

## Book Review

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**The Protection of Human Rights at the European Level.  
A Comparative Study: Council of Europe – European Union. –  
A Review of the Human Rights Problem  
in the Context of Europe of 2025**

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The work of Mihaela Gavrilă (Morar), following the concept of human rights in *The protection of human rights at the European level. A comparative study: Council of Europe – European Union*, represents an excellent incursion in the problematic chosen which is of essential meaning to every European citizen. It is a very complete thesis, following the concept chosen by the author and also the various institutions in Europe that help protect human rights. What is necessary to be done now is to see if this work, which was published in 2009, is still not only of interest today, but if it is still enough in the context of the recent conflicts of the world. While reading the book I kept on thinking about the question whether Europe, through its institutions has become the power that it was supposed to be, if Europe can still manage the conflicts inside and outside of it as it wanted to do, and if it can protect the human rights of the European citizens.

The book is organized in three big chapters, an introduction and the conclusion suited to the topic. The first chapter is entitled “Introductory Notions” and it follows the concept of human rights throughout history. In this chapter we can see the concept chosen by the author evolving from the antique period, through

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the Age of Enlightenment, to nowadays when it is a very important theme of discussion not only in Europe, but in law, sociology, philosophy, human security problems, etc.

What is very important to keep in mind, and the author raises awareness to this, is that human rights are not something that can be imposed, it's not something that you can decide for other societies. If certain countries don't want to apply this concept in their law and in their rules, you cannot oblige them into doing so. But can we regulate this somehow? Is there any way in which human rights can be protected without imposing this concept on societies that don't want to apply it, but still somehow favor the application of it? This is where Europe comes in play. With all of the treaties, the conventions, and all the documents signed in the European Union or the Council of Europe, we can somehow regulate this. That is not to say that the European Union or the Council of Europe are some sort of entities that can police societies into adopting something that they don't want to. The reality is that the countries that usually don't want to apply this concept and introduce it in their society are the third world countries. These same countries would still want some sort of benefits from cooperating with European countries though. The fact that the European states need to protect human rights not only in their state, but also in the case of other cooperations that they might have, might be a way in which these third world countries are somehow eased into applying this concept in their societies as well if they want to cooperate with European states.

The book does talk about the UN Human Rights Protection System, the African Human Rights Protection System, and the Inter American System. It shows their problems and it gives certain solutions as to what can be done better, if the states come to a consensus. This is also a very important theme of discussion because human rights is not only a European problem, but it is also an international problem that needs to be handled. In the year 2025, there are a lot of new conflicts and a lot of human rights violations going on. In 2009, when the book was written, the human rights system was seen as something that was needed to be perfected in order to have a strong legacy in the future. But did we get there? At the time the book was written, the development of the situation looked as if everything was moving towards a very good, very stable situation. But now that we see all of the conflicts happening in 2025, we can't help but wonder if something was lost along the way.

The last two chapters of the analyzed thesis focus on the comparative study on the human rights problem in the context of the Council of Europe and in the European Union, respectively. Here, we can see how the concept of human rights emerges directly from the democratic values of the European states. The author presents, in a historical manner, many documents adopted by the Council of Europe

and the European Union that favored a secure, strong space for the European states, but very important, for the European citizens also. On one hand, there is the Council of Europe that adopted the *Convention of Human Rights*, an entity which was meant, in the beginning, to be created strictly on political basis, but which became essential to the human rights protection system. On the other hand, we have the European Union, which was conceived in the beginning as an economic entity, but became political as well, and also became of enormous importance in the problematic of the protection of human rights.

In the beginning, when states wanted to be part of the European Union, it was not mandatory for them to protect the human rights. A crucial turning point for the topic of discussion is the moment when human rights and their protection became an admissibility criteria in the European Union. This is the moment when the states that wanted to adhere to the European Union had to start changing their legislation in order to take part in this system that protects human rights. They started to be attentively monitored before being able to adhere to this entity. And this is very important because a lot of countries in the Eastern Europe were part of the communist bloc. Their legislation, even after getting out of the communist bloc, was not necessarily paying attention to the human rights concept. This is the moment when these states had to change not only their legislation, but their mentality towards their citizens.

The *Convention of Human Rights* mentions many human rights that ought to be protected, but because it would take way too much space and time to analyze all of them, I decided to stick to analyzing the human rights that have to do with the topic of punishment (this being my main topic of research also). The main rights guaranteed by the Convention which are of importance to the theme I chose are: the general obligation to respect human rights, freedom from torture and from inhuman or degrading treatment or punishment, the right to a fair trial, no punishment without law. There are also some added protocols which have to do with punishment, as for example protocol number six and thirteen that have to do with the death penalty, and protocol number seven, which specifies the right of appealing criminal matters, compensation for wrongful convictions, and the right not to be tried or punished twice. There are obviously many more rights that are protected, that have to do with punishment, but this is only a subjective selection.

