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# DEVELOPMENT TENDENCIES IN HUMAN RIGHTS LAW IN EUROPE- CHALLENGES FOR THE NEW WORLD ORDER

**Apstract**: The European system of human rights can be analyzed in multiple dimensions. First, there is a system of protection within the Council of Europe, which has been the most effective so far. Documents of great importance were adopted within the CSCE system (later renamed to the Organization for Security and Cooperation in Europe-OSCE). The third area of protection was developed in the legal framework of the European Union.

The paper examines the main trends and issues that have emerged in jurisprudence of the European Court of Human Rights, particularly, the increasing number of applications which have reduced the Court's effectiveness as well as the government's refusal to act in accordance with the Court's decisions. The influence of OSCE on the development of the European system of human rights will be presented as well as the relation of human rights established by the acts of the EU and with European Convention on Human Rights. The last question has caused some difficulties in practice and has led us think: is there in Europe one system of human right protection with several items?

*Key words*: Human rights, Council of Europe, OSCE, European Union, European Convention on Human Rights, European Court of Human Rights.

## Introduction

Since ancient times, Europe was considered as the cradle of civilization and continent which developed basis and ideas of many sciences -history, geography, and medicine. European continent in 13th century provided the cornerstone for the human rights development. Important documents on

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human rights in this age were England's Magna Carta Libertatis (1215) – a compromise between the king and rebellious nobility, which allow certain privileges for nobility and limits royal power. Similar character had Hungarian Golden Bull (Aranybulla) from 1222, Serbian Dušan's Code (1349), English Petition of Right (1628), and Habeas Corpus Act (1679).[2] These acts are not related to human rights issue in the modern sense of the word- as rights which belong to all people. Their main goals were self-limitation of sovereign authority for equitable and more humane governance or compromise between nobles and sovereign, which gives some benefits to nobles. Development of human rights in modern sense started within French Revolution 1789. Members of the French National Assembly in Declaration of the Rights of Man and Citizen stated that "forgetfulness and contempts of the natural rights of man are the sole causes of the miseries of the world" and that exist "sacred and inalienable rights" for all the people. Revolution and the overthrow of absolute rulers in other countries contributed entering provisions on human rights in constitutions and laws. Vienna peace conference in 1815 was made a prohibition of the slave trade, and the Geneva and Hague Conferences (1899.) provided foundation for humanitarian law development. League of Nations contributed minority rights development, and Versailles peace treaty led to the establishment of International Labour Organisation. However, the most significant activities in the area of human rights occurred after the Second World War. United Nations and its many subsidiary bodies and specialized agencies, contributed faster development of human rights legislation. The adoption of the Universal Declaration of Human Rights in 1948 motivated states and contributed formation of three major human rights system- European, American and African. European system of human rights can be analyzed in three different (sub)-systems: Council of Europe, the CSCE / OSCE and European Union systems.

## Three systems of human rights protection in Europe System Council of Europe

Council of Europe was established in 1949 with the goals of "closer unity between all like-minded countries of Europe" and promotion of freedom, democratic values and human rights.[3] Its most important contribution to

[2] For more details on human rights development: Dihan Shelton, An Introduction to the History of International Human rights law, *Working paper,* The George Washington University law school, August 2007.

[3] Statute of the Council of Europe, London, 5.V.1949, Internet: http://conventions.coe.int/ Treaty/ en/Treaties/Html/001.htm 26/04/2014.

human rights development was adoption of European Convention for the Protection of Human Rights and Fundamental Freedoms in Rome 1950. It was signed by 13 member states.[4] Over time, 14 Protocols, as substantive as procedural character, were adopted within the Convention. Of particular importance is the Eleventh Protocol, which entered into force in 1998 and completely revised the Convention procedure of human rights protection placing the European Court of Human Rights as the sole organ for monitoring implementation of Convention.

