

HELP Online course on

Article 8 ECHR - RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

Background and aim

The right to respect for private and family life is a broad-ranging right which can be at stake in various contexts and situations of everyday life, from secret surveillance and monitoring of communication to assisted parenthood. It is protected by Article 8 of the European Convention on Human Rights (the ECHR), which covers four spheres of protection: private life, family, life, home and correspondence. The exact definition and scope of these spheres has not been precisely identified by the European Court of Human Rights (the ECtHR); instead, the ECtHR takes a case-by-case approach in deciding whether a particular issue falls within the scope of Article 8.

The right to respect for private and family life can be subject to lawful and proportionate restrictions, which serve a legitimate aim.

The obligation of the State under Article 8 is to refrain from interfering with the right itself and also to take some positive measures, such as, for example, to criminalise extreme breaches of the right to respect for private life by individuals.

Given that the right to respect for private and family life concerns a vast variety of situations, the ECtHR case law on Article 8 is immense. To be able to ensure compliance with the Article 8 standards, domestic legal professionals have to have knowledge on the concepts covered by this Article, as well as an understanding on the approach taken by the ECtHR in its analysis on Article 8 issues.

This HELP free online course is precisely aimed at assisting legal professionals to understand what is covered by Article 8 of the ECHR and how to conduct the analysis when deciding a case which deals with Article 8 rights.



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

At the beginning and end of each module there is a self-assessment questionnaire, to test the users' knowledge on the subject matter pre- and post – taking the module. This will allow them to assess how much knowledge they gained by going through the module.

The course was developed in November 2016.

Target audience

This free on-line course is primarily addressed to legal professionals (judges, prosecutors and lawyers). It can also be used by other state authorities, including national human rights institutions, and academics, civil society organizations and law students.

Course outline (7 modules)

1. **Key concepts:** introduction to key concepts; private life; home; family life; and correspondence.
2. **Admissibility:** to whom does Article 8 apply?; in which circumstances?; to what extent?; exhaustion of domestic remedies; no significant disadvantage.
3. **Merits:** scope of Article 8; personal identity; personal autonomy; medical care and treatment; family and personal relationships; children; control measures; and miscellaneous issues.
4. **Limitations:** existence of an interference; justification of an interference: prescribed by law, pursuing a legitimate aim, and necessary in a democratic society.
5. **The states' obligations:** positive and negative obligations and their implications; the importance of establishing positive obligations; examples of State obligations.
6. **Relation to other Articles:** conjunction: with Article 13 and Article 14; interplay of Article 8 with Articles 2, 3, 6 and 10 of the ECHR and Article 1 of Protocol No. 1.
7. **Redress:** pecuniary and non-pecuniary damage; finding of a violation; costs and expenses.

Development of the course

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

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

Access the free online course

To access the course, you just need to enter the HELP e-learning platform at <http://help.elearning.ext.coe.int/>. First you need to open yourself an account at HELP if you have not yet done so (2 minutes). Then you can follow this link to directly access the model course in English: <http://help.elearning.ext.coe.int/course/view.php?id=1888>.