

Summer School with Moot Court 2014 in Hạ Long

Protection of Human Rights and Fundamental Rights

Institutions

Levels

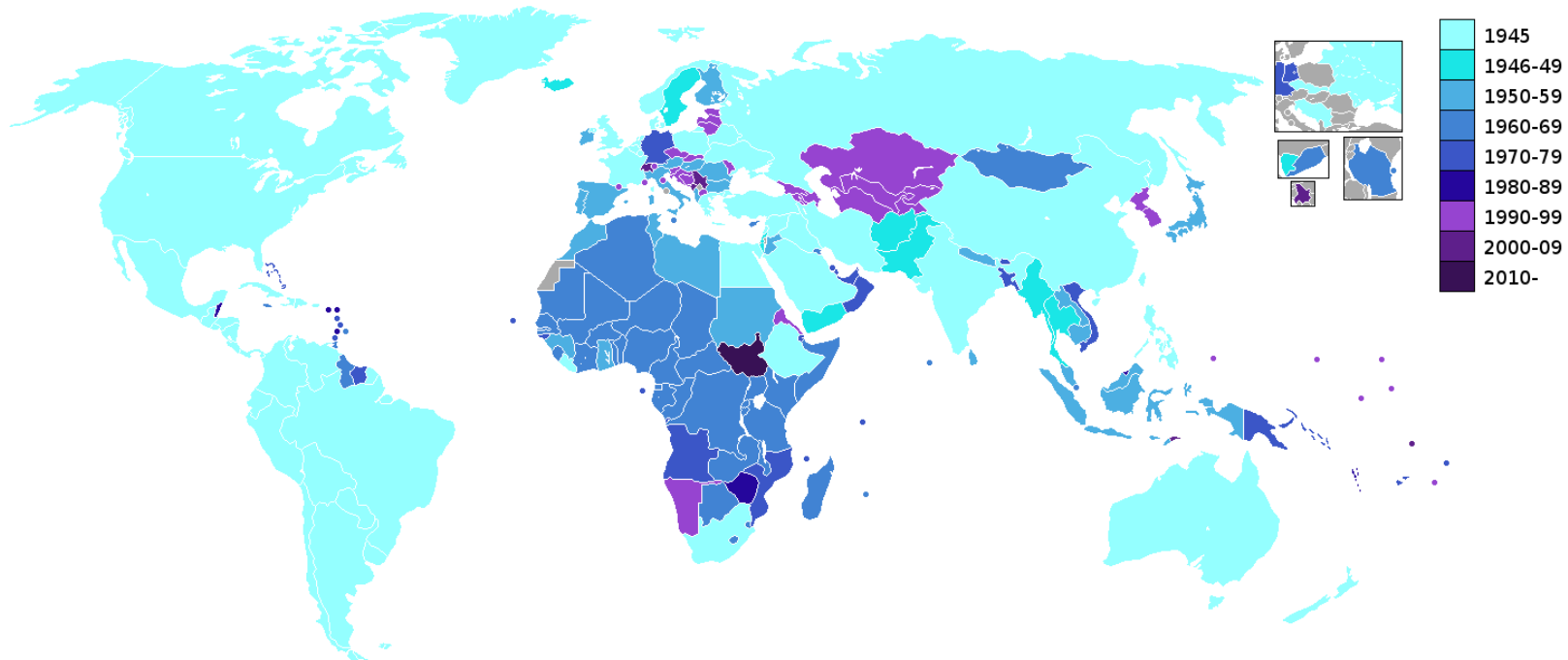
United Nations
Council of Europe
European Union
National States

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Protection of Human Rights and Fundamental Rights

Institutions

United Nations



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Protection of Human Rights and Fundamental Rights

Institutions

United Nations

General	Human Rights Council
	United Nations High Commissioner for Human Rights
	United Nations High Commissioner for Refugees
Special	Human Rights Committee (International Covenant on Civil and Political Rights)
	Committee on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights)

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Protection of Human Rights and Fundamental Rights

Institutions

The Human Rights Council



- established June 2006
- successor to the United Nations Commission on Human Rights
- subsidiary body of the UN General Assembly
- current president: Mr. Baudelaire Ndong Ella (Gabon) – 8th cycle (2013-14)



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The Human Rights Council



Members

- 47 members elected for three years
- max. two consecutive terms
- distributed among the UN regional groups:
13 for Africa, 13 for Asia, 6 for Eastern Europe, 8 for Latin America and the Caribbean, 7 for the Western European and others

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The Human Rights Council



Members

- elected with absolute majority by the General Assembly
- by taking into account the candidates contribution to the protection of human rights
- suspension via a $\frac{2}{3}$ majority if member violates human rights (example: Libya in 2011)

