a state, the freedom to live a country, including his/her own and the prohibition to collective expulsion of the foreigners, in the fourth, the abolishment of the death penalty, in the sixth protocol). The parts to the Convention engage to respect these rights and liberties for all persons who are under their jurisdiction. The Convention also provides an international mechanism of execution. For ensuring the respect of the engagements assumed by the Parts to the Convention, it was established a European Court of Human Rights at Strasbourg (initially, a part of the executive mechanism was also the European Commission for the Human Rights). The Court solves both individual complaints, and the inter-state ones. After the entrance into force of the 11th Protocol to the Convention, in 1998, the control mechanism established by the Convention was restructured, and the European Commission for the Human Rights stopped its functioning. All complaints related to violations of human rights are now sent directly to the Court, which in most cases meets in Chambers composed of seven judges and which pronounce concerning the admissibility and the fund of the requests and, when it considers necessary, it pronounces regarding the performing of some investigations. Also, the Court provides the parties with the possibility of the so-called `amiable settlement` of the dispute concerning the respect of human rights, as they are defined in the Convention and in its protocols. The main remedy that the Court can grant is a decision through which it shows that the Convention was violated. In addition, if it is justified, the Court can also decide to grant the so-called `fair repair`, which can include both repair for the material losses, and damages, and also the costs and expenses²⁹.

²⁸ Stewen Greer, *The European Convention of Human Rights* Cambridge Univ. Press, 2006

²⁹ André Bywater, Mihai Şandru, *Relaţie dintre Instanţele Europene – Curtea Europeană de Justiţie şi Curtea Europeană a Drepturilor Omului – şi Instanţele Naţionale*, Proiect Phare RO 2006/018-147.01.04.04.01 „Conturarea dezvoltării Şcolii Naţionale de Grefieri” (DSNG), pp. 41-42;

By this Convention were stated a series of norms which were not destined to be the expression of a certain culture, of a certain ideology or religion but, in a way the recognition of the universality of the human condition, of the fact that any human being has a series of rights and freedoms in the name his human quality. This is why the Convention was the result of some conflict positions, compromises and chances³⁰.

Maastricht Treaty (the 7th of February 1992) reaffirmed in its Preamble the attachment of the member states to the principle of liberty, democracy and respect of the human rights and fundamental freedoms. In its content it reaffirms one of the fundamental objectives of the European Community: `the protection of the rights and interests of the citizens of the member states ...`. (Article B, par. 3); it also specifies that the `Union respects the fundamental rights as they are guaranteed by the European Convention for the Defense of the Human Rights and Fundamental Liberties (signed in Rome, on the 4th of November 1950) as they result from the common constitutional traditions of the Member States as general principles of the communitarian law` (Article F, par. 2). The demanding for the respect of the fundamental rights exceeds the field of the Communities becoming a strong point in the Union's external relations. Many settlements concluded with different countries contain dispositions that state the suspension of the relations or the denouncement of the agreement in case of a serious violation of the human rights by one of the contracting parties³¹.

The 6th Article of T.U.E. refers to the democratic principles and to the respect of human rights and it establishes that the European Union is based on the principles of liberty, democracy, human rights and fundamental freedoms, but also on the state of law. As a consequence, all states must accomplish three essential conditions: European identity; a democratic system of government; respect towards all human rights and citizen liberties. Lisbon Treaty maintains these conditions and develops them in its content. For example, The Charter of the Fundamental Rights of the European Union strengthens the democratic institutions and their instruments. In the context of the democratization and of the participatory citizenship, it is important to emphasize the role that the inclusion of The Charter of the Fundamental Rights of the European Union has for the interest of the citizens.

<http://www.grefieri.ro/Docs/20100211RELATIA%20DINTRE%20INSTANTELE%20EUROPENE2.pdf>

³⁰ A.W.B. Simpson, Human Rights and the End of Empire, Oxford Univ. Press, 2001, p. IX.

³¹ Ibid., p. 116.

Within the 54 Articles, The Charter defines the fundamental rights related to dignity, liberty, equality, solidarity, citizenship and justice. While through the European Convention of the Human Rights only civil and political rights are protected, The Charter also includes other rights, as the social rights of the workers, the protection of data, etc.

The provisions of The Charter of the Fundamental Rights of the European Union have been incorporated in the text of the Lisbon Treaty as a part of the primary law of the European Union. U.E. Member States are, at the same time, Member States of the Council of Europe, so the legal norms of both legal orders are being fully binding them. The competences of the European Courts has been, indirectly, a problem which has been settled in a jurisprudential manner taking into consideration the fact that the objectives of the two organizations were different. The Council of Europe had a mainly political purpose, established in Europe for its role as the guardian of the protection of human rights. At its origin, European Union had a mainly economic role, but later, under the pressure of the Member States' Courts, E.U.C.J. had to intensely pay attention to the problem of human rights. E.U.C.J. has invoked the necessity of the protection of the human rights through synthesizing the common constitutional principles of the Member States (which were, in a last analyze, principles of the E.C.H.R.'s practice)³².

European Union maintains with a certain number of states dialogues on the theme of the human rights, considered as an instrument of its external policy which is part of a set of instruments which are available for the European Union in order to apply the policy in the field of human rights. The strategy of European Union aims to promote the sustainable development of peace and stability which are interdependent of the human rights. Currently we assist at a multiplication of those dialogues at the most diverse levels and within extremely diverse frameworks. This is why their efficiency and the European Union's capacity of mobilizing resources in order to promote its objectives must be pursued.

³² André Bywater, Mihai Şandru, *op. cit.*, pp. 175-176.