In its Articles 33 and 34 Convention, provide two types of applications which might be submitted to the Court due to the violation of a right provided by Convention. These are individual and inter-state applications. Inter-state applications are extremely rare in practice.[5] Some of them were operated mainly in cases of protection of its own interests and the interest of its own citizens living in another country. This kind of character had cases e.g. Austria v. Italy (1960), Ireland v United Kingdom (1971), Greece v. United Kingdom (1956). So far, there are only two cases in which state sued another state solely because of serious violations of human rights. Thus in 1967 Denmark, the Netherlands, Norway and Sweden sued Greece, during the military junta regime when torture and inhuman and degrading treatment were everyday occurrence. The same group of states, extended with France, launched an interstate application against Turkey, where the government was overthrown in a military coup and human rights violation (especially of political rights) were serious and numerous.[6]

It remains to see if the attitude of states about these types of applications will change. There are little possibilities for that, for several reasons. First of all, interstate applications cause diplomatic complications and automatically aggravate inter-state relations, so "diplomats and their advisers believe that quiet diplomacy is more effective method."[7] Secondly, it is necessary to collect a lot of evidence and its careful preparation which is a process that requires a certain (long) period of time. Parliamentary Assembly of the Council of Europe in Recommendation 1456 appealed on member states to use Article 33 of the

[4] Today all the European countries except of Belorussia signed the Convention.

[5] List and details of all interstate disputes, see at: European Court of Human Rights Inter-States applications, Internet: http://www.echr.coe.int/Documents/InterStates_applications_ENG.pdf 26/04/2014.

[6] Government of Denmark v. the Government of Greece; Government of Norway v. the Government of Greece; Government of Sweden v. the Government of Greece; Government of the Netherlands v. the Government of Greece, Internet: http://echr.ketse.com/doc/3321.67-3322.67-3323.67-3344.67-en-19680124/view/ 26/04/2014.

[7] Christian Tomuschat, *Human rights Between Idealism and Realism*, Oxford University Press, 2008, p. 242.

Convention and to initiate an interstate complain with Russia over the Russian military activities in Chechnya.[8] All the reasons above contributed that Council of Europe members refrain from interstate complain.

Other types of complains that can be submitted to the Court are individual applications. They are submitted by individuals, groups, companies or NGOs against state parties of the Convention. Individuals may submit complain independently, without an authorized proxy. To ensure effective protection Court does not require any fees or any monetary claims. An authorized proxy is required only when the application is accepted by Court. Conditions for acceptance of the application are legitimate interest; exhaustion of domestic remedies; prohibition of abuse of rights; no apparent insubstantiality; prohibition of parallel proceedings; the existence of considerable damage.[9]

During the sixties number of individual applications before the Court was extremely small. Over the seventies, number of cases increased gradually. Unlike interstate applications which are rare, individual applications are submitted en masse which might block Court's work. In the period 1958-1998, it was submitted 45 thousand applications. In the two thousands situation became alarming, and the number of applications increased rapidly. For example in 2000, it was submitted 10,500 applications, in 2005, 35,400 applications and in 2009, 57,100 applications![10] This caused serious backblock in the work of Court. In 2007, there was a backlog of 104 thousand cases which were resolved in the next 2 to 3 years.[11] According to 2013 data, more than half of the total number of submitted applications was against four countries: Russia, Ukraine, Italy and Serbia.[12] Also, a great number of applications was against Romania (for restitution), Turkey (violation of political freedom, the brutal behavior of members of the military and police and destroying property in Kurdish region). Changes established by Eleventh Protocol caused small revolution about status of individuals as a subject of international law, giving them the ability to initiate proceedings before an international judicial body.

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[8] Parliamentary Assembly, Council of Europe, Recommendation 1456 (2000) Conflict in the Chechen Republic – Implementation by the Russian Federation of Recommendation 1444 (2000). Internet: http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta00/EREC1456.htm 07. 04. 2014.

[9] More details about the conditions of admissibility of individual applications seen in Milan Paunović, Boris Krivokapić, Ivana Krstić, *Međunarodna ljudska prava*, Pravni fakultet Univerziteta u Beogradu, Beograd 2013, pp. 112-114.

