



Presentation on the Role of National Human Rights Institutions in
Complaint Handling,
*“SEMINAR ON THE HANDLING OF COMPLAINTS ON FUNDAMENTAL
RIGHTS, BRUSSELS 6 OCTOBER 2011*

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National Human Rights Institutions (NHRIs)

- **NHRI is an independent State-sponsored & State-funded organisation**
- **With a constitutional or legal basis**
- **With authority to promote and protect human rights at the national level**
- **Governed by UN 1993 General Assembly “Paris Principles” which set out the competences and responsibilities of NHRIs and the criteria under which they should function, namely:**

NHRIs

- **Independence guaranteed by Statute or Constitution;**
- **Pluralism, including in membership and**
- **A broad mandate based on universal human rights standards**
- **Mandate may include legislative review, research, policy, promotion, education, training, legal intervention, inquiries, complaint handling.**

European NHRIs

- Within Council of Europe 36 NHRIs
- Of which 22 are “A” Status under Paris Principles
- 36 NHRIs form the European Gp of NHRIs
- Within EU 18 NHRIS
- “A” Status = 12 NHRIs
- “B” Status = 5
- “C” Status = 1
- Others = 11

EU NHRIs

Status A	Status B	Status C	Applying for Accreditation	Non-Acc	No institution
Denmark France Germany Greece Ireland Luxembourg Poland Portugal Spain Northern Ireland(UK) Scotland(UK) Great Britain(UK)	Austria Belgium Netherlands Slovakia Slovenia	Romania	Sweden Hungary	Bulgaria Latvia Finland	Cyprus Estonia Czech Republic Malta Lithuania Italy* *Draft law previously under consideration.
Total: 12	Total:5	Total:1	Total:2	Total:3	Total: 6

Mandate

- Typical “A” Status NHRI
- mandated to deal with civil and political, economic, cultural and social rights
- To avoid gaps importance of mandate covering both regional and universal standards – i.e. Council of Europe and United Nations standards
- European Union rights law...

European NHRIs

- NHRI may be a national Commission, a national Ombudsman, an Equality body, a national preventive mechanism under OPCAT, a national monitoring mechanism under CRPD or mixture
- Not all Ombudsmen are NHRIs particularly if lack law reform/ legal powers
- Accreditation by UN ICC sub-committee
- European NHRIs have different mandates:

Complaints handling: mandates

- Some NHRIs examine complaints – e.g. Polish Ombudsman* (“A” status), Spanish Ombudsman* (“A”), Irish Human Rights Commission (“A”)
- Some NHRIs can:
 - direct/ compel a statutory body to act (Polish Ombudsman)
 - make binding recommendations (Spanish Ombudsman)...

** Office of the Human Rights Defender/ Office of the Public Defender*

Complaints handling: mandates

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- legally represent individuals with legal cases (Irish Commission)
- appear as *amicus curiae* in court cases (Scottish Commission (“A”))
- Some NHRIs with dual mandates provide legal assistance in certain cases only (Equality and Human Rights Commission (“A”)/ Danish Institute (“A”))
- Where NHRI has discretion in dealing with complaints it may adopt guidelines on which cases it will investigate/ support (Irish Commission)

Referrals

- Other NHRIs have more law reform/ promotional mandate functions - e.g. French Commission nationale consultative des droits de l'homme (“A”))
- NHRIs which do not usually deal with complaints can refer people to other bodies (e.g. Danish Institute for Human Rights)
- Examples of such referrals are to the national Equality Body/ Legal aid (Courts)/ Children’s Ombudsman/ Data Protection Commissioner etc.

Follow up

- Some NHRIs follow up referrals it makes to other bodies – Polish/ Spanish Ombudsman
- Some NHRIs identify thematic trends in complaints to address systemic issues under law reform or administrative practice – e.g. prison conditions/ transgender rights (Irish, Scottish commissions)

Conclusions

- Those NHRIs who examine complaints often have power to compel evidence in addition to powers to direct/ recommend redress
- Complaints-handling NHRIs may have limited law reform/ promotional functions (education/ training/ awareness). NHRIs who do not examine case complaints may still be able to assist in legal cases before the Courts
- through direct legal advice/ representation.
- by intervening as *amicus curiae* before domestic courts and European Court



Q&A

www.ihrc.ie/international/parisprinciples.html