PREPARING A WORKSHOP FOR LAW STUDENTS:

A brief guidebook with case studies for practical exercises in Hate Crimes, War Crimes and Crimes of Trafficking in Human Beings

OSCE Organization for Security and Co-operation in Europe
Mission to Bosnia and Herzegovina

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May 2022

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A brief guidebook with case studies for practical exercises in
Hate Crimes, War Crimes and Crimes of Trafficking in Human Beings

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A WORD FROM THE AUTHORS

This guidebook, entitled "Preparing a workshop for law students: A brief guide with case studies for practical exercise in Hate Crimes, War Crimes[1] and Crimes of Trafficking in Human Beings" (hereinafter: the Guidebook) is a result of extensive experience the authors gained in organizing and conducting workshops at the Law School of the University of Banja Luka. The authors have organized and implemented workshops covering various topics, most commonly focusing on topics related to criminal law and the protection of human rights, as a part of both curricular and extracurricular activities. In the process of organizing and conducting workshops, the authors received the support of the OSCE Mission to Bosnia and Herzegovina and other organizations. One notable activity has been the organization of the Human Rights Week, which includes a number of workshops, and many examples from such workshops will be used in this Guidebook. The authors' extensive experience with this method of work has confirmed a message that has been emphasized in higher education for years – that it is necessary to provide students with as many opportunities as possible to engage in practical work. Practical work enables students to adopt different ways of thinking, expands their knowledge of certain current and key legal issues, increases their interest in working, and ultimately makes them more prepared for their respective jobs after graduation. Guided by positive experiences in using this method of working with students on the one hand, and the positive response and evaluation by the students who participated in such activities on the other, this Guidebook has been prepared and made available to academia and other actors interested in working with students on similar topics or in similar settings.

1 For the purpose of this Guidebook "war crimes" is used generically in reference to crimes under International Humanitarian Law, crimes against humanity and genocide.

Workshops are a method of teaching that encourages the practical work of students. The advantage of workshops over other forms of learning that have the same purpose (such as legal clinics) is that they do not require a large amount of logistical arrangements and material resources such as, for example, legal clinics do. In this respect, it is necessary to point out that there is a difference between workshops that include work with already completed court cases, and clinical work, which often focus on working with ongoing cases. Either way, it goes almost without saying that the more practical classes of any kind that students have, the better prepared they will be for their future work.

The Guidebook is divided into two parts. The first part includes guidelines for organizing workshops, and its aim is to show the importance of each individual step in workshop organization, and to highlight potential problems that may arise in the process. The second part contains case studies covering three topics – hate crimes, war crimes, and crimes of trafficking in human beings. The purpose of this part is to facilitate the work of educators and provide teaching materials on these three topics, as well as to offer a "template" for developing teaching materials on other topics.

Finally, given that the Guidebook was created during a pandemic, in conditions that posed challenges such as the necessity for students to work online, the first part of the Guidebook contains a specific emphasis on the particularities of organizing online workshops.

In a workshop there are different actors, which are important to distinguish:

1. **workshop organizer** – person/s responsible for developing the concept of and running the workshop;
2. **presenter** – a person invited by the workshop organizer to give a presentation at the workshop;
3. **workshop instructor/leader** – a person responsible for the practical work with students (such as analyzing cases contained in Part Two of the Guidebook with students);

4. **moderator** – a person invited by the organizer (or it can be the organizer him/herself), who is responsible for introducing the workshop, introducing the organizer and the presenters, and for guiding discussions;
5. **external partner** – a person (international or national organization, citizens association, state body, etc.) with whom the organizer prepares a specific workshop whose scope of work includes the topic of the workshop.

The symbols found next to the text in the Guidebook stand for the following:

The text in red with this symbol represents advice/recommendation.

The Guidebook pays particular attention to online work and such parts are marked with this symbol.

This symbol appears in the Part One of the Guidebook and refers the reader to the Part Two of the Guidebook.

The Guidebook provides samples of the layouts of agendas, certificates, checklists, and calls for applications to participate. The samples have this symbol next to them.

PURPOSE OF THE GUIDEBOOK

This Guidebook is primarily intended for academic staff of law schools, but it can also be useful for academic staff of related faculties, as well as other persons or groups interested in organizing practical work with students. It was created to fulfill an identified need for introducing methods of education that focus on the independent work of students, and with the desire to expand and maintain such methods of teaching. In this regard, the primary goal is to help teaching staff prepare workshops, on their own or in cooperation with external partners, using the "*from concept to realization*" approach. Although the Guidebook is intended for teaching staff, the primary purpose of its development is to respond to the need of quality education for students.

The first part of the Guidebook is based on the authors' own experiences in organizing this type of event, and its aim is to present, chronologically, all of the necessary phases and sub-phases in organizing a workshop, both regarding the content and the logistics, thus providing all guidelines in one place. An additional goal of part one is to draw attention to the mistakes that can be made in the course of organizing such events for students so that they can be avoided, and to highlight potential problems and their solutions using this method of teaching.

The second part of the Guidebook comprises three sets of case studies related to three topics:

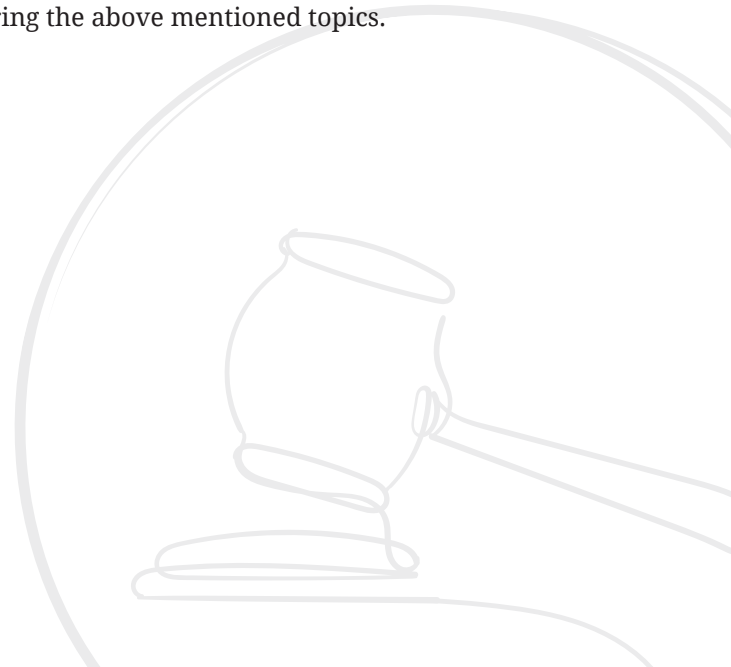
(1) hate crimes,

(2) war crimes, and

(3) crimes of trafficking in human beings.

Each set of case studies comprises four cases, which is the optimal number of cases for a group of 20 students. Each case is an actual case from jurisprudence of either national or international courts. All the cases in this part of the Guidebook contain the facts of the case, which would be presented to students by the workshop instructors/leaders during the practical part of the workshop.

The factual presentations are followed by a range of questions that the instructor should pose during the students' analysis of the case, in order for the students to independently form opinions on legal issues, and ultimately on the court verdict in the case in question. Finally, the case studies also contain the answers to these questions in the form of actual analysis and reasoning by the courts, as well as references to the relevant parts of verdicts and the language of the verdicts themselves. In other words, the second part of the Guidebook contains the actual teaching material covering the above mentioned topics.



PART I

1. WORKSHOP GOALS, MODELS AND LEARNING OUTCOMES

A workshop, as one of the methods of working with students, has two main goals:

(1) **Developing students' practical skills.** Regardless of the topic of the workshop, this method of work, applied continuously, enables the development of students' practical skills, which include analyzing factual situations, identifying legal issues and applying relevant legislation from factual situations, as well as improving public speaking skills.

(2) **Expanding the knowledge of important legal issues covered by a workshop.** The mandatory legal education curriculum is very extensive. Hence, certain legal issues cannot be taught as a part of the curriculum (or at least not to a sufficient degree).Work done in workshops enables students to learn about specific legal concepts in more detail, and thus better prepares them for practical work upon graduation.

In the process of achieving the above objectives and the desired learning outcomes, the workshop organizer should bear in mind that there are several **workshop models** to consider and choose from before moving onto the next organizational steps. Examples of workshop models include (1) *ex cathedra* presentation, (2) a workshop involving exclusively practical work or (3) a combination of both. The authors stress that the *ex cathedra* approach should be avoided, as it excludes the practical work of students, which means a departure from the previously mentioned contemporary objectives of education. Indeed, if that method is used, then it is no longer a workshop. Even if the presentation is interactive in its nature, it cannot replace practical work. Therefore, the authors' recommendation is a

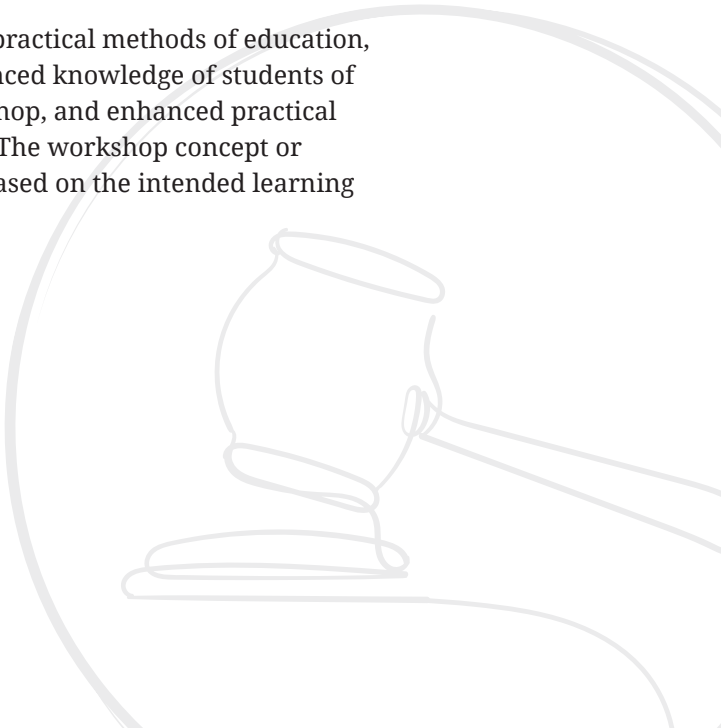
workshop that combines presentations with practical work or a workshop based on practical work. In determining the workshop model, it is important to be aware of how much the students already know about the topic to be covered. Namely, if the topic is a legal issue or a group of legal issues taught very little or not at all within the regular education curriculum, then is it certainly better to choose the combined approach to the workshop. This is important for two reasons:

1. Students expand their knowledge and gain clearer picture of the legal concept, issue or problem that is the topic of the workshop;

2. Considering the presentation is delivered prior to the practical work, students gain the necessary basis for the independent work and for recognizing what is important in the view of the workshop topic.

On the other hand, if the topic includes a legal subject or concept covered in the course of regular education and the students should possess a sufficient amount of related knowledge, a workshop model comprised of exclusively practical work can be utilized. This is less common, considering that workshop topics usually cover certain issues not included or not sufficiently included in the regular education curriculum.

To conclude – the **outcome of** practical methods of education, such as workshops, is an enhanced knowledge of students of the topic covered by the workshop, and enhanced practical skills that every lawyer needs. The workshop concept or model should be determined based on the intended learning outcome.



2. DECIDING ON THE TOPIC OF THE WORKSHOP

The first step in planning and organizing a workshop is deciding on the exact topic it will cover. In fact, this issue is paramount for deciding on further planning and organizational steps. The precise definition of the topic is important for several reasons:

1. When a workshop topic is precisely defined, the organizer will know the exact issues within the topic they wish to address at the workshop, which will ensure that the focus of the workshop remains on the chosen topic;

2. The organizer will have a better idea as to which presenters should be engaged, considering their specialization in a particular area;

3. Presenters will know which issues they have to focus on in their presentation;

4. Workshop leaders/instructors (of the practical work with students) will choose the relevant case studies more easily; and

5. The organizer will know how much time will be needed for addressing the topic and decide accordingly whether a one-day workshop would be sufficient, or whether several days would be needed to achieve the set goals. In case a narrow topic is chosen, the organizer should opt for a one-day workshop. Workshops lasting several days are appropriate when more extensive and more complex topics are addressed, and are usually composed of a series of subtopics which could in fact be viewed as separate workshops. Such method of work would be most appropriate, for example, as a part of summer schools dedicated to wider issues.

The importance of clearly defining the topic and distinguishing it from other, similar topics can be shown by the example of workshops on the topic of hate crimes. In this example, there is a possibility of overlapping with other topics, such as hate speech. The workshop organizer should decide whether they want the workshop to address just hate crimes, just hate speech, or both. If the former is chosen, the organizer will focus only on the topic of hate crimes and choose the presenters and case studies accordingly. Conversely, if the topic covers both topics, including highlighting the differences between them, the organizer will choose presenters specialized in both topics, and case studies that include both topics, in order to point out the differences between them. It should be emphasized that in case the first option is chosen, these differences should also be explained, but the topic of hate speech would not be in the focus of the presentation or the practical work on the case studies.

3. STATUS OF THE WORKSHOP

The status of the workshop within the curriculum may be dual, as it can both be a part of a **regular curriculum** or independent of it. The authors, for example, conduct workshops as **extracurricular activities**, and thus such workshops are not part of regular teaching model, nor do they have a status of a separate subject. The reason for this is that in order to include a workshop into the regular teaching process, the curriculum would need to be amended, which is a complex procedure involving several actors (the faculty council, the University, etc.), and it would also need to be harmonized with certain laws, bylaws, and the University rules and regulations.

The majority of workshops organized by the authors are held during the Human Rights Week held at the Banja Luka University Law School since 2018. The organizers inform the faculty management each year of the planned project and the anticipated workshops. Since this is a form of external promotion of the faculty and enhancing teaching methods, the authors' experience is that such projects are usually welcome and supported by the faculty management. According to the applicable regulations of the faculty, formal approval is not required (such as a decision signed by the Dean or adopted by the Academic Council of the Faculty). However, different solutions can be sought, depending on the University regulations. This is why, considering the complex structure and division of competencies in BiH, it is necessary to check in advance whether additional steps need to be taken in order to obtain internal approval for this type of activity.

Regardless of whether a workshop would be held as an extracurricular activity, the question of whether a workshop is organized within one or several departments or independently of them must also be resolved. The answer to this question will depend primarily on the topic of the workshop and the wishes of the organizer. If a topic is taught as a part of two or more scientific/professional areas, then there is also a possibility that the departments that cover the topic organize a workshop jointly. On the other hand, if the topic primarily belongs to one area, then it is more likely to be organized within that respective department. Another option is to organize workshops independently of the departments as autonomous and separate events. This certainly does not mean that there is no cooperation with departments, because the professors teaching the areas that relate to the topic of the workshop may be included (as presenters) in workshops. If a workshop is a part of the regular curriculum, then the department within which it is held will most likely be responsible for its organization.

4. PREPARING THE WORKSHOP

4.1. Number of participants

To ensure that all students take an active part in the workshop, the number of selected students should not be excessive. Larger groups of students can lead to situations where individuals do not actively participating in joint activities, which in turn leads to a departure from the objective of the workshop (enhanced knowledge with the active participation of *all* students). The authors usually opt for approximately **20 students**, to be divided into **four groups**. The number of participants can be expanded, e.g. up to 25, depending on the students' academic achievements (results achieved in curricular and extracurricular activities) and the size of case studies. Conversely, a smaller number of participants should also not present a problem provided that it is not less than 10.

4.2. Deciding on legal issues to be examined in the workshop

Once the concept of the workshop is determined, the organizers specify the legal issues to be addressed at the workshop – the **subtopics**. It should be borne in mind that it is not always possible to "cover" absolutely everything, therefore the organizers should focus on basic issues that reflect the essence of the topic. In addition, organizers must take into account that the target group of the workshop are students, which is why it is necessary to open with general concepts and then move onto the specific issues. As workshops usually last one day, they should not be overburdened with content. Therefore, it is preferable that one to two presenters explain basic concepts followed by practical work.

It is always beneficial to have an additional presentation related to the topic describing the field work carried out by organizations dealing with the issue in question, such as through presentation of a related paper or report. Of course, this is not absolutely necessary and the

presentation should not include content that is not intrinsically linked to the topic. However, if there are organizations dealing with issues closely related to the workshop topic, it would be desirable to introduce such content since it enables students to understand these issues from a unique perspective (e.g., OSCE Mission to BiH presents its reports on monitoring hate crimes cases within the workshop dedicated to hate crimes).

The case studies further below include cases from both the European Court of Human Rights (ECtHR) and domestic courts. Considering that the workshop topics (hate crimes, war crimes, crimes of trafficking in human beings) are usually not studied in-depth in law schools, it is preferable to plan two presentations on each. One presentation would address the topic through domestic jurisprudence and the other through the ECtHR's practice.

4.3. Selecting presenters

The issue of selecting presenters is important for two reasons. Firstly, this allows that those presenters who specialize in issues chosen as subtopics of the workshop can be contacted in a timely manner; and secondly, it enables the preparation of the agenda. It is always preferable to choose presenters with experience in teaching the topic/subtopic of the workshop. The presenters should be told in advance which issues to examine within their presentations and how much time they will be allotted. If there are related topics and more than one presenter is planned, the presenters should compare their presentations in order to avoid overlap. The

organizers have to be realistic when allocating the time slots to presenters in order to avoid presentations that are too long or too short.

As a general rule, a presentation by one presenter should last up to 45 minutes.

It is difficult to determine the maximum time, but if there are several presenters, then one presenter should not have more than two blocks of 45 minutes (again, to repeat the advice from the beginning – enough time should be left for the students to engage in practical work). The presenters should be told the exact time of their presentation ("from [xx] to [xx]") and whether they are expected to remain at the workshop for the duration or are free to leave after their presentation.

4.4. Selecting cases and preparing for practical case-work

Deciding on the workshop's topic and subtopics is important not only for the selection of presenters, but also for the selection of cases for practical work with students.

Experience shows that for case-work it is best to use existing cases, rather than creating hypothetical cases.

These cases can be utilized in various ways such as follows:

1. Students analyze complete verdicts. Students are given a verdict to analyze, with the knowledge of which case it is. This form of work is preferable with larger cases;

2. Students analyze a case through the facts given to them. The workshop leader/instructor can prepare a detailed factual account that will be given to students. It is preferable to redact the actual names and countries

so that students do not "discover" which case it is by searching for it. Instead, students should be encouraged to consider the possible outcomes of the case. In this scenario, students are later told which case it is. This method is considered the most appropriate for working with students, and the method the authors rely on most;

3. Another possibility is for the students to analyze just one segment of a particular case in one of the two above mentioned ways. This will be the case when only one part of the case relates to the workshop topic and it would not be productive to analyze the other parts not related to the topic.

It should be kept in mind that the selected case should fit into the agenda and the timeline of the workshop, and the knowledge the students already possess on the issues that will be the topic of the workshop. **The following criteria should be used when selecting cases**:

(1) Simplicity and clarity of a case – the judges' opinions should not be too complex for the level of the students' knowledge;

(2) Representativeness of a case – the case should be representative of the topic so that students can understand the essence of particular issues through the given case.

(3) Size of a case – while a large case can be given to students to analyze, the organizer has to condense the facts to a reasonable amount while retaining the essence of the case, at the same time enabling the students to reach conclusions that would be reached if the entire case were analyzed.

See examples used at the hate crimes workshop: presumed personal characteristic (the case of *Škorjanec v. Croatia*) or the issue of multiple discrimination (the case of *Đorđević v. Croatia*).