[10] 50 years of activity, The European Court of Human Rights Some Facts and Figures, 2010, p. 5. Internet: http://www.echr.coe.int/Documents/Facts_Figures_1959_2009_ENG.pdf 07/04/2014.

[11] Christian Tomuschat, Human rights Between...., op. cit., p. 245.

[12] 50 years of activity, The European Court of Human Rights... op. cit., p. 3.

Rapidly increase of applications might cause a real possibility that Court of becoming a victim of its own success. The Court, as a "body that has the duty- and the privilege- to critisize national judges because of the slowness of their handling of disputes would lose any credibility if it follows the same pattern of unreliability."[13] In order to prevent such a scenario, in 2005 it was adopted 14 Protocol, which entered into force on 1 July 2010.[14] Article 27 of Protocol stipulates that a single judge may declare complain inadmissible if it is possible to make such a decision without further examination. If the judge cannot declare the complaint inadmissible, it goes to Board or Chamber on consideration. The Board does not only decide on admissibility, it can decide on the merits of the dispute and, if it is important for application or interpretation of the Convention. Thus, the Protocol has created a "special system of processing applications, which favors the simplest cases, and cases in which the time factor eliminating damage is crucial".[15] The Protocol has been criticized as a possible danger which could worsen the Court protection.

Judgment of the European Court of Human Rights is "essentially declaratory character" which means that the Court might ascertain a violation of Convention provisions and awarded compensation and costs of the procedure. It should be noted that the Court could not revoke a domestic court judgment or repeal any local law, if its provisions are uncoordinated with the Convention. In the case that the state does not take active measures to alter its legislation, the court will not comment on the coming judgments of similar themes. In some cases, the Court goes further, and in a judgment on a breach of Article 1 of the First Protocol to the Convention (right to peaceful enjoyment of possessions), may require the government to return the seized property. Turkey has been quite problematic in cases of violation of the right to peaceful enjoyment of property, especially in cases of violation of rights in Cyprus. In the case Loizidou vs. Turkey, Court decided that Turkey should return the property which was wrongfully taken away and to pay 915 thousand dollars of compensations.[16] Turkey has long refused to comply with the court's decision, primarily because at that time the Court was filed more than 300

[13] Christian Tomuschat, Human rights Between...., op. cit., p. 246.

[14] Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention, Council of Europe, Strasbourg, 13.V.2004, Internet: http://conventions.coe.int/Treaty/EN/Treaties/Html/194.htm 07/04/2014.

[15] Vuk Raičević, Evropski sud za ljudska prava, Institut za pravo i finansije. Internet: http://ipf.rs/wp-content/uploads/2012/09/EVROPSKI-SUD-ZA-LJUDSKA-PRAVA-Institut-za-pravo-i-finansije-www.ipf_.pdf 07/04/2014.

[16] Loizidou v. Turkey (preliminary objections), European Court of Human Rights Judgment, Strasbourg, 23. March 1995. Internet: http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57920#{%22itemid%22:[%22001-57920%22]} 09/04/2014.

applications that accuse Turkey of a violation of the right to peaceful enjoyment of property, which could cost the country about $ 7 billion. Pressing the Committee of Ministers and the Parliamentary Assembly of the Council of Europe, Turkey has made commitments in Loizidou case, but its problematic practice of avoiding the implementations of judgments on Cypriot backdrop continued in the future.[17]

Judgments of the Court have a great impact on changing the legislation of European countries. Thus, for example acting by court decision, Austria made changes on its Law on criminal procedure, Denmark amended the Law on custody of illegitimate children; France passed a law on telephone tapping; UK prohibited corporal punishment in schools, and Greece adopted the Law on pre-trial detention. Also, Serbia made changes in its legislation, primarily about slow proceedings before domestic courts. Law on the Constitutional Court was amended and it was introduced a constitutional application for violation of the right to trial within a reasonable time.

