

# I. STUDII, CERCETĂRI, ARTICOLE

## THE UNITED NATIONS ORGANIZATION AND THE INSTITUTIONALIZATION OF HUMAN RIGHTS\*

IRINA MOROIANU ZLĂTESCU\*\*

### ABSTRACT:

The period following the creation of the United Nations Organization, the elaboration of the UN Charter and the adoption of the Universal Declaration of Human Rights, is considered to be the contemporary era of human rights, characterized by the emergence of numerous regulations in the field and codification of the fundamental rights.

In order to fulfill one of its fundamental objectives, to provide the protection and the promotion of human rights and the fundamental freedoms, the United Nations Organization elaborated a great number of international instruments through its bodies.

**Key words:** human rights, Universal Declaration of Human Rights, fundamental freedoms

### RÉSUMÉ:

La période qui suit la création de l'Organisation des Nations Unies, l'élaboration de la Charte des Nations Unies et de l'adoption de la Déclaration universelle des droits de l'homme, est considérée comme l'ère contemporaine des droits de l'homme, caractérisé par l'émergence de nombreux règlements dans le domaine et codification des droits fondamentaux.

Afin de réaliser un de ses objectifs fondamentaux, pour assurer la protection et la promotion des droits de l'homme et les libertés fondamentales, l'Organisation des Nations Unies a élaboré un grand nombre d'instruments internationaux grâce à ses organes.

**Mots clés:** droits de l'homme, la Déclaration universelle des droits de l'homme, des libertés fondamentales

At the Conference of San Francisco, which laid the foundations of the United Nations Organization, an intergovernmental organization, the main allied forces against the Axis countries signed, 70 years ago, on June 26<sup>th</sup> 1945, the *United Nations Charter*, which became effective on October 24<sup>th</sup> 1945, when the Charter was ratified.

Initially 51 founding states were part of the organization, while other 142 states joined it with time. It is merely a formal and chronological distinction with no consequences upon their legal status. Admittance of new members is decided by the General Assembly, based on a 2/3 majority, on recommendation by the Security Council. This recommendation has the power of a decision and has to be made

unanimously. The United Nations internal structure is extremely complex.<sup>1</sup>

Essentially, not only for the specialists in human rights but for humanity in general, is that the Charter includes regulations, to which reference is made even in the preamble, on human rights and on the fundamental freedoms. From the beginning, the Preamble enshrines the determination of the member States to reaffirm their “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small”. In order to reach these goals, the United Nations shall “promote social progress and better standards of life in larger freedom” and “employ international machinery for the promotion of the economic and social advancement of all peoples”.

The purposes of the United Nations, stated in article 1 of the Charter, include “to develop friendly relations among nations based on

\* As 2015 is a year when several events are celebrated, including the 70<sup>th</sup> anniversary of the United Nations Organization, the 60<sup>th</sup> anniversary of Romania's membership to this organization, etc., we are going to devote a number of articles, studies, and comments to these anniversary moments throughout this year.

\*\* Prof., PhD, member of the International Academy of Comparative Law.

<sup>1</sup> See Irina Moroianu Zlătescu, *Drepturile omului – un sistem în evoluție*, (Human Rights a system in evolution) IRDO, 2008, p. 35 et seq.

respect for the principle of equal rights and self-determination of peoples”. Another purpose of the United Nations, worded in the same article is “to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.

The Charter authorizes a number of bodies to take charge of human rights issues, thus laying the foundations of the machinery.

Owing to their particular importance, these principles were reiterated, in different words, in several of the Charter’s stipulations. They are to be found in the same article 1 where the purposes and the principles of the United Nations are stated, as well as other articles referring to the functions and powers of the United Nations General Assembly, the Economic and Social Council, etc.

