Universal International Treaties on the Protection of Human Rights

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Abstract
The international treaties in the field of human rights represent the main source of law for the protection of fundamental rights and liberties. The universal treaties, general or specialized, established a common denominator at the international level, no matter might be the specificity of different regional systems, for the protection of human rights.

Key words: human rights protection, universal treaties, general / specialized treaties

In the field of human rights, the international treaty is, as compared to the custom, the most important source of the international human rights law.

Under article 2 paragraph 1 of the 1969 Vienna Convention on the Law of Treaties, treaty means "an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation"1.

International human rights treaties may fall within the following categories according to various criteria. According to the geographical criterion, the international treaties in the field may be classified into universal treaties (UN system) and regional treaties (applicable at regional level: European, Inter-American, African etc.).

In this paper we intend to briefly specify a few of the most important universal international treaties in the field of human rights.

2. Universal international treaties
These international treaties are those adopted within the United Nations Organization and also at the level of specialized institutions within the UN system.

In turn, these treaties may be classified into general treaties and specialized treaties.

2.1. General Treaties
This section may include:
- International Covenant on Civil and Political Rights adopted on 16 December 1966 under Resolution 2200 A (XXI) of the United Nations General Assembly. The Covenant came into force on 23 March 1976 and, on 1 February 2012, the United Nations Secretary General held records of 74 states registered as signatories and of 167 states as parties. Romania signed this Covenant on 27 June 1968 and submitted the ratification instrument on 9 December 1974.2

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2 See the website of the United Nations Organization "treaties.un.org", Base de données, État des traités, Chapitre IV "Droits de l'homme";

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International Covenant on Civil and Political Rights establishes the classical rights and freedoms protecting individuals from state interferences. Such guaranteed rights and freedoms included, inter alia, right to life, prohibition of torture, prohibition of slavery and forced or compulsory labour, right to freedom, etc;
- Optional Protocol to the International Covenant on Civil and Political Rights, adopted on 16 December 1966, under the same resolution of the United Nations General Assembly which also adopted the Covenant referred to above. The Protocol came into force on 23 March 1976. On 1 February 2012, the United Nations Secretary General held records of 35 states registered as signatories and of 114 states, as parties. Romania submitted the instrument of adherence to the Optional Protocol on 20 July 1993.3
Such instrument establishes a mechanism allowing for the submission of individual complaints against violations of the rights and freedoms protected by the International Covenant on Civil and Political Rights;
- Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, adopted on 15 December 1989 under Resolution 44/128 of the United Nations General Assembly came into force on 11 July 1991. On 1 February 2012, the United Nations Secretary General held records of 35 states registered as signatories and of 73 states, as parties. Romania signed this Protocol on 15 March 1990 and submitted the ratification instrument on 27 February 19914;
International Covenant on Economic, Social and Cultural Rights stipulates the obligation for the states to take actions, either individually or under international assistance or cooperation, for the progressive and full realization of the rights stated in this treaty, particularly by means of legislative measures.
The Covenant established a non-discrimination clause securing equality of rights for women and men in the economic, social and cultural fields.
The Covenant stipulates, first and foremost, the right to work and a series of subsequent rights, right to form trade unions, right to the protection of family, right of everyone to an adequate standard of living for himself and for his family, right of everyone to the enjoyment of the highest attainable standard of physical and mental health, right of everyone to education, right of everyone to take part in cultural life, etc.;
- Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted on 10 December 2008 under Resolution A/RES/63/117 of the United Nations General Assembly. This Protocol has not come into force yet. On 1 February 2012, the United Nations Secretary General held records of 39 states registered as signatories and of 7 states, as parties. Until the date hereof, Romania has not signed the Optional Protocol referred to above.6

3 Ibidem;
4 Idem;
5 Idem;
6 Idem;
Adoption of this Protocol aims at offering economic, social and cultural rights a justiciable nature, by giving individuals the possibility to notify the Economic, Social and Cultural Rights Committee of the United Nations of any violations of the rights guaranteed under the International Covenant on Economic, Social and Cultural Rights. It also acknowledges the jurisdiction of the Committee mentioned herein above to receive and analyze interstate notices or communications, subject to the submission by the state ratifying/joining the Protocol of a statement to this effect.

In this context, there are certain mentions to be made in connection with the first international document solemnly stating the fundamental rights and freedoms guaranteed to any human being, namely the **Universal Declaration of Human Rights**.

This document was adopted on 10 December 1948 by the United Nations General Assembly and is deemed to be the primordial source of law, of a universal character, giving birth to international regulations for the protection of human rights in contemporary time. This document offers a unitary concept of the international society after the Second World War on the rights and freedoms of the individual. By virtue of this document, the United Nations General Assembly adopted afterwards over 60 conventions, resolutions and declarations in this field.

Article 1 proclaims that “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Article 3, proclaiming everyone’s right to life, liberty and security of person and article 22, introducing the economic, social and cultural rights to benefit all people, state two fundamental characteristics of the human rights: that rights are **universal** and **inalienable**.