A particular problem that accompanies Court judgments is the payment of a "fair compensation" to the injured party. In the cases of "fair compensation", Committee of Ministers supervises is in the time period of three months respected Court decision. Almost always, the disbursement of compensation is delayed more than six months, and in some cases of politically complicated situations, states have deliberately refrained from paying compensation. In order to eliminate this practice the Committee of Ministers requires of the Member States written confirmation on payment of compensation.

## CSCE / OSCE and the protection of human rights

The second area of human rights protection in Europe was developed in the framework of the dialogue between East and West- as the Conference for Security and Cooperation in Europe (CSCE). Nowadays, it is considered that insistence of Western countries on respect of CSCE system of human rights played a crucial role in the disintegration of communism. In this process, important role had prominent individuals, academics and intellectuals, as well as numerous non-governmental movements, such as the "Charter 77" in Czechoslovakia and the independent trade union "Solidarity" in Poland, which pointed to the discrepancy between the actual human rights situation and the commitments made by the their governments.

[17] For example in the case Xenides-Arestis v. Turkey. Internet: http://sim.law.uu.nl/SIM/CaseLaw/hof.nsf/233813e697620022c1256864005232b7/d93093b8d08ca7bac12570f20035a170?OpenDocument 09/04/2014.

First act within the CSCE was the Helsinki Final Act in 1975.[18] For human rights protection of great importance is seventh of ten principles of Helsinki „Declaration on Principles Guiding Relations between Participating States." "This principle defines relationship between human rights and international relations. States recognized that human rights respect is an important factor of peace, justice and prosperity, and thus a prerequisite for development of friendly relations and cooperation among states."[19] Sixth principle of Helsinki Act deemed inadmissible directly or indirectly, individually and collectively interference in the internal affairs of a state- armed intervention or threat of such intervention, aiding terrorist activities, military and economic coercion. In practice, problems have emerged over the interpretation of the sixth principle, since it is not precisely defined what is meant by the term of "indirect interference", what constitutes "terrorist activities", what is "military and economic coercion."

This period of Cold War CSCE was finished at the end of the eighties with conferences in Vienna (1986-1989). The new, post-Cold War CSCE and the OSCE's future in the coming years bring some new parameters in the European system of human rights protection. Result of the Vienna Conference was adoption of Final Document which has a prominent place to "Human Dimension of the CSCE" – by which participating states pledged to harmonize their legislation in the field of human rights with the rights and obligations set forth in the CSCE documents. The extraordinary importance of this mechanism is reflected in the establishing a mechanism of four phases of surveillance and observation in the field of human rights. The phases implied:

- exchange of information and response to the request of another state which has an interest in assumed human rights violations;
- bilateral meetings with the goal of solution these kind of violations;
- draw the attention of other members of the CSCE on the case
- attempt on problem solvation on the CSCE conference.

Such thoughtful mechanism was good kind of pressure on countries that systematically and continually violated human rights.[20]

End of the Cold War and the disappearance of the block system in the early nineties changed the atmosphere of CSCE role and objectives. In newly created

[18] Act was signed by Eastern (without Albania) and Western European states, USA and Canada.

[19] Branislav Milinković, Ljudska prava u okviru OEBS, p. 52. in: *Ljudska prava-pet decenija od usvajnja Opšte deklaracije o pravima čoveka*, Belgrade, 1998.

[20] For example, Turkey and Bulgaria have launched proceedings against each other for violation of minority rights, the United Kingdom in the case of f playwright Vaclav Havel arrest, European Union against DR Germany for the Berlin Wall.

