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**MASTER'S PROGRAMME IN "EUROPEAN POLICIES ON YOUTH,
ENTREPRENEURSHIP, EDUCATION AND CULTURE"**

**Title: Human Rights Education before judicial practice. More effective
human rights protection through specifically trained actors**

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DECLARATION

I solemnly declare, under my own responsibility, that all the data presented in this paper has been obtained, processed, and presented in strict accordance with the rules and principles of academic ethics, as well as the laws governing research and intellectual property. Furthermore, I affirm that, as stipulated by these regulations, I have diligently acknowledged and referenced all sources of information and materials that I have utilized in this thesis, which are not of my own creation.

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*To the person who introduced me to
human rights values in my very first years,
To my father*

ABSTRACT

This thesis deals with human rights education (HRE) and the role it can play in the protection of human rights. The research focuses on presenting the key aspects of the HRE and highlights its importance for the promotion of human rights. In support of this view, human rights training for specific groups of professionals is emphasized. The thesis continues with the analysis of the way HRE works as a reinforcing mechanism in the prevention of human rights violations and the way its role is promoted by the United Nations monitoring and reporting system and at the European level. It explores the existing mechanisms for the protection of rights in the international and European context. At the regional level, reference is made to the Council of Europe, which oversees the protection of human rights through both non-judicial mechanisms and the European Court of Human Rights. The action of the EU institutions in the protection of fundamental rights will also be mentioned.

However, these mechanisms have faced criticism for their functionality, effectiveness and enforcement. Given the limitations of the existing systems, the thesis raises the question whether human rights education may offer an alternative approach to the protection of human rights or even replace judicial or supervisory mechanisms of the existing systems. This thesis proposes research to analyze the hypothesis and assess the effectiveness of HRE compared to the mentioned herein existing protection mechanisms and especially the European Court of Human Rights (ECtHR). In conclusion, as much as we consider the mechanisms for human rights protection to be necessary to remedy violations, they cannot entirely avoid future violations. To this end we emphasize the importance of establishing human rights education as a preventative mechanism which in a structured and intensive way of function can change the global society and establish a culture of human rights, where the promotion of human rights values will be encountered more often than the finding of violations.

Keywords: Human rights, human rights education, human rights training, human rights protection mechanisms, monitoring.

ABBREVIATIONS

CAT	Committee against Torture
CCPR	Human Rights Committee
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social, and Cultural Rights
CJEU	Court of Justice of the European Union
CMW	Committee on Migrant Workers
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
ECHR	European Convention on Human Rights
ECRI	European Commission against Racism and Intolerance
ECSR	European Committee of Social Rights
ECtHR	European Court of Human Rights
FRA	European Fundamental Rights Agency
HRC	Human Rights Council
HRE	Human Rights Education
GRECO	Group of States Against Corruption
GRETA	Group of Experts on Action Against Trafficking in Human Beings
GREVIO	Group of Experts on Action against Violence Against Women and Domestic Violence
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MONEYVAL	Committee of Experts on the Evaluation of Anti-money Laundering Measures and the Financing of Terrorism
NGOs	non-governmental organizations
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

PACE	Parliamentary Assembly of the Council of Europe
SPT	Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
TBBs	Treaty-Based Bodies
UN	United Nations
UDHR	Universal Declaration of Human Rights
UPR	Universal Periodic Review

1. INTRODUCTION

Human rights education is essential in order to achieve the promotion of human rights. Dignity, social justice and equality are values which, although discussed and, fortunately, promoted by numerous states through legislative and policy measures, their ideal implementation remains impossible in any society today. Human rights are being protected in the existing international and regional systems but at the same time violations are occurring everywhere and on a daily basis.

The aim of this thesis is to explore whether human rights education (HRE) can be considered as an effective tool for advancing human rights protection and preventing their violation and mapping its place in the existing international and regional preventive, supervisory and judicial systems.