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The Human Rights Council



Instruments

- Universal Periodic Review
- Advisory Committee
- Complaint Procedure
- Special Procedures

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The Human Rights Council

Universal Periodic Review



- introduced by the 2005 UN reform process
- addresses all countries and all human rights
- political forum as a mechanism for the international redress of human rights abuses
- 4 ½ year cycle

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Universal Periodic Review

based on

- the Charter of the UN
- the Universal Declaration of Human Rights
- other human rights instruments to which the state is party



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Universal Periodic Review



- prepared and presented by three states (troika)
- adopted by the UPR Working Group
- outcome of the review should be implemented by the state concerned (cooperative mechanism)
- “persistent non-cooperation”

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Universal Periodic Review



Examples:

[Report on Germany \(2nd Cycle\)](#)

Reports: [national report](#), [working group report](#)

[Report on Vietnam \(2nd Cycle\)](#)

Reports: [national report](#), [working group report](#)

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Advisory Committee



- 18 members (distributed among the regional groups)
- task: to provide expert opinions
- replacing the former (influential) Sub-Commission on the Promotion and Protection of Human Rights

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Complaint Procedure

- addressing gross violations of human rights anywhere in the world
- operated by two working groups
- reporting to the Council with recommendations of actions to take
- History of cases

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Special Procedures

- addressing either specific countries or thematic issues
- mandate held by individuals or working groups
- report to the Human Rights Council at least once a year

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Evaluation

- 2005 reform was addressing concerns that the former Commission on Human Rights allowed members with poor human rights records
- But even after the reform countries with a poor records were voted members

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Evaluation

- politically motivated decisions (states cover each other), examples: situation in Uzbekistan, Iran, Darfur
- resolutions on the defamation of religion (dispute since 1999)

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UN High Commissioner for Human Rights

- established December 1993
- supervisor of the Human Rights Council
- four-year term
- current Commissioner: Mrs. Navanethem "Navi" Pillay (South Africa) since 1 September 2008
(mandate extend by half a term)



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United Nations High Commissioner for Refugees

- established December 1950
- UN agency to protect and support refugees (voluntary repatriation, local integration, resettlement) under the Geneva Convention
- current Commissioner: Mr. António Guterres (Portugal) since June 2005



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The Human Rights Committee

- body of 18 experts appointed by the member states
- body the International Covenant on Civil and Political Rights
- quasi-judicial body (as opposed to the political function of the Human Rights Council)

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The Human Rights Committee

Functions:

- examining individual complaints
- considering the five-yearly reports submitted by the 162 UN member states

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Institutions

The Human Rights Committee

Individual complaints (Communications)

- claimed violation of rights under the International Covenant on Civil and Political Rights
- Only against states that are parties to the First Optional Protocol

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The Human Rights Committee

Individual complaints (Communications)

- the decision of the Committee bind the signatory states as parties of the First Optional Protocol (*pacta sunt servanda*)
- state must update the Committee within three months which steps were taken to address the violation

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Committee on Economic, Social and Cultural Rights

- 18 experts appointed by the member state
- body the International Covenant on Economic, Social and Cultural Rights

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Committee on Economic, Social and Cultural Rights

Ratification of the International Covenant on Economic, Social and Cultural Rights, January 2013



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Committee on Economic, Social and Cultural Rights

Functions:

- guarding the International Covenant on Economic, Social and Cultural Rights
- individual complaints procedure being introduced