international environment, Western states were oriented on CSCE as a starting point for a new European reproaching in order to "consolidate the new situation, the strengthening of peace and stability, the promotion of democracy and human rights and the development of cooperative international relations in Europe."[21] These objectives were expressed in Charter of Paris for a New Europe in 21 November 1990. Thus, Helsinki CSCE system was replaced with new stage of European cooperation- Organization for Security and Cooperation in Europe. New era of CSCE system, or OSCE, introduces a lot of innovations in European system of human rights protection. The document adopted in Copenhagen in 1990 emphasizes rule of law and creation of democratic societies. For countries of the former socialist bloc, this meant the adoption of legislation on political parties formation and fair and free elections. Formation of new states during this period has for a consequence national minority issues. Copenhagen Document pays special attention to this problem and creates an exhaustive list of the rights of persons who have this status. The biggest and perhaps the most controversial step CSCE made with Moscow Document in 1991. This document provides sending missions to the countries accused for violation of CSCE human dimension, at the request of ten states without the consent of the accused State. Such content sent a message that human rights are no longer strictly a matter of domestic jurisdiction of the state, but rather a matter of interest to the entire international community. However, "... there is no authorization for military intervention in the service of democracy, human rights and the rule of law (as under the influence of certain political elites claimed certain…scholars)."[22] Bearing in mind that UN Charter prohibits the use of force and the fact that Moscow Document not classic international agreement, there is no doubt about "the validity of conclusion which bans military intervention in the service of human rights and fundamental freedoms."[23] From operational and implementation aspects, OSCE activities are very diverse, but special importance has so-called field activities, as well as meetings consider emergencies. Activities on the spot are known as the "OSCE mission" (such as missions in Bosnia mission in Georgia Mission in Kosovo), "the groups for help" (e.g., Georgia), "center" or "office". They cover wide range of activities: help in resolving conflict situations, aid in the transition process and the development of democratic institutions, protection and promotion of human rights, organization and supervision of local and

[21] Ljubivoje Aćimović, OEBS na početku XXI veka- mesto, uloga i dometi, *Međunarodna politika*, Vol LXV, br 1, January 2013, p. 9.

[22] Branko Rakić, Budimir Košutić, Bojan Milisavljević, *Uvod u pravo evropskih integracija*, Beograd, 2013., p. 277 according to: Matthias Herdegen, *Europarecht*, p. 399.

[23] Ibidem, p. 277.

parliamentary elections (e.g. in Bosnia, Croatia) and the implementation of relevant international instruments. OSCE documents, primarily of soft law character, continued to develop European system of human rights. Section 9.1 of Copenhagen Document introduces new right- right to communicate (right on communication) which is not mentioned in European Convention nor the International Covenant on Civil and Politic Rights. In particular, it was emphasized that "no limitation will be imposed on access to, and use of, means of reproducing documents of any kind, while respecting, however, rights relating to intellectual property, including copyright."[24] The same document mentioned in paragraph 9.4 and the "freedom to change one's religion or belief and freedom to manifest one's religion or belief, either alone or in community with others" which was not contained in the International Covenant on Civil and Political Rights.[25] OSCE standards also introduced the right to the right to property, which is also omitted from the Pact for ideological disagreements between East and West. It stipulates that "everyone has the right peacefully to enjoy his property either on his own or in common with others."[26]

Nowadays the OSCE is not the organization which makes key decisions. That role belongs to other organizations, such as EU, UN and NATO. Although success of its activities is according to many opinions "below expectations" (e.g. in Bosnia or Kosovo), its role in post-Cold War international relations cannot be denied. Political significance of OSCE may be lower in cooperation with CSCE, but it should be noted that OSCE has a practical value. Further OSCE activities largely depend on the activities of more relevant organizations, EU and NATO. These organizations are open for the accession of all the countries of European region. "This development could weaken, and in any case, modifies the role and character of the OSCE. Its secondary role in key issues would be even more pronounced, and the primary jurisdiction further reduced to issues of relatively minor importance."[27] Today, OSCE has an important role in protection of national minorities due to activities of Office for Democratic Institutions and Human Rights (ODIHR) and High Commissioner on National Minorities. The role of the High Commissioner has primarily preventive character and it is consisted of conflict prevention at the earliest stages. "While, therefore, his task is not to deal with the protection of minorities as such, but to contribute maintenance and strength of international peace and security in the region, the High Commissioner developed practice which in cases of ethnical

[24] Document of the Copenhagen meeting of the Conference on the Human dimension of the CSCE, Internet: http://www.osce.org/odihr/elections/14304?download=true 22/04/2014.