This thesis is structured into three main chapters. The first main section (chapter 2) focuses on the concept of the HRE, and its historical background. The promotion of the HRE within the UN and the regional systems in Europe is examined in order to highlight the importance of HRE that has been recognized for many years. Furthermore, the significance of human rights training, with an emphasis on specific groups of professionals, is analyzed, both for strengthening HRE and in fulfilling its purpose. In order to highlight the view that the HRE can essentially function as a preventive mechanism for the protection of rights, we comment on its impact on the field of human rights protection and connect it to the concepts of global citizenship and education for democratic citizenship. Furthermore, among the highlights of the states, where HRE has been integrated into the formal education system, an attempt is made to capture the contribution of it to the development of a peaceful global community. Throughout the analysis, we consider contemporary challenges and evaluate the effectiveness of the promotion of the HRE.

In the second main section (chapter 3), a presentation of the human rights protection existing systems is attempted by focusing on the international monitoring system of the United Nations (UN), the system of the Council of Europe (CoE), by presenting their human rights monitoring mechanisms and, finally the role of key EU institutions in strengthening fundamental rights. At the international level, the UN follows a different system of monitoring and control through reporting, which means the possibility of submitting complaints individually or collectively, as well as by non-

governmental organizations. At the European level, the Council of Europe (CoE) monitors how its member states protect human rights, on the one hand, through non-judicial monitoring mechanisms and, on the other hand, through the European Court of Human Rights (EctHR), the judicial mechanism. The European framework includes as well the European Union, where there is the Court of Justice of the European Union as a judicial mechanism as well as bodies charged with the task of monitoring and promoting fundamental rights. By examining the current challenges in each subsection, we try to highlight the points that undermine the effective functioning of the mechanisms of the CoE mentioned herein.

The above-mentioned mechanisms of monitoring and judicial supervision have been criticized in terms of their functionality, effectiveness and enforceability of their judgements. Certainly, one could argue that these are inherent weaknesses of international and regional mechanisms that function within the constraints of state sovereignty and limited resources. But undeniably, these systems are deemed to relatively fail, meaning they are neither designed nor are able to deal with each and every individual case of human rights violations. This relative failure fuels distrust and sometimes frustration for justice itself.

The question, therefore, arises as to whether and to what extent the dubious protection of human rights and fundamental freedoms can be achieved by redirecting the focus to another route, i.e. Through HRE and training of judges, law enforcement personnel, and even the general population. Hence, human rights education is presented in this thesis as an alternative addressed not only to specific groups of professionals but to the general population as well. Human rights education undoubtedly benefits society as a whole and helps to create an educated citizen with the communication skills and informed critical thinking that are essential to a democracy. Moreover, it creates a sense of responsibility for respecting and defending human rights and empowers people to recognize human rights violations and take appropriate action.

Herein, research on how violations are dealt with by official international and European bodies can the effectiveness of judicial protection and supervisory mechanisms and, ultimately, whether human rights education can contribute to their functioning or even substitute them at an earlier stage. How, then, may judicial practice or the supervisory function be improved when the professionals receive specific and lifelong human rights training?

The last chapter (chapter 4) consists of a single issue, the comparison of the role of the HRE with the existing systems and, above all, with the ECtHR. Despite its drawbacks such as the high costs of an appeal and the inadmissibility of the majority of applications, the ECtHR remains indispensable. While it effectively deals with violations, doubts linger regarding its deterrent effect on future violations. As human rights violations persist at a significant rate, and states resist or neglect compliance with the ECtHR's judgments, we stress the need for a systematic institutionalization of HRE, requiring relevant actions from ministries organizations (governmental and non-governmental), and educational institutions. This may involve developing new educational policies or integrating human rights into formal education systems. While we acknowledge the achievements of existing systems, such as those of the UN and CoE, the necessity to strengthen HRE efforts should be recognized. The purpose of this chapter is to substantiate the argument that the systematic institutionalization of HRE is the most effective long-term strategy for embedding human rights principles into social consciousness and public practice. Such internalization is essential for cultivating a sustainable human rights-oriented ethos, which, in turn, is indispensable for the substantial reduction of violations.

