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The European Convention on Human Rights

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Abstract: Since 1950 - when it was ratified – the European Convention on Human Rights has had a decisive impact on the legislation, jurisprudence and judicial practice of the signatory States of its text. A true “Charter” of Human Rights, the Convention - which was revised and amended by additional Protocols – enounced not only the human rights and fundamental freedoms, but also provided the framework of their legal protection, which laid the foundation of a new era in the history of human rights. Among others, our paper emphasizes also the fact that the European Convention on Human Rights sets not only the general principles of the EU law, principles that have the force of “*Jus cogens*” for all EU states in the field of human rights and fundamental freedoms, but also it guarantee them a proper legal protection. Since this reality was not yet fully noticed and analyzed in the juridical literature, we believe that, by emphasizing it, we bring a real contribution to a better understanding and to a better capitalization of the first “Charter” of European Human Rights.

Keywords: European Union; rights and freedoms; legal protection

1. Introduction

“The European Convention on Human Rights” – which was drafted by the Council of Europe and ratified by the representatives of governments-member, in Rome, on 4 November 1950 – would become, across time, “one of the most important and effective international instruments for the protection of human rights in the world” (Bîrsan, 2005, p. V). Moreover, as Professor Jean-Paul Costa – former Vice-President of the European Court of Human Rights – noticed, the Convention exercises “a profound influence on the legislation, jurisprudence and legal practice” of the States that ratified it. Additionally, it actually involves “a supranational judicial mechanism” (Bîrsan, 2005, p. V), hence the obligation of these States to affirm and respect the human rights and fundamental freedoms proclaimed by the force of “*Jus cogens*”.

The Convention had been ratified “with more than forty years before the entry into force of Protocol 11, which profoundly changed the institutional mechanism of protection by abolishing the European Commission of Human Rights. This led to the transformation of the European Court of Human Rights into a permanent and unique jurisdiction, eliminating the judicial role of the Committee of Ministers of the Council of Europe” (Bîrsan, 2005, p. VI).

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Although Romania ratified the Convention 44 years after its publication, i.e. by Law no. 30 of 18 May 1994, published in the Official Gazette no. 135 of 31 May 1994, however, “in 1998”, when “the first decision of the (European) Court against Romania” was given, in the Romanian juridical environment we could still speak of “ignorance de la Convention” (ignorance of the Convention), and, *ipso facto*, of “an obstacle to the effective exercise of the rights and freedoms that it protects; ... “, hence his justified conclusion that we have to be acquainted with “the rules in order to properly use them ...” (Bîrsan, 2005, p. VII).

2. The Preamble of Convention

The Preamble to the Convention reveals that “The Governments signatory hereto, being members of the Council of Europe”, took into account primarily the fact that the Universal Declaration of Human Rights – proclaimed by the United Nations General Assembly on 10 December 1948 – aimed at “securing the universal and effective recognition and observance of the Rights therein declared”. However, only by this European Convention, there were taken “the first steps for the collective enforcement of certain rights stated in the Universal Declaration”.

Thus, according to the testimony left by the Governments party to the Convention, the first measures for the legal protection of human rights and fundamental freedoms – set by the Universal Declaration of Human Rights, proclaimed in 1948 – were taken in 1950.

In the same Preamble, it was stated that “the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realization of Human Rights and Fundamental Freedoms”. According to the statement of the Governments party to this Convention, this was “the very foundation of justice”, based “on a truly democratic political regime” and “on a common understanding and mutual respect of human rights as they arise”.

In other words, without knowing and respecting these human rights there can be no “Justice”, i.e. “Righteousness” (Dură, 2011, pp. 158-173), nor “a truly democratic political regime” that would truly serve “*ad utilitatem publicum*” (the common good) .

According to the Preamble to the Convention, “the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realization of Human Rights and Fundamental Freedoms, ..., which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the Human Rights ...”.

The establishment of the European Union, and, *ipso facto*, the integration of Member States, is therefore conditioned – primarily – by the affirmation and protection of human rights and fundamental freedoms (Dură, 2010 p. 153-192), on whose foundation one can build justice and peace in the world, and whose guarantee can be proved only by a truly democratic political regime. The effective materialization of these fundamental freedoms and, implicitly, of their protection, depends therefore on the existence of such a political regime, which should exist as such in all Member States of the European Union. Certainly, only such a “truly democratic” regime is based on a common understanding of human fundamental freedoms, able to give expression and affirmation to the full legal protection of the supreme values of life and human dignity. On the other hand, “maintaining” or

keeping these human values are based only on “the mutual respect of human rights”, ensuring their legal protection.