[25] Ibidem.

[26] Ibidem.

[27] Ljubivoje Aćimović, OEBS na početku XXI veka, op. cit., p. 15.

conflicts might have an important contribution on its prevention and protection of minorities in the region."[28] In these cases, OSCE must act impartially, independently and confidentially.

## Human Rights and the European Union

Development of human rights in Europe might be observed through the legal system of the European Union (formerly the European Community). Within this system, the legal framework of human rights developed rather slowly. The EU is as an economic organization, dedicated to coal, steel, industrial and agricultural production, which do not have much in common with human rights. But, the founders of European Communities could not miss out to mention protection of fundamental human rights in the founding treaties, particularly the Treaty establishing the European Economic Communities –e.g. freedom of movement and residence, prohibition of discrimination national grounds and economic and social rights of workers.

In 1977, Joint Declaration of the Parliament, the Commission and the Council of the EU on Human Rights was adopted. These statements organs of the EU "stress the prime importance they attach to the protection of fundamental rights, as derived in particular from the constitutions of the Member States and the European Convention for the Protection of Human Rights and Fundamental Freedoms."[29]

Maastricht Treaty continues the tradition of the Joint Declaration, and states that the Union shall respect fundamental rights in a way that guaranteed by the European Convention on Human Rights and Fundamental Freedoms (...) and constitutional traditions that are common to all Member States, as well as general principles of Community law. At this moment, "the question of the human rights comes to the agenda of European integration. To whose agenda? Council of Ministers? Commission? No, but to the agenda of the Court of Justice of European Communities."[30] Here we have an interesting situation. The founding treaties did not give the Court of Justice of the EC (later EU) explicit authority to protect the basic human rights violations by the institutions of the organization, neither contained a precise list of the rights which institutions are required to comply

[28] Boris Krivokapić, Organizacija za nezbednost i saradnju u Evropi i zaštita manjina*, Zbornik radova Pravnog fakulteta u Nišu,* XLIII/2003, pp. 148-178. p. 162.

[29] Joint Declaration by the European Parliament, the Council and the Commission, *Official Journal of European Communities*, NO C 103, Luxembourg, 5 April 1977.

[30] Vesna Knežević Predić, Some messages from the Matthews Case: Judicial Protection of Human Rights, the European system of one, two or ..., *Zbornik radova Evropski sistem zaštite ljudskih pravd iskustva i novi izazovi,* Centar za publikacije Pravnog fakulteta u Nišu, Niš, 2005, pp. 37-53, p. 37.

and Court to protect. Faced with the possibility that human rights take some other institutions (e.g. the European Court of Justice) and thereby undermine the supranational character of the EC / EU, the Court of Justice of the EC conceived the protection of human rights as "part of the general legal principles" of Community legal order. This solution has proven deficiencies and has not answered the questions which rights belong to the corpus of general principles. The new solution is achieved through the concept of "common constitutional traditions" of member states, which also proved as ineffective.[31] The fact that protection of human rights is out of the sphere of exclusive domestic jurisdiction of member states signing of the European Convention on Human Rights asked for a much more efficient solution. Convention becomes the starting point of the Court of Justice of the EC / EU. EC and EU were not ready to accept this kind of solution and accede to the Convention. This might provoke special system of human rights protection with European Court of Human Rights on the top. Case Matthews vs. United Kingdom launched many issues related to the protection of human rights in the EU.[32]

Within the framework of EC / EU, it is necessary to mention Charter of Fundamental Social Rights of Workers. The Charter does not have binding character but it specifies the most important rights of workers such as freedom of movement, employment and remuneration, provision of adequate working and living conditions, equal treatment of men and women, health and social care. Also, specific character has Declaration of Fundamental Rights and Freedoms, which includes civil and political rights (which is important, because EU acts on human rights include mostly economic and social rights).[33] The Court is not obliged to apply it, but every citizen has the right to send a written communication to the European Parliament in case of violation of some right which provided by Declaration. Parliament has an obligation to resolve applications, but final solution does not have binding character. Perhaps the