However, it is noteworthy that, while the Charter mentions the promotion and encouragement of the respect for human rights and the fundamental freedoms as one of the United Nations’ fundamental purposes, it fails to list or define these rights and freedoms. The Conference of San Francisco was not able to detail them, due to the political circumstances of that time. This was a task for the General Assembly, the Economic and Social Council, the Human Rights Commission, established by the UN in 1946 and replaced by the United Nations Human Rights Council<sup>2</sup> on 15 March

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<sup>2</sup> The United Nations Commission on Human Rights, which ended its activity based on Resolution 60/251 of 15 March 2006, when it was replaced with the United Nations Human Rights Council, provided the international community with a universal framework of human rights, including the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, respectively, their Protocols, as well as other fundamental human rights treaties. Also by Resolution 60/251 the Universal Periodic Review (UPR) was created. UPR is a unique process, under the auspices of the Human Rights Council, which involves a review of the human rights records of all UN Member States. The process provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations.

The UN Resolution 60/251 also guarantees the participation of Non-Governmental Organizations. NGOs

2006, and their subsidiary bodies. These bodies developed in time a great number of instruments meant to promote and protect human rights and the fundamental freedoms.

Bearing in mind that admission to the international community requires a declaration of adherence to the Charter’s principles, we deem it to be legally binding.

The period following the creation of the United Nations Organization, the elaboration of the UN Charter and the adoption of the Universal Declaration of Human Rights, is considered to be the contemporary era of human rights, characterized by the emergence of numerous regulations in the field and codification of the fundamental rights. Thus, the United Nations Charter is a codification of a special type.

The United Nations passed important documents such as the Universal Declaration of Human Rights, passed on December 10<sup>th</sup> 1948, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, passed on December 16<sup>th</sup> 1966, etc. Other documents

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play an important role in the activity of the Human Rights Council. They bring to its attention the occurrence and reality of human rights violations in various places of the world, contributing with their own specialized expertise. They are responsible for monitoring and pressuring States to place the protection of human rights and human dignity above any other interests. And especially the United Nations Associations (UNAs), as national civil society organizations connect the citizens of the world and the United Nations by providing links and building bridges, seeking to ensure that the UN is relevant to the lives of the peoples for whom it had been founded and for whom it exists to serve.

Recently established new structures under the UN aegis, as the Alliance of Civilizations (also present in Romania) contribute in cooperation with national institutions to building bridges between member states .

The 67 years since the proclamation of the Universal Declaration of Human Rights by the United Nations General Assembly, more precisely on 10 December 1948, has hardly diminished the power of the message conveyed by this document of exceptional importance, meant to consecrate a common ideal for all nations, the foundation on which the construct of human rights has been edified. It is appreciated nowadays that the Declaration is the genuine interpretation of the United Nations Charter as it explains in detail the meaning of the terms “human rights and fundamental freedoms”, which the United Nations Member States committed themselves to respect when they became a party to the Charter; see **Irina Moroianu Zlătescu**, *Human rights: a dynamic and evolving process*, Pro Universitaria, București, 2015, p. 5 et seq.

were passed by regional bodies, such as the Council of Europe, the Organization of American States, the Organization of African Unity, etc. Also worth mentioning are the contributions made by the Organization for Security and Cooperation in Europe for the promotion and observance of human rights in the present-day world.<sup>3</sup>

Human rights and the fundamental freedoms provided for by the international documents, as well as guaranties for their protection and promotion are to be found in all, or close to all present-day constitutions.

In order to fulfill one of its fundamental objectives – to provide the protection and the promotion of human rights and the fundamental freedoms – the United Nations Organization elaborated a great number of international instruments through its bodies.

All these documents aim to: define and implement human rights and the fundamental freedoms all over the world; create and continuously improve mechanisms capable to effectively control and monitor the implementation of the commitments assumed by the signatory States in relation to the protection and promotion of human rights and the fundamental freedoms; build awareness of the public about the importance of the international and national protection of these rights and freedoms.

A large variety of instruments were thus elaborated: conventions, protocols, treaties, covenants, recommendations and resolutions. In terms of their legal force, their values are different: some are binding, having a conventional basis; others have only a moral value in that they define norms and objectives to be pursued without binding the States to implement and protect them.

A permanent concern of the United Nations was to recommend the member States and the international bodies that the instruments on human rights and the fundamental freedoms be such elaborated as to make sure that: they should be consonant with the international human rights law as a whole; such documents referring to the dignity and value of the human being should be of a fundamental nature; the wording should be accurate so that the rights

and the obligations should be clearly defined and implemented without ambiguities; whenever possible, they should include mechanisms to realistically and effectively implement and monitor; the impact upon the international public opinion should be as great as possible.