2.1 The Rights and Freedoms Provided by the Convention and their Legal Protection

Among the rights and freedoms provided by the Convention, we mention: “everyone’s right to life” (Art. 2); “the right to liberty and security” (Art. 5); “the right to a fair trial” (Art. 6); “the right to respect for private and family life, home and correspondence” (Art. 8); “the right to freedom of thought, conscience and religion” (Art. 9); “the right to freedom of expression” (Art. 10); “the right to found a family” (Art. 12) etc.

Regarding the legal protection of human rights, “the European Convention on Human Rights” makes express references. For example, Article 6 – which provides for the right of every person to a fair trial by an independent and impartial tribunal – states that it will be involved “in the determination of his civil rights and obligations or of any criminal charge against him”. Therefore, this article reveals that not only the rights but also the obligations of civil nature may be violated, and that the role of a Court lies primarily in deciding on the merits of any criminal charge directed against any human being; hence the obligation of legal bodies to make an informed assessment of the issue, and “*sine ira et studio*” of any form of accusation, including any denunciation, no matter who made it. Of course, this is the only way to respect the “*dignitas humana* (Dură, 2006 a., pp. 86-128) (human dignity) of every human being, to which the Treaty establishing a Constitution for Europe (Lisbon, 2007), i.e. the European Constitution, makes express reference.

The same article (six) – of the European Convention – provides that, “where the interests ... or the protection of the private life of the parties so require”, “the press and public may be excluded from all or part of the trial” (Art. 6 § 1). This measure – which aims at “the protection of private life” – is, however, taken “in the interests of morals, public order or national security in a democratic society” (Art. 6 § 1).

By protecting morals, public order and national security, the human being is also protected, not only in order to enjoy the full and free exercise of his/her fundamental rights (Dură, & Mititelu, 2012, pp. 103-127), but also in order to enjoy the right to respect for his/her human dignity.

In accordance with the Convention, the person charged with an offense also enjoys legal protection as he/she “shall be presumed innocent until proved guilty according to law” (Art. 6 § 2). The presumption of innocence is therefore a fundamental human right by virtue of which every human person should be considered innocent until proven guilty by a final court decision. As such, the verdict received by the person accused of an offence, verdict given by certain journalists from the Romanian media, is entirely contrary to the European Convention, whose provisions (Dură, & Mititelu, 2014 a.) have the value of an EU constitutional text, hence the evidently necessity that “constitutionalization process of the EU member states” (Mititelu, 2013, pp. 122-127) has to be urgently materialized.

The special rights provided by the Convention are also in the spirit of the protection of the person accused of an offense, and namely: a) “the right to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him”; b) the right “to have adequate time and facilities for the preparation of his defense”; c) the right “to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require”; d) the right “to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his

behalf under the same conditions as witnesses against him”); e) the right “to have the free assistance of an interpreter if he cannot understand or speak the language used in court” (Art. 6 § 3).

With regard to the trial and punishment of persons, the Convention also provides that “no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law”. Moreover, article 7 specifies that “nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed”.

In the spirit of the same Convention, the interference of a public authority in the exercise of everyone’s right to respect for his private and family life, his home and his correspondence, is not allowed “except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others” (Art. 8).

The European Convention on Human Rights has therefore in view both to protect individual and collective (i.e. those of our peers) rights and freedoms. Moreover, we cannot speak of the protection of our rights and freedoms without considering and protecting the rights and freedoms of others, regardless of sex, race, color, language, religion, national or social origin, political opinions etc.

The restriction of our own rights and freedoms is therefore subject to the protection of the rights and freedoms of others. Therefore, in order to protect the rights and freedoms of others, the Convention provides for restriction measures regarding the human freedom to manifest one's religion or religious beliefs. These measures are considered by the Convention as “necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others” (Art. 9).

As for the syntagme, “public Morals”, it should be noted and remarked the fact that this one it is not the same – in its content and in its form of manifestation – with the syntagme “public Ethics”. Therefore, the two syntagmes should not be perceived as identical ones in their content, or equivalent from semantic point of view, as are still doing some jurists of our days because of their ideological or philosophical convictions, hence the persistence of erroneous perceptions regarding the relationship between Law and Morals (Dură, 2003, pp. 15-24).

