

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation Rec(2004)4 of the Committee of Ministers to member states on the European Convention on Human Rights in university education and professional training

*(adopted by the Committee of Ministers on 12 May 2004,
at its 114th Session)*

The Committee of Ministers, in accordance with Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity among its members, and that one of the most important methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Reiterating its conviction that the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as “the Convention”) must remain the essential reference point for the protection of human rights in Europe, and recalling its commitment to take measures in order to guarantee the long-term effectiveness of the control system instituted by the Convention;

Recalling the subsidiary character of the supervision mechanism set up by the Convention, which implies, in accordance with its Article 1, that the rights and freedoms guaranteed by the Convention be protected in the first place at national level and applied by national authorities;

Welcoming in this context that the Convention has now become an integral part of the domestic legal order of all states parties;

Stressing the preventive role played by education in the principles inspiring the Convention, the standards that it contains and the case-law deriving from them;

Recalling that, while measures to facilitate a wide publication and dissemination in the member states of the text of the Convention and of the case-law of the European Court of Human Rights (hereinafter referred to as “the Court”) are important in order to ensure the implementation of the Convention at national level, as has been indicated in Recommendation Rec(2002)13, it is crucial that these measures are supplemented by others in the field of education and training, in order to achieve their aim;

Stressing the particular importance of appropriate university education and professional training programmes in order to ensure that the Convention is effectively applied, in the light of the case-law of the Court, by public bodies including all sectors responsible for law enforcement and the administration of justice;

Recalling the resolutions and recommendations it has already taken on different aspects of the issue of human rights education, in particular: Resolution (78) 41 on the teaching of human rights; Resolution (78) 40 containing regulations on Council of Europe fellowships for studies and research in the field of human rights; Recommendation No. R (79) 16 concerning the promotion of human rights research in the member states of the Council of Europe; Recommendation No. R (85) 7 on teaching and learning about human rights in schools, as well as its appendix containing suggestions for teaching and learning about human rights in schools;

Recalling the role that may be played by the national institutions for the promotion and protection of human rights and by non-governmental organisations, particularly in the field of training of personnel responsible for law enforcement, and welcoming the initiatives already undertaken in this area;

Taking into account the diversity of traditions and practice in the member states as regards university education, professional training and awareness-raising regarding the Convention system;

Recommends that member states:

I. ascertain that adequate university education and professional training concerning the Convention and the case-law of the Court exist at national level and that such education and training are included, in particular:

- as a component of the common core curriculum of law and, as appropriate, political and administrative science degrees and, in addition, that they are offered as optional disciplines to those who wish to specialise;
- as a component of the preparation programmes of national or local examinations for access to the various legal professions and of the initial and continuous training provided to judges, prosecutors and lawyers;
- in the initial and continuous professional training offered to personnel in other sectors responsible for law enforcement and/or to personnel dealing with persons deprived of their liberty (for example, members of the police and the security forces, the personnel of penitentiary institutions and that of hospitals), as well as to personnel of immigration services, in a manner that takes account of their specific needs;

II. enhance the effectiveness of university education and professional training in this field, in particular by:

- providing for education and training to be incorporated into stable structures –public and private – and to be given by persons with a good knowledge of the Convention concepts and the case-law of the Court as well as an adequate knowledge of professional training techniques;
- supporting initiatives aimed at the training of specialised teachers and trainers in this field;

III. encourage non-state initiatives for the promotion of awareness and knowledge of the Convention system, such as the establishment of special structures for teaching and research in human rights law, moot court competitions, awareness-raising campaigns;

Instructs the Secretary General of the Council of Europe to transmit this recommendation to the governments of those states parties to the European Cultural Convention which are not members of the Council of Europe.

Appendix to Recommendation Rec(2004)4

Introduction

1. The Ministerial Conference held in Rome on 3 and 4 November 2000 to commemorate the 50th anniversary of the European Convention on Human Rights (hereinafter referred to as “the Convention”), invited the member states of the Council of Europe to “take all appropriate measures with a view to developing and promoting education and awareness of human rights in all sectors of society, in particular with regard to the legal profession”.¹

2. This effort that national authorities are requested to make is only a consequence of the subsidiary character of the supervision mechanism set up by the Convention, which implies that the rights guaranteed by the Convention be fully protected in the first place at national level and applied by national authorities.² The Committee of Ministers has already adopted resolutions and recommendations dealing with different aspects of this issue³ and encouraging initiatives that may be undertaken notably by independent national human rights institutions and NGOs, with a view to promoting greater understanding and awareness of the Convention and the case-law of the European Court of Human Rights (hereinafter referred to as “the Court”).

3. Guaranteeing the long-term effectiveness of the Convention system is among the current priorities of the Council of Europe and, in this context, the need for a better implementation of the Convention at national level has been found to be vital. Thus, it appears necessary that all member states ensure that adequate education on the Convention is provided, in particular concerning legal and law enforcement professions. This might contribute to reducing, on the one hand, the number of violations of rights guaranteed by the Convention resulting from insufficient knowledge of the Convention and, on the other hand, the lodging of applications which manifestly do not meet admissibility requirements.

4. This recommendation refers to three complementary types of action, namely:

i. the incorporation of appropriate education and training on the Convention and the case-law of the Court, notably in the framework of university law and political science studies, as well as professional training of legal and law enforcement professions;

ii. guaranteeing the effectiveness of the education and training, which implies in particular a proper training for teachers and trainers; and

iii. the encouragement of initiatives for the promotion of knowledge and/or awareness of the Convention system.