The tasks were difficult, but they were favoured by the basic norms set forth in the United Nations Charter and in the documents of the International Charter of Human Rights.

In order to understand the notions and concepts operating in the field of human rights as accurately as possible, an excursion in the evolution of the philosophical-juridical thinking is necessary. The term *International Charter of Human Rights* applies to a set of documents elaborated under the auspices of the United Nations Organization, namely: Universal Declaration of Human Rights; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Optional Protocol to the International Covenant on Civil and Political Rights; Second Optional Protocol to the International Covenant on Civil and Political Rights, which enshrines abolition of the death penalty; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

It took three years after the Charter had been passed until, following vivid discussions that frequently reflected contrary positions, the Universal Declaration of Human Rights could be passed. A topic of the discussions was also the form that such a document was to be given. According to some, the draft should have been given the form of a declaration; others were in favour of a convention. It was unanimously decided that both a declaration and a convention or human rights covenant should be elaborated, which were to be entitled together: the International Charter of Human Rights. The elaboration of a covenant was even more laborious and required more time for study. First, on December 10<sup>th</sup> 1948, the General Assembly, joined together in Paris, passed the Declaration under resolution 217 A(III), proclaiming it “a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in

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<sup>3</sup> The Organization was initially called the CSCE (Conference for Security and Cooperation in Europe).

mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction". The Declaration was passed by a vast majority, namely, 48 States<sup>4</sup> voted a yes, 8 States abstained<sup>5</sup> and there was no vote against. Two states were absent.<sup>6</sup>

*The Declaration* was appreciated from the very moment it was passed as a first step to the institutionalization of human rights and the fundamental freedoms at international level. It was a document of an exceptional value; it was the first time when an organized community of States elaborated such a document endorsed by the authority of the assembly of member States of the United Nations and that of tens and hundreds million people all over the world.

Article 1 of the Declaration lays down, in a concise form, the whole philosophic foundation sustaining the outlook about human rights and the fundamental freedoms: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". The fundamental ideas that inspired the Declaration are thus expressed: the rights to freedom and equality are rights inherent to human nature, as old as man and cannot therefore be alienated; each individual is a moral being, endowed with reasoning and this is why he is a being that differs from other creatures upon Earth; this is also the reason why he may claim certain rights and freedoms that no one else, no other living being can enjoy.

The Declaration includes a Preamble and 30

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<sup>4</sup> Afghanistan, Argentina, Australia, Belgium, Burma, Bolivia, Brazil, Canada, Chile, China, Columbia, Costa Rica, Cuba, Denmark, the Dominican Republic, Egypt, El Salvador, Ecuador, Ethiopia, France, Greece, Guatemala, Haiti, India, Iraq, Iran, Iceland, Lebanon, Liberia, Luxemburg, Mexico, The Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey, Uruguay, The United Kingdom, The United States of America, Venezuela.

<sup>5</sup> The Soviet Socialist Republic of Belarus, Czechoslovakia, Poland, Saudi Arabia, The Soviet Socialist Republic of Ukraine, The Union of South Africa, The Union of Soviet Socialist Republics, Yugoslavia.

<sup>6</sup> Honduras and Yemen.

articles enshrining the essential human rights and fundamental freedoms that may be claimed by all human beings, men and women all over the world, without any discrimination. Articles 3-21 deal with the civil and political rights, while articles 22-27 deal with the economic, social and cultural rights.

Article 2 states the fundamental principle of equality and non-discrimination in relation to the exercise of human rights and the fundamental freedoms. In this respect, the article develops the Charter's provisions according to which nations shall encourage the achievement of all rights and freedoms for all "without distinction of any kind, such as race, colour, sex, language, religion ...". Paragraph 2 of this article explicitly provides that the Declaration is applicable to all countries and territories, irrespective of the State under whose jurisdiction the respective territory may be.

