



This project is funded by the European Union.



Technical Assistance for Strengthening
Fundamental Rights Sector Coordination Project

INSTITUTIONALISATION OF HUMAN RIGHTS

FACTSHEET



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Introduction

Institutionalisation of human rights can be broadly defined as organisational structures, institutions, processes or mechanisms dedicated to human rights. Moreover, since human rights are naturally protected by the judiciary under rule of law, institutionalisation of human rights means non-judicial institutions or mechanisms for protecting and promoting thereof, especially by executive powers.

The institutionalisation of human rights has been following a historical path where national, international and supranational levels interact. Three main periods can be mentioned in this respect: (i) pre-1990s, (ii) 1990s and (iii) post-2000s.

There were two main developments until the 1990s. First, at the international level, some international agreements started to establish bodies to monitor their implementation. An example of this is the Committee on the Elimination of Racial Discrimination (1969), established by the International Convention on the Elimination of All Forms of Racial Discrimination. Secondly, at the national level, the number of national human rights institutionalisation increased especially in the 1980s.

In the 1990s, there were five important developments regarding the institutionalisation of human rights. First, at the international level, at the United Nations (UN), national institutionalisation of human rights reached its peak. The Principles relating to the Status of National Institutions, also known as the Paris Principles (1993) can be cited as an example. Secondly, at the international level, the Council of Europe started to discuss national institutionalisation of human rights. An example in this regard is “Recommendation No. R (97) 14 of the Committee of Ministers to Member States on the establishment of independent national institutions for the promotion and protection of human rights”. Third, again at the international level, global and regional networks started to be established regarding national institutionalisation of human rights. The “Global Alliance of National Human Rights Institutions (GANHRI)” is an example of this. Fourthly, again at the international level, the institutionalisation of human rights has also accelerated within international organizations. Examples of this development can be given as the Office for Democratic Institutions and Human Rights under the Organization for Security and Co-operation in Europe (OSCE) (1991), the “Office of the High Commissioner for Human Rights” under the UN (1993) and the “European Commissioner for Human Rights” under the Council of Europe (1999). Finally, at the supranational level, the European Union (EU) accelerated the work on institutionalisation of human rights. The European Ombudsman (1993) and the “European Monitoring Centre on Racism and Xenophobia” (1997), which later became the EU Agency for Fundamental Rights can be stated as examples in this regard.

There were four main developments post-2000s. First, at the international level, international agreements have begun to envisage the national institutionalisation of human rights. An example of this is the United Nations Convention on the Rights of Persons with Disabilities (2008). Secondly, at the supranational level, EU legislation have begun to envisage the national institutionalisation of human rights. An example for this is the Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Thirdly, at the international level, the Council of Europe started to address the national institutionalisation of human rights again. An example of this is the “Recommendation on the development and strengthening of effective, pluralist and independent national human rights institutions” (2021), which revises Recommendation of 1997. Finally, at the supranational level, it seems that EU legislation will leave a mark on the institutionalization of national human rights with their equality bodies dimension. As an example, two directives on standards for equality bodies were adopted.



United Nations (UN)

Human Rights Council

- ✔ Established under the UN in 2006 and replaced the Human Rights Commission established in 1946.
- ✔ Responsible for strengthening the promotion and protection of human rights worldwide.
- ✔ Examines the human rights records of states parties through the “Universal Periodic Review” (UPR).

✔ Office of the High Commissioner for Human Rights

- ✔ Established under the UN in 1993.
- ✔ Authorised to promote and protect human rights.
- ✔ International Convention on the Elimination of All Forms of Racial Discrimination (1969) provides for voluntary institutionalisation of human rights at the national level.

✔ Committee on the Elimination of Racial Discrimination

- ✔ Established by the International Convention on the Elimination of All Forms of Racial Discrimination, one of the UN international agreements on human rights.
- ✔ Responsible for monitoring the implementation of the provisions of the Convention.
- ✔ UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) (2006) and the UN Convention on the Rights of Persons with Disabilities (2008) provide for the mandatory institutionalisation of human rights at the national level.

✔ UN Paris Principles

- ✔ Adopted in 1993 by General Assembly Resolution No. 48/134, the UN Paris Principles still hold a central position for national human rights institutions.
- ✔ The Paris Principles introduce regulations under the headings “Competence and Responsibilities”, “Composition and Guarantees of Independence and Pluralism”, “Methods of Operation” and “Additional Principles Concerning the Status of Commissions with Quasi-judicial Competence”.
- ✔ In accordance with the Paris Principles, a national institution (i) must have the mandate to promote and protect human rights, (ii) must be structured in accordance with the principles of independence and pluralism, (iii) must be regulated in a constitution or a legal text, (iv) must have the mandate to freely consider any questions falling within its competence, hear any person and obtain any information and any documents necessary for assessing situations falling within its competence and address public opinion directly or through any press organ, and (v) may be authorised to hear and consider complaints and petitions concerning individual cases.

Council of Europe

Commissioner for Human Rights

- ✔ Established under the Council of Europe in 1999.
- ✔ Aims to increase education, awareness and respect for human rights.