5. Bearing in mind the diversity of traditions and practice in the member states in respect of university education, professional training and awareness-raising regarding the Convention, it is the member states' responsibility to shape their own education programmes according to their respective national situations, in accordance with the principle of subsidiarity, while ensuring that the standards of the Convention are fully presented.

1. European Ministerial Conference on Human Rights, H-Conf(2001)001, Resolution II, paragraph 40.

2. See Article 1 of the Convention.

3. In particular: Resolution (78) 41 on the teaching of human rights; Resolution (78) 40 containing regulations on Council of Europe fellowships for studies and research in the field of human rights; Recommendation No. R (79) 16 concerning the promotion of human rights research in the member states of the Council of Europe; Recommendation No. R (85) 7 on teaching and learning about human rights in schools, as well as its appendix containing suggestions for teaching and learning about human rights in schools.

University education and professional training

6. Member states are invited to ensure that appropriate education on the Convention and the case-law of the Court is included in the curricula of university law degrees and Bar examinations as well as in the continuous training of judges, prosecutors and lawyers.

University education

7. It is essential that education on the Convention be fully incorporated into faculty of law programmes, not only as an independent subject, but also horizontally in each legal discipline (criminal law, civil law, etc.) so that law students, whatever their specialisation, are aware, when they graduate, of the implications of the Convention in their field.

8. The creation of post-graduate studies specialised in the Convention, such as certain national master's degrees or the European Master in Human Rights and Democratisation (E.MA) which involves twenty-seven universities over fifteen European states, as well as shorter university programmes such as the summer courses of the Institut international des droits de l'homme René Cassin (Strasbourg) or those of the European University Institute (Florence), should be encouraged.

Professional training

9. Professional training should facilitate a better incorporation of Convention standards and the Court's case-law in the reasoning adopted by domestic courts in their judgments. Moreover, legal advice which would be given to potential applicants by lawyers having an adequate knowledge of the Convention could prevent applications that manifestly do not meet the admissibility requirements. In addition, a better knowledge of the Convention by legal professionals should contribute to reducing the number of applications reaching the Court.

10. Specific training on the Convention and its standards should be incorporated in the programmes of law schools and schools for judges and prosecutors. This could entail the organisation of workshops as part of the professional training for lawyers, judges and prosecutors. In so far as lawyers are concerned, such workshops could be organised at the initiative of Bar associations, for instance. Reference may be made to a current project within the International Bar Association to set up, with the assistance of the Court, training for lawyers on the rules of procedure of the Court and the practice of litigation, as well as the execution of judgments. In certain countries, the Ministry of Justice has the task of raising awareness and participating in the training of judges on the case-law of the European Court: judges in post may take advantage of sessions of one or two days organised in their jurisdiction and of a traineeship of one week every year; "justice auditors" (student judges) are provided with training organised within the judges' national school (Ecole nationale de magistrature). Workshops are also organised on a regular basis within the framework of the initial and continuous training of judges.

11. Moreover, seminars and colloquies on the Convention could be regularly organised for judges, lawyers and prosecutors.

12. In addition, a journal on the case-law of the Court could be published regularly for judges and lawyers. In some member states, the Ministry of Justice publishes a supplement containing references to the case-law of the Court and issues relating to the Convention. This publication is distributed to all courts.

13. It is recommended that member states ensure that the standards of the Convention be covered by the initial and continuous professional training of other professions dealing with law enforcement and detention, such as security forces, police officers and prison staff but also immigration services, hospitals, etc. Continuous training on the Convention standards is particularly important given the evolving nature of the interpretation and application of these standards in the Court's case-law. Staff of the authorities

dealing with persons deprived of their liberty should be fully aware of these persons' rights as guaranteed by the Convention and as interpreted by the Court in order to prevent any violation, in particular of Articles 3, 5 and 8. It is therefore of paramount importance that in each member state there is adequate training within these professions.

14. A specific training course on the Convention and its standards and, in particular, aspects relating to rights of persons deprived of their liberty should be incorporated in the programmes of police schools, as well as schools for prison warders. Workshops could also be organised as part of continuous training of members of the police forces, warders and other authorities concerned.

Effectiveness of university education and professional training

15. For this purpose, member states are recommended to ensure that university education and professional training in this field are carried out within permanent structures (public and private) by well-qualified teachers and trainers.

16. In this respect, training teachers and trainers is a priority. The aim is to ensure that their level of knowledge corresponds with the evolution of the case-law of the Court and meets the specific needs of each professional sector. Member states are invited to support initiatives (research in fields covered by the Convention, teaching techniques, etc.) aimed at guaranteeing a quality training of specialised teachers and trainers in this sensitive and evolving field.

Promotion of knowledge and/or awareness of the Convention system

17. Member states are finally recommended to encourage initiatives for the promotion of knowledge and/or awareness of the Convention system. Such initiatives, which can take various forms, have proved very positive in the past where they have been launched and should therefore be encouraged by member states.

18. One example could be the setting-up of moot court competitions for law students on the Convention and the Court's case-law, involving at the same time students, university professors and legal professionals (judges, prosecutors, lawyers), for example the Sporrang and Lönnroth competition organised in the Supreme Courts of the Nordic countries, and the pan-European French-speaking René Cassin competition, organised by the association Juris Ludi in the premises of the Council of Europe.