Article 3 opens the inventory of the fundamental rights: the right to life, liberty and security of person, which are essential to the achievement of all the other rights that are further enumerated: no one shall be held in slavery or servitude; no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment; everyone has the right to recognition everywhere as a person before the law; everyone has the right to an effective remedy by the competent national tribunals; no one shall be subjected to arbitrary arrest, detention or exile; everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal; everyone charged with a penal offence has the right to be presumed innocent until proved guilty; no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence; everyone has the right to freedom of movement and to seek and enjoy asylum in other countries; everyone has the right to a nationality; men and women have the right to marry and found a family; everyone has the right to own property; everyone has the right to freedom of thought, conscience and religion, to freedom of opinion and expression, to freedom of peaceful assembly and association; everyone has the right to take part in the governance of his country and to equal access to public service.

Articles 23-28 lay down the economic, social and cultural rights that may be claimed by any

person in his/her capacity as a “member of society”. The rights proclaimed in these articles are indispensable to human dignity and the free development of one’s personality, while their achievement is based upon “national effort and international cooperation”. At the same time, certain restrictions to the achievement of these rights are provided for, as they depend on the resources of each country and those of the international community.

The economic, social and cultural rights acknowledged in those articles are the following: the right to social security, to work, to rest and to leisure; the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age; motherhood and childhood are entitled to special care and assistance, and everyone has the right to education and instruction as well as take part in the community’s cultural life.

The final articles of the Declaration acknowledge everybody’s right to a society characterized by the rule of law, where human rights and the fundamental freedoms can be fully achieved. In the realization of his/her rights, everyone shall be subject only to the limitations imposed by the laws and only for the acknowledgement and realization of the rights of others, the morality, the public order and general welfare. Under no circumstances shall these rights be exercised in contradiction to the purposes and the principles of the United Nations. The Declaration also proclaims that no State, group or person has the right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth by the Declaration.

Following a lengthy process of elaboration, on December 16<sup>th</sup> 1966, the General Assembly passed under Resolution 2200 A (XXI) not one covenant, as had been anticipated as far back as 1947, but two covenants and an optional protocol, namely, the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Thus, the International Charter of Human Rights – of

which only the Declaration had been elaborated by 1966 – was completed by these documents. As was shown, it was to be added later other documents as well.

The two covenants include a number of similar provisions as well. Thus, each Preamble enumerates the general principles of human rights taken from the Declaration, that is, those referring to the inherent dignity of the human person and the ideal of the free human being; the States’ obligation imposed under the Charter of the United Nations to promote the observance of human rights is reasserted. In almost identical words, the covenants state the principle according to which “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. Both covenants reassert the principle according to which the right to self-determination is universal; States are required to assist the achievement of the right of peoples to make their own decisions applicable within their own territories as well as respect this right in third States. By virtue of this right, peoples shall freely decide upon their political status and freely ensure their economic, social and cultural development, for which they shall freely make use of their natural assets and resources. The provisions of articles 3 in the two covenants are also similar and refer to the commitment of States to ensure the equal right of men and women to enjoy all the economic, social and cultural as well as the civil and political rights set forth in the respective covenant. Thus, not only is the principle of equality between men and women stated, but also States are required to make it become a reality.

However, the rights and the freedoms laid down in the two covenants are not absolute and can, if necessary, be subject to limitations. As a rule, the International Covenant on Civil and Political Rights provides that such limitations can only be applied when provided for under the law and if they are necessary to ensure national security, public order, public health or morality, or the rights and freedoms of others.

Resolution 23(XXXVI) of February 29<sup>th</sup> 1980 insisted on the fact that in the exercise of his/her rights and freedoms, every person shall only be subject to the limitations established

under the Charter of the United Nations, the Declaration, the two covenants, and the other instruments that had been elaborated. Any illegal limitations or persecutions are incompatible with the commitments assumed by the States.

The two covenants as well as the Optional Protocol were passed and opened for signature, ratification and accession under the same resolution by the General Assembly (2200A(XXI)) of December 6<sup>th</sup> 1966. The International Covenant on Economic, Social and Cultural Rights came into force on January 3<sup>rd</sup> 1976. The other Covenant came into force on March 23<sup>rd</sup> 1976.