The organizer must have a clear picture as to which legal issues will be explored in the workshop and which questions the students will be asked, taking into account the time set aside for exploring each particular case and the objectives of the workshop. This means in practice that the organizer has to guide the discussion and the students' presentations to avoid discussing issues that are not relevant or not sufficiently relevant. Experience shows that students can seldom entirely independently recognize the key issues, and they are often unable to adequately express their thoughts.

Students should be guided in the right direction, by the presenter who asks thoughtful questions, and the presenter should not reveal the relevant issue or the opinion of the court too early in the process.

If there are several workshop leaders/instructors, individual instructors must not be allowed to exceed the allocated time, to avoid interfering with the work of other /workshop leaders or instructors.

The case studies in Part II of the Guidebook consist of factual scenarios from four cases under each of the topics. In addition, the authors created a list of recommended questions that could be addressed to students during the workshop, along with guidelines for answers to those questions with references to the relevant verdicts.

4.5. Preparing the agenda

Once the presenter(s) confirm their participation, work on preparing the agenda can begin. An agenda should be drafted before the call for participation is announced because it is important that students know who will be working with them. Experience shows that the response of students often depends on who will be presenting.

When drafting the agenda, care must be taken that the topic is introduced gradually. For example the workshop could start with a presentation on the basic issues related to the topic. After an introductory or basic presentation as such, other, more focused presentations should follow. After the substantive presentations, there could be a presentation of the work of a particular organization, if it has been decided that such organization would be a part of the workshop.

The part of the agenda relating to the practical work of students can usually be divided into three parts: 1) dividing students into groups, 2) their practical work, and 3) the presentation on their practical work. There are two examples of where possible departure from this would make sense. Namely, if the case studies are given in advance, then the time set aside for dividing students into groups might be

superfluous. On the other hand, in order for the students to prepare and compare their presentations, time for plenary work can be set aside instead. The other scenario pertains to online work, when case studies are sent in advance and the agenda includes only the presentation on the practical work. Each mentioned stage of the workshop must be included in the agenda in order to avoid confusion during its implementation. This will also prevent departing from the agenda when important stages are not planned for. The agenda must also include the planned breaks and their length.

Another important point, which is often neglected, is need for inclusion of three important parts of the agenda – **introductory speeches, discussions and evaluations**.

Introductory speeches should be brief, but should still be included in the agenda. They should serve for introducing presenters, and the concept and goal(s) of the workshop. It is to be expected that presentations will be followed by discussions and that students and presenters will want to discuss the addressed issues. Therefore, the time for discussion should be included in the agenda. In addition, in case a workshop lasts several days, it is recommended that there be several slots set aside for discussions throughout the agenda. In addition to discussions, evaluation at the end of the workshop is equally important, and there are several methods of evaluation. Even if the organizer opts for a written evaluation, it is preferable that an opportunity is given to the participants at the end of the workshop to reflect the work done. Therefore, at the end of the agenda (a short) time should be set aside for evaluation.

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APPLICATION OF ARTICLE 7 OF THE ECHR IN WAR CRIMES CASES

AGENDA – FIRST PART
9 December 2020

10:00 – 10:15 Introductory remarks

10:15 – 11:00 Principle of legality in international criminal law

11:00 – 11:45 Application of Article 7 of the ECHR in war crime s cases

11:45 – 12:00 Break

12:00 – 12:45 Principle of legality in war crimes cases in Bosnia and Herzegovina

12:45 – 13:00 Breaking students into groups

INSTRUCTIONS FOR ZOOM ACCESS

Topic: Application of Article 7 of the ECHR in war crimes cases
Time: Dec 9, 2020 09:30 AM Sarajevo, Skopje, Zagreb

Join Zoom Meeting
https://osce-org.zoom.us/j/96323196619

Meeting ID: 963 2319 6619
Passcode: 78645311

AGENDA – SECOND PART
11 December 2020

13:00 – 13:30 Presentation of the first group and discussion

13:30 – 14:00 Presentation of the second group and discussion

14:00 – 14:30 Presentation of the third group and discussion

14:30 – 15:00 Conclusion

INSTRUCTIONS FOR ZOOM ACCESS

Topic: Application of Article 7 of the ECHR in war crimes cases
Time: Dec 11, 2020 12:30 PM Sarajevo, Skopje, Zagreb

Join Zoom Meeting
https://osce-org.zoom.us/j/97325353583
Meeting ID: 973 2535 3583
Passcode: 15252016

5. LOGISTICS AND TECHNICAL ISSUES

Once the substantive issues in relation to the contents of the workshop are prepared, the logistics and technical issues must be planned. First, **the date and the time** must be set. Although it may seem trivial, it is important, for example, to plan the workshop around the regular lectures to avoid overlapping. If it is not possible to set the time without some overlap, the organizers should ensure that the subject professors approve the students' absence from classes so that they can attend the workshop. Experience shows that academic staff are willing to permit students to be absent from their classes in order to attend workshops.

Next an adequate **space (conference room) for the workshop** needs to be secured. This will depend on several factors: the faculty's capacities, the number of students and groups, the technical capacities of the faculty and the size of the conference room. The larger the space and better the equipment, the easier the organization. If there are rooms at the faculty that are free, this greatly facilitates the organization.

Regarding availability, the workshop should always be announced at least one month in advance because there are often various extracurricular activities taking place at faculties.

In order to make sure that the wanted space is available, it needs to be booked in advance with the appropriate office, such as Vice Dean for Academic Affairs and the technical staff. Since the number of students and groups should already have been determined, a room of sufficient size can be chosen with an adequate number of desks, chairs or benches. It is also important that the room has enough light (natural or artificial) and that air can readily circulate, especially during the pandemic. Depending whether a workshop is held in summer or winter, adequate cooling or heating of the space must be ensured. It should be borne in mind that at some

point during the workshop the students will work in groups and that each group will need space for separate work. That is why it is important that the square footage of the room is sufficient for each group to prepare the presentation without difficulties. With regards to the **technical requirements** of the conference room, the contemporary methods of work necessitate particular equipment that will enable holding presentations (a computer with internet connection, projector and projector screen, as well as anything else needed for a multimedia presentation). Many presenters also use a whiteboard or a flipchart, so it would be useful to have one of each in the room. Technical problems may also occur during the workshop, so it is recommended that the organizers inform the person in charge of IT infrastructure maintenance when the workshop will take place and try to ensure their presence on the day(s). If such person is not available that day, experience shows that it is helpful if the organizers learn about the common problems that may occur, and how they can solve them themselves.

Bearing in mind that workshops normally last for at least several hours, it is necessary to provide for **breaks**. The optimal number is one to two short breaks, as well as lunch, often after the workshop is completed. Related questions are the budget the organizers have at their disposal, and where and how to organize lunch. It can be served at the faculty itself to save money and time. It is cheaper to order drinks and food to be brought to the faculty from restaurants that offer delivery services, instead of going to a restaurant. This is also more practical, because it saves the time that would be spent going to a restaurant and coming back to the faculty. It is necessary to agree with the caterer the quantity of drinks and food, as well as the delivery schedule in advance. If possible, food that meets certain religious or dietary requirements should also be provided. As with scientific and professional seminars or conferences, the role of breaks is not only for students and presenters to rest, but also to socialize. This is an opportunity for students to get to know each other better, but, more importantly, to meet the presenters, organizers and external partners in a less formal setting.

The next technical issue concerns foreign presenters and **interpretation**. If one of the presenters comes from abroad, then it is necessary to provide interpretation or check whether students can follow the presentation in a foreign language, which is most commonly English. It is best to provide a budget for interpretation, and if there is none, then it should first be checked whether students would be able to follow presentations in the foreign language. Experience shows that students can understand presentations held in English with minor assistance from the organizers (translating certain terms). In other words, while they can be passive participants, it should not be expected that they will be able to actively participate and, for example, give presentations in English.

Special consideration must be given to the issue of **interpretation** of presentations given in non-native language in online workshops. The KUDO platform for example seems to be an efficient option, as it provides for simultaneous interpretation for all participants, but this platform is not free.

This platform was used during the Human Rights Week when it was financed by the US Embassy in BiH.

During workshops, participants are often given certain **promotional materials** (e.g., publications, diaries, folders). If the organizers plan to provide such, then it is necessary to secure funds from the faculty to produce such materials or help must be sought from the partner organization to provide them. It is equally important to make sure that the materials are prepared on time.

The issuance of **certificates** to participants must also be planned in advance. In addition to their desire to expand their knowledge and experience, students also apply for workshops in order to enhance their CVs, and prove their attendance with a certificate. In the authors' experience, employers are showing greater appreciation towards students' additional and extracurricular activities, and such activities are also

important for applying for scholarships and postgraduate studies. Therefore, awarding certificates as proof of attendance is necessary in order to ensure greater attendance. It must also be decided who will issue (sign) the certificates – the faculty, the external partner or both. If several workshops are organized within one project, certificates may be issued for all of them or of separately for each. The organizers, faculty management, and external partners have to jointly decide which method is most appropriate, but it seems that a single certificate for a series of workshops is most practical. Furthermore, it is necessary to agree on who (organizers, faculty or external partner) will produce (design and print) certificates, as well as, possibly, the price of design and printing. If workshop is held online then it is possible to issue e-certificates, which do not need printing. This has been widely accepted practice during the pandemic. The authors have utilized each of the above methods when organizing workshops.

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The OSCE Mission to Bosnia and Herzegovina presents the

Certificate of Attendance

to

Ms/Mr.

Participated in the workshop for students on Hate Crimes implemented in co-operation with the Law School of Banja Luka University
Banja Luka, 7 December 2020

učestvovao je na radionici za studente na temu krivičnih djela počinjenih iz mržnje koja je realizovana u saradnji sa Pravnim fakultetom Univerziteta u Banjoj Luci
Banja Luka, 7. decembar 2020. godine

Sarajevo, 14 December 2020

Head of Rule of Law Section
OSCE Mission to Bosnia and Herzegovina

Rukovodilac Odsjeka za vladavinu prava
Misija OSCE-a u Bosni i Hercegovini

Another important issue is the **budget**. Expenses incurred ordinarily relate to covering the cost of breaks and lunches, printing certificates, purchasing promotional materials, presenter fees (unless it is a *pro bono* presentation), and the costs of an online platform (if used) and interpretation. The faculty, as a rule, participates in financing by providing material resources for work (premises, equipment, online platform accounts), and may also pay for some of the other costs. Organizers can contribute to cost reduction (e.g., to design and print certificates themselves or to provide internal interpretation), as well as presenters who can be asked to waive their fees. In organizing workshops, the authors experienced different modalities for allocating budgets and covering costs.

It is recommended that the organizers seek financial assistance, to cover at least part of the costs, from external partners who are dealing with the issue that is the subject of the workshop. Thus, the workshops organized by the authors were often financially supported by the OSCE Mission to BiH.

If a workshop is held online, the organizer must first decide which **platform** to use. Those most frequently used are Zoom, Microsoft Teams, Cisco WebEx, Google Meet, or KUDO. Some applications are free in their basic form, but payment is required to have access to all features (e.g. free meetings via Zoom have a limited duration). Therefore, it is necessary to check whether the faculty already uses an online platform in the teaching process and whether they have a subscription. Apart from the faculty, an external partner could also provide access to an online platform. Thus workshops at the Human Rights Week in 2020 organized in partnership with the OSCE Mission to BiH were hosted using the OSCE Mission to BiH's Zoom account.

6. CALLS FOR APPLICATIONS AND SELECTION OF STUDENTS

Calls for applications to participate in a workshop should be **published** on the faculty's website and social media accounts, and should also be posted on the faculty's public notice board. It is also helpful if student representative bodies post calls on their social media accounts and portals (if they have them), which often have more followers than the faculty's official accounts. As a rule, calls for applications should contain all **relevant information on the workshop**.

This includes the following:

(1) topic;

(2) deadline for application;

(3) eligibility;

(4) what the application must contain and the mode of submitting applications;

(5) presenters;

(6) whether the number of participants is limited or not;

(7) contact persons for applications;

(8) timetable (in order to avoid overlapping with the students' obligations at the faculty), and

(9) whether certificates will be awarded.

The call should also specify where information on the successful candidates will be published (e.g. faculty's website, social media, etc.).

When publishing calls for applications for online workshops, students and other participants must be told which platform will be used to ensure that they are informed of the technical equipment required (computer, phone or tablet with working microphone and camera, and a stable internet connection). Once students are selected, they should be given more detailed instructions about the specifics of online work.

The **deadline for applications** should be generous, especially if the application requires a motivation letter or extensive supporting documentation, such as a letter of recommendation or a transcript of all grades.

A seven to ten day deadline may be considered reasonable where no extensive documentation is required for the workshop.

Experience shows that applications are generally received towards the expiration of the deadline, which should also be taken into account.

CALL FOR APPLICATIONS

- WEEK OF HUMAN RIGHTS -

We are inviting third and fourth year students as well as recent graduates of the Law Faculty of University in Banja Luka to apply for participation in the activities during the Week of Human Rights, which will take place at the Law Faculty from 7th to 11th December 2020.

Applications can be submitted by 4th December 2020 and sent to senior assistants Olivera Ševo and Igor Popović via emails: olivera.sevo@pf.unibl.org or igor.popovic@pf.unibl.org. Applicants should indicate the year of study, where advantage will be given to postgraduate, graduate, third and fourth year students. Selected applicants will be obliged to attend all activities within the Week of Human Rights.

Due to pandemics, lectures and workshops will be held online via Zoom and KUDO platforms.

The Week of Human Rights Program entails the following activities:

1. Monday, 7/12/2020 – Lecture and workshop (10:00 -13:30)
Hate crimes in BiH legislation and ECtHR practice.
Lecturers
The OSCE Mission to BiH will issue a certificate of attendance to the participants in this workshop.

2. Wednesday, 9/12/2020 – Lecture (10:00 -13:30).
Application of Article 7 of the ECHR in war crimes case.
Lecturers

3. Thursday, 10/12/2020 – Lecture (15:00)
In cooperation with the Criminal Law Department within the Week of Human Rights, lecture on "Human Trafficking in US Practice" will be held by a Texas District Prosecutor.

4. Friday, **11/12/2020** – Workshop (12:00 – 13:30)
Application of Article 7 of the ECHR in war crimes cases.
Lecturers

Following expiry of the deadline, the organizers review the applications and **select the participants**. Selection is at the discretion of the organizers, guided by the following criteria: (1) year of study (final year and master's degree students are given preference), (2) average grade (if it was part of the selection criteria), (3) motivational letter (if applicable), (4) extracurricular activities and interests demonstrated during academic studies (if applicable) and (5) familiarity of the organizers with the achievements and interests of the registered students (if applicable).

After the selection process, students should be informed whether they have been selected in one of the following two ways: (1) publishing the list of successful applicants on the faculty website and social media networks and faculty's public notice board with information that students will be contacted via e-mail or (2) sending a an email to the selected students with information about the next steps.

After the selection of students, the number of groups should be determined. The **composition of the group** should be determined on the basis of the year the students are in and their achievements (based on their average grade, and curricular and extracurricular activities). When forming groups, it is important to try to create evenly balanced groups (based on achievements).

For example, it is not recommended for third-year students to be in one group and master's students in the other – they should be evenly distributed.

7. IMPLEMENTATION

Although the previous steps are extremely important for the preparation of a high-quality workshop, the guidelines related to implementation are no less important. Implementation includes completing necessary tasks on the day of the workshop or a few days before. Without good organization on the day of the workshop the plans will not be carried out or they will not be carried out according to expectations.

7. 1. Moderator and introductory words

Prior to the workshop, a **moderator** must be chosen. This can be the workshop leader/instructor, organizer or another person.

The authors usually choose to be moderators themselves because, as organizers, they are most familiar with the entire substance of the workshop. If a workshop lasts several days, more than one moderator can be appointed.

At the beginning of the workshop, the moderator should provide basic information on the workshop, its objectives, participants, and presenters; s/he should introduce each presenter and indicate the transition from one phase of the workshop to the next. The moderator is responsible for ensuring that timeframes are adhered to and, therefore, s/he should unobtrusively give notice when the time is near to running out.

At the start of the workshop, the organizer, should address the participants with an **introductory speech**. If the workshop is organized in cooperation with an external partner, its representatives should also be invited to address the participants. It is important that these speeches are short.

It is recommended that an introductory speech does not exceed 15 minutes in total.

Attention must also be paid to the sequence of speeches - the first to address the participants should be the organizer, followed by the representative of the external partner, if there is one.

7. 2. Technical issues

If the organizer shares promotional **materials** with the participants, these should be left on the participants' desks. The agenda should also be printed for all participants, as well as sufficient copies of the relevant substantive materials (including any handouts) for each group, as well as any other necessary materials. It is useful to for the materials to be arranged chronologically and that each document is visibly marked. The organizer should print the names of all the presenters and place them at an appropriate, visible place. The same can be done with the names of the participants. The organizer should be on the premises before the workshop starts in order to unlock the conference room, place presenters' name labels, prepare water for the presenters, place handouts and promotional materials at the participants' desks, turn on the computers and other equipments, etc.

The authors usually arrive one hour before the beginning to prepare the room.

If refreshments and lunch **breaks** are provided during the workshop, it is necessary to undertake preparations for them. First of all, the organizer must prepare the space and tables/ chairs for this part of the workshop in advance. This should not be done on the day the workshop is held, because, as can be concluded from this part, there are many other tasks to complete on the day itself. A space in which the tables will be set must be provided, so that participants have enough space, and so it does not interfere with the regular activities at the faculty.

The organizer should prepare the tables for food and drinks one day in advance and place them in the corridor, near the room where the workshop is held.

The organizer must prepare a list of participants for **recording attendance**, which should be prepared one day in advance. A roll call can be done or the list can be simply given to the participants to sign. This is very important for preparing certificates which can be awarded only to the participants who were present at the workshop. In addition, the attendance record is important when there are external partners who require it.

If the workshop is held online, the organizer(s) must still make a list of participants but can record attendance without a roll call because the names of participants are listed.

The students must be told to use their full name when they access the application in order to avoid the use of generic names, such as “participant”, “user”, etc.

As a rule, **certificates** of attendance should be awarded at the end of the workshop. Of course, certificates will be given only to the participants who attended the workshop. It is possible that the external partner or organizer does not manage to prepare the certificates before the end of the workshop. In this case, the participants should be told that they will be given certificates at a later date. Once certificates have been prepared, it is advisable that the participants are sent an e-mail informing them when and where they can be collected.

If **presenters** come from **abroad or further afield areas in BiH**, the organizer must check the time of their arrival and whether they need help getting to the faculty.

The organizer should contact the presenter(s) in advance in order to have enough time to organize collecting them and taking them to the location of the workshop if necessary.

In order to prevent or at least minimize potential **problems of a technical nature**, organizers must check that all the equipment is working before the workshop (e.g., a computers, projectors, internet connection, etc.) If such problems still occur (for example, a microphone is not working), the organizer, rather than the moderator or presenter, should resolve it. If the organizer cannot resolve the issue, s/he should call the person in charge of IT system maintenance at the faculty or University. The last option is to use another room if possible. It is thus useful that organizers check in advance whether and adequate alternative room is available.

