

Brunet / Syllabus

Regional Human Rights Courts: Europe, the Inter-American System, and Africa

This outline is not binding, and changes may be made.

Course Description

This course offers a comparative introduction to three regional human rights courts: the European Court of Human Rights (ECtHR), the Inter-American Court of Human Rights (IACtHR), and the African Court on Human and Peoples' Rights (AfCHPR).

It examines their historical origins, referral procedure, access routes and admissibility, interpretive methods, landmark decisions, remedial practices, compliance and execution mechanisms, and institutional critiques (past and present).

A central theme is how each court balances: effectiveness vs legitimacy, individual access vs docket control, and judicial innovation vs political backlash.

Learning Outcomes

By the end of the course, students should be able to:

- Explain the founding contexts and institutional designs of the three systems (Council of Europe; OAS; AU).
- Compare modes of access and admissibility filters, including key reforms and recent evolutions.
- Identify and apply core interpretive doctrines, such as the ECtHR's "living instrument" approach and margin of appreciation, proportionality, and the IACtHR's pro persona logic and control of conventionality.
- Analyze and present case notes on landmark judgments/opinions, with a clear account of facts, reasoning, remedies, and systemic impact.
- Critically assess compliance/execution tools and weaknesses in each region, and evaluate common critiques.
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Required Materials (Primary Sources)

- [ECHR \(1950\)](#)
- [Protocol No. 11 to the European Convention \(restructuring into a single permanent Court; in force since 1998\)](#)
- [American Convention on Human Rights \(ACHR\) \(official text\)](#)
- [Inter-American Commission website](#)
- [African Charter on Human and Peoples' Rights \(1981, in force 1986\)](#)
- [Protocol to the African Charter establishing the African Court \(adopted 1998; in force 2004\)](#)

Session 1 — Foundations & Institutional Design: Why these Courts exist

Objectives

- Understand genesis and institutional architecture of the three systems.
- Set up the comparative grid used throughout the course.

Core topics

- Europe: post-war rights protection; move to a single permanent court via Protocol 11 (in force 1998).
- Europe: ECtHR and Highest courts and tribunals of member States (Protocol N°16, 2013, in force 2018).
- Inter-American system: ACHR (1969/1978); Commission + Court model; Court operational from 1979.
- Africa: AfCHPR Protocol (1998; in force 2004), designed to complement the African Commission.

Required readings

- [ECHR \(1950\), Arts. 1-18, Protocols 1, 11, 14, 16](#)
- [American Convention on Human Rights \(1969\), Arts. 1-32, 44-51, 61-69](#)
- [African Charter on Human and Peoples' Rights \(1981\), Arts. 1-29 and Art. 60](#)
- [Maputo Protocol on the Rights of Women in Africa \(2003\), Arts. 1-6, 14](#)
- [Hampson, Françoise, et al. "Inaccessible Apexes: Comparing Access to Regional Human Rights Courts and Commissions in Europe, the Americas, and Africa." *International Journal of Constitutional Law*, vol. 16, n°1, Jan. 2018, pp. 161–86](#)

Session 2 — Access to Justice: Referral procedure, Admissibility, and Filtering

Objectives

- Compare "open access" vs "filtered access" models.
- Track key reforms and their motivations.

Core topics

- ECtHR: individual applications; admissibility requirements; exhaustion of domestic remedies (art. 35-1); reduction of time-limit to 4 months (recent evolution); docket pressure and filtering mechanisms (judge single formation, etc.).
- IACtHR: individuals petition the Commission (Section 3); only Commission/States refer cases to the Court; jurisdiction depends on State acceptance (Art. 62).
- AfCHPR: individual/NGO access depends on optional Article 34(6) declaration + developments (withdrawals).