BIBLIOGRAPHY

1. Aguirre, Daniel, *The Human Right to Development in a Globalized World*, Ashgate Publishing, Hampshire, 2008.
2. Akhavan, Payam, *The Universal Repression of Crimes Against Humanity before national Jurisdictions: The Need for a Treaty-Based Obligation to Prosecute*, în vol. Leila Nadya Sadat (edit.), *Forging a Convention for Crimes Against Humanity*, Cambridge Univ. Press, Cambridge, 2011.
3. Alston, Philip, Schutter, Oluver de, *Introduction Addressing the Challenges Confronting the EU Fundamental Rights Agency*, în vol. Philip Alston, Oluver de Schutter (edit.), *Monitoring Fundamental Rights In The EU: The Contribution Of The Fundamental Rights Agency*, Hart Publishing, Oxford, 2005.
4. Andreassen, Bard-Anders, *Article 22*, în vol. Gudmundur Alfredsson, Asbjørn Eide (edit.), *The Universal Declaration of Human Rights: A Common Standard of Achievement*, Martinus Nijhoff Publishers, The Netherlands, 1999.
5. Angle, Stephen C., *Human Rights and Chinese Thought*, Cambridge University Press, Cambridge, 2002.
6. Annan, Kofi, *Message by the United Nations Secretary-General*, în vol. Barend Van Der Heijden, Bahia Tahzib-Lie (edit.), *Reflections on the Universal Declaration of Human Rights: A Fiftieth Anniversary Anthology*, Kluwer Law International, The Hague, 1998.
7. Anton, Donald K., Shelton, Dinah, *Environmental Protection and Human Rights*, Cambridge Univ. Press, Cambridge, 2011.
8. Arnesen, A. L. et al., *Policies and Practices for Teaching Sociocultural Diversity. Concepts, Principles and Challenges in Teacher Education*, Strasbourg, Council of Europe Publishing, 2009.
9. Arnall, Anthony, *The European Union and Its Court of Justice*, Oxford University Press, 1999.
10. Aziz, Miriam, *The Impact of European Rights on National Legal Cultures*, Hart Publishing, Oxford și Portland, Oregon, 2004.

11. Banks, J. A., *Cultural Diversity and Education. Foundations, Curriculum and Teaching*, 5th edition, Allyn and Bacon, Boston, 2006.
12. Banning, Theo R. G. Van, *The Human Right to Property*, Intersentia, Oxford, 2001.
13. Bărbulescu, I. Gh., *Dicționarul explicativ trilingv al Uniunii Europene*, Polirom, 2009.
14. Bărbulescu, I. Gh., Ion, O. A., Iancu, A., Toderaș, N., *Tratatul de la Lisabona: implicații asupra instituțiilor și politicilor românești*, Studiu de impact, IER, București, 2011.
15. Balfour, Adam D. J., *Application of the European Convention on Human Rights by the European Court of Justice*, Harvard Law School, 2005.
16. Barcz, Jan, *Fundamental Rights Protection in the European Union*, Ed. Wydawnictwo C.H. Beck, Varșovia, 2009.
17. Barzea, C., *Cetățenia europeană*, Politeia, 2005.
18. Bassiouni, M. Cherif, *Crimes Against Humanity in International Criminal Law*, second revised edition, Kluwer Law International, The Hague, 1999.
19. Bates, Ed., *The Evolution of the European Convention on Human Rights: From Its Inception*, Oxford Univ. Press, Oxford, 2010.
20. Bârsan, Corneliu, *Convenția Europeană a Drepturilor Omului. Comentariu pe articole*, vol. I, Ed. AlBeck, București, 2005.
21. Beccaria, Cesare, *On Crimes and Punishments and Other Writings*, Univ. of Toronto Press, London, 2008.
22. Beck, Reinhard, *Sachwörterbuch der Politik*, Kröner Verlag, Stuttgart 1986.
23. Beitz, Charles R., *The Idea of Human Rights*, Oxford Univ. Press, Oxford, 2011.
24. Bertelsmann Discovery Lexikon, Verlag, 1997
25. Bilton, T., Bonnett, K., Stanworth, M., Sheard, K., Webster, A., *Introductory Sociology*, MacMillan, London, 1993.
26. Bogdandy, Armin von, *A disputed idea becomes law: Remarks on European Democracy as a Legal Principle*, în vol. Beate Kohler-Koch, Berthold Rittberger (edit.), *Debating the Democratic Legitimacy of the European Union*, Rowman and Littlefield, Plymouth, 2007.
27. Booth, Ken, *Three tyrannies*, în vol. Tim Dunne, Nicholas J. Wheeler (edit.), *Human Rights in Global Politics*, Cambridge Univ. Press, Cambridge, 1999.

28. Bradley, Catherine, *Freedom of Movement*, Sea-to-Sea Publications, 2005.
29. Brandom, Robert, *Articulating Reasons: An Introduction to Inferentialism*, Harvard University Press, Cambridge, 2000.
30. Brandom, Robert, *Freedom and Constraint by Norms*, în Robert Hollinger (edit.), *Hermeneutics and Praxis*, University of Notre Dame Press, Notre Dame, 1985.
31. Brems, Eva, *Human Rights: Universality and Diversity*, Martinus Nijhoff Publishers, The Hague, 2001.
32. Bromley, Patricia E., *Human Rights, Diversity, and National Identity: Changes in Civic Education Textbooks Cross-Nationally (1970-2008) and in British Columbia (1871-2008)*, Stanford University, School of Education, PhD Thesis, June 2011.
33. Brown, Chris, *Universal Human Rights*, în Tim Dunne, Nicholas J. Wheeler (edit.), *Human Rights in Global Politics*, Cambridge University Press, Cambridge, 1999.
34. Burgan, Michael, *The Bill of Rights*, Compass Point Books, Minneapolis, 2002.
35. Burgers, Jan Herman, *The Road to San Francisco*, *Human Rights Quarterly*, nr. 14, 1992.
36. Bühler, Karl, *Theory of Language: The Representational Function of Language*, John Benjamins, Amsterdam, 2011.
37. Bywater, André, Șandru, Mihai, *Relația dintre Instanțele Europene – Curtea Europeană de Justiție și Curtea Europeană a Drepturilor Omului – și Instanțele Naționale*, Proiect Phare RO 2006/018-147.01.04.04.01 „Conturarea dezvoltării Școlii Naționale de Grefieri” (DSNG), p. 41-42; <http://www.grefieri.ro/Docs/20100211RELATIA%20DINTRE%20INSTANTELE%20EUROPENE2.pdf>.
38. Callawaert, Johan, *The European Convention on Human Rights and European Union Law: a Long Way to Harmony*, *European Human rights Law Review*, nr 6/2009.
39. Carruthers, Stephen, *The Treaty of Lisbon and the Reformed Jurisdictional Powers of the European Court of Justice in the Field of Justice and Home Affairs*, *European Law Review*, nr 6/2009.