*The International Covenant on Economic, Social and Cultural Rights*<sup>7</sup> acknowledges: the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts (art. 6); the right of everyone to the enjoyment of just and favourable conditions of work which ensure fair wages and equal remuneration for work of equal value without distinction of any kind (art. 7); the right of everyone to form trade unions and join the trade union of his choice (art. 8); the right of everyone to social security, including social insurance (art. 9); the right of the family, mothers, children and adolescents to the widest possible protection and assistance (art. 10); the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions; everyone shall be free from hunger (art. 11); the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (art. 12); the right of everyone to education (art. 13); the right of everyone to education; the principle of free and compulsory primary education for all shall be applied (art. 14); the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications (art. 15).

All these rights may be limited under the law, but only to an extent compatible to the nature of these rights and with a view to favour the general welfare in a democratic society.

Articles 16-25 include a number of provisions according to which the member

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<sup>7</sup> Romania ratified the Covenant in 1974 and its Optional Protocol in 2013.

States of the international community shall submit reports on the measures passed and the progresses made with the implementation of the rights laid down by the Covenant.

A significant moment was in 1985, when the Economic and Social Council created the Committee of the economic, social and cultural rights by restructuring the workgroup established in 1978. The Committee was tasked to examine the reports submitted by the States and formulate general recommendations for the Council.

Among other things, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted in 2008, authorizes the Committee established under the Covenant to receive and analyze communications.

*The International Covenant on Civil and Political Rights*<sup>8</sup> refers to the protection of such rights as: the right to life, being inherent to human beings, shall be protected by law. No one shall be arbitrarily deprived of his life (art. 6); no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (art. 7); no one shall be held in slavery or servitude. Slavery and the slave-trade in all their forms shall be prohibited; no one shall be required to perform forced or compulsory labour (art. 8); everyone has the right to liberty and security of person and no one shall be subjected to arbitrary arrest or detention (art. 9); all persons deprived of their liberty shall be treated with humanity (art. 10); no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation (art. 11); everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence (art. 12); an alien lawfully in the territory of a State may be expelled there from only in pursuance of a decision reached in accordance with law (art. 13); all persons shall be equal before the courts and tribunals and entitled to a fair and public hearing by an independent tribunal; everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law (art. 14); the right to be protected against the retroactive effect of penal laws (art. 15); everyone shall have the right to recognition everywhere as a person before the law (art. 16);

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<sup>8</sup> Romania ratified the Covenant in 1974.

no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence (art. 17); everyone shall have the right to freedom of thought, conscience and religion (art. 18); no one shall suffer as a consequence of his opinions; everyone shall have the right to freedom of expression, to seek, receive and impart information and ideas of all kinds (art. 19); any propaganda for war, any advocacy of national, racial or religious hatred shall be prohibited (art. 20); the right of peaceful assembly shall be recognized (art. 21); everyone shall have the right to freedom of association with others, to form trade unions and join already established ones (art. 22); men and women shall be entitled to get married and establish a family (art. 23); every child shall have, without any discrimination, the right to protection as required by his status as a minor (art. 24); every citizen shall have the right to participate in the conduct of public affairs in his country (art. 25); all persons are equal before the law and are entitled without any discrimination to the equal protection of the law (art. 26); ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language (art. 27).

The provisions included in the fourth part of the Covenant, articles 28-45, are of particular importance as they refer to the ways the Human Rights Committee shall be established, its structure, election of the members, its competencies and work procedures.

The Optional Protocol to the International Covenant on Civil and Political Rights includes additional provisions related to the Human Rights Committee established under the Covenant. They regulate the mechanism by which the complaints submitted by individuals who feel one or several of their rights have been violated shall be examined.

The Protocol authorizes the Human Rights Committee, created under the Covenant, to receive and examine the communications submitted by individuals who claim to be victims of the violation of one or several rights laid down by the Covenant. By virtue of articles 1 and 6 in the Protocol, any State Party to the

Covenant that becomes a Party to the Protocol recognizes the competence of the Committee to receive and consider such communications. As a result, any individual who claims to be a victim of such violation and has exhausted all domestic remedies may submit a written communication (complaint) to the Committee.