When a workshop is held online, many issues can crop up. This is why it is advisable that the organizer tests the platform and particular options it provides one or two days before the workshop is held. It is particularly important that the moderator (if different from organizer) is present during such testing, because it is their duty to inform the participants of the options the platform offers (e.g. raising hand, screen share, etc.) Testing is particularly important when using platforms that provide multiple channels for simultaneous interpretation. Apart from the organizers, each participant (presenters, representatives of external partners, students) need to test the platform and its features in advance. In order to minimize the possibility of any problems arising, the authors recommend that all participants log in 15 minutes before the beginning of the event in order to test their equipment. If more serious technical problems arise during the event, the participants could try accessing the workshop using phones/other devices instead of computers. When a workshop is held online, it is advisable to have a “deputy moderator”, i.e. an additional person ready to take on this role in case the principal moderator experiences technical difficulties. In addition, it is

possible to deviate from the agenda (to swap presentations) if one presenter is having difficulties. In any case, it is imperative to consider the optimum way to resolve an issue and to never panic!

Finally, it needs to be borne in mind that the implementation of a workshop is actually turning the plans into reality. The common problem that organizers have is a lack of this type of experience and a deep-seated belief that organizing workshops (usually a one-day event) is relatively easy. If organizers wish for their events to proceed perfectly then it is recommended that a **check-list** for each day is created in advance and, if there are several organizers that the division of labour is done carefully. If there are several organizers, it is essential to establish a good channel of communication and to share information as tasks are completed.

SUPPLEMENT NO. 4 – CHECK LIST

Draft CHECKLIST

TASK	COMPLETED		REMARK
	YES	NO	
Print agenda, materials, signup sheet and name tags			
Check certificates of participation and prepare for handing out			
Prepare evaluation sheet			
Pack folders and pens			
Check functionality of computer, projector, remote control, and internet connection			
Contact IT and inform them of the event and give them heads up regarding required assistance			
Place desk name tags for presenters and refreshment			
Place material on the desk for participants			
Contact support staff to place tables for breaks			
Contact caterer and confirm the time for refreshment/lunch			
Contact presenters from abroad of their arrival and if assistance in this area is required by the organisers			

7.3. Communicating the composition of groups and guidelines to students

It is particularly important to communicate the composition of groups and the guidelines for work to students and to do so in a timely manner. It is important to leave sufficient time for the students to prepare. Depending on whether a workshop is held in person or online, the time and the manner of communicating such information may differ:

1. **In person.**

    a) The composition of groups and their tasks are communicated on the day the workshop is held - this method should only be used when students are given less complex, hypothetical case studies.

    b) The composition of groups and their tasks are communicated before the workshop - this method should be used when students are given larger and more complex case studies, including complete or partial verdicts. The materials should be sent several days in advance (two to three days is sufficient), explaining that students need to prepare a presentation of the case for the workshop itself. When giving tasks and guidelines to the students they should also be reminded to communicate with each other and they should be enabled to do so by sharing their email addresses and suggesting communication via apps (e.g. Viber or WhatsApp).

2. **Online.** The composition of groups and distribution of materials is always done several days in advance (two to three days is sufficient). At the same time, the students should be given tasks and guidelines. As above, the students should be encouraged to communicate with each other.

In order for students to understand what is expected from them, organizers should provide them with certain **guidelines for work**. They would usually contain the following instructions/guidelines: (1) to consider the arguments that can

be used for the parties in the proceedings (e.g., if a case tried before the ECtHR is analyzed, whether there was a violation of a certain right); (2) to recognize legal concepts and legal standards in the analyzed cases pertaining to the topic of the workshop (e.g., with hate crimes, to recognize which criminal offence was committed, to recognize the hate indicators, etc.); (3) if verdicts or other decisions are to be presented - which issues and sections are particularly important; (4) which direction the students' presentation should take, how many students should deliver the presentation and how much time they will have for the presentation.

The optimum time for presentation is 10 minutes if facts are presented, or 20 minutes if entire verdicts or parts of verdicts are presented. Experience shows that the optimum number of presenters is two students because of the limited time for each presentation and in order to avoid watering down the presentation of a case (i.e. to avoid having too many presenters who then talk about unimportant matters or matters that are not the topic of the workshop).

If the workshop is held **online** the guidelines should also include information on housekeeping, such as: (1) sharing the link and password needed to access the platform in question (2) the request that students log in 15 minutes before the beginning of the workshop (in order to resolve potential connection issues), (3) the request that students keep their cameras on and their microphones muted (to prevent students from not paying attention to presentations, which happens quite often during online classes), (4) the request that students use their full name and surname when using the platform, (5) an explanation on how to use the selected platform and a list of all the relevant features..

Dear students,

First and foremost, we express our gratitude for your application to participate in the Week of Human Rights and we hope that the program will meet your expectations. The purpose of this email is to clarify several aspects of your participation in this event next week. Please carefully read the below:

1. All events will be held online. Events scheduled for Monday, Wednesday and Friday will be held via Zoom platform. Please download the platform to your laptop or mobile before Monday. Access link and passwords can be found at the bottom of the agenda attached. When accessing the link, type in the given passcode. Thursday lecture will be held via KUDO platform, and access link will be sent on Monday. This application will be used to enable simultaneous translation of the lecture by the US Prosecutor. Other interested students who are taking Criminology and Poenology course will also be able to attend this lecture.

Instructions on accessing KUDO platform will be sent together with invitation to the lecture. Regarding Zoom access, all information can be found on the following link https://b2bit.ba/kako-koristiti-aplikaciju-zoom/.

Please note that your cameras should be turned on at all times, and microphones on silent while others are speaking. Also, please join the workshop at least ten minutes in advance to make sure everything functions well. In case someone has difficulties with the use of applications, please feel free to contact us during the weekend.

Attendance at all events in mandatory. Certificates to be issued imply your participation in all events.

2. Both workshops will imply your active participation. On the first day, you will be divided into four groups. Each group will be assigned a hypothetical case with work instructions – you will have more than enough time to prepare it for Monday. Two of the groups will work with assistant Olivera Ševo, and the other two with assistant Igor Popović. Your assignments, which are not difficult, will be explained in the email which will be sent to you tomorrow. Regarding the Wednesday workshop, you will be divided into three groups at the end of the day, where you will work with the assistants and a person from District Court. In addition, you will have enough time and our support to prepare for brief presentations on Friday. Groups will consist of five to seven members and you will be provided with an email list of group members to ease your mutual communication.

Best wishes,

Olivera Ševo i Igor Popović

8. EVALUATION AND PROMOTION OF THE WORKSHOP

Evaluation of the workshop means that participants (primarily students) give their assessment of the workshop, list its positive and negative aspects and, possibly, offer suggestions for future workshops. The purpose of evaluation is for organizers to get feedback from participants on the quality of the workshop and to see whether the workshop achieved the set goals, and which segments potentially need to be improved. Evaluation can be carried out in several ways: (1) through a discussion at the end of the workshop where students offer their opinion on the importance of the topic that was explored, the implementation of the workshop, the quality of the workshop, whether it was useful for gaining new or improving existing knowledge and suggestions for improving the organization of the workshop. If the workshop was supported by an external partner, it is recommended that the representative of the external partner attend the evaluation and give their observations; (2) through a prepared form (sometimes external partners request the completion of a specific evaluation form) or (3) Google survey.

Regardless of the method of evaluation, it is useful to obtain the **following information**: (1) whether the topic was easy to understand and student-friendly; (2) do students believe that they gained basic knowledge on the topic of the workshop; (3) did the workshop help students improve the skills necessary to be a lawyer (e.g. legal thinking, how to present, reducing the anxiety caused by participating in discussions and public speaking; (4) satisfaction with the work of presenter(s); (5) impressions of the workshop, positive and negative aspects; (6) suggestions for future workshops. All this information can be a valuable guidance for improving future workshops.

Appraisal of the students' work can be done in several ways. If the workshop is a part of the regular curriculum, then students can be awarded a certain number of ECTS points in accordance with the internal regulations. If the workshop is not part of the curriculum, then there cannot be such formal reward for students. However, it is possible to recognize the work of students in another way. For example, the work can

be recognized by accepting it in place of a seminar paper or presenting a paper; the organizer may facilitate students' preparation for exams by "exempting" them from learning the part of a subject related to the topic of the workshop; the students who excelled may be recommended for other extracurricular activities in which the organizers are involved (e.g., invite them to join various clubs - debate, public speaking or moot court clubs or to recommend them to other professors for other activities).

After completing a workshop, it is important to round off the project by **promoting the workshop**, for several reasons: (1) publishing such information (workshops are still an innovative method of education in our country) can attract the attention of a larger number of new students who are currently in high schools and follow the work of the faculties they are potentially planning to apply to; (2) publishing information on the workshop may attract current students to apply for a future workshop; (3) external collaborators or partner organizations can see that workshops are held and what the topics are, which can prompt cooperation in the future; (4) publishing information contributes to the reputation of the organizers and presenters, as well as the faculty and University.

There a **several methods** of promotion: (1) posting on the faculty's and University's website; (2) if the faculty and University are on social media (Facebook, Instagram, etc.) then the information on the workshop can be posted on those fora as well; (3) organizers and presenters themselves can promote the workshop on their personal social media. We live in a time of social media, which students use more than e-mail or the faculty website. This is why the authors believe that promotion on social media is very important. Still, the true promotion comes from previous participants who tell their peers first-hand what a workshop involved and give them their impressions. This is why it is important to stay in touch with former participants and to ask them, when a call for applications is announced for the next cycle of workshops, to avail themselves to other students in answering questions about their experience at previous workshops.

PART II

CASE STUDIES FOR PRACTICAL WORK

1. HATE CRIMES
2. WAR CRIMES[2]
3. CRIMES OF TRAFFICKING IN HUMAN BEINGS

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2 For the purpose of this Guidebook “war crimes” is used generically in reference to crimes under International Humanitarian Law, crimes against humanity and genocide.

How to use the case studies

The case studies prepared for practical work are divided into three parts according to the topic they pertain to - hate crimes, war crimes, and crimes of trafficking in human beings. Each part comprises four cases, which is an optimum number of cases for 20 students divided into four groups. Each case is composed of the facts and a table divided in two - questions for students and relevant conclusions.

The case name and number is found at the top of the first page of each case study so that the users will know which case they are considering, that the modified facts of the case have been taken from. This is followed by the new case name and the facts containing modified information about the identity of people and countries followed by the relevant legal framework. The changes are made to enable students to reach relevant conclusions regarding the analyzed case on their own (with the help from the workshop leader/ instructor) without looking into the actual case. Students should be told that it is an actual case and later which case it is.

The tables comprise two columns - the left one contains questions that the workshop leader/instructor should ask the students when they are analyzing the case. The order of the questions enables gradual resolution of the given case. The right column contains brief answers to the questions (conclusions) with the courts' findings in the actual cases which can be used to aid the discussion with students when analyzing the case.

Students should have prior knowledge on the topics pertinent to the case, whether gained through regular classes or in the first part of the workshop, through relevant presentations. Such knowledge is necessary because the workshop leader/instructor provides students only with the facts of the case (with modifications) and if students do not have the necessary prior knowledge, they will not understand the questions asked and it will be difficult to discuss the case and reach the pertinent conclusions.

After each group studies the facts of their case and presents them to the other students who have not analyzed that particular case, the workshop leader should gradually pose questions to all of the students so that they work towards reaching relevant conclusions. The same method should be applied with other groups.

Finally, please note that the questions in the tables are guidelines, and that users of the case studies can expand the range of questions and topics covered, according to the students' needs and interests.

HATE CRIMES
– CASE STUDIES

Case Study No. 1: ECtHR- *Šečić v. Croatia*, No. 40116/02, 2007

Facts under alias *Lee Gray v. Ruretania*

1. The applicant, Lee Gray, was born in 1954 and lives in the city of Jasko in Ruretania. He is a member of the Roma minority population. On 5 April 1999, between 8.00 and 8.30 p.m., the applicant, together with several other individuals, was collecting scrap metal in the Kamenička street in Jasko. Suddenly, two unidentified men approached the group and attacked the applicant. They beat him all over his body with wooden planks, shouting racial abuse. Another two unidentified men stood close by and kept watch.
2. Upon receiving a report from the citizens about a fight, the police came to the scene, took statements from the persons present there at that moment and searched surrounding street in an attempt to find the attackers.
3. An ambulance took the applicant to the hospital where it was concluded that he suffered no broken bones and he was given tranquilizers and sent home. However, in another hospital three broken ribs were diagnosed and he was hospitalized. He claims that he had undergone psychiatric treatment after the incident for post-traumatic stress syndrome.
4. The applicant's lawyer filed a criminal report on 15 June 1999 against unknown persons including the factual account of the case and alleging that Mr. Gray suffered grievous bodily harm. In addition, the applicant offered his own testimony in evidence and proposed that three eyewitnesses be heard.
5. On the same day and then again on 30 August 1999, the applicant's lawyer informed the Jasko Police Administration of the incident and requested the information necessary for the institution of criminal proceedings. On 31 August, the Police Administration informed the lawyer that the perpetrators had not been found.
6. On 2 September, the lawyer informed the Ministry of Interior on the event in question and requested that they take action considering the perpetrators had not been found.
7. On 29 September, the police interviewed the applicant about the events in question. The applicant described the two attackers vaguely, stating that due to his short-sightedness he was not likely to be able to recognize them.
8. On the same day, the police interviewed B.T. who had been with the applicant that day. He also described the attackers vaguely, stating that he had not see them properly because he had been hiding.
9. Five days later, the police interviewed N.C. who lives in the area where the attack had taken place and who had witnessed the incident. He described the attackers, stating that as everything had happened very fast, he had not been able to see them clearly. On 7 October, the police interviewed

Z. B., another eyewitness to the incident, who gave a similar statement.

10. In the following several months, the applicant's lawyer requested on several occasions for the investigation to be expedited and requested information on the progress of the investigation. In February, the police informed the lawyer that they had carried out an on-the-spot investigation immediately after having been informed of the incident, that they had interviewed the applicant and several other witnesses and had searched the area but had not identified any person fitting the description of the perpetrators.
11. On 16 March 2000, the applicant's lawyer informed the Prosecutor's Office that that the individuals who had attacked the applicant had apparently been engaged in numerous attacks against Roma persons in Jasko in the same period. Two of the Roma who had been attacked, I. S. and O. D., had told the applicant's lawyer that they would be able to identify the perpetrators and that O. D. had personally witnessed the attack on the applicant. The lawyer stressed that all the incidents had been racially motivated, because the attackers had combined physical with racist verbal abuse. They also said that the attackers were skinheads.
12. On 16 July, the police informed the applicant's lawyer that the police had been unsuccessful in finding O. D. and that they had no record of any assault on him.
13. On 1 August, O.D. was located and interviewed. He stated that he himself had been attacked by a certain S. and that the same person had been one of the applicant's attackers. He remembered S. because he had a large scar on his face.
14. The Police identified S. as an alcoholic known to the police for several criminal offences. Police eliminated him as a possible suspect because no other witness identified him despite a large scar on his face. Also, the police claimed that according to their information, he did not belong to any skinhead group.
15. On 24 June 2000, the applicant's lawyer wrote to the state Prosecutor's Office to inform them that an interview with one member of skinheads was aired on the national television on 14 June who explained motives for attacks on the members of the Roma population in Jasko. She claimed that he indirectly mentioned the attack on the applicant.
16. The state Prosecutor's Office asked the program editor to give them the necessary information in order to identify the person interviewed.
17. On 18 April 2001, the Police interviewed the journalist who interviewed the member of skinheads. The journalist stated that the skinhead he had interviewed had talked generally about his hatred of the Roma population, but that he had not specifically addressed the incident at issue. The interviewee lived in the part of town where the attack took place and had described how annoying he found it when Roma came to his neighbourhood to collect scrap metal. However, the journalist did not wish to

disclose the name of the person interviewed, relying on his right to protect the source of his information

18. Meanwhile, on 14 February 2001, the applicant's lawyer complained again to the state Prosecutor's Office and the Ministry of Interior of the poor quality and the length of investigation. In addition, she provided some new information, namely that the persons who had attacked the applicant belonged to a skinhead group whose members were responsible for numerous attacks on the Roma population in Jasko. She further described several attacks on the Roma population by the skinheads and provided a list of names and addresses of both the victims of and witnesses to such attacks.
19. On 22 May 2001, the Ministry of interior informed the applicant's lawyer that the Police took appropriate steps after receiving the information from her.
20. On 6 April 2001, the applicant filed a constitutional complaint to the Constitutional Court of Ruretania, requesting it to order the state Prosecutor's Office to take necessary steps to complete the investigation as soon as possible and within six months at the latest.
21. On 12 November 2002, the Constitutional Court informed the applicant's lawyer that it had no competence to rule on cases involving prosecutorial inaction during the pre-trial stage of proceedings and took no formal decision on the complaint.

Applicable law:

The Law on Media, Article 5

"(1) A journalist shall not be obliged to provide data about the source of published information or the information he intends to publish...
(4) The State Prosecutor's Office, when such limitations are required in the interest of national security, territorial integrity and protection of health, may lodge a request with the competent court to order the journalist to disclose data on the source of the published information or information he intends to publish...
(6) The court may order the journalist to disclose data on the source of the published information or information he intends to publish, if so required for the protection of public interest and if it concerns particularly important and serious circumstances and the following has been indisputably established:
- that a reasonable alternative measure for disclosing data on the source of information does not exist or that the person or body from paragraph 4 of this Article seeking the disclosure of the source of information has already used that measure,
- that legal public interest for disclosing data on the source of information clearly prevails over the interest for protecting the source of information.."

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS[3]
Does the applicant belong to a particular minority group?	Identify that the applicant belongs to the Roma minority population in the country in which he resides.
How was the applicant attacked? What did that attack involve? What were the consequences of the attack for the applicant? Can this act be characterized as a criminal offence? Which one?	Identify that the attack involved inflicting bodily harm but also shouts that constituted racial abuse (§ 8 of the judgment). The overall consequences of the attack for the applicant (physical and mental) indicate the existence of grievous bodily harm (§§ 10-12 of the judgment). The attack meets the requirements of the criminal offence of grievous bodily harm.
What are the bias/prejudice indicators (circumstances related to the applicant, the perpetrator, the criminal offence)? Is it a hate crime?	Identify bias indicators: that the person belongs to the Roma minority group in the country (victim's/applicant's characteristic), that the attack was also verbal in nature and involved racial abuse (circumstances under which the crime was committed) and that there is a suspicion that the crime was committed by skinheads (characteristics of the perpetrator of the crime).
Which actions were taken by the applicant and his lawyer? Which actions were taken by the police? What information did the lawyer have and what was the response of the police/prosecution to them?	Identify all actions taken by the applicant's lawyer (§§ 13-16, 21, 24 of the judgment). Identify all actions taken by the police and prosecutor (§§ 17-20, 25-26 of the judgment). Students should identify the importance of the recording broadcast on national television and the (in) ability of the state/police/prosecutor's office to act on it.
How long did the investigation into the attack on the applicant last? Could the police have taken any further action to detect the attackers? If so, which ones?	It is important that students identify the total duration of the investigation - seven and a half years (§ 38 of the judgment). It is important to consider with students the legal possibilities for undertaking additional investigative measures in the given case, especially those mentioned in the judgment. (§§ 40, 56-58 of the judgment).
How should public authorities act in cases of suspected violence motivated by discrimination? Did they act that way?	Discuss with students the importance of acting with particular care in cases involving racially motivated violence (§§ 66-67 of the judgment).
Which of the applicant's rights under the European Convention of Human Rights and Fundamental Freedoms (ECHR) have been violated?	Gradually identify that this is a violation of the rights under Article 3 of the ECHR (prohibition of ill-treatment) and that this pertains to its procedural aspect (failure to conduct an adequate and efficient investigation) using the findings of the ECtHR (§§50-55 of the judgment). Identify the violation of rights under Article 14 (discrimination on the grounds of ethnic origin) in connection with Article 3 using the findings of the ECtHR (§§ 68-70 of the judgment).