2. HUMAN RIGHTS EDUCATION

2.1. THE CONCEPT OF HUMAN RIGHTS EDUCATION

2.1.1. *The concepts of education and human rights*

The idea for a Human Rights Education (HRE) goes back to the year 1948, when the preamble of the Universal Declaration of Human Rights (UDHR) stated that “*every individual and institution of society, mindful of this Declaration, shall endeavor through teaching and education to promote respect for these rights and freedoms*”¹. Since then, international instruments with binding legal force (Treaties, Conventions, etc.) and with non-binding legal force for States (Declarations, Recommendations, etc.) are numerous and refer, sometimes clearly and sometimes indirectly, to HRE.

Education is a fundamental public or private good² for any organized society, because it is very closely connected with the concepts of peace, freedom and social justice. Without the possibility of providing education to society as a whole, it would be impossible to speak of social change, of improving the standard of living and, above all, of equality. Since ancient times, Aristotle emphasized the importance of education for democracy³. Education means bringing up children (derived from the Latin word “*educare*”) and thus transferring a set of moral and non-moral rules to each succeeding generation in a way that powerfully affects the way individuals live and function. Education is that area of human life that achieves the creation of a holistically developed and balanced personality⁴.

The second pillar of the concept of Human Rights could be defined as the claims of each individual to the realization of the intrinsic characteristics of his nature by the mere fact that he was born human. According to the Universal Declaration of Human

¹ Brander, Patricia. *Compass: Manual for human rights education with young people*. Council of Europe, 2nd edition, updated in 2020, p. 16.

² Grace, Gerald. "Education is a public good: On the need to resist the domination of economic science." *Education and the market place* 125 (1994): 125-136; Locatelli, Rita. *Education as a Public and Common Good: Reframing the Governance of Education in a Changing Context*. *Education, Research and Foresight: Working Papers*, no. 22, UNESCO, 2018. ED-2018/WP/1.

³ Aristotle, *Politics* (H. Rackham, trans. in 1932). Loeb Classical Library No. 264. London: Heinemann & Putnam. DOI: 10.4159/DLCL.aristotle-politics.1932.

⁴ Sharma, Meenu, and Priyam Ankit. "Importance of Education in This Challenging World." *Smart Moves Journal IJELLH* (2023), p. 11.

Rights (UDHR 1948) human rights are inherent and inalienable and ensure the dignity of every human being, regardless of race, religion, nationality, language, sex or any other factor (preamble and Article 2). As every person has rights for this reason, they are also referred to as universal, since they are the same for everyone. Their definition acts as a shield of protection to prevent the state and other individuals from infringing them, and securing them ensures the satisfaction of the individual should their rights be violated. A primary source on which human rights are founded is the UDHR of 1948, which laid the foundation for human rights to be guaranteed both nationally and internationally⁵ and despite the indirect reference to the HRE, the UDHR is the first instrument on which every subsequent international text was based⁶, from the international conventions to the reports of the UNHRC, Human Rights Council, UNESCO, the Council of Europe et al⁷.

What distinguishes human rights from other legal guarantees is their character and their meaning, as discussed earlier, because in the human mind human rights are not only rules for the orderly functioning of society but primarily moral rules. This is also an important reason why the defense of human rights is constantly in the foreground and the violations that, unfortunately, take place every day on a global scale are condemned with unprecedented vigor. HRE, therefore, aims to spread knowledge about the existing international system of justice and protection of human rights, in order to ensure that individuals have the possibility to know and understand their own rights but also the creation and development of systems through which they are safeguarded and protected within and beyond national borders⁸.

The international protection of human rights is constantly gaining ground with their increasing incorporation into international conventions. More and more groups (of global civil society, international and national non-governmental organizations) are mobilizing in the field of action in favor of the defense of rights, in order to react collectively to gross violations that take place. Undoubtedly, there is also the dark side,

⁵ CoE, Introducing human rights education, <https://www.coe.int/en/web/compass/introducing-human-rights-education>.

⁶ Quennerstedt, Ann. "Children's and young people's human rights education in school: Cardinal complications and a middle ground." *Journal of Human Rights* 21.4 (2022), p. 384.