It should also be noted that the limitation of certain fundamental human rights - as, for example, the right to Religion (Dură & Mititelu, 2014 b., pp. 831-838) and its manifestation through a religious denomination – should occur only if the conditions set out in the text of Article 9 of the European Convention are met, because any abuse or violation of these rights is punished by the European Court (Dură & Mititelu, 2014 c., pp. 141-152).

The exercise of the freedom “to hold opinions” and of the freedom “to receive and impart information and ideas without interference by public authority and regardless of frontiers” can also be subject “to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary” (Art. 10).

Legal restrictions – which aim at “national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others” – are also provided in connection to the exercise of the right “to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests” (Art. 11). The same article of the Convention states that they are not prohibited as “restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State” (Art. 11).

In the European Convention, the legal protection of human rights is expressly emphasized in Article 13, which provides that “everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity”. As such, everyone has the right to address a national court when even persons acting in an official capacity (army, police, state administration, etc.) have violated their rights. Furthermore, Article 18 states that “the restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed”.

The same Convention provides that no one can interpret its articles in order to justify “for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and 14 15 freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention” (Art. 17).

Under Article 17 of the Convention, the “abuse of rights” is therefore forbidden, and, as such, even the “Court does not have the *ratione materiae* jurisdiction to examine the complaints brought by persons acting in order to cancel the rights recognized by the Convention to other persons” (Chiriță, 2008, p. 641). In other words, any form of abusive exercise of human rights should be sanctioned, including those who use the Convention – in terms of guaranteeing and protecting human rights – in order to achieve their purpose by harming the public order of States, hence the otherwise known phrase: “pas de liberté pour les liberticides” (no freedom for the murderers of freedom).

In order to ensure the protection of human rights, the Governments parties to the Convention, members of the Council of Europe, established a European Commission of Human Rights and the European Court of Human Rights (Art. 19). This Convention stipulates that the members of the Commission “shall be of high moral character and must either possess the qualifications required for appointment to high judicial office” and, *ipso facto*, be “people recognized for their competence in the field of national or international law” (Art. 21 § 3).

The same conditions are otherwise provided for the members of the Court, which “shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence” (Art. 21 § 1).

Therefore, a “*sine qua non*” condition for electing the members of the Commission and of the Court and for the recognizing their competence in the field of national and international law is “the moral character”; therefore, the European legislator considers it mandatory for all who wish to become their members. However, those members are also required that, in solving the case, “to be guided by respect for human rights, as recognized in the present Convention” (Art. 28, b).

2.2 The Additional Protocols of the European Convention of Human Rights

The text of the European Convention – a true “Charter” of human rights – was revised and supplemented by additional Protocols (Chiriță, 2008, pp. 766-873), where the Governments parties, members of the Council of Europe, expressed their determination to take “step to ensure the collective enforcement of certain rights and freedoms other than those already included in Section 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950” (Preamble to Protocol 1, amended by Protocol 11, which has entered into force on 1 November 1998). Nevertheless, what are those rights and freedoms, “other” than those already included in the text of the Convention?

Among other things, Protocol 1 to the Convention provides that “every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law” (Article 1), and that “no one shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, will respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions” (Art. 2).

Therefore, it is noteworthy that Protocol 1 emphasizes that everyone has the right to property and training, and that parents have the right to ensure their children an education according to their own religious and philosophical convictions. However, unfortunately, the landscape of the Romanian society easily reveals that some politicians, jurists, sociologists, political scientists, journalists etc. will not acknowledge the parents' right to educate their children according to their religious beliefs, philosophical convictions (Dură, 2005, pp. 19-35) etc., hence – willingly or unwillingly – the ignorance of the rules of international and European law and of national law, regarding this “*jus cogens*”.

Protocol 4¹ - which recognizes certain rights and freedoms, “other” than those that appear in the Convention and in Protocol 1 to the Convention – provides that “no one shall be deprived of his liberty merely on the ground of inability to fulfill a contractual obligation” (Art. 1); that “no one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national” (Art. 3 § 1); and that “no one shall be deprived of the right to enter the territory of the State of which he is a national” (Art. 3 § 2).

By Protocol 6 – amended by Protocol 11, which entered into force on 1 November 1998 – the “death penalty” was abolished. In accordance with the provisions of this Protocol, “no one shall be condemned to such penalty or executed” (Art. 1). However, article 2 provides that “a State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law” (Art. 2).