40. Cassimatis, Anthony, *Human Rights Related Trade Measures Under International Law: The Legality of the Trade Measures Imposed in Response to Violations of Human Rights Obligations under General International Law*, Martinus Nijhoff Publishers, The Netherlands, 2007.
41. Cavanagh, Allison, *Sociology in the Age of the Internet*, Open Univ. Press, Berkshire, 2007.
42. Chalmers, Damian, Tomkins, Adam, *European Union Public Law. Text and Materials*, Cambridge University Press, 2007.
43. Chimisso, Cristina, Bachelard, Gaston, *Critic of Science and the Imagination*, Routledge, London, 2001
44. Condinanzi, Massimo, Lang, Alessandra, Nascimbene, Bruno, *Citizenship of the Union and Free Movement of Persons*, Martinus Nijhoff Publishers, Leiden, 2008.
45. Chiriță, R., *Convenția Europeană a Drepturilor Omului – Comentarii și Explicații*, Ediția a II-a, Editura C.H. BECK, București, 2008.
46. Chiriță, R., *Curtea Europeană a Drepturilor Omului – Culegere de Hotărâri 2004*, Editura C.H. Beck, București, 2007.
47. Cohen, Anthony Paul, *Self Consciousness: An Alternative Anthropology of Identity*, Routledge, New York, 2002.
48. Craig, Paul, Burca, Grainne de, *Dreptul Uniunii Europene, Comentarii, jurisprudență, doctrină*, Ed. Hamangiu, 2009.
49. Cranston, Maurice W., *Human Rights*, American Academy of Arts and Sciences, 1983.
50. Conte, Alex, *Privacy, Honour and Reputation*, în vol. Alex Conte, Richard Burchill (edit.), *Defining Civil and Political Rights: The Jurisprudence of the United Nations Human Rights Committee*, second edition, Ashgate Publishing, Surrey, 2009.
51. Corradetti, Claudio, *Relativism and Human Rights: A Theory of Pluralistic Universalism*, Springer, Verlag, 2009.
52. Cranston, Maurice W., *Human Rights*, American Academy of Arts and Sciences, 1983 Council of Europe, *White Paper on Intercultural Dialogue: Living Together As Equals in Dignity*, Council of Europe Publishing, Strasbourg, (June 2008) March 2010.

53. Davis, Thomas W. D., Human Rights in Asia: institutions, norms and politics, în vol. Thomas W. D. Davis, Brian Galligan (edit.), Human Rights in Asia, Edward Elgar Publishing, Massachusetts, 2011.
54. Dănișor, Gheorghe, Filosofia drepturilor omului, Editura Universul Juridic, București, 2011.
55. Dehousse, Renaud, La Cour de Justice des Communautés européennes, Ed. Montchrestien, Paris, 1994.
56. Diggins, John Patrick, The Lost Soul of American Politics: Virtue, Self-Interest, and the Foundations of Liberalism, Univ. of Chicago Press, Chicago, London, (1984) 1986.
57. Douglas-Scott, Sionaidh, A Tale of Two Courts: Luxembourg, Starsbourg and the Growing European Human Rights Acquis, CMLR, 2006.
58. Dubos, Olivier, Les juridictions nationales, juges communautaire, Paris, Dalloz, 2001.
59. Douzinas, Costas, Human Rights and Empire: The Political Philosophy of Cosmopolitanism, Routledge, New York, 2007.
60. Dworkin, Ronald, Taking Rights Seriously, Harvard Univ. Press, Harvard, (1977) 1978.
61. Dworkin, Ronald, Is Democracy Possible Here?: Principles for a New Political Debate, Princeton Univ. Press, New Jersey, (2006) 2008.
62. Eisele, Katharina, *Evaluating the European arrest Warrant as a Counter-Terrorism Measure – Security at All Costs? A Analysis on „Third-Pillar” legislation with Regard to Human Rights*, European Law, vol 2 nr. 2/2006.
63. Fabian, Gy., Drept Instituțional Comunitar, Ediția a III-a, Editura Sfera Juridică, Cluj-Napoca, 2008.
64. Fagan, Andrew, Human Rights: Confronting Myths and Misunderstandings, Edward Elgar Publishing, Massachusetts, 2009.
65. Favret, J. M., Droit et Pratique de l'Union Européenne, Guliano Editeur, 1996.
66. Finnis, John, Natural Law and Natural Rights, Oxford Univ. Press, Oxford, 2011.
67. Forrest, Simon, Straight talking, Challenges in teaching and learning about sexuality and homophobia in schools, în vol. Education, Equality And Human