[3] It is recommended that the workshop leader/instructior prepares a presentation (e.g. Power Point) with some of the conclusions from the verdict.

Case study No. 2: ECtHR- *Škorjanec v. Croatia*, No. 25536/14, 2017

Facts under alias *Hana A. v. Abacia*

1. The applicant is Hana A., born in the city of Kapo in Abacia. On 9 May 2013, the Police Administration of Kapo received a call about two men attacking a Roma couple. Upon arrival at the scene, the police found there the applicant, Lukas A., her partner, and another individual, I.M., with whom the applicant and her partner had had a verbal and physical altercation. They all had injuries. Another individual was found and arrested nearby, a S.K. who participated in the altercation.
2. The police report states that Hana A. and Lukas A. first quarreled with I.M. and S.K. when S.K. said: "All Gypsies should be killed, you will be exterminated". After that I.M. and S.K. attacked Lukas A. When Hana A. tried to escape, S.K. managed to catch her, pulling her top, threw her on the ground and hit her on the head, while both of them continued to hit Lukas A. The report also states that Hana A. had a bruise under her eye. Doctors concluded that it was a minor bodily injury.
3. The police conducted an on-the-spot investigation and the assessment of the available materials, and questioned Hana A., Lukas A., I.M., and S.M.
4. During the police questioning, Hana A's partner, Lukas A. said that he was of the Roma origin. He said that he was in the market with Hana when some passers-by pushed them. He told Hana A. to ignore them because they were "plastered". One of them turned toward Lukas A. and said " I f... your Gypsy mother, who do you say is plastered... you should all be exterminated, I f... your Gypsy mother". The other assailant turned around and said: "I f.... your Gypsy mother, you should be exterminated, I'll kill you". Lukas A. said that he then panicked and told them that he had a knife in order to chase them away, after which one of the assailants took out his knife and went after Lukas A. Although he ran, the assailants managed to catch up with Lukas A. and started beating him. Hana A., the applicant, tried to help him and then received a blow. The assailants repeated the insults similar to the ones above mentioned referring to his Roma origins.
5. In her interview with the police on 9 May 2013, the applicant stated that she lives with Lukas A. and they have two children. She confirmed his version of the events. She also said that the assailants sad when attacking hem: "Who is drunk, I f.... your Gypsy mother, you should be exterminated, this is going to be white Abacia once again".
6. When questioned, the assailants said that the attack happened because they were drunk and that it did not have racial connotations.
7. On 10 September 2013, the police filed a criminal report against I.M. and S. K. to the District Public

Prosecutor's Office of Kapo on the grounds of suspicion that they committed a hate crime attempting to inflict a grievous bodily harm on Lukas A., because of his Roma background.
The applicant, Hana A. was mentioned in the criminal report as a witness.

8. During the investigation conducted by the District Public Prosecutor's Office of Kapo, Lukas A. and Hana A. confirmed their statements.
9. Upon the completion of the investigation, the District Public Prosecutor's Office of Kapo filed an indictment on 30 October 2013 against I.M. and S.K. before the District Public court in Kapo charging them with making serious threats against Lukas A. and inflicting bodily injury on him, associated with a hate-crime element. At the main hearing, when asked whether the assailants said something to the applicant, Lukas A. said that they did, but that he did not remember exactly what. He thought that the assailants said that she was a Roma too if she was with a Roma man. In the verdict of 13 October 2014, the assailants were pronounced guilty of a hate crime against Lukas A. and were sentenced to one year and six months in prison.
10. After the attack, on 29 July 2013, Lukas A. and Hana A., represented by the attorney L.K. filed a criminal report against unknown perpetrators in connection to the events in question. The report, among others, states that one of the suspects first pushed the applicant and then said to her that she was a "bi..." who was in a relationship with a Roma man and that he was going to beat her up. He pulled her top and threw her on the ground. On 12 November, the police informed the applicant's attorney that a criminal report had been filed against two individuals on the grounds of suspicion that they committed a crime of inflicting a grievous bodily harm on the applicant and her partner which was classified in the case as a hate crime.
11. On 31 October 2014, the District Public Prosecutor's Office in Kapo informed the applicant's attorney that the applicant's criminal report was rejected for the following reasons:

"In view of the above, it is established without any doubt that on the day in issue there was a physical conflict between S.K. and I.M. and Lukas A. whereby [S.K. and I.M.] caused bodily injury to and threatened Lukas A., and those offences were committed primarily because of hatred towards Roma. However, the statements of the witnesses Lukas A. and Hana A. show that [S.K. and I.M.] pushed Hana A. in the back, causing her to fall onto a [flea market] stall, not because she was the partner of Lukas A, who is of Roma origin, but because they were drunk and they accidentally pushed her towards the stalls. […]Given that there is no indication that S.K. and I.M. inflicted injuries on Hana A. because of hatred towards Roma, as she is not of Roma origin, the criminal offence under Article 117 § 2 in conjunction with Article 87(21) of the Criminal Code has not been established.[…]"

Applicable law:

Criminal Code

Article 87, item 21 - Hate crime

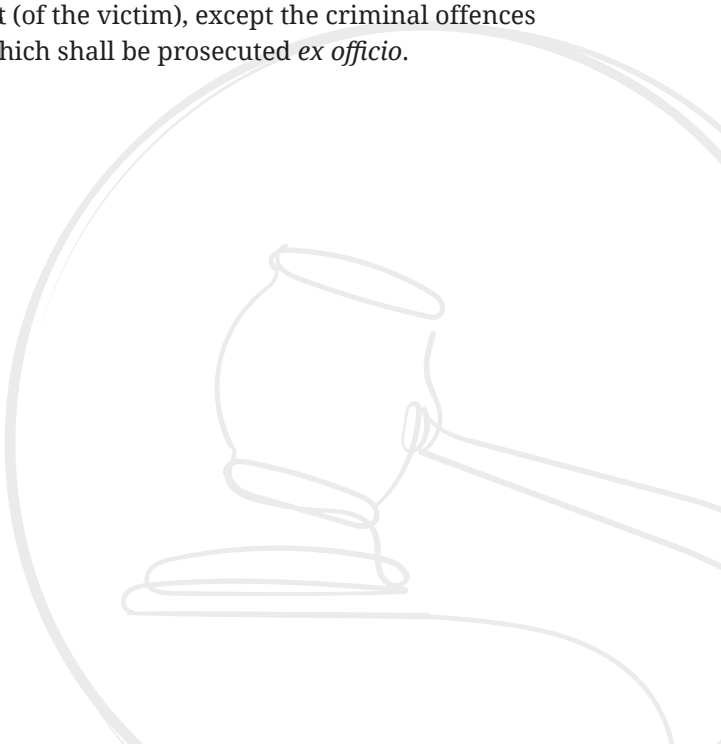
A hate crime is a criminal offence committed on account of a person's race, colour, religion, national or ethnic origin, disability, gender, sexual orientation or gender identity. Unless a more severe punishment is explicitly prescribed by this Code, such conduct shall be taken as an aggravating circumstance.

Article 117– Bodily injury

(1) Whoever inflicts a bodily injury on another or impairs his or her health shall be punished by imprisonment not exceeding one year.
(2) Whoever commits the offence referred to in paragraph 1 out of hatred, ... shall be punished by imprisonment not exceeding three years.
(3) The criminal offence referred to in paragraph 1 shall be prosecuted by private action.

Article 139 - Threat

(2) Whoever seriously threatens to kill, inflict severe bodily injury on... another or a person close to another... shall be punished by imprisonment not exceeding three years.
(4) The criminal offence referred to in paragraph 2 of this Article shall be prosecuted upon request (of the victim), except the criminal offences committed out of hatred, which shall be prosecuted *ex officio*.



QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Who is the applicant? Does he/she possess a certain protected characteristic?	Identify that the applicant is Hana A. and not Lukas A. and that she is not a part of the Roma population, i.e. that she does not personally possess a protected characteristic.
Who is the target of the attack and what are the circumstances of the attack that are particularly important? Does the attack on the applicant have elements that amount to a criminal offence?	• Identify that the targets of the attack are both of the individuals mentioned in the facts: the applicant and her husband. (§§ 8, 11-12, 21, 23 of the judgment) • Identify the parts of the facts that indicate racially motivated violence. (§§ 8, 11-12, 21, 23 of the judgment) • Identify the parts of the facts that indicate that it was a criminal offence of inflicting bodily injury and that the attack on the applicant have elements that amount to a criminal offence. (§ 9 of the judgment)
Was the applicant attacked because of her connection to a person belonging to the Roma population?	Identify that the attack on the applicant, although she did not belong to the Roma population, was racially motivated due to her association with a person belonging to the Roma population.
What did Hana A. and Lukas A. say during their interview?	Identify that both persons repeatedly indicated the racial connotation of the attack, from which it follows that the competent authorities knew that the attack on both persons was racially motivated. (§§ 11-12, 16-17, 21 of the judgment).
Why did the State reject the applicant's criminal report?	Identify the parts of the decision rejecting the criminal report which relate to the fact that the applicant does not personally possess a protected characteristic - that she is not a member of the Roma population. (§ 26 of the judgment).
Does the legal framework allow for the prosecution of hate crimes? Is it necessary under the applicable law for a victim to possess a protected characteristic?	Identify on the basis of available legal provisions that it is possible to prosecute hate crimes. (§§ 60-61 of the judgment). Identify that the legal framework allows for the prosecution of hate crimes even when the victim does not personally possess a protected characteristic (§ 61 of the judgment).
Have police investigated allegations of an attack on Hana A.? What was her status in the proceedings?	Identify that the state limited its investigation and proceedings only to the crime committed against Lukas A. (Š. Š.), while treating the applicant as a witness in the proceedings for the criminal offence committed out of hatred against Lukas A. (Š.Š.).

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
What did the state show through the rationale for rejecting the criminal report? Has the state considered her association to a person of Roma origin in the context of the attack?	Point out the Court's opinion with regard to the fact that, in its decision rejecting the criminal report, the State insisted that the applicant did not have a protected characteristic and its failure to investigate the connection between the attack and the applicant's association with a person belonging to the Roma population. (§§ 70-71 of the judgment).
Which article of the ECHR was violated in this case?	Identify on the basis of previous knowledge and the analysis of the facts of the case that it is a violation of the right under Article 14 (discrimination on the grounds of ethnicity) in connection with the procedural aspect of Article 3 (failure to conduct an adequate and efficient investigation).

Case No. 3: ECtHR- *Đorđević v. Croatia*, No. 41526/10, 2012

Facts under alias *Peter and Maria v. Lukenia*

1. The applicants are the son Peter (first applicant, born in 1977) and the mother Maria (second applicant, born in 1956) residing in the city of Žen. Peter was declared legally incompetent. Maria is his carer and he spends 12 hours a week in a workshop for adults at the D.O. school. In a medical report from 2008 it says that he had had meningitis and has epilepsy, and has moderate mental retardation; that he is completely dependent on the care of his mother. The applicants still live in a ground floor apartment in the vicinity of the D.O. school.
2. The applicants allege that they were abused in the period from July 2008 to February 2011. They allege that the children from the neighbourhood and the D.O. school often abuse Peter and insult him on the ground of his illness, and also on his nationality, considering that the applicants belong to a minority. They allege that other children spit on Peter, insult him, ring the doorbell of the applicants' apartment, and deface the sidewalk in front of their apartment and balcony.
3. The first police report says that Maria called the police on 31 July 2008 because someone broke several items on her balcony and destroyed the flowers. On that occasion she told the police that the abuse had been going on for a long while.
4. According to the medical report from April 2009, Peter's mental and physical state was affected by the abuse in the street, and they also found cigarette burns on his arm. The doctor describes Peter as a quiet and benign person who cannot defend himself from his abusers.
5. On 20 April 2009, Maria reached out to the Disability Rights Defender (hereonin: Defender) and asked for help. She said that her son had been abused by children (two of whom she named) and that they put out cigarettes on his arm. The Defender immediately contacted the police requesting that the incident in question be investigated. Maria also got in touch with the Social Welfare Centre informing them that children abuse her son.
6. The police questioned several boys, among others, I.M. who said that on the day of the incident he was passing through the park where children were playing, and that Peter was also there. The boys took a ball from Peter, and he approached them to tell them to give Peter his ball back. Peter started shouting and waving his arms about, and accidentally burned himself on the cigarette he was holding in his hand.
7. The police informed the Social Welfare Centre that they interviewed the boys and that Peter accidentally burned himself on a cigarette of one of the boys who was passing him by.

8. The Social Welfare Centre proposed that a duty police officers patrol more frequently the neighbourhood where the applicants live, and that the school talk to the parents and children at the beginning of the school year and inform them about the problems, and to hold a workshop to educate children on the seriousness of this and similar problems.
9. On 27 July 2009, the District Prosecutor's Office informed Maria that her son's abusers were underage and that they could not be prosecuted. She was referred to civil proceedings if she wished to claim compensation.
10. On 17 September 2009, the Social Welfare Centre talked to I.M. and his mother and the child said that he was sorry because of the incident with Peter. Based on this, the Centre concluded that there was no need for further action.
11. The principal of the D.O. school informed all the parents that Peter, a young man who is ill and who is often taunted and abused by children in a serious and brutal way, lives near the school. He asked the parents to talk to their children and to tell them not to do the above mentioned.
12. On 1 October 2009, the Defender filed a complaint to the District Prosecutor's Office alleging that Peter had been abused for years on the grounds of illness and ethnic origin. She also stated that this represents the violation of Articles 3 and 13 of the ECHR, and that the national legal system did not institute an efficient legal remedy for acts perpetrated by underage children who are not subject to criminal responsibility. She concluded that children severely abused Peter at least ten times.
13. Several medical reports between October 2009 and January 2010 state that Peter was abused, resulting in serious consequences for his health.
14. On 13 March 2010, Maria called the police because the children who were playing outside threw a ball through at her window and then ran away. On 13 May 2010 several boys attacked Peter and pushed him on the ground causing injuries to his head and right leg. Maria reported this attack to the police on the same day. The next day (14 October 2010), the mother contacted the police saying that the boy P.B. attacked her son, pushing him against a wall and taking his ball.
15. Following all these attacks, the Defender contacted the District Prosecutor's Office on 20 May 2010 and stated that there has been several attacks on Peter since her previous letter of 1 October 2009). She explained in detail each of the attacks and said that after one such attack Maria went to the Police Station and talked to police officers for two hours. One of them told her that they, unfortunately, could not do anything, because if the investigation continued, it will turn out that the children were joking. On the same day, the Defender contacted the Commissioner for Children (the Commissioner), informed her of the case and sought advice for further actions.
16. On 24 May 2010, the applicants claim that there was a new attack on Peter and that children pushed

him against an iron railing and that he hit his head on it. They said that they heard the children say that they enjoyed it.

17. On 25 May 2010, the District Prosecutor's Office responded to the Defender's complaint and said that it had no jurisdiction considering these were the acts of children who cannot be criminally prosecuted. Similarly, on 31 May 2010, the Commissioner pointed out to the Defender that she was not competent to decide on the disputed matter. The principal of the D.O. school informed the Defender that they did everything they could (talked to children and parents about the attacks on Peter).
18. Medical reports from June 2010 to February 2011 state that Peter was constantly exposed to various forms of attacks. In the said period there had been several attacks on the applicant:
    - shouting outside the window and making noise in other ways
    - insulting Peter
    - insulting the applicant on the ground of ethnicity
    - breaking windows
    - throwing paint and soiling the windows
    - throwing ball at the applicant's window
    - spitting on and outside the window

The police and Social Welfare Center were informed about almost all these incidents.

19. On 17 November 2010, the City of Žen refused Maria's request to remove the bench outside their window and balcony. Maria sought help from the President of the Republic and the Defender for removing the bench. Only after the Defender's recommendation did the City of Žen remove the bench in February 2011.
20. The attacks continued throughout February by insults and shouting on ethic grounds. On one occasion, several boys climbed the applicant's walls, windows and the balcony and sang offensive songs.
21. The medical report of 9 March 2011 states that Peter was extremely frightened, that had twitches in his left eye, that he bit his lips and hands because of the stress, that he had symptoms of psoriasis, and that he was constantly ridiculed and attacked.

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Who are the applicants and do they belong to a protected group?	Identify that the applicants are members of an ethnic minority. It is also important to note that the first applicant is a person with a disability and also belongs to minority group. (§§ 6-8 of the judgment).
What do the attacks on the first applicant consist of and how can these attacks be characterized? How long did the attacks last? Were there attacks on the second applicant? Has she suffered harmful consequences?	Identify that the first applicant was physically and mentally abused by private persons for a longer period of time (§§ 6-8, 10-11, 22, 27-30, 32, 41-42, 60 of the judgment). All these attacks can result in bodily injuries which is criminally punishable. In addition, identify that the second applicant suffered harmful consequences in the form of interference with her private and family life. (§§ 97, 151-153 of the judgment).
Was the attack on the applicant motivated by hatred/prejudice? Are there bias indicators and were the State authorities aware of such a motive?	Identify that the motive of hatred/prejudice against the applicants extends through the period of abuse. It is particularly important to note that the attacks on the first applicant were the result of belonging to two minority groups. Explain the concept of multiple discrimination (§§ 145-146 of the judgment).
What would be the applicants' arguments?	Identify that the state has shown passivity in resolving this case (§§ 114-123).
What would be the essence of this case? Were the attackers prosecuted and how?	Identify that this is a systemic failure of the state to react to acts of violence (§§ 148-150 of the judgment). The attackers on the first applicant were minors under the age of 14 and could not be held criminally liable (§§ 20, 142 of the judgment).
Which rights from the ECHR were violated in this case and which obligations has the state not complied with?	Identify that this is a violation of the right under Article 3, (prohibition of ill-treatment) of the right under Article 8 (right to private life) and violation of the procedural obligations of the state to protect these two rights against attacks by private persons. (§§ 96-97, 149-150, 153 of the judgment). In addition, make connection with the right under Article 14 and explain the connection to other Articles of ECHR. Explain why the ECtHR did not find a violation of Article 14. (§§ 162-163 of the judgment).

Case No. 4: ECtHR- *Sabalić v. Croatia*, No. 50231/13, 2021

Facts under alias *Matea S. v. Isnidor*

1. The applicant is Matea S., who was born in 1982 and lives in the city of Rebraz. On 13 January 2010, she was physically attacked in a nightclub, where she was with several of her friends. Around 6.00 in the morning the local police were informed about the incident and two police officers immediately responded at the scene. The relevant part of the police report on the findings at the scene of the incident reads:

   "When we came at the scene ... we found Matea S. and her friends [initials provided].
   By interviewing them and observing the scene of the incident we established that the above-mentioned persons had come to the nightclub at around 4.00 a.m., where they stayed for about one and a half hours. While they were in the nightclub the applicant was approached by an unidentified man who started flirting with her but she was constantly refusing him. After the nightclub closed they were all standing in front of it and the man continued pressing the applicant to be with him. When she said that she was a '*lesbian*' he grabbed her with both of his arms and pushed her against a wall. He then started hitting her all over her body and when she fell to the ground he continued kicking her. ..."
2. The police soon identified the man as N.N. through the licence plates of a car he had used for fleeing from the scene. He was immediately apprehended and interviewed. According to a police report of 13 January 2010, N.N. confirmed having met the applicant but then he had learned that she was in the nightclub with her girlfriend. When the nightclub closed he had seen several girls having some dispute with his friend and as he tried to calm them all down he pushed them with his hands. N.N. did not provide any further details, alleging that he could not remember them as he had been drunk at the time of the incident. The police also established that at the time of the incident he had been in the nightclub with his friends, J.V. and A.K.
3. On the same day, at around 7.00 a.m., the applicant was examined in the accident and emergency department. The examination indicated a contusion on the head, a hematoma on the forehead, abrasions of the face, forehead and area around the lips, neck strain, contusion on the chest and abrasions of both palms and knees. The injuries were qualified as minor bodily injuries.
4. Following the incident the police also interviewed (in addition to the applicant and N.N.) the other participants in the event in connection with the physical attack. On 14 January 2010, the police initiated a minor offence proceedings before the minor offences court in Rebraz against

N.N. for breach of public peace and order. The minor offence report read that N.N. physically attacked the applicant by grabbing her with his both arms and throwing her against a wall. Then he started hitting her with his fists all over her body and afterwards he knocked her to the ground and continued to kick her. His further actions were constrained by I.K. and then he left the scene by using the car...
The applicant sustained minor bodily injuries. Thereby, a minor offence under Article 13, paras. 1 and 2 of the Law on Minor Offences against Public Order and Peace was committed.