The Second Optional Protocol to the International Covenant on Civil and Political Rights, which deals with the abolishment of the death penalty, was passed by the UN General Assembly on December 15<sup>th</sup> 1989<sup>9</sup>, following long-lasting debate.<sup>10</sup>

It is asserted in the Preamble of the Protocol that “abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights”.

All these instruments joined together in the International Charter of Human Rights are of the utmost importance. Their binding nature has been proclaimed on numberless occasions; their provisions have been and still are the basis of very large number of decisions made by the UN bodies and by the regional and national organizations; many of the member States of the international community have included them in their national legislation. The Universal Declaration of Human Rights and the two Covenants were the model and source of inspiration to a multitude of other instruments which, one way or another, further develop the various provisions they include, and add new ones, in the spirit they have consecrated.

Beside the two international covenants on human rights, the United Nations also adopted several international conventions in the field of human rights.

Conventions are highly important for, by virtue of their nature, they impose strict obligations to the signatory States such as to respect and promote them.

According to specialists, conventions fall into two large categories of criteria: conventions whose implementation is monitored by special bodies and conventions that do not have directly such bodies and whose implementation is monitored by means of periodic reports, observation and, under certain circumstances, monitoring; a second criterion is coverage of

<sup>9</sup> Romania ratified the Protocol in 1993.

<sup>10</sup> *Vade-mecum de la Convention européenne de droits de l'homme*, Les éditions du Conseil de l'Europe, Strasbourg, 1991, pp.16-18.

human rights: human rights as a whole, a more limited group, a category of persons enjoying protection, and finally those related to various forms of discrimination.

We believe that in this first article from the series, we should mention the most important documents. Following is a brief presentation of some of them.

*The International Convention on the Elimination of All Forms of Racial Discrimination.* The Convention was passed and opened for signature and ratification under Resolution 2106 A(XX) by the General Assembly on December 21<sup>st</sup> 1965; it came into force on January 4<sup>th</sup> 1969<sup>11</sup>. Its Preamble expresses the belief that: any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous; there is no justification for racial discrimination, in theory or in practice, anywhere; the existence of racial barriers is repugnant to the ideals of any human society.

The Convention defines the term “racial discrimination” as any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms. To this end, the Convention requires special measures to be taken for the purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms. This does not mean that they shall all enjoy more extended rights and freedoms than those enjoyed by the population within which they live. The Convention particularly condemns racial segregation and apartheid and calls upon States to eliminate any such practices from their territories. Article 8 of the Convention enumerates the measures to be taken in the application of its provisions, namely, establishment of the Committee for the Elimination of Racial Discrimination.

*The International Convention on the Elimination and Punishment of the Crime of Apartheid.* The Convention was passed and

<sup>11</sup> Romania acceded to the Convention in 1970.

opened for signature and ratification under General Assembly’s Resolution 3068(XXVIII) of November 30<sup>th</sup> 1973; it came into force on July 18<sup>th</sup> 1976<sup>12</sup>. The Convention defines crimes of apartheid as inhuman crimes committed with the purpose of instituting or maintaining the domination of a racial group of human beings upon another racial group of human beings and oppress the latter systematically. The inhuman acts the Convention refers to are: a) denial to a member or members of a racial group or groups of the right to life and liberty of person; b) deliberate imposition on a racial group or groups of living conditions calculated to cause it or their physical destruction in whole or in part; c) adoption of legislative and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life; d) adoption of any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos, the prohibition of mixed marriages; e) exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour and f) persecution of all those who oppose apartheid. Resolution 13(XXXVIII) of March 11<sup>th</sup> 1977 by the Human Rights Commission established the Group of the Three to monitor the implementation of the provisions in the Convention.

*Convention on the Elimination of All Forms of Discrimination Against Women.* The Convention was passed and opened for signature, ratification and accession under General Assembly’s Resolution 34/180 of December 18<sup>th</sup> 1979<sup>13</sup>. The term “discrimination against women” was defined as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Based on article 17 in the Convention, the Committee for the Elimination of Discrimination Against Women was created in 1982.

<sup>12</sup> Romania ratified the Convention in 1978.

<sup>13</sup> Romania ratified the Convention on November in 1981.



*Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.* The Convention was passed and opened for signature, ratification and accession under General Assembly's Resolution 39/46 of December 10<sup>th</sup> 1984 and came into force on June 26<sup>th</sup> 1987<sup>14</sup>. The Convention defines as torture any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In 1987, in conformity with article 17 in the Convention, the Committee Against Torture was established.

*International Convention against Apartheid in Sports* (Passed under Resolution 40/64 G of December 10<sup>th</sup> 1985). The Convention defines "apartheid in sports" as the application of apartheid policies and practices in sports activities, whether organized on a professional or an amateur basis. Based on article 11 in the Convention, the Commission Against Apartheid in Sports was created.

*Convention on the Rights of the Child* (General Assembly's Resolution 44/25 of November 20<sup>th</sup> 1989, in force since 1990; Romania ratified the Convention in 1990. The Committee on the Rights of the Child (CRC), created under the Convention, monitors implementation of the Convention on the Rights of the Child by its State parties. It also monitors implementation of the Optional Protocols to the Convention. Two optional protocols were adopted in 2000. The First Optional Protocol restricts the involvement of children in military conflicts, and the Second Optional Protocol prohibits the sale of children, child prostitution and child pornography. A third optional protocol relating to communication of complaints was adopted in 2011. All three Optional Protocols are in force.

Romania ratified the first two Optional

<sup>14</sup> Romania ratified the Convention in 1990.

Protocols and signed the third Optional Protocol.

*Convention on the Rights of Persons with Disabilities and its Optional Protocol* (General Assembly's resolution A/RES/61/106) was adopted in December 2006, opened for signature at the United Nations Headquarters in New York on 30 March 2007, with no less than 82 signatory States, and entered into force on May 3<sup>rd</sup> 2008. The Convention, ratified by Romania in 2010<sup>15</sup>, provides for the obligation of Member States to closely consult and involve persons with disabilities and the organizations representing them in the development and the implementation of the legislation and in all decision making processes related to disability issues, including the monitoring process. As far as implementation and monitoring at national level is concerned, the document provides for the obligation of the States to establish National Contacts Points at governmental level for issues related to the implementation of the Convention and also to establish or a coordinating mechanism within the government to facilitate all necessary measures. It is also provided that States shall establish or designate, in consonance with their internal legislation, an independent mechanism to promote, protect and monitor the implementation of the Convention. In Romania, the Romanian Institute for Human Rights<sup>16</sup> was assigned this role of independent monitoring mechanism, according to art. 33. 2 of CRPD.

Conventions may also be grouped as follows:

- General conventions, which refer to the whole of human rights or a larger group of them and are opened for signature, ratification and accession in an international or regional framework; it is into this category of conventions that the two Covenants and the Optional Protocols fall.

- Conventions of a specific nature, whose purpose is to guarantee only certain human rights. Such conventions are: Convention on the Prevention and Punishment of the Crime of Genocide, Convention on the Non-Applicability of Statutory Limitations to War Crimes and

<sup>15</sup> Romania signed the Optional Protocol to the Convention in 2008.

<sup>16</sup> Romanian Institute for Human Rights, member of the European Network of National Institution for Human Rights, was established under Law No. 9/1991 with the support of UN.

Crimes against Humanity, Protocol amending the Slavery Convention, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, as well as other conventions on forced labour, asylum, freedom of information, private life, terrorism, corruption etc.

- Conventions related to the protection of certain categories of persons. Such conventions are: Convention relating to the Status of Refugees, Convention relating to the Status of Stateless Persons, Convention on the Political Rights of Women, Convention on the Citizenship of Married Women, etc.

- Conventions on fighting various forms of discrimination on grounds of race, gender,

religion, political opinions, in the educational system, in sports or at the workplace. Such conventions, beside those already mentioned, are: Convention concerning Discrimination in Respect of Employment and Occupation, Convention on fighting discrimination in the field of education, Convention 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, etc.

We have surveyed above only part of the conventions concluded in the United Nations system, an exhaustive presentation thereof being impossible due to both their number and their contents.

During the year we will revert with other useful information on the UN and the evolution of its specific institutions and mechanisms that were created in order to reach the goals for which the organization was founded.