- Rights: Issues Of Gender, 'Race', Sexuality, Disability and Social Class, 2nd edition, Mike Cole (edit.), Routledge, London, 2006.
68. Freeman, Michael, Human Rights: An Interdisciplinary Approach, 2nd edition, Polity Press, Cambridge, 2011
 69. Freedman, Eric M., Habeas Corpus: Rethinking the Great Writ of Liberty, New York Univ. Press, New York, (2001) 2003.
 70. Gearty, Conor, The United Kingdom, în vol. C. A. Gearty (edit.), European Civil Liberties and the European Convention on Human Rights: A Comparative Study, Martinus Nijhoff Publishers, The Hague, 1997.
 71. Georgescu, Ștefan, *Filosofia dreptului. O istorie a ideilor*, Partea I, Editura All Beck, București, 1998.
 72. Georgescu, Adriana, Jurisprudența comunitară și începuturile invocării normelor de protecție a drepturilor omului, în special ale Convenției Europene a Drepturilor Omului (CEDO), RNSJ, nr. 9/2009.
 73. Geuss, Raymond, *History and Illusion in Politics*, Cambridge University Press, Cambridge, 2001.
 74. Gewirth, Alan, Reason and Morality, Univ. of Chicago Press, Chicago, 1980.
 75. Gewirth, Alan, Human Rights, Essays on Justification and Application, University of Chicago Press, Chicago, 1982.
 76. Gould, Carol C., Globalizing Democracy and Human Rights, Cambridge Univ. Press, Cambridge, 2004.
 77. Greer, Stewen, The European Convention of Human Rights Cambridge Univ. Press, 2006
 78. Griffin, James, On Human Rights, Oxford Univ. Press, Oxford, 2008.
 79. Guild, El., Constitutional Challenges to the European Arrest Warrant, Ed. Wolf Legal Publishers, Olanda, 2006.
 80. Gruskin, Sofia, Perspectives on Health and Human Rights, Routledge, New York, 2005.
 81. Halliday, Paul D., Habeas Corpus: From England to Empire, Harvard Univ. Press, Harvard, 2010.
 82. Hancock, Jan, Environmental Human Rights: Power, Ethics, and Law, Ashgate Publishing, Burlington, 2003.
 83. Hardin, Russell, David Hume: Moral and Political Theorist, Oxford Univ. Press, Oxford, 2007.

84. Hessler, Kristen, Buchanan, Allen, Specifying the Content of the Human Rights to Health Care, în vol. *Medicine and Social Justice: Essays on the Distribution of Health Care*, Rosamond Rhodes, M. Pabst Battin, Anita Silvers (edit.), Oxford Univ. Press, Oxford, 2002.
85. Hinarejos, Alicia, *The Lisbon Treaty versus standing Still: A View from the Third Pillar*, *European Constitutional Law Review*, nr. 5/2009.
86. Hobbes, Thomas, *Leviathan* (1651), E. Curley (edit.), Hackett, Indianapolis, 1994.
87. Hunt, Murray, *Using Human Rights Law in English Courts*, Hart Publishing, 1997.
88. Hunter, David, *The Drafting of the Covenant*, G. P. Putnam's Sons, New York, 1928.
89. Ingram, David, *Law: Key Concepts in Philosophy*, Continuum International Publishing Group, London, 2006.
90. Irvine, William Braxton, *A Guide to the Good Life: The Ancient Art of Stoic Joy*, Oxford Univ. Press, Oxford, 2009.
91. Ishay, Micheline, *The Human Rights Reader: Major Political Writings, Essays, Speeches, and Documents from the Bible to Present*, Routledge, New York, 1997.
92. Jacobs, F.G., Roberts, S. (eds.), *Effect of Treaties in Domestic Law*, Sweet & Maxwell, 1987
93. Janis, Mark W., Kay, Richard S., Bradley, Anthony W., *European Human Rights: Text and Materials*, OUP, 2008.
94. Jovanovic, Miodrag, Vujadinovic, Dragica, Etinski, Rodoljub, *Democracy and Human Rights in the European Union*, University of Maribor, Faculty of law, Slovenia, Maribor/Begrad, 2009.
95. Judge, R. B., *Handbook on the European Arrest Warrant*, T.M.C. Asser Press, Haga, 2005.
96. Kadelbach, Stefan, *Union citizenship*, Jean Monet Center, New – York, 2003.
97. Kishore, Brij, *Charter Of The United Nations & Statute Of International Court of Justice*, PHI Learning Private Limited, New Delhi, 2010.
98. Kaime, Thoko, *The Convention on the Rights of the Child: A Cultural Legitimacy Critique*, Europa Law Publishing, 2011.

99. Kisner, Matthew J., *Spinoza on Human Freedom: Reason, Autonomy and the Good Life*, Cambridge Univ. Press, Cambridge, 2011.
100. Krause, Caterina, Scheinin, Martin, *International Protection of Human Rights: A Textbook*, Abo Akademi University, Institute for Human Rights, 2009.
101. Kriele, Martin, *Befreiung und politische Aufklärung*, Plädoyer für die Würde des Menschen, Freiburg 1980.
102. Köchler, Hans, *Democracy and Human Rights*, International Progress Organization, 1990.
103. Langfield, Michele, Logan, William, Craith, Máiréad Nic, *Intersectioning concepts and practices*, in vol. Michele Langfield, William Logan, Máiréad Nic Craith (edit.), *Cultural Diversity, Heritage and Human Rights: Intersections in Theory and Practice*, Routledge, Oxon, 2010.
104. Lauren, Paul Gordon, *The Evolution of International Human Rights: Visions Seen*, The Univ. of Pennsylvania Press, Pennsylvania, 2011.
105. Lauren, Paul G., *The Evolution of International Human Rights*, 2nd edn., University of Pennsylvania Press, Philadelphia, 2003.
106. Law, Stephen *Humanism: A Very Short Introduction*, Oxford Univ. Press, Oxford, 2011.
107. Leary, Virginia A., *Postliberal Strands in Western Human Theory, Personalist – Communitarian Perspectives*, in vol. Abdullahi Ahmed An-Na'im (edit.), *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, The Univ. of Pennsylvania Press, Pennsylvania, 2009.
108. Ligeti, K., *Büntetőjogi és bűnügyi együttműködés az Európai Unióban*, Ed. Kjk Kerszöv Kft, Budapesta, 2004.
109. Lindholm, Tore, *Article 1*, in vol. Gudmundur Alfredsson, Asbjørn Eide (edit.), *The Universal Declaration of Human Rights: A Common Standard of Achievement*, Martinus Nijhoff Publishers, The Netherlands, 1999.
110. Lister, R., *Citizenship Towards a feminist synthesis*, in *Feminist Review*, No. 57, Autumn 1997.
111. Loucaides, Loukis G., *The European Convention on Human rights*, Ed. Martinus Nijhoff, Leiden, 2007.
112. Malden, Henry E., *Magna Carta Commemoration Essays*, The Lawbook Exchange, New Jersey, 2006.
113. Malone, Linda, *International Law*, Aspen Publishers, New York, 2008.