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The Council of Europe



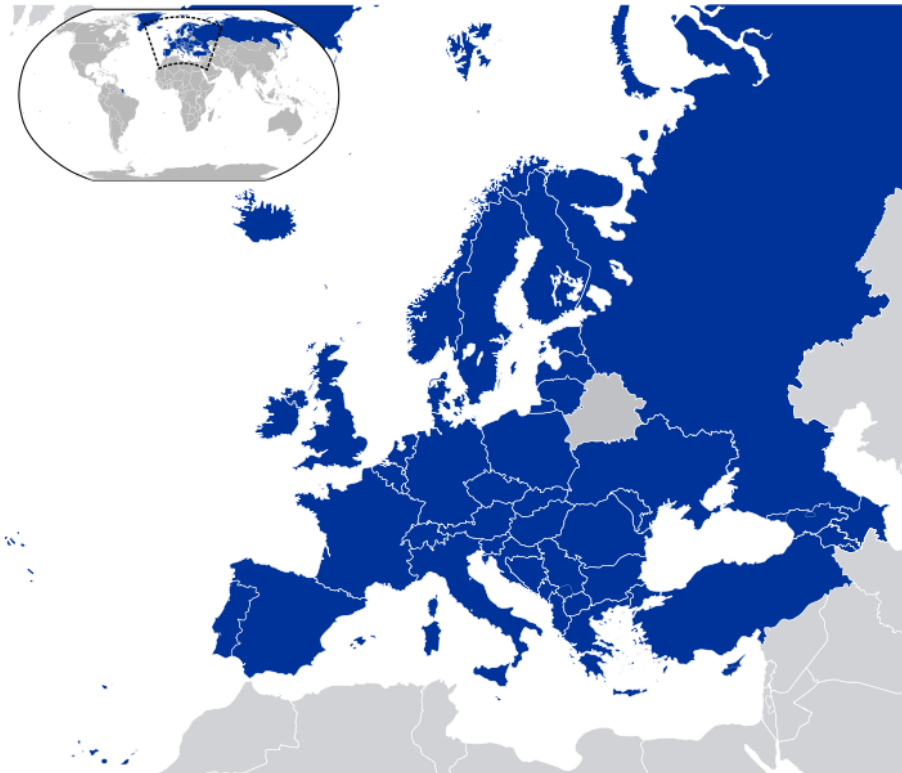
European Court of Human Rights

Commissioner for Human Rights

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Protection of Human Rights and Fundamental Rights

Members of the Council of Europe



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The Council of Europe



- international organisation of 47 member states
- on areas of legal standards, human rights, the rule of law, democratic development
- not to be confused with the European Union (28 member states), the European Council or the Council of the European Union (institutions of the EU)

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Institutions



European Court of Human Rights

- based in Strasbourg
- established January 1959
- in accordance with Art. 19 European Convention on Human Rights
- jurisdiction recognised in all 47 member states of the Council of Europe
- not to be confused with the European Court of Justice (EU, Luxembourg)

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European Court of Human Rights

Jurisdiction

- inter-state cases (rarely)
- advisory opinion (on vote of the committee of Ministers)
- applications by individuals

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European Court of Human Rights

Application by individuals

- application by individuals against a contracting state
- allegation that contracting state violated the human rights of the individual

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European Court of Human Rights

Court case between individuals (for example
Princess Caroline vs Burda-Verlag) before the
national courts

may end up before the European Court of Human
Rights (for examples Princess Caroline vs
Germany)

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Commissioner for Human Rights

- impartial institution of the Council of Europe
- to promote the awareness of human rights
- current Commissioner: Mr. Nils Muižnieks (Latvia) since April 2012

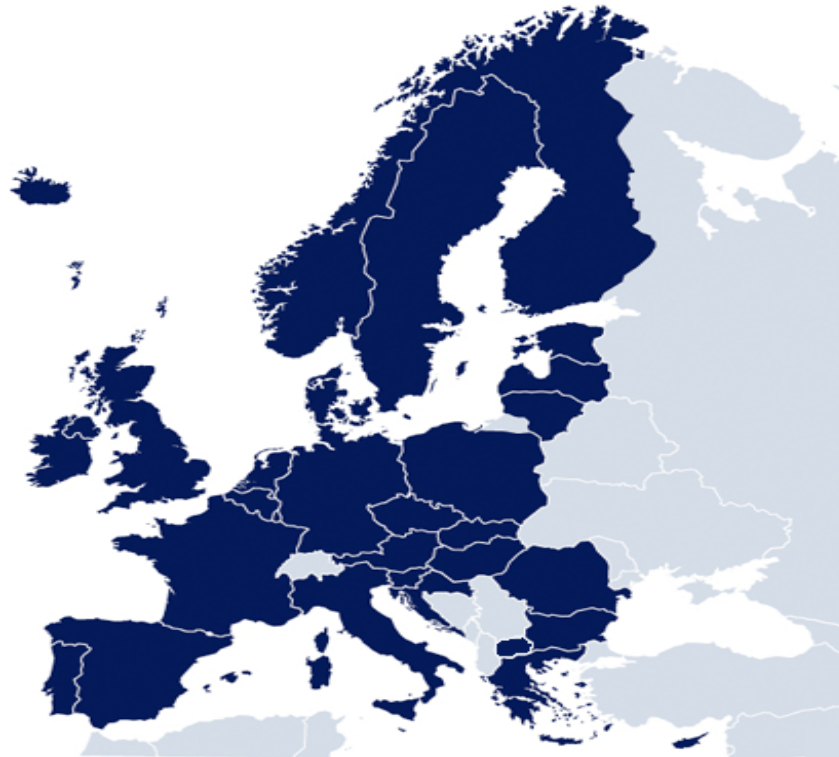


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Protection of Human Rights and Fundamental Rights

Institutions

The European Union



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Institutions

The European Union



- European Court of Justice (ECJ)
- based in Luxembourg
- jurisdiction on the EU Treaty and the Treaty on the Functioning of the EU.

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Institutions

National States

- national courts
- constitutional courts (in some countries)
- jurisdiction on national law