⁷ BEMIS, Empowering Scotland's Ethnic and Cultural Minority Communities, Human Rights Education: Theory and Practices, 2010, p. 6.
https://www.bemis.org.uk/PDF/hre_theory_and_practices.pdf

⁸ Oguro, Susan, and Nina Burridge. "The contribution of non-government organisations to human rights education in Australian schools." *Third Sector Review* 22.1 (2016), p. 7.

where human rights are abused by regimes and various kinds of institutions within societies, destabilizing the already unstable world order. In any case, we must remain unaffected by the unpleasant realization that there are not many who prioritize self-interest over the common good and envision human rights as the most effective tool for achieving political freedom and global social justice⁹.

2.1.2. The concept and the historical background of Human Rights Education

The most complete definition of HRE is given in the article 2 of the Declaration on Human Rights Education and Training¹⁰, where it is characteristically stated that:

“1. Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing, inter alia, to the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviors, to empower them to contribute to the building and promotion of a universal culture of human rights”.

In its second paragraph the article HRE appears through its three dimensions:
“(a) Education about human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;
(b) Education through human rights, which includes learning and teaching in a way that respects the rights of both educators and learners. The educator should ensure that the learning environment and learning methods also respect and promote human rights in practice;

⁹ Rensmann, L. (2017). Critical Theory of Human Rights. In: Thompson, M. (eds) The Palgrave Handbook of Critical Theory. Political Philosophy and Public Purpose. Palgrave Macmillan, New York. https://doi.org/10.1057/978-1-137-55801-5_29.

¹⁰ United Nations, United Nations Declaration on Human Rights Education and Training, 2011, <https://www.ohchr.org/en/resources/educators/human-rights-education-training/11-united-nations-declaration-human-rights-education-and-training-2011>

(c) *Education for human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others. It refers to the aim of making learners able to act upon what they have learned*¹¹.

Furthermore, in the Universal Declaration of Human Rights and, more specifically, in article 26¹², one can observe the close connection between the right to education and the right to HRE, since the former is followed by the latter, which is defined as the right to an education aimed at the *“full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms*¹³”. Thus, while the right to education is a human right, HRE is the right to such education capable of providing and developing the necessary awareness of universal human rights, fundamental freedoms and the obligations that the former two entail¹⁴.

The concept of HRE has been interspersed through the effort of its scholars to demonstrate the value and purposes pursued through it with different approaches, however the various proposed definitions include the above basic elements¹⁵. It is worth noting the definition given to HRE by the Encyclopedia of Peace Education as *“an international movement to promote awareness about the rights accorded by the Universal Declaration of Human Rights and related human rights conventions, and the procedures that exist for the redress of violations of these rights*¹⁶. The Office of the United Nations High Commissioner for Human Rights, on the other hand, states that

¹¹ The Danish Institute for Human Rights, *The Human Rights Education Toolbox A Practitioner’s Guide to Planning And Managing Human Rights Education*, 2012, p. 13.

¹² UN UDHR, Article 26: *“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit”*.

¹³ Ibid UDHR, Article 26, par. 2.

¹⁴ Ibid, BEMIS, 2010, p. 6.

https://www.bemis.org.uk/PDF/hre_theory_and_practices.pdf

¹⁵ David Shiman "Introduction", *Teaching Human Rights*, Human Rights Educators' Network of Amnesty International USA, the Human Rights Resource Center, and the Stanley Foundation, 1998, <http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Part-2/HRE-intro.htm>; *ibid*, BEMIS, pp. 3-4; Jerome, Lee, et al. "Teaching and learning about child rights: A study of implementation in 26 countries", 2015, pp. 10-11; Anbu, Seilan, *Human Rights Education: Educating One to Know Their Rights*, 2012, pp. 4-5; Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, Adopted in the framework of Recommendation, CM/Rec(2010)7, Article 2b, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016803034e5>.

¹⁶ Felisa Tibbitts, *Human Rights Education* in *Encyclopedia of Peace Education* edited by Bajaj, Monisha, IAP-Information Age Publishing, Inc., 2008, p. 99.

HRE refers to human rights training and dissemination efforts aimed at building a universal human rights culture with the ultimate goal of enhancing respect for human rights and fundamental freedoms, for the development of human personality and dignity, gender equality and friendship, the participation of all in a free and democratic society governed by the rule of law, the establishment of peace, human-centered sustainable development and social justice¹⁷.