Required readings

1. [ECtHR: overview of individual application conditions](#) (esp. art. 34 & 35).
2. [ECtHR, 21 september 2021, Zambrano v. France, n°41994/21](#) (§§22-47)
3. [ECtHR filtering & judge-single logic](#) (institutional note).
4. [IACHR provisions on Court jurisdiction / referral structure](#) (Arts. 61-62).
5. [IACtHR Advisory Opinion G 101/81, Viviana Gallardo et al. November 13, 1981](#) (§20-29)

6. [AfCHPR Protocol provisions on referral procedure \(Arts. 4 & 5 & 34\(6\)\)](#).
7. [AfCHPR, Advisory Opinion 001/2013, 26 May 2017, Socio-Economic Rights and Accountability Project \(SERAP\)\(§37ff\)](#)

Session 3 — Remedies & Compliance: From Judgment to Reality

Objectives

- Understand remedial styles (compensation vs structural measures).
- Compare execution/supervision mechanisms.

Core topics

- Europe: Article 46 framework; Committee of Ministers' supervision; interpretative/manquement tools (as evolved); Article 61 Pilot-Judgment Procedure
- Inter-American: strong remedial practice (investigate/prosecute, reforms, guarantees of non-repetition); Court practice includes follow-up/supervision.
- Africa: remedial orders and follow-up issues; compliance challenges in politically sensitive cases.

Required readings

1. [ECtHR Knowledge Sharing: Guide on Article 46 \(execution\)](#).
2. [ECtHR Pilot-Judgement Procedure](#)
3. [IACtHR 14 March 2001, *Barrios Altos v Peru* \(Merits\)](#) – illustrates anti-impunity + remedies logic.
4. [AfCHPR 26 May 2017 *African Commission v Kenya \(Ogiek community\)* reparations judgment](#) (example of detailed reparations package).

Session 4 — Interpretive Methods: Living Instruments, Margin of Appreciation, Pro Persona

Objectives

- Identify interpretive doctrines and their institutional function.
- Link interpretation to legitimacy and subsidiarity.

Core topics & anchor cases

- ECtHR “living instrument” doctrine: *Tyrer v UK*.
- ECtHR margin of appreciation + “democratic society” reasoning: *Handyside v UK*.
- IACtHR “live instrument” doctrine : *Yakye Axa Indigenous Community c. Paraguay* (2005).
- IACtHR “pro persona/pro homine” interpretive orientation (norm most favorable to the person): Advisory Opinion OC-18/03 (IACtHR, 2003)
- IACtHR “conventionality control” (domestic judges as key enforcers): *Almonacid Arellano v Chile* (2006).

Required readings

1. [ECtHR 25 April 1978 *Tyrer v UK*](#)
2. [ECtHR 7 December 1976 *Handyside v UK*](#)
3. [ECtHR 6 October 2005 *Hirst v United Kingdom \(N°2\)*](#)

4. [IACtHR 26 September 2006 *Almonacid Arellano v Chile*](#)
5. [IACtHR 17 June 2005 *Yakye Axa Indigenous Community c. Paraguay*](#)
6. [IACtHR Advisory Opinion AO-18/03, 17 September 2003](#)

Session 5 — Landmark Cases I: State Violence, Impunity, Extraterritoriality

Objectives

- Understand how courts construct positive obligations and deal with territorial reach.

Core topics & anchor cases

- IACtHR: enforced disappearances & duty to investigate: *Velásquez Rodríguez v Honduras* (29 July 1988).
- IACtHR: amnesties & anti-impunity: *Barrios Altos v Peru* (14 March 2001).
- ECtHR: non-refoulement via Art. 3 logic: *Soering v UK* (1989).
- ECtHR: extraterritorial jurisdiction/control: *Loizidou v Turkey* (1996).
- AfCHPR: impunity + chilling effect on press freedom: *Norbert Zongo* case.