Each individual may enjoy the rights proclaimed without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. All are equal before the law and are entitled without any discrimination to equal protection of the law. As stated in the preamble of the Declaration, the rights proclaimed constitute a common goal to be attained by all peoples, so that such rights are given universal and effective recognition and observance by all states.

Nevertheless, the Universal Declaration of Human Rights is **not an international treaty**, a source of legal rights and obligations. This Declaration was adopted under a resolution and, as any other such document, it has a political, advisory basis.

Owing to the importance attached to the field in question, it has acquired in time a fundamental significance whose mandatory force is required in the practice of the states or in the process of codification of international treaties in the field.

Besides, certain provisions of the Declaration were incorporated into the Constitutions of many states or were invoked in international or national case law, which

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7 Main International Instruments on Human Rights Romania is party to, Volume I – Universal Instruments), the Romanian Institute for Human Rights, Bucharest, 1999, page 8;
9 Resolution 217 A (III) dated 10 December 1948 of the United Nations General Assembly;
emphasizes that the Declaration was accepted as a document comprising general principles and regulations expressing common standards in the field of human rights.10

The Romanian Constitution is a similar case, testifying to the above by considering in article 20 the Universal Declaration of Human Rights to be on an equal footing with “the covenants and other treaties Romania is party to”.

2.2. Specialized Treaties

Following the sequence of the Chapters in section titled “Multilateral treaties deposited with the United Nations Secretary General”, there are listed below a few relevant international treaties:

- **Chapter IV – “Human Rights”** 11

United Nations General Assembly adopted on 22 December 1995 an Amendment to the first paragraph of article 20 of the Convention and, on 6 October 1999, respectively, an Optional Protocol on the recognition of the right of individuals to submit to the Committee for the Elimination of Discrimination Against Women, claims of violations of the rights protected under the Convention.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984 and effective on 26 June 1987. Romania submitted the instrument of adherence on 18 December 1990. United Nations General Assembly adopted on 16 December 1992 Amendments to paragraph 7 of article 17 and to paragraph 5 of article 18 of the Convention and, on 18 December 2002, the Optional Protocol to said Convention, respectively;


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10 Raluca Miga-Beștelu, Catrinel Brumar, the work cited, page 43;
11 See the United Nations website as cited;
Convention and other 3 Optional Protocols, respectively, on 25 May 2000 (the first two) and on 19 December 2011 (the last one) etc.

- **Chapter V – “Refugees and Stateless Persons”**

- **Chapter VII – “Traffic in Persons”**

- **Chapter XVI – “Status of Women”**
  - Convention on the Political Rights of Women, adopted on 20 December 1952 and effective on 7 July 1954. Romania signed the Convention on 27 April 1954 and submitted the ratification instrument on 6 August 1954;
  - Convention on the Nationality of Married Women, adopted on 29 January 1957 and effective on 11 August 1958. Romania submitted the instrument of adherence on 2 December 1960 etc.

### 2.3. International Treaties in the field of International Humanitarian Law

A major branch of the international protection of human rights is represented by international law regulations consisting in the so-called ”International Humanitarian Law”.

These regulations have not been drafted in the United Nations system, but they represent an international law source in the field of human rights holding a universal specialized value.

The **Geneva Conventions** dated 12 August 1949 regulate the conduct in time of hostilities or armed conflicts (jus in bello) and are as listed herein below:

- Geneva *Convention* for the Amelioration of the Condition of *Wounded, Sick* and Shipwrecked Members of Armed Forces at *Sea*;
- Geneva Convention relative to the Treatment of Prisoners of War;
- Geneva *Convention* relative to the Protection of *Civilian* Persons in Time of War.

Presently, there are 194 states registered as parties to the 4 Geneva Conventions. Romania ratified the Conventions on 1 June 1954.
The 1949 Geneva Conventions were supplemented by two Additional Protocols in 1977 and by a third Protocol in 2005:
- Additional Protocol relating to the Protection of Victims of International Armed Conflicts (Protocol I).
Presently, there are 170 states registered as parties. Romania ratified Protocol I on 21 June 1990;
- Additional Protocol relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).
Presently, there are 165 states registered as parties. Romania ratified Protocol II on 21 June 1990;
- Additional Protocol relating to the Adoption of an Additional Distinctive Emblem (Protocol III).
Presently, there are 54 states registered as parties. Romania has not become party to Protocol III yet. International humanitarian law, as such is codified in the regulations referred to above, is applicable in case of international armed conflict, that is, in time of declared war or armed conflict between two or more belligerent parties, regardless of one or more parties’ recognition or non-recognition of the state of war, as well as in case of non-national armed conflict.

3. Conclusions

Today’s authors of international human rights law agree that the international treaties in this domain and especially the universal treaties represent the main source of law and a common denominator for the different regional systems and cultures in what is considered the basic standards for the protection of fundamental rights and liberties.

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17 Ibidem.

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