It is therefore understood that HRE is essential for the full realization of human rights and fundamental freedoms as it aims to transfer social standards between generations, and these standards are all the knowledge, values and skills that constitute the system of human rights values to be implemented both in relations between families and within a community and, even further, between communities¹⁸.

The UN Charter¹⁹ directly linked to human rights, education and development, which presents ideals for achieving stability, prosperity and world peace. Towards these ends, we observe the obligation it imposes on all members to promote higher standards of living and conditions of economic and social development, international cultural and educational cooperation and, finally, universal respect and observance of human rights and fundamental freedoms of all without discrimination²⁰. It is, indeed, an obligation and, above all, each Government's responsibility to ensure the provision of human rights education, as it expressly derives from the UDHR, where, as mentioned above, in its Preamble, the obligation is spoken of and for each of society's organs to strive for teaching and education to promote respect for rights and freedoms.

Beyond the Universal Declaration and the UN Charter, however, there are other conventions, recommendations, etc., that refer to the HRE. In the Convention on the Rights of the Child (CRC)²¹ is highlighted that education of children must be oriented towards the development of respect for the human beings and fundamental freedoms as well as the principles enshrined in the Charter of the United Nations. It is very useful to dwell a little more on this particular international convention, because it is easily understood that HRE acquired a tremendous interest when examined under the lens of

¹⁷ Ibid, BEMIS, p. 4.

¹⁸ Quennerstedt, Ann. "Children's and young people's human rights education in school: Cardinal complications and a middle ground." *Journal of Human Rights* 21.4 (2022), p. 384.

¹⁹ United Nations Charter, <https://www.un.org/en/about-us/un-charter/full-text>.

²⁰ UN Charter, Article 55.

²¹ UN Convention on the Rights of the Child (CRC), 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

the Committee on the Rights of the Child. Article 29 of the Convention states the aims of the child's education²². This article in conjunction with article 28²³ and General Comment No. 1²⁴ of the relevant Committee indicates the particular and weighty obligations of the states regarding the provision of education. More specifically, although article 29 of the convention does not explicitly mention the obligation to provide human rights education, nevertheless the obligation to provide education is mandated, as it is presented in article 28 as the right to education and, as the content of the right is described in more detail through the intended objectives in Article 29. It therefore follows that human rights education, as we have come to know it as a concept, is included in the education of children. Furthermore, the General Comment of the Committee reinforces, although not binding, the normative content of article 29. From the General Comment, which underlines that article 29 consists of interrelated paragraphs, which have a direct connection with every other provision of the CRC, it follows that HRE must be accompanied by a holistic interpretation and include

²² UN Convention on the Rights of the Child, Article 29: “1. States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment. 2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State”.

²³ UN Convention on the Rights of the Child, Article 28: “1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates. 2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention. 3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries”.

²⁴ UN Committee on the Rights of the Child (CRC), General comment No. 1 (2001), Article 29 (1), The aims of education, CRC/GC/2001/1, 17 April 2001, <https://www.refworld.org/legal/general/crc/2001/en/39221>.

important principles of the CRC, such as the principle of non-discrimination (Article 2), the best interests of the child (Article 3) and the right to expression (Article 12)²⁵.

Moreover, in the International Covenant on Economic, Social and Cultural Rights (ICESCR)²⁶ and, in particular, in article 13 thereof it is stated that education must aim at the full development of the human personality and dignity, as well as strengthen respect for human rights and fundamental freedoms. In General Recommendation No. 3 of the Committee on the Elimination of Discrimination Against Women (CEDAW)²⁷, it is also expressly stated that all state parties shall effectively adopt education and public information programs regarding the elimination of prejudices and practices that hinder the achievement of social equality. Accordingly, the article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination²⁸ refers to the obligation of States to combat prejudices leading to racial discrimination through teaching and education, culture and information. Furthermore, the Declaration on the Rights of Disabled Persons²⁹ refers in paragraph 13 that “*disabled persons, their families and communities shall be fully informed, by all appropriate means, of the rights contained in this Declaration*”. Also, in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials³⁰ a requirement that the principles be brought to the attention of law enforcement officials appears. There is indeed particular reference to judges, prosecutors, lawyers, members of the executive branch, the legislature and finally the public³¹.