Required readings

1. [IACtHR 29 July 1988, *Velásquez Rodríguez v. Honduras*](#)
2. [IACtHR 14 March 2001, *Barrios Altos v Peru*](#)
3. [ECHR 7 July 1989, *Soering v UK*](#)
4. [ECHR 18 December 1996, *Loizidou v Turkey*](#)
5. [AfCHPR 28 March 2014, *Zongo v Burkina Faso*](#)

Session 6 — Landmark Cases II: Democracy, Expression, Equality, and Vulnerable Groups

Objectives

- Compare how courts protect democracy-related rights and regulate restrictions.
- Understand the ECtHR and the IACtHR's approach of gender discrimination

Core topics & anchor cases

- ECtHR & democratic values: *United Communist Party of Turkey and Others v. Turkey* (1998)
- ECtHR & gender/family: *Paradiso and Campanelli v. Italy* (2017)
- AfCHPR & democracy: independent candidates and political participation: *Tanganyika Law Society / Mtikila v Tanzania* (2013)
- AfCHPR & expression: criminal defamation proportionality: *Konaté v Burkina Faso* (2014)
- AfCHPR & gender/family law: *APDF & IHRDA v Mali* (2018)
- IACtHR advisory practice on equality/identity (selected): OC-24/17

Required readings

1. [ECtHR 30 January 1998 *United Communist Party of Turkey and Others v. Turkey*](#)
2. [ECtHR 24 January 2017 *Paradiso and Campanelli v. Italy*](#)
3. [AfCHPR, 14 June 2013 *Tanganyika Law Society / Mtikila v Tanzania*](#)
4. [AfCHPR, 5 December 2014 *Konaté v Burkina Faso*](#)

5. [AfCHPR, 11 May 2018 APDF & IHRDA v Mali](#)
6. [IACtHR 24 November 2017 AO-24/17](#)

Session 7 — Critiques, Backlash, Reform, and Futures (Environment as a Stress-Test)

Objectives

- Evaluate recurrent critiques: legitimacy, overload, political resistance, fragmented compliance.
- Discuss “future law” themes: climate/environment, democratic backsliding, and procedural reforms.

Core topics (with concrete examples)

- ECtHR: docket overload, filtering strategies and criticism of efficiency measures
- AfCHPR: restricted access and withdrawals of Article 34(6) declarations; effects on individuals/NGOs
- IACtHR: political backlash and withdrawals from ACHR (e.g., Venezuela exit effective in 2013) and consequences for victims
- “Future-facing” jurisprudence: environment and human rights, Advisory Opinion OC-23/17 (environmental obligations; cross-system references, November 15, 2017) and Advisory Opinion OC-32/25 (environment and human rights, May 29, 2025)
- Climate change and future generations: ECtHR, *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*, 2024 (actio popularis, democracy, separation of powers)

Required readings

1. [ECtHR 9 April 2024 Verein Klimaseniorinnen Schweiz v. Switzerland](#) (Climate change)
2. [IACtHR 15 November 2017, AO-23/17](#) (Environment and Human Rights)
3. [IACtHR 29 May 2025, AO-32/25](#) (Environment and Human Rights)
4. [Short institutional note on ECtHR filtering](#)
5. [Coalition note on Article 34\(6\) withdrawals](#)
6. [On Venezuela’s withdrawal/impact \(2013\)](#).

Session 8 — Interactions & “Judicial Ecosystems”: Dialogue, Borrowing, and Conflict

Objectives

- Show how courts interact with other courts and domestic judges.
- Understand doctrines that prevent clashes (or create them).

Core topics

- ECtHR ↔ EU law: “equivalent protection” doctrine and systemic coordination: *Bosphorus v Ireland* (2005)
- IACtHR ↔ domestic judges: conventionality control + domestic implementation logic (built from *Almonacid*, 2006 *supra*)
- AfCHPR ↔ African Commission: referral model (*Ogiek* was referred by Commission; first major public interest case)

Required readings

1. [ECtHR 30 June 2005 Bosphorus v Ireland](#)

2. [AfCHPR 26 May 2017 *African Commission v Kenya \(Ogiek community\)*](#)
3. [IACtHR 26 September 2006 *Almonacid Arellano v Chile*](#)