5. At a hearing on 20 April 2010 before the Minor Offences Court, N.N. confessed to the charges against him. No further evidence was taken and the applicant was not informed of the proceedings. The Minor Offences Court found N.N. guilty as charged of breach of public peace and order and fined him approximately 40 EUR. No appeal was lodged against the verdict and it became final on 15 May 2010.
6. After having realized that the police had failed to institute a criminal investigation, on 29 December 2010 the applicant lodged a criminal complaint with the Rebraz District Prosecutor's Offices District PO) against N.N. for the offences of attempted grave bodily injury (Article 99 of the Criminal Code; hereinafter: CC) and violent behaviour (Article 331 CC), motivated by bias (Article 89(36) CC), and the criminal offence of discrimination (Article 174 CC). The applicant described the incident in the criminal complaint including that N.N. attacked her after she had told him that she had a girlfriend and that in addition to the physical attack N.N. swore at the applicant and lesbians in general, saying that all lesbian should be killed. The applicant stated that the attack stopped when I.K. [her friend] shot N.N. with her gas pistol. Based on the order of the District PO, the police investigated the allegations made by the applicant who said that the attack on her was motivated by her sexual orientation. In the further course of the police inquiry, the police interviewed the applicant's friends, (confirmed the applicant's version of the events) and the friends of N.N. (confirmed that there was some commotion but they did not know any particular details).
7. When the case, at the request of the Prosecutor' Office, was brought before an investigating judge, a medical expert report was commissioned which confirmed that the applicant's injuries qualified as minor bodily injuries. The judge further questioned the applicant and N.N. (who denied any deliberate attack). N.N.'s defense lawyer informed the judge that N.N. had already been convicted by the Minor Offences Court for the same attack.
8. On the basis of the findings of the investigating judge, on 19 July 2011 the District PO rejected the applicant's criminal complaint on the ground that N.N. had already been sanctioned in the minor offences proceedings and that his criminal prosecution would contravene the *ne bis in idem* principle. It was concluded

that all the criminal offences in the criminal complaint included in the decision of the Minor Court on breaching the public order and peace and that all the circumstances were the same. The applicant was informed that she could take over criminal prosecution (subsidiary prosecutor), which was done on 26 October 2011. She contended that the District PO had misinterpreted the law on the *ne bis in idem* principle and that, in the concrete case, the matter had not been finally adjudicated. She also relied on the ECtHR's case-law concerning the authorities' duty to investigate and effectively prosecute hate crimes, arguing that the minor offences proceedings had fallen short of those requirements.

9. The Criminal Court in Rebraz rejected the applicant's indictment on 19 July 2012, endorsing the arguments of the Prosecutor's Office, and this decision was upheld by the District court on 9 October. The applicant then filed a constitutional complaint with the Constitutional Court, which was rejected, because the lower courts did not interfere with the applicant's rights or obligations.

Applicable law:

Law on minor offences against public order and peace

Article 13 Whoever fights, quarrels, shouts or in any other way violates public order and peace in a public place, shall be punished by a fine or by imprisonment for a term not exceeding sixty days.

Criminal Code

Article 89 (36) A hate crime shall mean a criminal offence under this Code committed as a result of hatred toward a person on account of his or her.... sexual orientation....

Article 98 Whoever inflicts a bodily injury on another or impairs his or her health shall be fined or punished by imprisonment not exceeding one year.

Article 99 Whoever inflicts a serious bodily injury on another or severely impairs his or her health, shall be punished by imprisonment from six months to three years.

Article 174 (1) Whoever based on differences associated with... other status... violates fundamental human rights and freedoms recognized by international law shall be punished by imprisonment from six months to five years.

Article 331 (1) Whoever degrades another by subjecting him/her to violent abuse, abuse or particularly offensive behaviour, shall be punished by imprisonment from three months to three years.

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Who is the applicant and does she belong to a protected group?	Identify that the applicant is a lesbian and therefore belongs to a minority (LGBTQI +) group (§§ 6-7 of the judgment).
What did the attack on the applicant consist of and how it can be characterized?	Identify that the applicant was physically and mentally assaulted and that the injuries could be classified as minor bodily injuries (§§ 6-7, 10 of the judgment).
Was the attack on the applicant motivated by hatred/prejudice? Are there indicators of hatred?	Identify that the attack was motivated by hatred/ prejudice because the applicant is a lesbian, which can be deduced from the verbal elements of the attack and the conversation that preceded the attack (§§ 7, 12-14, 16, 20 of the judgment).
Were the national authorities aware of the fact that the attack on the applicant was motivated by her belonging to a particular protected group?	Identify that the national authorities were aware of both the nature and the motive of the attack on the day of the attack, based on the police notes (§§ 7, 20, 25, 104-105 of the judgment).
What did the state do to prosecute the attack on the applicant and how was the attacker sanctioned?	Identify that the national authorities punished the attacker for a minor offence and rejected the criminal report filed by the applicant (§§ 95, 111 of the judgment).
Could the state have done anything else about the attack? Could the attacker have been sanctioned differently? How do the sanction imposed and the attack on the applicant compare?	Identify that the national authorities had the opportunity to prosecute and sanction the attacker. Also, encourage students to consider the proportionality of the fine (approximately EUR 40) and the attack on the applicant (§§ 105-107 of the judgment).
Which principle of criminal procedural law proves to be particularly important in this case?	Identify the *ne bis in idem* principle and discuss with students its significance and how it relates to the obligation to prosecute hate crimes (§§ 23, 99-101; 112-11 of the judgment). It is important to come to the conclusion that ECtHR allows for reopening a case in the sense of the *ne bis in idem* principle, if a fundamental defect was found in the previous proceedings (§§ 99-100 of the judgment). National authorities brought themselves into the position where there is a concern that the *ne bis in idem* principle is violated although, pursuant to the domestic law, they were obliged to conduct criminal proceedings. This treatment gives the impression that the domestic authorities sought to keep the hate crime unpunished, and not to investigate and adequately sanction such an act. (§§ 111, 113-114 of the judgment).

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
What can the applicant complain about and what are her arguments?	Identify that the applicant considered that the state had failed to fulfill its positive and procedural obligation under Article 3 to protect her (§§ 83-84 of the judgment).
Which rights from the ECHR were violated in this case? Which obligations of the State?	Identify that this is a violation of the right under Article 3 (prohibition of ill-treatment), as well as the rights from Article 14 and violation of the procedural obligation of the state (prohibition of discrimination and the obligation to conduct an adequate and efficient investigation). Explain the connection of Article 14 with other articles of the ECHR.

WAR CRIMES[4] – CASE STUDIES

[4] For the purpose of this Guidebook "war crimes" is used generically in reference to crimes under International Humanitarian Law, crimes against humanity and genocide.

Case No. 1: ECtHR- *Šimšić v. Bosnia and Herzegovina* (Decision on admissibility), No. 51552/10, 2012

Facts under alias *Floyd v. Atonia*

1. The applicant is Mr. Antonio Floyd, born in 1967, currently serving a prison sentence.
2. Two ethnic groups live in the city of Alfa - group A and group B. From April to July 1992, as a part of a widespread and systematic attack against the citizens of Alfa who belonged to the ethnic group B, being aware of that attack, the applicant persecuted the members of the ethnic group B on political, national, ethnic, cultural and religious grounds by committing murders, incarceration, torture, enforced disappearances and aiding and abetting rapes.
3. Mr. Floyd surrendered and was remanded in custody on 24 January 2005. On 13 May 2005, the pre-trial panel of the Federal Court of Antonia decided to take over the case from the District Court in Alfa in view of its sensitivity and a passive attitude of the local police towards the applicant, a police officer, which had been manifested in their failure to arrest him despite an international arrest warrant against the applicant. The decision on taking over the case entered into force in June 2005.
4. On 11 July 1996, the trial panel of the Federal Court of Antonia found the applicant guilty of aiding and abetting rapes and enforced disappearances as crimes against humanity under Article 172, para.1, items (g) and (i) of the Criminal Code and sentenced him to five years' imprisonment.
5. On 5 January 2007, the Appeals Federal Court of Antonia quashed the first-instance verdict and scheduled a new hearing. On 7 August 2007 it found the applicant guilty of crimes against humanity under Article 172, para. 1 (h) in conjunction with items (a), (e), (f), (g) and (i) of the Criminal Code of Antonia and sentenced him to 14 years' imprisonment.
6. There is a different practice in Atonia with regards to the application of the substantive criminal law on the crimes committed during the armed conflict within which the attack referred to in para. 2 occurred. Thus the courts of the federal units in Atonia most often apply the law that was in force at the time of the commission of the crime - the Criminal Code of Atonia from 1976. On the other hand, the Federal Court of Atonia applies the Criminal Code of Atonia from 2003. Also, the crime against humanity was not criminalized in the 1976 Criminal Code. The Court convicted the applicant applying the Criminal Code of Atonia from 2003.
7. On 24 December 2007 the applicant filed a constitutional complaint. On 14 April 2010 the Constitutional Court examined the case under Articles 7 of the Convention and found no violation.

Applicable law:

Charter of the International Military Tribunal (1945)

The relevant part of Article 6 of the Charter reads as follows:

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

...
(c) Crimes against humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Principles of International Law Recognized in the Charter and the Judgment of the Nuremberg Tribunal (1950)

Principle VI reads:

The crimes hereinafter set out are punishable as crimes under international law:

(c) Crimes against humanity: Murder, extermination, enslavement, deportation and other inhuman acts done against any civilian population, or persecutions on political, racial or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime.

Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968)

Article 1

No statutory limitation shall apply to the following crimes, irrespective of the date of their commission:

...
(b) Crimes against humanity whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal, Nurnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly

of the United Nations, ... even if such acts do not constitute a violation of the domestic law of the country in which they were committed.

Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY) (1993)

Article 5. – Crimes against humanity

The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population: (a) murder; (b) extermination; (c) enslavement; (d) deportation; (e) imprisonment; (f) torture; (g) rape; (h) persecutions on political, racial and religious grounds; (i) other inhumane acts.

Statute of the ICC (1998)

Article 7 – Crimes against humanity

"For the purpose of this Statute, crime against humanity means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health."

Criminal Code of Atonia

Article 172, para. 1 – Crimes against humanity

Whoever, as part of a widespread or systematic attack directed against any civilian population, being aware of that attack, perpetrates any of the following acts: a) Murder; b) Extermination; c) Enslavement;

d) Deportation or forcible transfer of population; e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; f) Torture; g) Coercing another by force or by threat of immediate attack upon his or her life or limb, or the life or limb of a person close to the victim, to sexual intercourse or an equivalent sexual act (rape), sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity; h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law, in connection with any offence listed in this paragraph, any offence listed in this Code or any offence falling under the competence of the Federal Court of Atonia; i) Enforced disappearance of persons; j) The crime of apartheid; k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Which right is protected by Article 7 of ECHR?	Identify the right to no punishment without law as the subject of protection of Article 7 and the specificities regarding the principle of legality in ECHR, particularly in the part that relates to the crime being prescribed by international law. (§22 of the decision).
What crime was the applicant convicted of? When was the criminal offense in question committed? When was the applicant convicted?	The applicant was convicted of a crime against humanity committed in 1992. He was convicted in 2007 (§ 23 of the decision).
Was the criminal offense prescribed by the law in force at the time of the commission of the criminal offense? Is the crime prescribed by international law?	The criminal offense was not prescribed by the law in force at the time of the commission of the criminal offense. Identify, using relevant international sources of law, that the criminal offense was prescribed by international law. Identify that crime against humanity was prescribed by the law in force at the time of main trial. (§23 of the decision).
Could the applicant have invoked the impossibility of predicting that his acts constituted a crime against humanity under international law?	Identify the role of the applicant (police officer) and link it to the impossibility of invoking the said circumstance. Identify the nature of the crime and the associated increased caution and awareness that there was a risk that such an act constitutes a crime against humanity (§ 24 of the decision).
Was the offense prescribed with sufficient accessibility and predictability?	Identify that, at the time of commission, the acts were defined with a sufficient degree of accessibility and predictability in international law (§25 of the decision).
How did the Court proceed?	Identify and clarify the way the Court treated the application as manifestly ill-founded (§26 of the decision).

Case No. 2: ECtHR- *Jorgić v. Germany*, No. 74613/01, 2007

Facts under alias *Maras Lilek v. Ruretania*

1. The applicant (Maras Lilek) was born in 1950. The applicant is the citizen of Blinia, belonging to the ethnic group of Pinala. Since 1973 he had lived in Ruretania, where he resided legally until the beginning of 1999. Then he went back to Vertiška, which is situated near the city of Lilek in Blinia, where he was born. Armed conflict was ongoing in Blinia at the time between the Penal and Levian armed forces.
2. On 16 December 2002, Mr. Lilek was arrested when entering Ruretania on the ground that he was suspected of having committed acts of genocide. On 28 February 1997 the applicant's trial started, on the charge of having committed genocide in the Milek region between May and September 1999. The Milek District Court convicted him of genocide on 26 September 2004 and sentenced him to life imprisonment and stated that his guilt was of a particular gravity.
3. The court found that the applicant had set up a paramilitary group, with whom he had participated in the ethnic cleansing ordered by the Pinal political leaders and the Pinal military in the Milek region against the Levians. He had participated in the arrest, detention, assault and ill-treatment of men from other ethnic communities; in June of that year he had shot twenty-two inhabitants of the village of Grafos – women and disabled and elderly people. Subsequently, M. Lilek, together with the paramilitary group he had led, had chased some forty men from their home village and had ordered them to be ill-treated and six of them to be shot. In September 1992 the applicant demonstrated a new method of ill-treatment of detainees.
4. The court stated that it had jurisdiction over the case pursuant to Article 6 of the Criminal Code. There was a legitimate link for criminal prosecution in Ruretania, as this was in accordance with Ruretania's military and humanitarian mission in Blinia and the applicant had resided in Ruretania for more than twenty years and had been arrested there. Furthermore, agreeing with the findings of an expert in public international law, the court found that the Ruretanian courts were not debarred under public international law from trying the case. In particular, neither the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, nor Article 40 of the Statute of the International Court for grave violations of humanitarian law excluded the jurisdiction of Ruretanian courts over acts of genocide committed outside Ruretania by a foreigner against foreigners. In addition, the competent International court had stated that it was not willing to take over the applicant's prosecution.
5. Furthermore, the court found that the applicant had acted with intent to commit genocide within the meaning of Article 220 of the Criminal Code. Referring to the views expressed by several legal writers, it stated that the

destruction of a group within the meaning of Article 220 of the Criminal Code meant destruction of the group as a social unit in its distinctiveness and its feeling of belonging together; a biological-physical destruction was not necessary. However, the majority of experts was of the opinion that the intent to commit biological-physical destruction was an integral part of the law on Genocide. The court concluded that the applicant had therefore acted with intent to destroy the group of Levians (with their distinctive characteristics) in the north of Blinia, or at least in the Milek region.

6. The applicant's appeal was decided by the Federal Court, as a second instance court, which, on 30 April 2007, after a hearing, convicted the applicant on one count of genocide and thirty counts of murder. The Federal Court, the same as the District Court, found that the Criminal Code was applicable to this case and that they consequently had jurisdiction by virtue of Article 6 of the Criminal Code. It confirmed the findings of the first instance court and stated that the principle of universal jurisdiction for trying genocide was enshrined in international law. It also confirmed the finding of the District Court with regards to the definition of genocide and the interpretation of the concept of "destruction of a group" (physical destruction is not necessary), but the Federal Court found that the acts of the applicant should be interpreted as one act (count) which in their entirety constitute genocide.
7. The applicant's appeal was also rejected with regards to the alleged procedural errors and the inability to question certain witnesses, because he had not provided sufficient reasons in his appeal regarding how the evidence in question would be relevant for the trial or the outcome of the proceedings. In addition, the appeal with regards to drawing up a topographical map was rejected as the first instance court had a video of the relevant locality.
8. On 12 December 2000 the Federal Constitutional Court also considered the case and declined the applicant's constitutional complaint. The court reiterated that the criminal courts had not violated any provision of the Basic Law as they had jurisdiction pursuant to domestic and international law, and Blinia had expressly refrained from requesting the applicant's extradition. The court's decisions were not reached through the retroactive application of the law and were not arbitrary with regards to interpreting genocide. Therefore, the verdicts of the lower instance courts are legal, notwithstanding that certain international courts (including the International Court of Justice) after the impugned events construed the scope of genocide narrowly which requires that the intent had to be aimed at the physical-biological destruction of a group, as well as the fact that the practice in Ruretania itself was later changed and the narrower concept of genocide was adopted.
9. Mr. Lilek appealed to the European Court of Human Rights for a violation of the rights guaranteed by the European Convention Human Rights and Fundamental Freedoms.

Applicable law:

Criminal Code of Ruretania

Article 6 – Acts committed abroad against internationally protected legal interests

Ruretanian criminal law shall further apply, regardless of the law applicable at the place of their commission, to the following acts committed abroad:

1. Genocide (Article 220)

Article 220. – Genocide

1. Whoever, acting with the intent to destroy, in whole or in part, a national, racial, religious or ethnical group as such,
(1) kills members of the group,
(2) causes serious bodily or mental harm ... to members of the group,
(3) places the group in living conditions capable of bringing about their physical destruction in whole or in part,
(4) imposes measures which are intended to prevent births within the group,
(5) forcibly transfers children of the group into another group,
shall be punished with life imprisonment.

The 1948 Convention on the Prevention and Punishment of the Crime of Genocide

Article I. The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.
Article VI. Persons charged with genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

The United Nations General Assembly Resolution 47/121 (no. A/RES/47/121) of 18 December 1992

"Gravely concerned about the deterioration of the situation in Blinia owing to intensified aggressive acts by the Pinal forces to acquire more territories by force, characterized by a consistent pattern of gross and systematic violations of human rights, a burgeoning refugee population resulting from mass expulsions of defenseless civilians from their homes and the existence in Serbian and Montenegrin controlled areas of concentration camps and detention centres, in pursuit of the abhorrent policy of "ethnic cleansing", which is a form of genocide, ..."