[31] It the famous case Nold vs. Commission, Court it is concluded that "*t*he court is bound to draw inspiration from constitutional traditions common to the member states, and it cannot therefore uphold measures which are incompatible with fundamental rights recognized and protected by the constitutions of those states. Similarly, international treaties for the protection of human rights on which the member states have collaborated or of which they are signatories, can supply guidelines which should be followed within the framework of community law**"**, J. Nold, Kohlen- und Baustoffgroßhandlung v Commission of the European Communities. Judgment of the Court of 14 May 1974. Case 4-73.

[32] On Matthews vs. UK see at: Jean-Paul Costa, The European Court of Human Rights and Its Recent Case Law , *Texas International Law Journal*, vol. 38, 2003., p. 466.

[33] Declaration of fundamental rights and freedoms, *Official Journal of the European Communities*, No C 120/51, April 1989., Internet: http://www.europarl.europa.eu/charter/docs/pdf/a2_0003_89_en_en.pdf 25/04/2014

most important act in the regulation of human rights is the Charter of Fundamental Rights of the European Union. "With this act, one specific organization such as EU showed its primary objective is not just the economic development of its members, but also issues related to human rights received significant role in its activities."[34] Text of the Charter is legally obligated incorporating in Treaty of Lisbon in December 2009. This makes Charter one of few act of EU dedicated human rights which is legally binding.

## Conclusion

European system of human rights evolved through activities of three different organizations Council of Europe, the CSCE / OSCE and the European Union. Each of these systems gave its contribution to development of human rights in Europe, which enable European system of human rights to become more organized and complex in comparison with American and African systems of human rights protection.

The first and most important in development of European system of human rights was establishment of Council of Europe, an organization that has adopted the European Convention on Human Rights in 1950. The European Court of Human Rights based in Strasbourg, is the main organ of supervision over the Convention. Changes introduced in 1998 caused constantly increasing number of applications which threatens to paralyze the work of the Court. Remains to see whether, and to what extent, will be successful measures relating to the faster and easier the verdict. When we speak of the CSCE / OSCE, it is indisputable that this system contributed awareness of human rights in the countries of Central and Eastern Europe.

But also, it is undisputed that CSCE / OSCE in post-Cold War period has too much political character, and some of its acts could be observed as interference in internal affairs of state. This is obvious in case of Moscow Document. Such perceptions had contributions on revival concepts of humanitarian intervention and preventive attacks.

Development of human rights within EC / EU was slow. This is logical, having in mind that EU is an economic organization. But, with transformation of EC into the EU, more attention is paid to human rights. A large number of adopted legislation was non-binding. A major step was the adoption of the Charter of Fundamental Rights of the European Union. One of the earlier actual questions was accession to the European Convention on Human Rights. This did not happen, or will happen in the future. This might cause formation of a

[34] Milan Paunović, Boris Krivokapić, Ivana Krstić, *Međunarodna ljudska prava* ... op. cit., p. 103.

special system of human rights protection with European Court of Human Rights on the forehead, whose decisions would be binding for European Union. This kind of concept would jeopardize the supranational character of the EU. Thus, each of the three systems had their advantages and disadvantages. It remains to see if Protocol 14 of the European Convention on Human Rights will reduce the number of individual applications.

OSCE is politically outnumbered NATO and the EU, but still may have a significant impact in the development of minority rights. Also, it will be interesting to see further development of legislation devoted to human rights in the EU in the time period when this organization is faced with one of the biggest crisis in its existence.

Finally, Human Rights in Europe (and the rest of the world) should remain just that-rights. Neutral, independent, equal for all, original, inalienable and universal. Recently, policy has a major impact on human rights. This trend should be resisted, and human rights must be observed in their basic form- as rights which belong to all human beings, without distinction. This important branch of law cannot become a tool of any political blackmail, conditionality and bias.