²⁵ Gerber, Paula. From convention to classroom: The long road to human rights education. University of Melbourne, Law School, 2008, pp. 71-76.

²⁶ UN International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

²⁷ UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 3 (sixth session, 1987), <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

²⁸ UN International Convention on the Elimination of All Forms of Racial Discrimination, 1965, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>.

²⁹ UN Declaration on the Rights of Disabled Persons, 1975, <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-rights-disabled-persons#:~:text=Disabled%20persons%20have%20the%20right,enable%20them%20to%20develop%20their>.

³⁰ UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement>.

³¹ Spiliopoulou Åkermark, Athanasia. "Human Rights Education: achievements and challenges." (1998), pp. 17-18.

These are just few examples to illustrate the frequency of HRE appearances in the human rights protection system, which is found in numerous international instruments³². The United Nations Declaration on Human Rights Education and Training, which was drawn up in 2011, years later than the UDHR, repeats what was initially noted through a summary of the previous guidelines and recommendations³³.

The more systematic approach to HRE emerged in the early 1990s and through the push given by the UN Human Rights Council. The programs established in this decade align with the “four pillars of education” proposed by the *Delors Commission* in 1996: *learning to know, learning to do, learning to live together, and learning to be*³⁴. HRE now appears with its overt orientation towards the achievement of social justice in global society as a response to the oppression of local societies, which put the ideas of social inclusion and anti-discrimination as the only steps forward. It becomes clear that this will only be fully achieved if emphasis is placed on spreading human rights values, which will be instilled in the minds of individuals, externalized through action and ultimately create the culture of human rights, the ultimate wish of every HRE promoter.

UNESCO’s efforts to promote HRE were also important. In 1953 with the establishment of the Associated School Project by UNESCO³⁵, a network that to this day supports experimental schools and activities aimed at promoting the UDHR and UN activities. Subsequently, in 1974, UNESCO issued a recommendation on education for international understanding, cooperation, peace and education, as well as education in human rights and fundamental freedoms.

Twenty years later, UNESCO holds a landmark conference for HRE, which took place in Montreal in the year 1993, called the *International Congress on Education for Human Rights and Democracy*³⁶. The outcome of the congress was the preparation of

³² Ibid, The Danish Institute for Human Rights, p.10.

³³ United Nations Declaration on Human Rights Education and Training, Article 14: “States should take appropriate measures to ensure the effective implementation of and follow-up to the present Declaration and make the necessary resources available in this regard”; see also Merayo López, Carla Iria Carla Iria. Human rights education programs in the spectrum of international standards. Diss. 2015, p. 47.

³⁴ Lenhart, Volker, and Kaisa Savolainen. "Human rights education as a field of practice and of theoretical reflection." *International Review of Education* 48.3 (2002), p. 145; UNESCO, PUBLISHING, TREASURE WITHIN, Report to UNESCO of the International Commission on Education for the Twenty-first Century, UNESCO Publishing, 1996.

³⁵ UNESCO, What you need to know about UNESCO Associated Schools Network, <https://www.unesco.org/en/aspnet/need-know>.

³⁶ UNESCO, International Congress on Education for Human Rights and Democracy, Montreal, Canada, 8-11 March 1993, (1993), <https://unesdoc.unesco.org/ark:/48223/pf0000161096>.

the *World Plan of Action on Education for Human Rights and Democracy (the Montreal Declaration)*³⁷, which aimed to create a culture of human rights and develop democratic societies that would be able to resolve any dispute through the use of non-violent methods. In the same year, a conference on human rights was also held in Vienna, which was called the *Vienna Declaration*³⁸. The Plan of Action therefore recognized the *World Plan of Action and Education for Human Rights and Democracy*³⁹ with the main purpose of encouraging countries to develop specific programs and strategies to ensure the widespread implementation of HRE.

«Human Rights Education, training and public information are essential for the promotion and achievement of stable and harmonious relations among communities and for fostering mutual understanding, tolerance and peace».
(*Vienna Declaration and Programme of Action, part II. D, par 78, 25.06.1993*)

The intergovernmental discussions led to the announcement of the *UN Decade for Human Rights Education* for the years 1995–2004⁴⁰, which led to the launch of the *World Program for Human Rights Education* in 2005⁴¹. The Decade for Human Rights Education included new curricula and activities on human rights, professional training, with an emphasis on judicial professionals and regional and international cooperation to promote HRE.