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Who is the applicant, where did he live and whose citizen is he? Where did he commit the acts for which he was convicted and which courts convicted him?	Identify that the applicant is the citizen of one state (Blinia), and that he had lived and worked in Blinia and Ruretania and the Ruretanian courts convicted him of the crime of genocide that he had committed in Blinia (§§ 6-8; 17-19; 24; 27 of the judgment)
What did the applicant's acts consist of and how were they characterized?	Identify the acts of perpetration committed by the applicant. (§§ 16, 18 of the judgment). Identify that he was convicted for the crime of genocide, with a specific interpretation of the intent to commit genocide and the concept of the destruction of a group (§ 15-18; 23; 27 of the judgment)
What did the courts base their jurisdiction on in this case?	Identify that the domestic bodies based their jurisdiction on universal jurisdiction, but also on the connection of the applicant and the state of his citizenship, Ruretania. Discuss with students the concept of universal jurisdiction in general and make a connection between the Ruretanian legislation and the provisions of the international law with the provisions on the principle of universal jurisdiction in our legal system. (§§ 50-54; 68-70 of the judgment).
What would be the arguments in favor of the applicant with regard to universal jurisdiction?	Identify that the applicant's arguments regarding universal jurisdiction related to the fact that domestic courts did not have jurisdiction to try, because Article VI of the Convention on prevention and punishment of genocide prescribes the courts with the power to try genocide cases. Aside from those, other courts do not have the jurisdiction. This is why the domestic court was not established in accordance with the law and the right under Article 6 of ECHR, prescribing that everyone is entitled to a fair hearing by a tribunal established by law, was violated (§§ 58-59 of the judgment).
What does the Convention on the Prevention and Punishment of the Crime of Genocide prescribe as regards to jurisdiction to try genocide? Is universal jurisdiction mentioned?	Identify what Article VI of the Convention on the Prevention and Punishment of the Crime of Genocide prescribes. Students need to be prompted to work out the meaning of this Article, i.e., whether it regulates which courts are obliged to prosecute the crime of genocide or rather which courts do not have the power to try genocide cases. Point out the opinion of the ECtHR that the interpretation of Article VI of the Convention was reasonable and in line with the laws of other states. Therefore, although universal jurisdiction is not explicitly mentioned in this Convention, Article VI can be interpreted so as to prescribe only which courts are obliged to try genocide cases, but it does not preclude other courts from trying genocide cases, based on universal jurisdiction. Prompt students to recognize the nature of the prohibition of genocide as the principles of *ius cogens* and *erga omnes* (§§ 20; 25; 52-54; 65-72 of the judgment).

In addition to universal jurisdiction, which principle of criminal law is also brought up in this case? What else could the applicant complain about and what would be his arguments?	Identify that this is the principle of legality due to the broad interpretation of the concept of genocide, which in the practice of the courts of Ruretania did not imply the intention of physical destruction (§§ 89; 92-95 of the judgment).
What is the essence of the principle of legality? What is its purpose?	Identify that the purpose of the principle is that based on the law, an individual should be able to identify for which acts he can be criminally convicted. This predictability of the law cannot be absolute and sometimes case law and the interpretation of legal experts will be needed to clarify some legal principle. (§§ 100-102 of the judgment).
Bearing in mind the purpose of the principle of legality, what is the task of the ECtHR in this case? Could the applicant have reasonably foreseen that he could be convicted of genocide for his acts in Ruretania?	Identify that the ECtHR had to address the question of whether a broad interpretation of the concept of genocide, in particular "intent to destroy a group", constitutes a violation of the principle of legality, i.e. whether such an interpretation is consistent with the *essence* of genocide. (§ 103 of the judgment). Identify everything that could have indicated that at the time of the commission of the crime and of the trial, the concept of genocide in Ruretania was interpreted broadly (§§ 36, 41, 47 of the judgment) Point to the ECtHR's finding that, although most theorists considered that genocide should be interpreted more narrowly than how it was interpreted by the courts of Ruretania, the applicant could *reasonably* have foreseen that his acts would fall under the concept of genocide, i.e. the broad interpretation was in line with the essence of the genocide. It should also be noted that the later clear practice of the international courts on the narrow interpretation of genocide is not relevant, as the events for which the applicant was convicted had occurred earlier. (§§ 104-114 of the judgment).

Case study No. 3:

- **International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Kunarac et al.*, nos. IT-96-23-T and IT-96-23/1-T, first instance judgment, 2001**
- **International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Kunarac et al.*, nos. IT-96-23-T and IT-96-23/1-T, second instance judgment, 2002**

Facts under alias *Luis Sanderman*

1. In the period between 1992 and 1995, there was an armed conflict in the territory of Romandia. As a response to this armed conflict, the Security Council adopted a Resolution to establish an *ad hoc* International Tribunal for Romandia, which had the power to process, *inter alia,* crimes against humanity committed in the territory of Romandia in the said period.
2. Luis Sanderman was born in 1960 in Beta in Romandia and was the commander of a permanent reconnaissance unit comprising 15 soldiers. He claimed that the composition of the group varied and that he chose soldiers who would go to the field. An armed conflict existed in the territory of the Beta municipality in Romandia between two ethnic groups that live in that area - group A and group B. Luis Sanderman belongs to the ethnic group A. He was a well informed soldier and had access to the highest military command, and he participated in several military operations in the Beta area. In addition, the practice of the International Criminal Tribunal for Romandia established that for the crime against humanity to exist there needs to exist a widespread or systemic attack against civilian population.
3. Before the beginning, and especially during the armed conflict in Beta, the members of the group B were gradually ostracized form the social life in Lark, their salaries remained unpaid, their services were no longer needed, and the men belonging to this ethnic group were disarmed. Gradually this progressed to house burning and different forms of physical violence against the members of the group B. Religious and cultural buildings which represented a part of the identity of the members of group B were destroyed. Also, both men and women were incarcerated, but were separated. The women were kept in various detention centres where they had to live in intolerably unhygienic conditions, where they were mistreated in many ways. The group A soldiers or policemen would come to these detention centres, select one or more women, take them out and rape them or they would take them to places where other individuals raped them. Some of these women were taken out of these detention centres to privately owned apartments and houses where they had to cook, clean and serve the soldiers living there. During 1992, on several occasions Luis Sanderman took group B women from the place of detention to multiple locations where they

were raped by multiple different individuals belonging to ethnic group A and raped some of them by himself. Some of the rapes involved vaginal penetration, and some both oral and anal penetration. In these conditions, rapes were often repeated by the same or different individuals. Sometimes, the rapes were accompanied by verbal threats, but also with coercive acts indicating a threat -for example, putting a gun on the table before beginning of the rape. The rapes most often involved these women and the group A soldiers and occurred in places where there was a larger number of soldiers belonging to the group A forces. Luis Sanderman raped women on multiple occasions, as did his friends who were not soldiers.

5. In a previous case in which the International Criminal Court for Romandia was deciding on the existence of the crime of rape it found that "it was not possible to discern the elements of the crime of rape from international treaty or customary law, nor from the general principles of international criminal law or general principles of international law." For this reason, the Court recalled the criminal law principles common to all major legal systems of the world and established the following definition of rape:

   (1) the sexual penetration, however slight:

      (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or

      b) of the mouth of the victim by the penis of the perpetrator;

   (2) by coercion or force or threat of force against the victim or a third person.

   Further, in the same case, the Court, noting the relevance not only of force, threat of force, and coercion but also of absence of consent or voluntary participation, observed that: … all jurisdictions surveyed by the Trial Chamber require an element of force, coercion, threat, or acting without the consent of the victim: force is given a broad interpretation and includes rendering the victim helpless."

   The relevant law in force in different jurisdictions at the time relevant to these proceedings identifies a large range of different factors which will classify the relevant sexual acts as the crime of rape. These factors for the most part can be considered as falling within three broad categories:

   (1) the sexual activity is accompanied by force or threat of force to the victim or a third party;

   (2) the sexual activity is accompanied by force or a variety of other specified circumstances which made the victim particularly vulnerable or negated her ability to make an informed refusal; or

   (3) the sexual activity occurs without the consent of the victim.

6. The examination of the provisions of relevant national laws indicates that the factors referred to previously are matters which result in the will of the victim being overcome or in the victim's submission to the act being non-voluntary. The common denominator underlying these different circumstances is that they have the effect that the victim's will was overcome or that her ability to freely refuse the sexual acts was temporarily or more permanently negated. The basic principle which is common to these legal systems is that serious violations of sexual autonomy are to be penalized. Sexual autonomy is violated wherever the person subjected to the act has not freely agreed to it or is otherwise not a voluntary participant.
7. Did Luis Sanderman commit a crime against humanity?

Applicable law:

Article 5 of the Statute of the International Criminal Court for Romandia

Crimes against humanity
The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population:

(a) murder;

(b) extermination;

(c) enslavement;

(d) deportation;

(e) imprisonment;

(f) torture;

(g) rape;

(h) persecutions on political, racial and religious grounds;

(i) other inhumane acts.

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
What are the essential elements of the criminal offence of crimes against humanity?	Use the applicable law and identify the essential elements of crimes against humanity. Establish the existence of common elements and alternative acts of perpetration. Particular attention should be given to a widespread or systematic attack as an element of the crime that is necessary, and is not provided for by Article 5 of the Statute.
Did armed conflict exist at the time the crime was committed? Was there a widespread or systematic attack on the civilian population at the time the crime was committed?	Identify that according to the facts, an armed conflict existed. For additional explanation see: §§12, 567, first instance judgment. Identify that the facts indicated that such attack did exist. For additional explanation see: §§573-592, first instance judgment.
Does the Statute provide for the crime of rape?	Identify that the Statute provides for rape only as an act of perpetration of crimes against humanity but that it does not provide for the elements of rape (§ 437, first instance judgment).
Was there a use of force against the persons who were raped?	Identify that force does not need to be used in order for the crime to be committed.
Is there a definition of rape in international criminal law? What importance is given to the consent of the victim in that definition?	Identify that at the time of the commission of the criminal offence there was no definition of rape in international criminal law, and that it was established through case law, based on the analysis of the principles of criminal law from legal systems of the world (§§ 440-442, first instance judgment). Identify that the absence of consent of the victim to sexual intercourse represents an essential element of the criminal offence of rape in international criminal law, and if the consent exists, it has to be given voluntarily and based on free will (§ 127, second instance judgment)
Is it necessary for the victim to resist?	Identify that the resistance of the victim is not a requirement for rape to exist (§128, second instance judgment).
Is it necessary that force or threat are used when the criminal offence of rape is committed?	Identify that force or threat are not necessary elements of the criminal offence of rape (§§129-130, second instance judgment).
In what circumstances were the crimes committed? In what places? What was the role of the perpetrators?	Identify that the persons were detained during the armed conflict, that the women were members of a different ethnic group than the perpetrator, that the “departure” of the women from the places where they were detained was controlled by soldiers and that the person charged with rape held an important military position.

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Can resistance be expected if the victim is in the circumstances described in this case? Can consent be considered to have existed if the act was committed in the circumstances mentioned even though there was no clear resistance?	Identify that in coercive circumstances it cannot be expected that regardless of the absence of resistance there is a consent of the person. It is also necessary to establish that such circumstances preclude consent. (§§ 130,133 second instance judgment).
Did the person commit rape which constitutes a crime against humanity?	Identify that the lack of consent (which is an essential element of this criminal offence) with the existence of other elements of this criminal offence in the case in question means that rape as a crime against humanity was established.

Case study No. 4:
ECtHR- *Maktouf and Damjanović v. Bosnia and Herzegovina*, Nos. 2312/08 and 34179/08, 2013

Facts under alias *Zajčev and Kuvas v. Lazija*

First applicant

1. Nikolo Zajčev was born in 1953 in Ukraine. During the armed conflict in Lazija he came to fight in the armed forces composed mainly of the Vlanin men. In 1993, he assisted the third party to abduct two civilians in order to exchange them for members of their armed forces who had been captured by the enemy forces composed mainly of the Stravin ethnic group.
2. The applicant was arrested on 11 June 2004. On 1 July 2005, the Federal Court in Lanova found him guilty of aiding and abetting the taking of hostages as a war crime and sentenced him to five years' imprisonment under Article 173(1) in conjunction with Article 31 of the 2001 Criminal Code (2001 CC). The Appellate Federal Court quashed the verdict and returned it for re-trial. The Federal Court convicted the applicant of the same offence and imposed the same sentence under the same law. The court reasoned that it reached the decision on the sentence applying the provisions on reduction of punishment and reduced the sentence to the maximum extent possible (Article 50 2001 CC). The applicant filed a constitutional complaint, which was rejected. His argument was that the Federal Court applied the 2001 Criminal Code and that it should have applied the 1988 Criminal Code which is also more lenient that the 2001 CC. The Constitutional Court invoked the rules of international law which allow for, in its opinion, the exception from the prohibition of retroactive application of law when the act which a person is convicted of was a criminal offence according to the international law. Thus, the Constitutional Court did not consider in detail which law is more lenient, but said that international law allows exceptions to the principle of legality for international crimes. The decision was not made unanimously.
3. In 2009, after serving his sentence, the applicant left Lazija and went to Ukraine.

The second applicant

4. Leopold Kuvas was born in 1966 and is currently serving his sentence. On 2 June 1992, in the course of the armed conflict in Lazija, he played a prominent part in the beating of captured Vlanins in Prat. The beating lasted for one to three hours and was performed using rifles, batons, bottles, kicks and punches. The victims were afterwards taken to a camp. On 18 June 2007 the Federal Court in Lanova convicted him of torture as a war crime and sentenced him to eleven years' imprisonment for that crime under Article 173 of the 2001 Criminal Code. The appellate court upheld that verdict and his Constitutional appeal was dismissed with similar reasoning as in the case against the first applicant, Mr. Zajčev.

Applicable law and court practice:

Since 2009, the Court of Appeals has changed the way it adjudicates, while the Federal Court in Lanova continues its previous practice. The Court of Appeals applies the 1988 Criminal Code for less serious criminal offences, which prescribed milder sentences than the 2001 Criminal Code, and the 2001 Criminal Code, which has a maximum sentence lower than the 1988 Criminal Code, for more serious offenses.
This is regardless of the fact that the Lazija laws prescribed the death penalty, because it has been de facto repealed by international agreements to which Lazija has committed itself.

In its two reports, the international organization X noted that there was no harmonized practice with regards to the application of the 2001 CC and 1988 CC. The courts of the federal units of Lazija generally imposed lighter sentences than the courts at the federal level. The reports also indicate that particularly controversial issues arise in more serious cases, when the sentence goes to the prescribed maximum, which according to the 1988 CC is 15 years, while the 2001 CC allows for more severe punishment, even up to 40 years in prison. The application of the 1988 CC prevents the perpetrator from being punished in proportion to the amount of wrongdoing in his acts, the reports concluded.

CRIMINAL CODE 1988	CRIMINAL CODE 2001
Article 24 Anybody who intentionally aids another in the commission of a criminal act shall be punished as if he himself had committed it, but the sentence may also be reduced.	**Article 31** Anybody who intentionally aids another in the commission of a criminal act shall be punished as if he himself had committed it, but the sentence may also be reduced.
Article 38 The sentence of imprisonment may not be shorter than 15 days or longer than 15 years. The court may impose a sentence of imprisonment for a term of 20 years in respect of criminal acts eligible for the death penalty. The death penalty may be imposed only for the most serious criminal acts when so provided by statute.	**Article 42 T**he sentence of imprisonment may not be shorter than 30 days or longer than 20 years. For the most serious criminal acts perpetrated with intent, imprisonment for a term of 20 to 45 years may exceptionally be prescribed (long-term imprisonment)
Article 43 Where conditions exist for the reduction of sentence referred to in Article 42 of this Code, the court shall reduce the sentence within the following limits: (a) if a period of three or more years' imprisonment is prescribed as the minimum sentence for a criminal act, this may be reduced to one year's imprisonment;	**Article 50** Where conditions exist for the reduction of sentence referred to in Article 49 of this Code, the court shall reduce the sentence within the following limits: (a) if a period of ten or more years' imprisonment is prescribed as the minimum sentence for a criminal act, it may be reduced to five years' imprisonment
Article 142 Whoever in violation of the rules of international law effective at the time of war, armed conflict or occupation, orders or perpetrates ... torture, ... taking of hostages, ... shall be punished by imprisonment for a minimum term of five years or by the death penalty	**Article 173** Whoever in violation of the rules of international law effective at the time of war, armed conflict or occupation, orders or perpetrates ... torture, ... taking of hostages, ... shall be punished by imprisonment for a minimum term of ten years' or long-term imprisonment.

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Which code was in force at the time of the commission of the offense for which the applicants had been convicted? Were war crimes prescribed by the Criminal Code of 1988 (1998 CC) and Criminal Code of 2001 (2001 CC)? If so, how did they regulate this crime?	Identify that the 1988 CC was in force at the time the crime was committed. (§§ 6-8 of the judgment). Identify that both laws regulated the criminal offense of war crime for those acts for which the applicants had been convicted, but that they prescribed different punishments. (§§ 67-68 of the judgment).
What would be the arguments for the application of the 2001 CC?	Identify the reasons that could justify the application of the 2001 CC: - the absence of the death penalty in the 2001 CC; - the interest of justice calls for the 2001 CC to be applied, as penalties could be too low under the 1988 CC, given the severity of the crime; - Article 7 para. 2 of the ECHR creates exceptions to the rule of non-retroactivity, and if an act is prescribed by international law as a criminal offense (along with domestic law), then the application of more severe penalties is allowed; - the sentences imposed on the applicants were within the range of sentences provided for by the 1988 CC, so that the result was the same, regardless of which law was applied. (§§ 62, 70 of the judgment)
What is the essence of this case, i.e., which criminal law principle is important?	Identify that it is the principle of legality. Discuss with students, in general, what this principle means. In addition, prompt students to conclude that, in this case, the principle of legality is problematic due to the prescribed punishment, and not from the aspect of whether an act was prescribed as a criminal offence. (§ 66 of the judgment).
How could one respond to the argument that the 1988 CC was more severe for the applicants because of the prescribed death penalty? In that regard, is it relevant to consider the sentencing and punishment of the applicants in relation to the acts for which they were convicted?	Identify that death penalty could be imposed only for serious forms of war crimes, and that war crimes for which the applicants were convicted certainly do not represent a serious form. Mr. Zajčev's sentence was reduced below the legal minimum under the 2001 CC, and Mr. Kuvas was sentenced to just one year above the legal minimum under the 2001 CC. (§§ 26, 69 of the judgment).

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
In these cases, which criterion or parameter would be relevant to determine which law was more lenient?	Identify that it has been previously clarified that both applicants were sentenced to sentences below the legal minimum (first applicant) or slightly above the minimum (second applicant), and that it is therefore necessary to examine which law is more lenient in terms of the prescribed minimum sentence for war crimes. (§ 69 of the judgment).
Were the applicants' sentences within the range of the penalties provided for in the 1988 CC and is that significant?	Identify that there is no doubt that the sentences of both applicants were in the range of sentences prescribed by the 1988 CC, but the key problem is that both could have received even lower sentences under the 1988 CC, had that law been applied. (§ 70 of the judgment). Refer students to the dissenting opinions stating that the position of the ECtHR from §§ 69-70 is speculation and that it goes beyond the scope of the Court's task (dissenting opinions of Judges Ziemele and Kalaydi).
What would be the meaning of Article 7, para. 2 of the ECHR, given that this provision was used as an argument of the State of Lazija?	Identify that Article 7, para. 2 of the ECHR does not prescribe a general derogation from the principle of legality (§ 72 of the judgment). Discuss with students the possible confusion created by the formulation of that paragraph.

