

Human Rights Protection Systems

General principles.

General characteristics and classification.

Human Rights Protection Systems

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Right to peaceful assembly
Prohibition of discrimination

Case study:

Bączkowski and Others v. Poland

ECtHR, May 3, 2007

(application no. 1543/06)

General principles in the Constitution of the Republic of Poland – the guiding principles of the constitutional regulation of rights and freedoms

- ▶ principle of inviolability and respect for human dignity
- ▶ principle of respect and protection of human freedom
- ▶ principle of equality before the law
- ▶ principle of equality and the prohibition of discrimination
- ▶ principle of protection and respect for the right to Polish citizenship
- ▶ principle of protection of the rights of national and ethnic minorities
- ▶ principle of taking care of a Polish citizen staying abroad
- ▶ principle of diversifying the scope of implementation of constitutional freedoms and rights based on the criterion of citizenship

Classification of human rights

- I. Rights and freedoms
 - a) personal
 - b) political
 - c) economic, social and cultural
- II. Civil rights and freedoms – the influence of citizenship on the scope of the implementation of freedoms and rights
- III. Rights and freedoms
 - a) individual
 - b) collective
- IV. Rights and freedoms
 - a) inviolable (non-derogable)
 - b) derogable

Personal rights and freedoms in the Polish Constitution

- ▶ right to (protect) life
- ▶ freedom from scientific experiments without the consent of the person subjected to them
- ▶ freedom from torture, cruel, inhuman or degrading treatment or punishment
- ▶ freedom from corporal punishment
- ▶ right to personal inviolability
- ▶ personal freedom
- ▶ right of detainees to humane treatment
- ▶ right to be informed about the reasons for detention
- ▶ right to compensation for unlawful detention or deprivation of liberty
- ▶ right to appeal against the detention decision

Right to (protect) life

Case study:

Lambert and Others v. France

ECtHR, June 05, 2015

(application no. 46043/14)

Freedom from inhuman or degrading treatment or punishment

Right to (protect) life

Case study:

Al Nashiri v. Poland

ECtHR, July 24, 2014

(application no. 28761/11)

Freedom from inhuman or degrading treatment or punishment

Case study:

problem of overcrowding in Polish prisons
– the ECHR jurisprudence standards

Personal rights and freedoms in the Polish Constitution

- ▶ freedom from conviction for an act that is not an offense at the time it was committed
- ▶ freedom from retroactivity (*lex retro non agit*)
- ▶ right to defense at all stages of the criminal proceedings
- ▶ right to respect innocence until guilt is determined by the final court judgment (presumption of innocence)
- ▶ right to court
- ▶ freedom from extrajudicial forfeiture of property

Right to have a case heard within a reasonable time

Case study:

Kudła v. Poland

ECtHR, October 26, 2000

(application no. 30210/96)

Personal rights and freedoms in the Polish Constitution

- ▶ right to privacy
- ▶ right to decide about personal life
- ▶ right of parents to bring up children in accordance with their own convictions
- ▶ freedom from extrajudicial deprivation of parental rights
- ▶ freedom and protection of the secret of communication
- ▶ right to the protection of personal data
- ▶ right to access to official documents and data collections
- ▶ right to demand the rectification and removal of untrue, incomplete information or information collected in a manner inconsistent with the statute

Right to privacy
Freedom of speech

Case study:

**Couderc and Hachette Filipacchi Associés
v. France**

ECtHR, November 10, 2015
(application no. 40454/07)

Right to privacy
Freedom of speech

Case study:

Caroline von Hannover v. Germany

ECtHR, June 24, 2004

(application no. 59320/00)

Personal rights and freedoms in the Polish Constitution

- ▶ freedom of movement
- ▶ freedom of choice of place of residence and/or place of stay
- ▶ freedom to leave the territory of the Republic of Poland
- ▶ prohibition of expulsion of a Polish citizen from the territory of the Republic of Poland, prohibition of preventing a Polish citizen from returning to the country
- ▶ freedom of conscience and religion
- ▶ parents' right to provide children with moral and religious upbringing and teaching in accordance with their own convictions

Freedom of conscience and religion

Right of parents to provide children with upbringing and teaching in accordance with their own religious and philosophical beliefs

Case study:

Lautsi and Others v. Italy

ECtHR, March 18, 2011

(application no. 30814/06)

Freedom of conscience and religion

Right of parents to provide children with upbringing and teaching in accordance with their own religious and philosophical beliefs

Case study:

Osmanoğlu and Kocabaş v. Switzerland

ECtHR, January 10, 2017

(application no. 29086/12)

Personal rights and freedoms in the Polish Constitution

- ▶ freedom of speech
- ▶ freedom from preventive censorship
- ▶ freedom from extradition of a Polish citizen
- ▶ freedom from extradition of a person suspected of committing non-violent crime for political reasons
- ▶ right to asylum

Freedom of speech v. hate speech

Case study

- ▶ **religious hate:** *Norwood v. the United Kingdom* [November 16, 2004; 23131/03]
- ▶ **incitement to racial discrimination:** *Jersild v. Denmark* [September 23, 1994; 15890/89]
- ▶ **circulating homophobic leaflets:** *Vejdeland and Others v. Sweden* [February 9, 2012; 1813/07]
- ▶ **negationism:** *Garaudy v. France* [June 24, 2003; 65831/01]

Political rights and freedoms in the Polish Constitution

- ▶ freedom of assembly
- ▶ freedom of association (including: in trade unions, socio-professional organizations of farmers and employers' organizations)
- ▶ right of access to public service
- ▶ right to access to public information
- ▶ active and passive electoral right
- ▶ right to petitions, proposals and complaints to public authorities and social institutions in connection with the performance of their tasks in the field of public administration

Economic, social and cultural rights and freedoms

- ▶ freedom to start and run a business
- ▶ right to (protect) ownership and other property rights
- ▶ right of succession
- ▶ freedom to choose a place of work
- ▶ right to remuneration
- ▶ right to safe and hygienic working conditions
- ▶ right to social security
- ▶ right to (protect) health
- ▶ right to education
- ▶ freedom of artistic and scientific creativity
- ▶ freedom to announce the results of conducted research
- ▶ freedom of teaching
- ▶ freedom to use cultural goods

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