European Commission against Racism and Intolerance (ECRI)

- ✔ Established under the Council of Europe in 1993.
- ✔ Responsible for fighting against racism, discrimination, xenophobia, antisemitism and intolerance.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

- ✔ Established by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, one of the international agreements of the Council of Europe on human rights.
- ✔ Responsible for monitoring the implementation of the provisions of the Convention.

Recommendation of 2021 of the Council of Europe

- ✔ By adopting the Recommendation CM/Rec (2021) in 2021, the Council of Europe aimed at creating a standard that goes beyond the Paris Principles for national human rights institutions in Europe.
- ✔ Recommendation of 2021 introduces regulations under the headings “I. Establishment of NHRIs”, “II. Strengthening of NHRIs”, “III. Securing and expanding a safe and enabling environment for NHRIs”, and “IV. Co-operation and support”.
- ✔ In accordance with the Recommendation of 2021 (in addition to the Paris Principles), Member States should (i) ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles, (ii) ensure that the mandate to protect and promote human rights is as broad as possible, including addressing all alleged human rights violations, (iii) ensure that NHRIs enjoy adequate access to information and to policy makers and legislators, and (iv) foster awareness and the co-operation of all relevant public authorities in relation to NHRIs.

Organisation for Security and Cooperation in Europe (OSCE)

Office for Democratic Institutions and Human Rights (ODIHR)

- ✔ Established after the fall of the Iron Curtain at the 1990 Paris Summit, under the name of “Free Elections Office” to monitor the elections in the former socialist countries and ensure that they are carried out properly.
- ✔ Its mandate later expanded to include human rights and democratisation issues. Its headquarters is in Warsaw.

Representative on Freedom of the Media (RFM):

- ✔ Established to monitor the status of media freedom in the OSCE region, to assist and cooperate in the development of free, independent and pluralistic media in participating countries, and to carry out an early warning mission when required.

European Union



Institutionalisation of Human Rights at the EU Institutions

Council of the EU

- ✔ Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons
 - ✔ Established under the Council to address human rights issues in the EU.

Working Party on Human Rights

- ✔ Established under the Council to address human rights issues outside the EU.

European Parliament

- ✔ Committee on Civil Liberties, Justice and Home Affairs
 - ✔ Established under the European Parliament to address human rights issues within the EU.
- ✔ Committee on Foreign Affairs / Subcommittee on Human Rights
 - ✔ Established under the European Parliament to address human rights issues outside the EU.
- ✔ Petitions Committee
 - ✔ Certain natural or legal persons have the right to petition the European Parliament on an issue (and therefore human rights violations) that broadly falls within the scope of one of the EU’s fields of activity.
 - ✔ The European Parliament discusses these petitions through this Committee.
- ✔ Coordinators
 - ✔ Coordinator on combating anti-Muslim hatred (2015)
 - ✔ Coordinator on combating racism (2021)

Institutionalisation of Human Rights at the Level of EU Bodies, Offices and Agencies

European Ombudsman

- ✔ Established in 1993, the European Ombudsman is elected by the European Parliament for a period of 5 years. It mainly considers complaints about cases of misadministration (and therefore human rights violations) of the EU bodies and prepares reports on such complaints.

EU Agency for Fundamental Rights

- ✔ In 2007, the EU Agency for Fundamental Rights replaced the European Monitoring Centre on Racism and Xenophobia, with the aim of helping promote and protect human rights in addition to other responsibilities.

European Data Protection Supervisor

- ✔ Established in 2004, the European Data Protection Supervisor is appointed by a joint decision of the European Parliament and the Council and is responsible for, inter alia, monitoring the EU bodies' processing of personal data and ensuring that the processing complies with data protection rules.

European Union Law

- ✔ Recommendation of the European Commission on binding standards for equality bodies
 - ✔ European Commission's Recommendation C(2018) 3850 sets out the principles regarding the qualifications and standards of the Equality Institutions of the EU Member States.
- ✔ Directive 2000/43/EC – Race and Ethnic Origin Directive, Directive 2004/113/EC – Equal Treatment in Goods and Services Directive, Directive 2006/54/EC – Directive on Equal Treatment between Men and Women regarding Employment (recast), Directive 2010/41/EU – Directive on Equal Treatment between Self-Employed Men and Women (Article 11)
- ✔ Provides for the mandatory institutionalisation of human rights at the national level.
- ✔ Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC
- ✔ Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU

Institutionalisation of Human Rights and Umbrella Structures at the National Level

Global Alliance of National Human Rights Institutions (GANHRI)

- ✔ The worldwide network of national human rights institutions.
- ✔ GANHRI, through the Sub-Committee on Accreditation (SCA), is responsible for reviewing and accrediting NHRIs in compliance with the Paris Principles.
- ✔ This accreditation is important because a national body accredited with A status gets certain prerogatives, such as the right to speak at the UN Human Rights Council.

European Network of National Human Rights Institutions (ENNHRI)

- ✔ The European network of national human rights institutions.

European Network of Equality Bodies (Equinet)

- ✔ The European network of national equality bodies.

European Network of Ombudsmen (ENO)

- ✔ The European network of national ombudsmen.