114. Malden, Henry Elliot, *Magna Carta Commemoration Essays*, The Lawbook Exchange, New Jersey, 2006.
115. Mathieu, Bertrand, *The Right to Life in European Constitutional and International Case-Law*, Council of Europe Publishing, Belgium, 2006.
116. May, William E., *An Introduction to Moral Theology*, second edition, Our Sunday Visitor Publishing Division, Huntington, (1991) 1994.
117. Mayer, Ann Elizabeth, *Islam And Human Rights: Tradition And Politics*, fourth edition, Westview Press, Oxford, 2007.
118. Mayr, Erasmus, *The political and Moral conceptions of human rights – a mixed account*, în vol. Gerhard Ernst, Jan-Christoph Heilinger (edit.), *The Philosophy of Human Rights: Contemporary Controversies*, Walter de Gruyter GmbH and Co. K.G., Berlin, 2011.
119. McCoubrey, H., *International Humanitarian Law: the regulation of armed conflicts*, Dartmouth, 1990.
120. McLaren, Lauren M., *Identity, interests and Attitudes to European integration*, Ed. Palgrave MacMillan, N.Y., 2006.
121. Meisler, Stanley, *United Nations: A History*, Grove Press, New York, (1995) 2011.
122. Metzger, Axel, *Article 12 from the 1951 Convention*, în vol. Andreas Zimmermann (edit.), *The 1951 Convention Relating to the Status of Refugees and Its 1967 Protocol*, Oxford Univ. Press, Oxford, 2011.
123. Mikaelson, Laurids, *European Protection of Human Rights: The Practice and Procedure of the European Commission of Human Rights on the admissibility of applications from individuals to states*, Sijthoff and Noordhoff International Publishers, The Netherlands, 1980.
124. Mitsilegas, Valsamis, *EU Criminal Law*, Ed. Oxford and Portland, Oregon, 2009.
125. Montesquieu, Charles Louis de, *Despre spiritul legilor*, Editura Științifică, București, 1964.
126. Montesquieu, *The Spirit of Laws: A Compendium of the First English Edition*, Univ. of California Press, London, 1977.
127. Morsink, Johannes, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*, Univ. of Pennsylvania Press, Pennsylvania, 1999.

128. Morsink, Johannes, *Inherent Human Rights: Philosophical Roots of the Universal Declaration*, Univ. of Pennsylvania Press, Pennsylvania, 2009.
129. Murdoch, J. L., *Article Five of the European Convention on Human Rights*, Human Rights files No. 12 (revised), Council of Europe Publishing, Strasbourg, 2002.
130. Mutibwa, Ian, *The Right to Education*, Lambert Academic Publishing, 2011.
131. Murray, Malcolm (edit.), *Liberty, Games and Contracts: Jan Narveson And the Defence of Libertarianism*, Ashgate Publishing, Hampshire, 2007.
132. Nagy, Anita, *Eljárást gyorsító rendelkezések a büntetőeljárás bírósági szakaszában (Teză de doctorat)*, Miskolc, 2007.
133. Naldi, Gino J., *The African Union and the Regional Human Rights System*, în vol. Malcolm David Evans, Rachel Murray (edit.), *The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2006*, second edition, Cambridge Univ. Press, Cambridge, (2002) 2008.
134. Narasaiah, M.L., *Education And Human Rights*, Discovery Publishing House, New Delhi, (2004) 2006.
135. Nelson, John O., *Against Human Rights*, *Philosophy*, nr. 65, 1990.
136. Nielsen, Kai, *God And The Grounding of Morality*, Univ. of Ottawa Press, Canada, 1991.
137. Norman, Richard, J., *On Humanism*, Routledge, London, 2004.
138. O'Halloran, Kerry, McGregor-Lowndes, Myles, Simon, Karla W., *Charity Law & Social Policy: National and International Perspectives on the Functions of the Law Relating to Charities*, vol. 10, Springer, 2008.
139. Okafor, Obiora C., *The African Human Rights System, Activist Forces And International Institutions*, Cambridge Univ. Press, Cambridge, 2007.
140. Oppenheimer, Andrew, *The relationship between European Community law and national law*, Cambridge University Press, 1994.
141. Orend, Brian, *Human Rights: Concept and Context*, Broadview Press, Canada, 2002.
142. Orend, Brian, *War and International Justice: A Kantian Perspective*, Wilfrid Laurier Univ. Press, Waterloo, 2000.
143. Pérignon, Isabelle, Daucé, Constance, *The European Arrest Warrant: a growing success story*, publicat pe site-ul <http://www.springerlink.com/content/e7v31lg282kp2475/>.