CRIMES OF TRAFFICKING IN HUMAN BEINGS

– CASE STUDIES

Case No. 1:
District Court in Banja Luka, No. 11 0 K 020196 18 K, 2019

(See: *A Case Law Compendium in Trafficking in Human Beings,* OSCE Mission to BiH, 2016)

Facts under alias *David Ray*

1. David Ray was born in 1963 and lives in the city of Sanko in Alanja. He graduated from a hospitality high school, is literate, works in hospitality, and is of middle-income status, with the monthly salary of approximately 350 EUR. Mr. Ray is divorced. He has two convictions - one in Alanja for grievous bodily harm and one abroad for illicit production and trafficking of drugs.
2. David Ray is theowner of the "Sunrise" restaurant in the city of Sanko. In June 2016, he brought Irina K. there and employed her as a waitress. He told her that her wage would be 10 EUR a day. However, it turned out that Irina K. worked only one day in the "Sunrise" restaurant.
3. Irina K. was born in April 1999, a child of divorced parents, she grew up with her grandparents who were also divorced. She lived in a small place near Sanko where she went to primary school and then to high school. She left high school and started working as a waitress. Irina K. did not have parental supervision when she was adolescent, her mother lived abroad and they saw each other from time to time. In addition, Irina K. was treated several times in a hospital and also the psychiatric clinic. In addition, she occasionally used marijuana and sometimes heavier drugs to relieve anxiety, but she was not addicted to them. She also had financial difficulties.
4. One day in June 2016, David Ray told his acquaintance Karl that he had a girl who would engage in sexual intercourse with him for a certain amount of money. Karl said that David Ray told him that it would cost him 100 EUR. He also said that Irina K. was not asked whether she agreed to it. He proposed that he drive them to his house, where they stayed until morning, when David Ray came to pick her up. In addition, David Ray told him that he was to give the money to Irina K. She later gave him half of the amount she had received from Karl. They did not have sexual intercourse, because Karl could not achieve erection, but when she was in his house, they exchanged hugs and kisses and at one point she held his penis in her hands.
5. David Ray told the car mechanic who brought his repaired car that he had "a girl that would blow his mind" with whom he could have sex for 50 EUR and showed him her photos on Facebook, thinking of and showing the photos of Irina K. He also phoned her at the time, but she told him that she was with a friend. Subsequently, Irina K. got in touch with the car mechanic but he did not speak to her for long because his wife was nearby.
6. In mid-November 2016, David Ray got in touch with Irina K. using Viber and told her to come to his restaurant immediately. When he

introduced her to Liam, an older man, he told her that she must go to his house that evening in order to provide sexual services, which she accepted out of fear. David Ray took the man and Irina K. to Liam's house where she had sexual intercourse with him after which David Ray picked her up and she then gave him the money Liam gave her after they had sexual intercourse.

7. David Ray often called Irina K. telling her that he "had more of his people". He did the same when she went abroad to visit her mother. He was telling her that she had to come back to be at service to him and his friends.
8. The prosecutor's office initiated an investigation against David Ray because of the grounded suspicion that he committed a crime of trafficking an underage person. A number of witnesses were questioned during the investigation. Those who had sexual intercourse with Irina K. confirmed that they did have sexual intercourse. Irina K. also confirmed that David Ray negotiated sexual services she provided, that he took her to the places where she had sexual intercourse, and that she gave him half of the money she received for providing sexual services.
9. The expert examination of the defendant's phone showed that David Ray had Irina K.'s number and that he also contacted her via Facebook Messenger.
10. Expert reports from psychiatrists and psychologists indicated suffered trauma. Also, the experts emphasized that she was an unstable, emotionally immature person who was easy to manipulate
11. Defense witnesses claimed that they came to David Ray's restaurant several times and that he never offered them such services, even though they had known each other for a long time. They also stated that while visiting the "Sunrise" facility, they never had the opportunity to hear or see anything that would indicate to them the possibility of being provided with sexual services.
12. Did David Ray commit the criminal offence he is suspected of?

Applicable law:

Criminal Code of Alanja

Article 146 - Trafficking in children

(1) Whoever recruits, transports, transfers, delivers, sells, purchases, intermediates in sale, harbours, keeps or receives a child with the purpose of use or exploitation of his labour, perpetration of a criminal offence, prostitution or other uses of sexual exploitation, pornography, forced begging, servitude, establishment of slavery or similar relationship, forced marriage, forced sterilization, illegal adoption or a similar relationship, for the purpose of the removal of organs or body parts, for the use in armed forces or of some other type of exploitation, shall be punished by imprisonment for a term of between five and twenty years.

(2) Whoever perpetrates the offence referred to in paragraph 1 of this Article by use of force, serious threat or other forms of coercion, by deception, abduction, blackmail, abuse of office, abuse of authority or influence, abuse of relationship of trust, dependence of vulnerability, difficult circumstances of another person, by giving money or other benefits in order to obtain consent of a person who has control over another person, shall be punished by imprisonment for a term of not less than eight years.

(3) Whoever uses, or enables other persons to use sexual services or other forms of exploitation of a child, and was aware that it concerns a victim of human trafficking, shall be punished by imprisonment for a term of between five and twenty years.

(4) Whoever seizes, holds or counterfeits or destroys personal identification documents with the purpose of perpetrating criminal offences referred to in paragraphs 1 and 2 of this Article, shall be punished by imprisonment for a term between three and fifteen years.

(5) If the criminal offence referred to in paragraphs 1, 2, 3, and 4 of this Article was perpetrated as member of an organized criminal group, the perpetrator shall be punished by imprisonment for a term of not less than ten years.

(6) If the offence referred to in paragraphs 1, 2, 3, and 4 of this Article is perpetrated by an official person in the exercise of duty, he shall be punished by imprisonment for a minimum term of ten years.

(7) If the criminal offence referred to in paragraphs 1, 2 and 3 of this Article caused grievous bodily harm, serious health damage, or the death of one or more persons, the perpetrator shall be punished by imprisonment for a minimum term of ten twelve years.

(8) The consent of the minor child to any form of exploitation referred to in paragraph 1 of this Article shall bear no relevance to the existence of this criminal offence.

(9) Items, vehicles and facilities used for the perpetration of the offence referred to in this Article shall be seized.

(10) When a victim of child trafficking is forced by the offender of the criminal offence to participate in the commission of another criminal offence, the criminal proceedings shall not be conducted against the child if such action has been a direct consequence of his status as a victim of child trafficking.

QUESTIONS FOR STUDENS	RELEVANT CONCLUSIONS
Who is the injured party in the case in hand? What is her mental and financial situation? What are her living circumstances in general?	Identify that the person is mentally unstable, that she had difficult childhood and adolescence without parental supervision, that she uses drugs, and that she is in a difficult financial situation.
What was the age of the injured party at the time of the acts described in the facts?	Identify that the injured party was a minor and was 17 at the time.
What actions did the suspect take? Do these actions constitute an act of committing the criminal offense in question? How can these actions be characterized? Must the purpose of the act be demonstrated? Did the acts of the defendant have a purpose?	Identify the behaviours that indicate recruitment as an act of perpetration of this criminal offence. Identify which behaviours constitute recruitment and establish whether this element of the criminal offence existed. Identify that transport is one of the acts of perpetration of this criminal offence. (p. 22 of the verdict). Identify that paragraph 1 of the Criminal Code prescribes that the act must be perpetrated for one of the purposes stipulated by the law. Identify that, in the case in hand, the defendant perpetrated the act of recruitment and transport for the purpose of sexual exploitation (exploitation of prostitution of others).
Did the perpetrator abuse the injured party's circumstances to gain control over her?	Identify that the defendant used the difficult situation the injured party was in, thus gaining control over the injured party, which is one of the requirements to demonstrate the criminal offence of trafficking in minors. (p. 22 of the verdict).
Is the consent of the victim relevant in proving the offense of trafficking in children?	Identify that consent is not relevant. (p. 22 of the verdict).
Was the defendant aware that the injured party was a minor?	Identify that the defendant talked about the age of the injured party when negotiating the provision of sexual services, and that he also ought to have noticed her date of birth when he employed her. (p. 24-25 of the verdict).
Did the defendant commit the crime of trafficking in children? With what level of culpability was the act committed?	Gradually identify all elements of the crime in the concrete case and direct intent as a level of culpability. (p. 27 of the verdict).

Case study No. 2:
Court of Bosnia and Herzegovina, No. S13K00424912KžK,
second instance verdict, 2013

(See: *A Case Law Compendium in Trafficking in Human Beings,* OSCE Mission to BiH, 2016)

Facts under alias *Ronnie Grey*

1. Ronnie Grey was born in 1969 in the city of Trenko in Sutonia. Ronnie Grey dropped out of school after fourth grade of primary school. He is unemployed, married with five children. Roni Grey lives with his wife, Tina Sloun, who has a daughter, Sally Moritz. Until 2008, her daughter lived with her father, stepmother, and grandmother. Then, due to disagreements, as well as physical and mental violence by her father and stepmother, she moved in with her mother Tina Sloan and her husband Ronnie Grey. She was 15 at the time.
2. After she moved in with her mother and stepfather, her stepfather, Ronnie Grey, started forcing Sally Moritz to begging. He made her go together with his children to beg and then bring him the money. He would follow her when she was begging, and restricted and prevented her freedom of movement.
3. About ten days after moving in with her mother, Tony Colby, his wife and underage son Ken Colby came to their house. Speaking Romani, they agreed the marriage of Sally Moritz and the underage Ken Colby. After that, Sally Moritz, accompanied by her mother and stepfather was taken to the house where Ken Colby's family lived, where they forced her to perform sexual acts with the underage Ken Colby. She first refused and ran away through the bathroom window, but her stepfather, Ronnie Grey, caught up with her, punched her and brought her back to the house where, under duress exerted by all of them she had to have sexual intercourse with Ken Colby.
4. During her time in the Colby family house, Sally Moritz was forced every day to beg and collect scrap on landfills. Once, when she was collecting scrap on a landfill, Sally Moritz met Lidya Talko, a Roma woman who was there with several of her children. Sally Moritz ran away with Lidya and went to her house, hoping that she would escape the Colby family like that. She told her grandmother, who told her that the Colbys contacted her and asked for the 200 EUR they gave to Ronnie Grey for Sally Moritz to be returned.
5. Ronnie Grey looked for Sally Moritz on several occasions when she ran away. When he would find her, he would beat her, threaten her and take her back to the Colbys. Sometimes he was alone, and sometimes he was with his wife or the Colbys. People who know Sally Moritz said that she was extremely frightened and unstable because of such treatment by her mother and her stepfather.
6. When Ronnie Grey came to Lidya Talko's place to take Sally Moritz back, he threatened Lydia and her husband and had a baseball bat. He also told them that Sally Moritz was sold to the Colbys and if they

wanted to keep her they would have to give some money for her. Sally Moritz was beaten several times by her mother and stepfather, often in the presence of other persons who confirmed it.

7. Did Ronnie Grey commit a criminal offence of trafficking in human beings?

Applicable law:

Criminal Code of Sutonia

Article 186 - Trafficking in human beings

(1) Whoever takes part in the recruitment, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to obtain the consent of a person having control over another person, for the purpose of exploitation, shall be punished by imprisonment for a term between one and ten years.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article against a juvenile, shall be punished by imprisonment for a term not less than five years.

(3) Whoever organizes a group of people with the aim of perpetrating the criminal offence referred to in paragraphs 1 and 2 of this Article, shall be punished by imprisonment for a term not less than ten years or long-term imprisonment.

(4) Whoever acting out of negligence facilitates the perpetration of the criminal offence referred to in paragraphs 1 through 3 of this Article, shall be punished by imprisonment for a term between six months and five years.

(5) "Exploitation" referred to in paragraph 1 of this Article includes, in particular, exploiting other persons by way of prostitution or of other forms of sexual exploitation, forced labour or services, slavery or slavery-like practices, serving under coercion or removal of organs for the purpose of transplantation.

(N.B.: The relevant law was subsequently amended in order to comply with the provisions of the Council of Europe Convention and in order to establish jurisdiction)

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Who is the defendant in this case? How did the injured party come into contact with the defendant? How old was the injured party at the time of commission of the criminal offence?	Identify that the defendant was the injured party's stepfather, and that her mother lived with him. Identify that after numerous problems while living with her father and stepmother, the injured party went to live with her mother and stepfather. Identify that the injured party was 15 and was underage at the time of the commission of the criminal offence.
What actions did the defendant take against the injured party? When were they taken? Did he use force or some other form of coercion?	Identify that the defendant did not take actions in order to bring the injured party to live in his house and that the injured party moved into the defendant's home due to problems while living with her father and stepmother. Identify that after the injured party moved in with her stepfather, he undertook a series of actions, which included both force and threat, as well as acts of incitement and recruitment. (§§ 36-37 of the verdict).
Was there a purpose to the actions taken by the defendant? What was the purpose?	Identify that the actions were aimed at sexual exploitation and forced labor, as well as other forms of exploitation. (§ 36 of the verdict).
What was the family situation of the injured party? Did she have any problems? What were her circumstances in general? Did the defendant use those circumstances in order to gain control over the injured party?	Identify that she was in a difficult family situation and that because she was underage and was in a difficult family circumstances, she was immature and vulnerable. Identify that the defendant used precisely those circumstances and situation in order to gain control over the injured party (§ 17 of the verdict).
Is it relevant for the assessment of the existence of control over the injured party that the injured party willingly came to live in the house of the defendant?	Identify that the fact that she came to the house of the defendant of her own accord cannot mean that he did not gain control over her. Using her vulnerable circumstances, he subsequently gained control over her. (§ 32 of the verdict).
Did the defendant commit the criminal offence of *(international)* trafficking in human beings?	Identify with students whether all the elements of the crime existed and whether the defendant, by his actions, committed those elements.

Case study No. 3: ECtHR- *Chowdury and others v. Greece*, No. 21884/15, 2017

Facts under alias *Chyd Ranji v. Grilada*

1. Chyd Ranji and another 41 applicants (Bangladeshi nationals with undocumented status) worked (from October 2012 to February 2013) on a strawberry farm, picking strawberries in the Village of Manolia (state of Grilada) known for growing strawberries.
2. The greenhouse that the applicants worked in was managed by the employers T. A. and N. V. The applicants were a part of a total of 150 workers divided into three teams; at the head of each team was one of the Bangladeshi nationals who reported to T.A. The workers were promised 22 EUR for seven hours of work and three EUR for each hour of overtime, with three EUR a day deducted for food. They worked every day in greenhouses from seven a.m. to seven p.m. picking strawberries under supervision of armed guards, employed by T.A. They lived in makeshift shacks, without toilets or running water. According to the applicants, their employers had warned them that they would only receive their wages if they continued to work. On three occasions in 2013 (February, March, and 15 April), the workers went on strike demanding payment of their unpaid wages, but without success.
3. On 17 April 2013 the employers recruited other Bangladeshi migrants to work on the strawberry plantation. Fearing that they would not be paid, 100 to 150 workers who had been there from before started moving towards the two employers in order to demand their wages. One of the armed guards then opened fire, seriously injuring 30 workers, including 21 of the applicants. On 18 and 19 April 2013, the two employers (N. V. and T. A.), together with the guard who had opened fire, and an armed overseer, were arrested.
4. They were charged with attempted murder (subsequently re-characterized as grievous bodily harm) and for trafficking in human beings (Article 323A of the Criminal Code). The injured workers were awarded the status of victims of trafficking by the prosecutor and thus were able to obtain residence permits in Grilada. On 8 May 2013, the workers who were not injured -120 of them (21 applicants) - sought that they be awarded such status and they filed a report against the suspects for trafficking in human beings and labour exploitation. After questioning each applicant from this group of workers (they were photographed and their fingerprints were taken), the prosecutor rejected the requests from all 120 workers, because had they truly been the victims of trafficking in human beings they would have reported to the police immediately after the incident (like the 35 workers, including the 30

injured ones, did). He rejected as irrelevant their statement that they got frightened and ran from the shacks where they lived. Finally, the prosecutor concluded that their report was filed only after they realized that they could get residence permits if granted the status of victims of trafficking. 120 workers unsuccessfully filed an appeal against this prosecutor's decision.

5. The trial against the accused started in June 2014 and ended in July 2014. Thirty workers who were granted the status of victims of trafficking took part in the proceedings as injured parties who filed compensation claims. On 30 July 2014, the Basic Court acquitted the four accused of trafficking, finding, that the objective element of the crime had not been established. One of the armed guards and T.A. were convicted of inflicting grievous bodily harm and illegal use of firearms. Initially, they were sentenced to 14 years (the guard) and 8 years (T.A.) of prison, but the same court later commuted the sentences to a fine amounting to 5 EUR for each day of the imposed sentence. The court also ordered the two defendants to pay the amount of 1.500 EUR to the workers who were granted the status of victims (approximately 43 EUR per person). The court acquitted N. V, finding that it was not proved that he was one of the employers of those workers (therefore, he was not obliged to pay their wages), nor that he was involved in inciting an armed attack against them. The court said that the relationship of workers and employers was regulated by the employment contract, and that the conditions of that contract were not determined in order to lure workers into a trap, nor to achieve a dominant position of employers in relation to them. Workers did not live in isolation from the outside world, without any opportunity to abandon that relationship and look for another job. It was said that all the workers had been in a position to negotiate the conditions of their employment at the time they were hired. Furthermore, the workers had known in what conditions they would stay, but also that they could leave such accommodation. The court rejected the allegations that the wages were not paid, because such allegations were brought up only at the hearing, but not during the investigation phase. Furthermore, the workers were not in a state of helplessness, because they could move around the village and shop in stores that had a contract with the employer.
6. The court also took the view that the victim must be in such a state of poverty that his refusal to submit to the perpetrator would seem absurd; in other words, the victim must be in a state of absolute weakness that prevents him from defending himself. Thus, exploitation exists when the victim unconditionally surrenders to the perpetrator and is isolated from the outside world. Taking all these reasons together, the court held that there was no criminal offense of trafficking in human beings and forced labor.
7. On 30 July 2014, the convicted persons filed an appeal against the

verdict of the Assizes court and the proceedings are still ongoing. On 21 October 2014, the workers requested the public prosecutor to file a complaint against the Assizes court verdict. They stated in the request that the court had not adequately examined the allegation of trafficking. They took the view that, in order to determine whether the court had correctly applied Article 323A of the Criminal Code, it was necessary to examine whether the accused had used the vulnerability of foreign nationals in order to exploit them. On 27 October 2014, the Prosecutor denied such a request, indicating that the conditions to appeal had not been met. This rendered the part of the verdict of 30 July 3014 pertaining to human trafficking, final and binding. The applicant decided to go before the European Court for Human Rights.

8. Before the incident in question there were reports on the situation the workers in Manolia were in. The newspapers in Malonia were the first to report on the workers' problems, primarily the migrant workers. The ministers of labor, health and interior ordered inspections. After these controls, criminal investigations were initiated, but no one was convicted. Some journalists who wrote about this problem received death threats. In its report from 2008, the Ombudsmen stated that the situation was extremely bad because the workers lived in very poor conditions which are reminiscent of the working conditions at the beginning of the industrial revolution.

Applicable law:

Criminal Code of Grilada

Article 323

The slave trade includes any act of capture and disposal of an individual, which seeks to make him a slave, any act of acquisition of a slave with the purpose of resale or exchange, the act of assignment by sale or exchange of an acquired slave and generally any act of smuggling or transport of slaves. The person involved shall be punished by incarceration.

Article 323A

1. A person who, by the use of force, threat of force or other coercive means, or by abuse of power, or by abduction, recruits, transports, transfers inside the territory of the country, detains, harbours, delivers with or without a benefit a person to another person, or receives a person, with the purpose of removing cells, tissues or organs of a person or exploiting the labour or begging regardless whether he is doing it for his personal gain or on behalf of another, shall be punished by a maximum penalty of 10 years' imprisonment and by a fine of ten thousand to fifty thousand Euros.