On the topic of punishment there is a lot of emphasis being placed on protecting the dignity of the incarcerated people. This is not to be understood as some sort of praise for their actions, but is to be understood as a right of a human being, being protected for the simple fact that they are a human being. That is to say, Europe and its legislation start to see the incarcerated individual not only as

someone expelled from the community, as it was before<sup>1</sup>, but as an individual with rights, that not only serves a punishment, but needs to be rehabilitated in order to be able to take part in the society again after serving their sentence.

It seems as if this new goal in terms of punishment and how sentences are served is focused more on the individual, but in reality this can't be further from the truth. The rehabilitation process that the European states start to encourage more and more these days, is in reality, a very selfish act of the state<sup>2</sup>. Europe wants to rehabilitate individuals, but not for them to be better people per se, but so that when they get out, the society as a whole is not threatened by their presence. This being a selfish act is not necessarily a bad thing, because it aims at reducing recidivism, which is very beneficial for any state, but what I mean here is that the mentality didn't change so much in reality. Yes, the detainees are not seen anymore as slaves or as people that are expelled from a community and won't ever come back to it, but they are not seen necessarily as complete individuals. This is an example that a selfish act can do good to the society, can do good to its citizens, being them in liberty or incarcerated, but the same selfish act shows that there is still more emphasis being placed on the state and the society's rights, then on European citizens' rights.

There are still many more problems that need to be solved in terms of the punishment system in Europe. In theory, the convention and other documents are trying to set some new rules so that the punishment system works better and respects more the human rights of the individuals sentenced. In practice however, there are still a lot of things that don't work out and that are not respected from those rules set by Europe. An example for this is the overcrowding that we can see in a lot of prisons in Europe and the problem of the fair trials. By the latter one I mean the reoccurring situation in which individuals are awaiting trial for a very long time before being sentenced. In the Convention, there is a paragraph that says that every trial has to happen within a reasonable time. This is still a very vague and open to interpretation way of formulating things.

As we can see in terms of the punishment problem, Europe started to give some solutions but they are still not enough for the penal system to get better. For this to happen, all of the ideas and rules set by the European states need to be not only accepted by all the members of the European Union and respectively of the

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<sup>1</sup> See the way that detainees were treated before in Michel Foucault, *History of madness*, London and New York, Routledge, 2006.

<sup>2</sup> Adriano Martufi, "The paths of offender rehabilitation and the European dimension of punishment: New challenges for an old ideal?", *Maastricht Journal of European and Comparative Law*, Vol. 25(6) 672-688, 2018.

Council of Europe, but put into practice. Until there is a consensus on this matter, things cannot get much better than they are right now. Similar to the topic I chose to analyze from the book, which is punishment, we can think of a lot of other topics that are in the same situation. There are solutions, but they are not necessarily being put into practice all the time.

Right after the Cold War, the idea of Europe meant a safe space, something that would bring with it security for the Member States. Starting with the events of 9/11, things in the world didn't seem so manageable anymore. From that moment until this day, in the year 2025, we are being faced with fanaticism and a lot of extremism, we are being faced with conflicts, wars, and poverty. What does this mean for the entity that is Europe? Does it mean that Europe lost something along the way? From being so optimistic and positive about the development of human rights to seeing conflicts every day where human rights are not even taken into consideration, there is a long way. So where is the Europe that wanted so much to protect the human rights? Where are the European citizens that were thoughtful in terms of alterity? And the last question that I want to leave open is, can we still come back to what Europe was supposed to mean and to the protection of human rights at an international level?

The book of Mihaela Gavrilă (Morar) is an excellent starting point for us to see the ideal of Europe. It is a very well composed book, with a lot of information that is necessary to be read by every European citizen, in my opinion. We also have to look into how this topic of protecting the human rights is connected to the one of human security at an international level<sup>3</sup>. These two topics are not only linked, but are essential to be understood in our contemporary time. The problems of today's world are not so easy to be solved and managed, but I strongly believe that the European states still have what it takes to form that unity that Europe is, and to try to protect its citizens from all the religious fanaticism, the extremism, the wars and the poverty we are being faced with.

### Bibliography – main book:

Gavrilă, Letiția Mihaela, *The protection of Human Rights at the European Level. A Comparative Study: Council of Europe – European Union*, Cluj-Napoca, Ecumenica Press, 2009.

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<sup>3</sup> See Mary Kaldor, *Human Security. Reflections on Globalization and Intervention*, Cambridge/Malden, Polity Press, 2007.

**Secondary bibliography:**

Foucault, Michel, *History of madness*, London and New York, Routledge, 2006.

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