144. Poiares, Miguel M., *We The Court. The European Court of Justice and the European Economic Constitution. A Critical Reading of Article 30 of the EC Treaty*, Hart Publishing, Oxford-Portland, Oregon, 1999.
145. Popescu, C. L., *Protecția internațională a drepturilor omului*, București, Ed. All Beck, 2000.
146. Prisecaru, Petre, *Politici comune ale Uniunii Europene*, Editura Economică, București, 2004.
147. Raz, Joseph, *Human Rights without Foundations*, în Samantha Besson, John Tasioulas (edit.), *The Philosophy of International Law*, Oxford Univ. Press, Oxford, 2010.
148. Reichert, Elisabeth, *Human Rights in the Twenty-first Century: Creating a New Paradigm for Social Work*, în vol. Elisabeth Reichert (edit.), *Challenges in Human Rights: A Social Work Perspective*, Columbia Univ. Press, New York, 2007.
149. Rehman, Javid, *International Human Rights Law*, Pearson Education Harlow, (2003) 2010.
150. Rehof, Lars A., *Article 3*, în vol. Gudmundur Alfredsson, Asbjørn Eide (edit.), *The Universal Declaration of Human Rights: A Common Standard of Achievement*, Martinus Nijhoff Publishers, The Netherlands, 1999.
151. Renucci, Jean-François, *Droit européen des droits de l'homme*, LGDJ, Paris, 2001.
152. Robertson, Council of Europe, Steven & Sons, London, 1951.
153. Roosevelt, Franklin. D., *Annual Mesage to Congress, January 6, 1941*, *The Public Papers and Addresses of Franklin D. Roosevelt, 1940 Volume: War-And Aid to Democracies* [vol. ix], com. Samuel I. Rosenman, Macmillan, New York, 1941.
154. Rorty, Richard, „Human Rights, Rationality, and Sentimentality”, în vol. *On Human Right: The Oxford Amnesty Lectures*, Stephen Shute, Susan Hurley (edit.), Basic Books, New York, 1993.
155. Rousseau, J. J., *Discurs asupra originii și fundamentelor inegalității dintre oameni*, Editura Științifică, București, 1958.
156. Rousseau, J. J., *Contractul social*, Editura Științifică, București, 1957.
157. Rousseau, J. J., *The Social Contract*, Casimo, New York, 2008.

158. Ruth, Lister, *Citizenship Towards a feminist synthesis*, în *Feminist Review*, No. 57, Autumn 1997.
159. Salazar, Mariana A., *Diplomatic Protection: Contemporary Challenges: a Study on the Impact of the Individual – oriented Evolution of International Law Upon Diplomatic Protection*, Institut universitaire de Hautes études internationales, 2004.
160. Sandru, S., Carp, R., *Dreptul la intimitate și protecția datelor cu caracter personal*, Ed. C.H. Beck, București, 2004.
161. Schleifer, Ronald, A.J. Greimas and the Nature of Meaning: Linguistics, Semiotics and Discourse Theory, Croom Helm, Kent, 1987.
162. Scholz, Sally J., *Political Solidarity*, The Pennsylvania State University Press, Pennsylvania, 2008.
163. Searle, John R., *The Construction of Social Reality*, Free Press, New York, 1995.
164. Sjørølev, Inger, *Alterity as Celebration, Alterity as Threat, A Comparison of Grammars between Brazil and Denmark*, în vol. Gerd Baumann, Andre Gingrich (edit.), *Grammars of Identity/Alterity: A Structural Approach*, vol. 3, Berghahn Books, (2004) 2006.
165. Sidjanski, D., *Viitorul federalist al Europei*, Polirom, 2010.
166. Simpson, A.W.B., *Human Rights and the End of Empire, : Britain and the Genesis of the European Convention* Oxford Univ. Press, 2001.
167. Sivarajah, Mark, *Value-pluralism and Human Rights*, în vol. *Frontiers of Diversity: Explorations in Contemporary Pluralism*, Avery Plaw (edit.), Rodopi, Amsterdam – New York, 2005.
168. Souillac, Geneviève, *Human Rights in Crisis: The Sacred and The Secular in Contemporary French Thought*, Lexington Books, Oxford, 2005.
169. Smith, Rhona K. M., *Textbook on International Human Rights*, 3rd edition, Oxford Univ. Press, Oxford, 2007.
170. Smith, Steve, *Positivism and Beyond*, în vol. Steve Smith, Ken Booth, Marysia Zalewski (edit.), *International Theory: Positivism and Beyond*, Cambridge University Press, Cambridge, 1996.
171. Sohn, Louis B., *How American International Lawyers Prepared for the San Francisco Bill of Rights*, *American Journal of International Law*, nr. 89, 1995.

172. Spring, Joel H., *The Universal Right to Education: Justification, Definition, and Guidelines*, Routledge, New York, 2008.
173. Suresh, H., *All rights are Fundamental Rights*, Universal Law Publishing Company, 2010.
174. Streteanu, Florin, *Tratat de drept penal. Partea generală. Volumul I*, Ed. C. H. Beck, București, 2008.
175. Sudre, F., *Drept European și Internațional al Drepturilor Omului*, Editura Polirom, București, 2006.
176. Ștefan, Tudorel, *Principiul nediscriminării în dreptul comunitar*, în rev. Themis, nr. 137, 2000.
177. Ștefănescu, M., Stan V., *Raport asupra vizitei la Centrul de reeducare pentru minori din Găești*, *Revista Română de Drepturile Omului* nr. 19/2001.
178. Todorean, Olivia, „Constructivism în relațiile internaționale” în Miroiu, Andrei și Ungureanu, Radu (coord.), *Manual de relații internaționale*, Polirom, 2006.
179. Tridimas, T., *The General Principles of EC Law*, Oxford University Press, Oxford EC Law Library, Oxford, New York, 1999.
180. Tomuschat, Christian, *Human Rights: Between Idealism and Realism*, Oxford Univ. Press, New York, 2003.
181. Turner, Bryan S., *Vulnerability And Human Rights*, The Pennsylvania State Univ. Press, Pennsylvania, 2006.
182. Turner, Ralph V., *Magna Carta: Through the Ages*, Pearson Education, Edinburgh, 2003.
183. Vincent, Andrew, *The Politics of Human Rights*, Oxford Univ. Press, Oxford, 2010.
184. Voinea, Maria, Bulzan, Carmen, *Sociologia drepturilor omului*, Editura Universității din București, București, 2004.
185. Voicu, M., *Uniunea Europeană înainte și după Tratatul de la Lisabona*, Ed. Universul Juridic, București, 2009.
186. Wang, Lu-In, *Discrimination by Default: How Racism Becomes Routine*, New York Univ. Press, New York, 2006.
187. Weiss, Thomas, *Humanitarian Intervention*, 2nd edition, Polity Press, Cambridge, 2012.