In order to ensure the individual and collective guarantee of certain rights and freedoms set out in the Convention for the Protection (Safeguarding) of Human Rights and Fundamental Freedoms (Rome, 4 November 1950), Protocol 7 – concluded at Strasbourg on 22 November 1984, and amended by Protocol 11, which entered into force on 1 November 1998 – reaffirmed and broadened the scope of the legal protection of human rights for vulnerable persons (Mititelu, 2012, pp. 70-77). For example,

¹ This Protocol, as amended by Protocol 11, came into force on 1 November 1998.

Article 1 of Protocol 7 allows the expulsion of “an alien lawfully resident in the territory of a State, but this one “shall not be expelled therefrom except in pursuance of a decision reached in accordance with law ...”. Moreover, the alien lawfully resident shall not be expelled before the exercise of certain rights, namely: a) “to submit reasons against his expulsion; b) to have his case reviewed, and c) to be represented for these purposes before the competent authority or a person or persons designated by that authority”. Finally, his expulsion before the exercise of these rights is permissible only when “such expulsion is necessary in the interests of public order or is grounded on reasons of national security” (Art. 1).

The same Protocol (no. 7) provides that “everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal” (Art. 2). Furthermore, the person who has suffered punishment as a result of a conviction, produced by “a miscarriage of justice (...) shall be compensated according to the law or the practice of the State concerned, unless it is proved that the nondisclosure of the unknown fact in time is wholly or partly attributable to him” (Art. 3). Article 5 of the Protocol (7) provides that “spouses shall enjoy equality of rights and responsibilities of a private law character between them, and in their relations with their children, as to marriage, during marriage and in the event of its dissolution”. The same article stated, however, that states are free to take “such measures as are necessary in the interests of the children”. Therefore, through this article, the Member States of the Council of Europe wanted to ensure the guarantee of equal rights and responsibilities of spouses and the legal protection of children. Moreover, Articles 3 and 5 of the United Nations Convention on the Rights of the Child – which came into force on 2 September 1990 – stated and reiterated the provisions of this Protocol.

One of the main Additional Protocols is Protocol 11, which was signed in Strasbourg, on 11 May 1994. This Protocol brought a real reorganization of the control machinery established by the European Convention on Human Rights and Fundamental Freedoms. Wishing to maintain and strengthen the effectiveness of the protection of “the human rights and fundamental freedoms in the Convention”, the member States of the Council of Europe have established – under Protocol 11, which entered into force on 1 November 1998 – the European Court of Human Rights. The Decision establishing this body was taken on the basis of Resolution 1 adopted at the European Ministerial Conference on Human Rights held in Vienna on 11-20 March 1985, of Recommendation 1194 (1992) adopted by the Parliamentary Assembly of the Council of Europe on 6 October 1992, and of the decision on the reform of the Convention control mechanism, decision taken by the Heads of State and Government - members of the Council of Europe, in the Vienna Declaration of 9 October 1993.

In accordance with Article 21 of Protocol 11, the judges – members of that Court - “shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognized competence”. The judges of the European Court of Human Rights are therefore only those persons showing “high moral character” – to their peers – and “recognized competence” in legal knowledge and legal practice.

The Member States of the Council of Europe, “having regard to the fundamental principle according to which all persons are equal before the law and are entitled to the equal protection of the law, reaffirmed their decision to take further steps to promote the equality of all persons through the collective enforcement of a general prohibition of discrimination by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 ...” (Preamble to Protocol 12).

In accordance with Article 1 of Protocol 12, additional to the Convention, “the exercise of any right set forth by law shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status” (Art. 1). The same article provides that no one shall be discriminated against “by a public authority” on any of the reasons mentioned above. The exercise of rights and fundamental freedoms implies thus the obligation of prohibiting any form of discrimination or privileges from public authorities (Dură, 2006 b., pp. 491-510). No human being can be discriminated against based on race, color, language, religion, political opinions, ethnic identity, wealth etc.

On 1 November 1998, the Rules of the European Court of Human Rights (under Protocol 11) were published. The European Court has its seat in Strasbourg, which is also the headquarters of the Council of Europe. Among other things, these Rules provide that “before taking up office, each elected judge shall, at the first sitting of the plenary Court at which the judge is present or, in case of need, before the President of the Court, take the following oath ...” (Art. 3 § 1). On this occasion, the judge solemnly swear or says that he/she will perform his/her duties “as a judge honorably, independently and impartially and that I will keep secret all deliberations”.