2. The perpetrator shall be punishable according to the penalties stipulated in the previous paragraph if, in order to achieve the same goal, he/she achieves the consent of a person by fraudulent means or deceives this person by exploiting his/her position of vulnerability by making promises, gifts, payments or giving other benefits.

3. A person who knowingly accepts the labour of a person who is under the conditions described in paragraphs 1 and 2 is liable to a penalty of at least six months' imprisonment.

The Council of Europe Convention on Action against Trafficking in Human Beings

Article 4 Definition

a) "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent

of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

Article 5 – Prevention of trafficking in human beings

1. Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings

2. Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.

Article 13 Recovery and reflection period

Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her.

Article 15 Compensation and legal redress

Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators. Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation.

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
Who are the applicants, of which country are they citizens, and where did they work? What conditions did they work in?	Identify that the applicants are 42 individuals who are Bangladeshi citizens and have worked as seasonal workers in extremely difficult conditions in Grilada (§§ 6-8 of the judgment).
Did the applicants voluntarily come to work and thus agree to the stated working conditions?	The applicants came to work voluntarily, but their prior consent does not automatically preclude the existence of trafficking, noting that the overall context in which the person works needs to be considered. (§ 96 of the judgment).
Were the applicants in a helpless situation?	Identify that the applicants were indeed helpless, regardless of how the domestic court assessed it. They were staying illegally in Grilada and leaving the accommodation would probably lead to arrests and deportations. Also, due to unpaid wages, they did not have the money, and thus, did not have realistic opportunities to leave their place of residence. Therefore, while the employer initially obtained the applicants' consent, by his subsequent conduct, he exploited and abused the applicants' position and essentially forced them to stay and work for him. (§§ 95-98 of the judgment).
How was the position of the applicants characterized in the domestic proceedings? How would you characterize the position of the applicants?	Identify that the court narrowly interpreted the notion of trafficking in human beings and forced labor, and that it found that there was no trafficking in human beings *in concreto*, as the court believed that the applicants could have left their jobs. The domestic court held that the conditio sine qua non of trafficking is the lack of freedom of movement (leaving work), which is wrong, because trafficking (and forced labor) can also exist when a person has the opportunity to leave a certain place. It is important to consider the context of the case as a whole. (§§ 94-102 of the judgment). Identify that the ECtHR found that the applicants were victims of forced labor and trafficking. Point out that the domestic court confused the concepts of slavery, on the one hand, and trafficking in human beings or forced labor, on the other. Identify that the circumstances of applicants did meet the definition of forced labor and trafficking in human beings (§§ 22-28, 90-91, 99-101 of the judgment).

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
What are the obligations of the state under the Council of Europe Convention on Action against Trafficking in Human Beings and Article 4 of ECHR?	Identify that, in addition to its negative obligations, the state has positive obligations to (1) prescribe an appropriate legal framework, (2) to prevent trafficking in human beings, (3) to protect victims, (4) to criminalize acts of trafficking in human beings and to prosecute perpetrators effectively. (§§ 86-89, 103-104 of the judgment).
Has the state taken certain measures regarding the prohibition of trafficking in human beings and acts contrary to Article 4 ECHR? Has the state done anything about the position of workers in Malonia?	Identify that the state has taken certain measures. First, it regulated the legislation so as to prohibit acts contrary to Article 4 of the ECHR, as well as acts of trafficking in human beings (§§ 105-109 of the verdict). Secondly, certain investigative actions and inspections were carried out regarding the position of workers in Manolia, but the responsible persons were not punished consistently. Prompt students to observe that the state was aware of the situation in the village in question, but that it did not take appropriate preventive measures or victim protection measures. (§§ 110-115 of the judgment).
What was the report of 8 May 2013 in relation to? How did the prosecutor act with regard to that report and with regard to the status of the group of applicants? Which obligation of the state applies here?	Identify that the prosecutor rejected the report because the applicants reported their employer on 8 May 2013, instead of immediately after the incident, like the other workers who filed their report on 17 April 2013. Identify that the reports referred not only to the impugned incident (injury), but also to the employer on the grounds of forced labor and human trafficking. However, the prosecutor did not look into these other allegations at all, but considered the report from only one aspect, that of the incident. Therefore, there is a violation of the procedural obligation to conduct an effective investigation under Article 4 of ECHR (§§ 117-122 of the judgment).
How did the proceedings with regard to the defendants end? What obligation does the state have with regard to this criminal procedure? What stance did the domestic court take in terms of trafficking and forced labor? What sentences did the defendants receive?	Identify that the court misinterpreted the concept of trafficking in human beings and that the defendants were acquitted on this ground. Identify that the defendants were fined five EUR per day of the imprisonment that was originally prescribed. Further, the prosecutor refused to appeal the court's decision, without giving a detailed explanation. Finally, the convicted persons were obliged to pay 43 EUR per injured worker for inflicting grievous bodily harm, noting this amount did not comply with the provision of Article 15 of the CoE Convention on Action against Trafficking in Human Beings. (§§ 123-127 of the judgment).

Case study No. 4: ECtHR - *J. and others v. Austria*, No. 58216/12, 2017

Facts under alias *Lilin Mendoza and others v. Karenia*

1. Ms. Lilin Mendoza and other two applicants are Filipino nationals. Between 2006 and 2009, they worked as maids in the city of Donlon (the Kingdom of Donlonia) for the members of the same family. They claim that the employers took their passports, abused them and exploited them. They were forced to work exceptionally long hours and their agreed wages were not paid to them. In addition, they allege that they were physically and emotionally abused and that they received threats.
2. In May 2010, they briefly stayed in Blen, the capital of Karenia, with their employers. Their passports remained with the employers and they had to work from early morning hours until midnight or later, looking after the employer's children and doing housework. Several days after their arrival, the applicants were subjected to extreme verbal abuse when one of the employers' children went missing in the Zoo. One of the applicants had to get up at 2 a.m. in order to cook a meal for the entire family. Deciding that the violence towards them was likely to escalate at any time and that they could not continue working in such conditions any longer, they escaped with the help of an employee at the hotel where they were staying who spoke Ms. Mendoza's mother tongue. The applicants subsequently found support within the local Filipino community in Blen.
3. Nine months later, the applicants contacted LEFO, an NGO involved in supporting the victims of trafficking in human beings in Karenia. Assisted by the NGO, in May 2011 they filed a criminal complaint against their employers. They were interviewed by police officers specially trained in dealing with victims of human trafficking, and described in detail what had happened to them and how they had been treated by their employers. The State authorities rejected as unfounded the allegations of the applicant's former employers (which had been accidentally found out during the proceedings) that they had been stealing from them. On the basis of the police report stating that human trafficking took place abroad, the District prosecutor's office of Blen initiated an investigation into criminal offence of human trafficking. However, the investigation was discontinued in November 2011 as the Prosecutor's Office found that the domestic authorities did not have jurisdiction over the alleged offences, which had been committed abroad by foreigners (non-nationals). It was stated that the applicants' complaints about their stay in Blen for less than three days did not in themselves constitute exploitation falling within the scope of the crime of trafficking in human beings.

4. The applicants appealed against this decision of the prosecution and stated that Article 104 of the Criminal Code (*trafficking in human beings*) was applicable, because trafficking in human beings continued on the territory of Karenia. In March 2012, District Court in Blen dismissed the appeal, adding that there was no reason to prosecute if a conviction was no more likely than an acquittal. In its view, there was also no obligation under international law to pursue an investigation concerning events allegedly committed abroad. With regards to the allegations that trafficking in human beings continued in Blen, the Court stated that their stay lasted very briefly (three days) and that for this criminal offence to exist in the sense of labour exploitation, a longer period of time was needed. Following this decision, the applicants lodged the application with the European Court for Human Rights.
6. In January 2013, the applicants sued their former employers, but later withdrew the lawsuit for fear that, as foreign nationals, they would have to pay the costs if they lost the lawsuit. The applicants were subsequently granted a special residence and work permit for victims of human trafficking in Karenia, and a personal data disclosure ban was imposed.

Applicable law:

Criminal Code of Karenia

Article 104
(1) A person who recruits, harbours, otherwise receives, transports or offers or transfers to another person a person using dishonest means against this person with the deliberate intention of the sexual exploitation of a minor or an adult, exploitation through organ transplantation or labour exploitation, shall be punished with a prison sentence of up to three years.

(2) Dishonest means are the deception about facts, abuse of authority, a position of vulnerability, mental illness or of defenselessness, intimidation and the receiving or giving of benefits for handing over control over the person.

(3) Whoever commits this criminal offence by use of force or severe threats shall be punished by a prison sentenced of minimum of six months up to five years.

Criminal Procedure Code of Karenia

Article 137
If the accused is abroad or his whereabouts are unknown, the investigation may be conducted to provide evidence ... After the order for determining the whereabouts of the accused or arrest warrants for his arrest is issued, the trial is suspended until the whereabouts of the accused are determined.

Article 31(1) Council of Europe Convention on Action against Trafficking in Human Beings
Each Party shall adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed: a) in its territory; or b) on board a ship flying the flag of that Party; or c) on board an aircraft registered under the laws of that Party; or d) by one of its nationals or by a stateless person who has his or her habitual residence in its territory, if the offence is punishable under criminal law where it was committed or if the offence is committed outside the territorial jurisdiction of any State; e) against one of its nationals

International legal aid

There is no international treaty on international legal aid in criminal matters between Karenia and the Kingdom of Donlonia (KD). The practice shows that KD ignore even the simplest requests from Karenia for international legal aid in criminal matters.

QUESTONS FOR STUDENTS	RELEVANT CONCLUSIONS
Who are the applicants, of which country are they citizens, and where did they work? What conditions did they work in?	Identify that the applicants are three Filipinos, and that they worked as maids in Donlon in difficult conditions (long hours, harassment by the employer, confiscated passports), and that certain acts also took place in the territory of Karenia. (§§ 7, 22-24 of the judgment).
To whom are the acts that the applicants claim to be contrary to Article 4 of ECHR and constitute a criminal offense of trafficking in human beings attributed? What is the obligation of the state in this case?	Identify that the alleged abuse was committed by private individuals, namely KD citizens, and not the state of Karenia. The applicants complained that the state of Karenia had breached its positive obligations (§ 108 of the judgment).
What are the obligations of the state under the Council of Europe Convention on Action against Trafficking in Human Beings and Article 4 of ECHR? What obligations would be relevant in this case?	Identify that in addition to negative obligations, the state has positive obligations, namely, (1) to prescribe an appropriate legal framework, (2) to prevent trafficking in human beings, (3) to identify, protect and provide support to victims, and (4) to criminalize acts of trafficking in human beings and conduct effective criminal investigation of perpetrators. The obligation to protect and support victims and the obligation to investigate are relevant here, given the events in question, in particular the fact that the acts of the criminal offence took place in Donlon. (§§ 105-107 of the judgment).
How did the State treat the applicants? Did it provide protection and support?	Identify that the domestic authorities granted the applicants victim status and that they were granted temporary residence on that basis, which was later extended. Also, the protection of their data was ensured, as well as support for integration into society. During the criminal investigation, they were granted legal assistance. Therefore, the authorities of Karenia took the applicants' situation seriously and fulfilled certain aspects the aforementioned positive obligations. (§§ 32-34; 110-111 of the judgment).
How would you describe the quality of the criminal investigation into the trafficking of human beings whose victims were the applicants? What did the state do and what did it not do? What is the essence of the applicant's criminal complaint?	Identify that the investigation was initiated in the summer of 2011, immediately after the applicants went to the police (§§ 25, 112 of the judgment). Identify that the investigation forked in two directions: 1) events that took place outside Karenia and 2) events that took place inside Karenia, during the visit to Blen (§§ 112-113).

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
How would you rate the investigation into the abuse in Donlon? Which aspect(s) of criminal procedural law is pertinent here?	Identify that the Karenia prosecutor withdrew from the prosecution, because there were no grounds for conducting criminal proceedings against former employers as foreign persons for acts that took place outside the territory of Karenia. Also, identify that the Council of Europe Convention on Action against Trafficking in Human Beings in Article 31 adopts the territorial principle. This means that an investigation will be conducted for the acts that took place in the country in question, namely, Karenia. Identify that this relates to the institute of universal jurisdiction, and that international law does not impose an obligation on a state to adopt universal jurisdiction in cases of trafficking in human beings. (§§ 29-30, 105, 114 of the judgment).
How would you describe the quality of the investigation into the acts that took place in Karenia? How would you argue in favor of the applicants? Does domestic law mention that acts of trafficking in human beings need to last for a certain length of time for the crime to exist? What was the role of the ECtHR in this case?	Identify that the applicants claimed that acts of trafficking took place in the territory of Karenia, but also that their case should be considered in its entirety, from the abduction from the Philippines, through the abuse in Donlon, to the events that took place in Blen. In addition, the fact that they were recognized as victims of human trafficking shows that the criminal investigation should have continued (§§ 88-92 of the judgment). Identify that the domestic court said that the impugned events in Blen lasted too briefly to amount to human trafficking, although this is not provided for in Article 104 CC (§ 30 of the criminal code). The applicants were given the opportunity to present in detail the allegations concerning the disputed events in Blen. However, the ECtHR found that the domestic court's explanation that not all the elements of Article 104 of the CC had been present did not seem unreasonable. Therefore, there is no violation of the obligation to conduct an investigation in this aspect. Prompt students to recognize that the ECtHR is not a court of fourth instance and does not have the power to act as a court of appeal. Its role is to examine the case in its entirety. The domestic court (erroneously) found that there was no criminal offense of trafficking in human beings as certain acts that constitute trafficking in human beings, and are therefore contrary to Article 4 of ECHR, were perpetrated for a relatively brief period. However, this is only one of the findings of the domestic court, and the ECtHR assesses the case in its entirety. The actions of the domestic courts in terms of the procedural obligations of the state under Article 4 of ECHR is not unreasonable. Point out that the ECtHR did not explicitly comment on the element of the duration of the crime of trafficking in human beings (§§ 115-117 of the judgment).

QUESTIONS FOR STUDENTS	RELEVANT CONCLUSIONS
How would you assess the assertion that the applicants' case should be viewed as a whole, i.e., that the events in Karenia should not be viewed separately?	Identify that the investigating authorities received the first information on the applicant's situation one year after the events in Blen. At that time, the former employers were no longer in the territory of Karenia. This means that the only option to continue with the investigation of the case, including for the acts that took place in Donlon and the Philippines, was to seek international legal assistance from the KD. However, as the two countries have not signed an agreement on mutual legal assistance in criminal matters and as the KD does not respond to the requests of the Karenia authorities, it was not logical to expect that the investigating authorities would receive any information about the suspects. Furthermore, the criminal procedural code precludes trial in absentia, which is a principle enshrined in the legislation of many Member States (§ 117 of the judgment).

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Igor Popović was born in 1991 and works as a senior assistant at the Department of International Law, Faculty of Law, University of Banja Luka. He completed his undergraduate studies at the Faculty of Law of the University of Banja Luka with the highest grade of his class. He completed his master's degree at the Faculty of Law of the University of Belgrade with the highest grades and is currently a doctoral student at the same faculty. He has studied in Croatia, Serbia, Germany, Austria, and Turkey, and he has passed the bar exam. He is a legal researcher on the Global Freedom of Expression project at Columbia University in the City of New York. He has provided legal representation before the Constitutional Court of BiH and the Constitutional Court of FBiH. He has published ten academic papers in the field of human rights and is the winner of domestic and international scholarships and awards. He has advanced level of knowledge of English and working level knowledge of German.

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The authors are the founders and organizers of the Human Rights Week, which is held annually in December at the Faculty of Law, University of Banja Luka. In addition, they lead a range of activities in the areas of human rights law, public international law, and criminal law. Through their work, they cooperate with governmental and non-governmental domestic and international organizations.

EXCERPTS FROM REVIEWS

It is clear that the authors conceived and wrote this Guide bearing in mind its purpose and end users who are mentioned in its very title.

[...]

Structure-wise, the first part of the Guide provides practical instructions for organizing a workshop, taking organizers step by step through the issues pertaining to the goal and model of the workshop, learning outcomes, determining the topic of the workshop, workshop status, preparation of workshop content, logistical and technical issues, implementation, and promotion of the workshop with an emphasis on possible difficulties and suggestions for their resolution.

[...]

The second part of the Guide provides practical materials covering hate crimes, war crimes, and trafficking in human beings with accompanying instructions.

[...]

In conclusion, the authors addressed the above issues in a clear and concise manner, always guided by the purpose of the manuscript and the needs of the target user group. They use multidisciplinary discourse, which gives this publication added value. Keeping in mind that this is a Guide that can serve as a sample for creating workshops on various topics, the authors arranged the thematic units very precisely with an acceptable combination of practical instructions and working materials. What gives this Guide a special value is that it can benefit the wider academic community.

[...]

Based on the above, I would like to recommend this Guide as an important tool for the aforementioned academic community and therefore recommend for it to be published.

Prof. dr. Maria Lučić-Ćatić

[…]

I dare say that this Guide is much more than its title suggests. Namely, the title limits the end users to law school students, although even the authors in the Introduction allow for the possibility of using it to prepare workshops at other faculties. The other difference that I would like to point out between the title and the contents of the Guide pertains to the fact that, although the second part of the Guide is dedicated to dealing with hate crimes, war crimes, and trafficking in human beings, its first, methodological part is fully applicable for organizing workshops on any subject.

[…]

What could be considered a potential flaw of the second part of the Guide is that "fictional cases" (in terms of revised or simplified facts of each case) are actual judgments, and that, after first use, they cannot be reused, but simply should serve the organizers as a model or a template for selecting and preparing cases for future or repeated workshops. On the other hand, one of the obvious advantages of the materials contained in the second part of the Guide is the fact that the authors achieved a balance in terms of the selected cases, taking into account relevant actual judgments of both international and domestic courts. The selected judgments are truly representative and suitable for fulfilling the goals of the workshop.

In conclusion, I believe that the publication of this Guide would be beneficial in several ways, bearing in mind primarily the needs of students for practical education, and also the university staff who will be able to use the Guide in extracurricular activities.

Prof. dr. Ljiljana Mijović

[…]

The Guide is divided into two parts. The first part comprises guidelines for organizing workshops and its goal is to emphasize the importance of each step in organizing the workshop, as well as to point out any problems that may arise in the process. The second part of the Guide contains practical materials for working on three topics - hate crimes, war crimes and human trafficking.

[…]

The topics of the workshop are relevant and current, and the authors, when choosing the working material, took care that they are relevant and appropriate considering the previous knowledge of the participants. They are designed to accommodate different learning styles (working in small groups, inclusive activities) and to motivate students. When selecting specific cases for analysis (materials for students), the authors took care that they are relevant and will contribute to the understanding of the topics, attaining knowledge and skills, and will be applicable in the participant's future work.

[…]

Concluding this review, it is worth pointing out that this Guide is written clearly and is easy to understand, but it is also comprehensive and systematic in tackling its topics. This is the result of many years of experience the authors have in organizing and conducting workshops at the Law School, University of Banja Luka, but also of their rich scientific, practical, and teaching experience.

This Guide represents a very valuable didactic tool.

[…]

The Guide is relevant, well written and of excellent quality, and I am very pleased to recommend its publication and its use in the education of future legal professionals. In addition to this, when it comes to the publisher - the OSCE Mission to Bosnia and Herzegovina - the publishing of the Guide will yet again prove its outstanding contribution to improving the quality of education in Bosnia and Herzegovina.

Prof. dr Denis Pajić