188. Wells, H.G., *The Rights of Man: or What are We Fighting for?*, Middlesex: Penguin, Harmondsworth, 1940.
189. Wend, Alex., „Anarchy Is what States make of It: The Social Construction of Power Politics”, *International Organization*, vol. 46, n.2, 1992.
190. Williams, Andrew, *EU Human Rights Policies. A Study in Irony*, Oxford University Press, New York, 2004.
191. Williams, David Lay, *Rousseau's Platonic Enlightenment*, The Pennsylvania State University Press, Pennsylvania, 2007.
192. Woodhouse, Barbara Bennett, Johnson, Kathryn A., *The United Nations Convention on The Rights of the Child: Empowering Parents to Protect Their Children's Rights*, în vol. Martha Fineman, Karen Worthington (edit.), *What Is Right for Children?: The Competing Paradigms of Religion and Human Rights*, Ashgate Publishing, Burlington, 2009.
193. Woyke, Wichard, *Handwörterbuch Internationale Politik*, Verlag Barbara Budrich, Verlag, 2008.
194. Wronka, Joseph, *Human Rights and Social Policy in the 21st Century*, revised edition, Univ. Press of America, Boston, 1998.
195. Zăpârțan, Liviu-Petru, *Repere în știința politicii*, Ed. Chemarea, Iași, 1991.
196. Zeno-Zencovich, Vincenzo, *Freedom of Expression: A Critical and Comparative Analysis*, Routledge, Oxon, 2008.
197. Zlătescu, Irina M., *Drepturile omului – un sistem în evoluție*, IRDO, București, 2007.
198. Zlătescu, Irina Moroianu, *Instituții Europene și Drepturile Omului*, Institutul Român pentru Drepturile Omului, București, 2008.
- 199.

Articole

1. Albi, Anneli : Ironies in Human Rights Protection in the EU: Pre-Accession Conditionality and Post-Accession Conundrums în *European Law Journal*, Vol. 15. No 1. ianuarie 2009, pp. 46-69.
2. Callawaert, Johan: The European Convention on Human Rights and European Union Law: a Long Way to Harmony, *European Human Rights Law Review*, nr 6/2009, Thomson Reuters (Legal) Limited and Contributors, pp. 769 – 781.

3. Carruthers, Stephen: The Treaty of Lisbon and the Reformed Jurisdictional Powers of the European Court of Justice in the Field of Justice and Home Affairs, *European Law Review*, nr 6/2009, ed. Sweet and Maxwell, pp. 785-804.
4. Deen-Racsmány, Zsuzsanna, Blextoon, Judge Rob, The Decline of the Nationality Exception in European Extradition?, *European Journal of Crime, Criminal Law and Criminal Justice*, Vol. 13/3 din 2005.
5. Eisele, Katharina: Evaluating the European arrest Warrant as a Counter-Terrorism Measure – Security at All Costs? A Analysis on „Third-Pillar” legislation with Regard to Human Rights, *European Law*, vol 2 nr. 2/2006, pp. 204-207.
6. Kristóf, Fábry, The European Arrest Warrant: no security without Human Rights, Teza de proiect SIPRI, 2007, pe site-ul <http://www.sipri.org/search?SearchableText=fabry>.
7. Fichera, M., Janssen, Christine, Mutual recognition of judicial decisions in criminal matters and the role of the national judge, *ERA Forum* (2007), publicat online în 01 iunie 2007, p.187, <http://www.springerlink.com/content/k1r425436841280r/>.
8. Fichera, M., The European Arrest Warrant and the Sovereign State: A Marriage of Convenience? în *European Law Journal*, Vol. 15, nr. 1, ianuarie 2009.
9. Foster, Steve, *Q&A Human Rights and Civil Liberties 2012 And 2013*, Oxford Univ. Press, Oxford, (2006, 2008) 2010.
10. Hinarejos, Alicia, On the Legal Effects of Framework Decisions and Decisions: Directly Applicable, Directly Effective, Self-executing, Supreme?, *European Law Journal*, Vol. 14, no. 5/2008, pp. 620 – 634.
11. Hinarejos, Alicia, The Lisbon Treaty versus standing Still: A View from the Third Pillar, *European Constitutional Law Review*, no. 5/2009, pp. 99-116.
12. Impala, Franco: The European Arrest Warrant in the Italian legal system. Between mutual recognition and mutual fear within the European area of Freedom, Security and Justice, pe <http://www.utrechtlawreview.org/publish/articles/000009/article.pdf>.

13. Jacobs, Francis, The European Convention on Human Rights, The Charter of Fundamental Rights and the European Court of Justice, pe http://www.ecln.net/elements/conferences/book_berlin/jacobs.pdf.
14. Leaf, Marisa, Alegre, Susie: Mutual Recognition in European Judicial Cooperation: A Step Too far Too Soon? Case Study – The European Arrest Warrant, în European Law Journal, vol. 10, nr. 2, pp. 200 – 217.
15. Mackarel, Mark, The European Arrest Warrant – The Early Years: Implementing and Using the Warrant, European Journal of Crime, Criminal Law and Justice, 2007, pp. 37-65, www.brill.nl/eccl.
16. Miller, Vaughne, Human Rights in the EU:the Charter of Fundamental Rights, pe site-ul, <http://www.parliament.uk/documents/commons/lib/research/rp2000/rp00-032.pdf>.
17. Munteanu, Corina Sabina, Mandatul european de arestare. Un instrument juridic apt să înlocuiască extrădarea, în Caiete de drept penal 1/2007, pp. 91-121.
18. Pérignon, Isabelle, Daucé, Constance, The European Arrest Warrant: a Growing Success Story, publicat pe site-ul: <http://www.springerlink.com/content/e7v311g282kp2475/>.
19. Plachta, Michael, European Arrest Warrant:Revolution in Extradition? în European Journal of Crime, Criminal Law and Criminal Justice, vol. 11/2003, pp. 178-194.
20. Radu, Florin Răzvan, Legea nr. 302/2004 privind cooperarea judiciară internațională în materie penală – un pas important spre integrarea României în spațiul de libertate, securitate și de justiție al Uniunii Europene în Dreptul nr. 11/2004.
21. Ținca, Ovidiu, Carta drepturilor fundamentale a Uniunii Europene, în: Revista de drept comercial, an XII, nr. 4, 2002.
22. Weiler, J. H. H, Editorial: Does the European Union Truly Need a Charter of Rights? în European Law Journal nr. 3/2000, vol. 6, pp. 95-97.