A judge can therefore exercise his/her functions only when he/she does it “with honor, independence and impartiality”, and, *ipso facto*, when keeping “secret all deliberations”. On the other hand, by respecting and implementing these conditions – necessary for the exercise of a judge's functions – the protection of human rights and fundamental freedoms is implicitly ensured and guaranteed.

The incompatibilities provided by these Rules on the judges of the European Court of Human Rights can also be considered as a guarantee of human rights. For example, judges “shall not during their term of office engage in any political or administrative activity or any professional activity which is incompatible with their independence or impartiality ...” (Art. 4).

Some provisions of the European Agreement relating to Persons participating in Proceedings of the European Court of Human Rights, which was signed in Strasbourg, on 5 March 1996, may also be seen as a legal protection of human rights. Among other things, this Agreement provides that that persons participating in the proceedings commenced by the Court “shall have immunity from legal process in respect of oral or written statements made, or documents or other evidence submitted by them before or to the Court” (Art. 2 § 1).

The same European Agreement provides that the Member States of the Council of Europe – contracting parties to this agreement – should not “hinder the free movement and travel, for the purpose of attending and returning from proceedings before the Court ...” (Art. 4 § 1, a). This free movement and travel can be forbidden only “in accordance with the law and necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others” (Art. 4 § 1, b). Therefore, the restrictions imposed by law on free movement and travel aim at protecting the health and morals of the respective society, prerequisites for asserting human rights and fundamental freedoms.

On 3 May 2002, in Vilnius, Protocol 13 was adopted, which provided for the obligation of the Member States of the Council of Europe to abolish the death penalty “in all circumstances”, and, as such, the “exemptions” (Art. 15 of the Convention) and “reserves” (Art. 57 of the Convention) were banned.

In 2004, another Additional Protocol to the European Convention on Human Rights was signed, and, according to the opinions of some jurists, by this Protocol it was intended to “improve the current control system for the respect of the rights recognized by the Treaty”; it was also aimed at ensuring “the acceleration of the enforcement of Court decisions and at creating the conditions which allow the EU to accede to the Convention” (Chiriță, 2008, p. 862). Hence the conclusion that – at that time – the EU Member States had not created yet “the conditions” for joining the Convention, process which indeed involved both the application of the Convention on human rights and fundamental freedoms and the assurance of their legal protection.

2.3. From the Convention of Human Rights to the Treaty of Lisbon. A New Era in the History of Human Rights

The Treaty of Lisbon, signed on 17 December 2007, also stated that “the Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms” (Art. 6, paragraph 2), and that “Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law” (Art. 6, paragraph 3).

We can therefore notice that the EU states joined officially the “European Convention on Human Rights” only in 2007, i.e. 57 years after its proclamation. It should also be emphasized and noted that the EU law consists of two elements, namely, the constitutional Traditions of the Member States and the Human Rights guaranteed by the European Convention. The general principles of EU law on human rights were indeed first mentioned in the text of the European Convention, i.e. in 1950.

The Treaty of Lisbon also emphasized that, regarding the human rights and fundamental freedoms, the “European Convention on Human Rights” was the first text that set out the general principles of EU law (Dură, 2013, pp. 7-14). Moreover, it has the force of “*jus cogens*” for all Member States. Additionally, by this Treaty it was reiterated that, regarding the human rights and fundamental freedoms, the Convention of 1950 remains the constitutional “Charter” of the EU, hence the obligation of all the citizens of Member States to know, respect and apply its provisions, whose principles actually give consistency and expression to the content of EU law. In fact, by asserting and reiterating the basic principles set out in the Universal Declaration of Human Rights, the European Convention stipulated not only for the human rights and for fundamental freedoms, but also for their legal protection, which laid the foundations of a new era in the history of Human Rights.

3. Conclusions

Although the text of the European Convention on Human Rights has been examined, commented and explained over the last six decades, the informed reader may find that some of its aspects and facets still remain to be investigated and reviewed; moreover, these issues should be read, perceived and updated taking into account the times in which we live. In addressing the subject of our paper, we had in view precisely these realities. Therefore, within our paper, we also emphasized several issues that have not been studied yet in the literature. This was due to the fact that, in analyzing and assessing the text of the European Convention of Human Rights, we resorted to the means and instruments of the method for inter and multidisciplinary research, hence its “*sui generis*” nature, which is actually filling a gap in the Romanian legal literature. Finally, we would like to underline that, when analyzing and

assessing the Convention, we always took into account the assertions of the jurisprudential doctrine of the European Court of Human Rights, which remains a valuable source of EU law.

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