Alte surse:

1. American Anthropological Association, Committee on Human Rights, „Declaration on Anthropology and Human Rights”, 1999.

2. Council of Europe, White Paper on Intercultural Dialogue: Living Together As Equals in Dignity, Council of Europe Publishing, Strasbourg, (June 2008) March 2010.
3. Convenția cu privire la drepturile copilului - http://www.unicef.org/moldova/CRC_RO.pdf
4. Casa Lorzilor, European Arrest Warrant—Recent Developments. Report with Evidence, 4. aprilie 2006, <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldecom/156/156.pdf>.
5. Declarația Universală a Drepturilor Omului - http://www.onuinfo.ro/documente/fundamentale/declaratia_drepturilor_omului/
6. Raportul anual al Curții europene a drepturilor omului pe 2009.
7. Raportul Comisiei Comunității Europene, din Bruxelles, 23.02.2005, SEC(2005) 267.
8. Raportul Comisiei, pe baza art. 34 a Deciziei-cadru din 13 iunie 2002, privind mandatul european de arestare și procedura predării între statele membre, Bruxelles, 24 ianuarie 2006.
9. UNIUNEA EUROPEANA, *Versiunea consolidată a Tratatelor. Carta drepturilor fundamentale*, OPUE, Luxemburg, 2010.
10. Inter-American Year Book on Human Rights, Inter-American Commission on Human Rights, Martinus Nijhoff Publishers, The Netherlands, vol. 1, 1996
11. International Covenant on Economic, Social and Cultural Rights (ICESCR), art. II (I).
12. Pactul internațional cu privire la drepturile civile și politice.
13. Versiunea consolidată a Tratatului privind Uniunea Europeană și a Tratatului privind funcționarea UE, O.P.U.E., Luxemburg, 2010 .
14. „Final Report of the Group of Wise Persons to the Committee of Ministers, Council of Europe, November 2006” / “*Raportul final al Grupului Înțelepților către Comitetul de Miniștri, Consiliul Europei, noiembrie 2006*” (nota traducătorului), disponibil pe Internet la: <http://www.echr.coe.int>.
15. Drepturile cetățenilor europeni, Valori europene pentru tinerii de lângă frontiere, Programul de micro-proiecte EUROPA FUND 2006, Frătăuții Vechi, 17 august 2007.

16. Construirea unei Europe cu ș i pentru Copii, Council of Europe – Consiliul Europei, Realizarea: Departamentul de Producție al Documentelor și Publicațiilor (DPDP), Publicat în România, august 2007.
17. Reglement (CE) No168/2007 du Conseil du 15 février 2007 portant création d'une Agence des droits fondamentaux de l'Union européenne, în "Journal officiel de l'Union européenne" L 53 din 22.02.2007.
18. Comisia Europeană, Bruxelles, 30.3.2011, COM(2011) 160 final, Raport al Comisiei către Parlamentul European, Consiliu, Comitetul Economic și Social European și Comitetul Regiunilor.
19. Convenției ONU privind eliminarea tuturor formelor de discriminare împotriva femeilor, COM(2010).
20. Strategia europeană 2010-2020 pentru persoanele cu handicap: un angajament reînnoit pentru o Europă fără bariere, COM (2010).

http://www.irdo.ro/file.php? fisiere_id=80&inline
http://www.echr.coe.int/echr/Homepage_EN.
http://europa.eu/index_ro.htm.
<http://www.dreptonline.ro>.
www.dados.org/rom/menschenrechte/grundkurs_2.htm.
<http://www2.ohchr.org/english/law/cescr.htm>
<http://www.aaanet.org/stmts/humanrts.htm>
<http://www.un.org/rights/dpi1774e.htm>
<http://www.unhchr.ch>
http://docs.google.com/viewer?a=v&q=cache:VCLYj4t-1dkJ:europaindirect.ecosv.ro/download/Drepturile%2520cetatenilor%2520europeni.ppt+drepturile+cetatenilor+europeni.ppt&hl=ro&gl=ro&pid=bl&srcid=ADGEESigz3i2hHIPtLgdFW_3oPpPGCa28gHRLVfcqNXUNK7yoKNhk9hoblt6Jch4nJa2fX5IPCxJNUzMj6JMypZmKNeh9AbsYwqPWSUrxZ4tKQsrSUUXQsYw4pOyy7Ry6rY4FKOLWwyU&sig=AHIEtbRDzbyvIuEIWvvCs8kR0Kuf9ivsMg
http://www.coe.int/t/dg3/children/other%20langauges/Booklet_Romanian.pdf
http://docs.google.com/viewer?a=v&q=cache:afh1i1Erv3AJ:www.asdcdo.org/articole/coman2.pdf+DREPTUL+LA+EDUCA%C5%A2IE+%C3%8EN+ACCEP%C5%A2I+UNE+CUR%C5%A2II+EUROPENE&hl=ro&gl=ro&pid=bl&srcid=ADGEESi3cBuFwGHkpEdAhc8fmatezi4WPjVuaHccYQvaY5F8K4bDLol3cpXn-Bh4xMe--EkR8JS1cadIs33ftL299Ke7hdsYnw9p3Fw8Jt4k0KJnsYnx2hoY4WgvCpki-IFcjOrJJ8VH&sig=AHIEtbQBKqTYIfwS6xEJtAcBCD7s_1X51Q
<http://www.ithaca-study.eu/summaries/ITHACA%20Exec%20Summary%20Clinicans%20romanian.pdf>
<http://www.consilium.europa.eu/uedocs/cmsUpload/16332-re02.ro08.pdf>
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0078:FIN:RO:PDF>
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0491:FIN:RO:PDF>
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:RO:PDF>