However, in 2004 and after the evaluation of the Decade carried out by the High Commissioner for Human Rights, it was concluded that the Decade was not a great success, since only twenty-eight countries out of about two hundred responded to the questionnaire sent to them by the Director-General of UNESCO, therefore, the data

³⁷ UN, World Plan of Action on Education for Human Rights and Democracy (The Montreal Declaration) (1993), <https://www.ohchr.org/en/resources/educators/human-rights-education-training/10-world-plan-action-education-human-rights-and-democracy-montreal-declaration-1993#:~:text=The%20Plan%20of%20action%20calls,transformed%20into%20a%20peaceful%20and>.

³⁸ UN, United Nations Digital Library, Vienna Declaration and Programme of Action: note / by the Secretariat, Geneva: UN, 12 July 1993, <https://digitallibrary.un.org/record/183139?ln=en&v=pdf>.

³⁹ Office of the United Nations High Commissioner for Human Rights, UNESCO, UNESDOC Digital Library, Plan of Action: World Programme for Human Rights Education; first phase, 2006, <https://unesdoc.unesco.org/ark:/48223/pf0000147853>.

⁴⁰ United Nations Decade for Human Rights Education (1995-2004), <https://www.ohchr.org/en/resources/educators/human-rights-education-training/1-united-nations-decade-human-rights-education-1994>

⁴¹ Bajaj, M. (2011). Human Rights Education: Ideology, Location, and Approaches. *Human Rights Quarterly*. 33, 481-508. DOI:10.1353/hrq.2011.0019, pp. 482-4.

available for assessment were minimal⁴². The significant progress reported by states taking action to integrate human rights into the school curriculum and training programs was the trigger for a later effort to organize HRE through the *World Program on Human Rights Education*⁴³. The Program included four phases, with the first starting in 2005 with HRE as a central axis in primary and secondary education and ending in 2009, the second, which was instituted for the years 2010-2014, concerned higher education, teachers, civil servants, law enforcement agencies and military personnel, the third for the years 2015–2019 focused on journalists and media workers in general and finally the fourth for the period 2020–2024 focused on youth as a target group⁴⁴. Emphasis was placed, more specifically, on education and training on issues of equality, non-discrimination, inclusion and respect for diversity. The phase is aligned with the 2030 agenda for sustainable development and, in particular, target 4.7 of the Sustainable Development Goals⁴⁵.

The continuing effort of the UN is demonstrated through the forecast of the fifth phase of the Program⁴⁶. The UN General Assembly on August 4, 2023 highlighted stakeholder reports on where the fifth phase of the Program should focus⁴⁷. This resolution states that to date submissions have been received from fifteen States, three intergovernmental organizations, four special procedures of the Human Rights Council, eight national human rights institutions, two national mechanisms for implementation, reporting and follow-up, seventeen civil society organizations and four individuals.

⁴² Kenzo Tomonaga, *The United Nations Decade for Human Rights Education: Challenge for the Second Decade Reflecting the Evaluations of the First Decade*, 2003, https://blhrri.org/old/blhrri_e/other/010_e.html.

⁴³ UN World Program for Human Rights Education, <https://www.ohchr.org/en/resources/educators/human-rights-education-training/world-programme-human-rights-education>

⁴⁴ Cargas, Sarita, and Glenn Mitoma. "Introduction to the special issue on human rights in higher education." *Journal of Human Rights* 18.3 (2019), p. 275-276.

⁴⁵ UN SDG 4, https://sdgs.un.org/goals/goal4#targets_and_indicators.

⁴⁶ UN, Resolutions and reports, Fifth phase (2025-2029) of the World Programme for Human Rights Education,

<https://www.ohchr.org/en/resources/educators/human-rights-education-training/world-programme-human-rights-education/fifth-phase-2025-2029-world-programme-human-rights-education/resolutions-and-reports>; *ibid*, The Danish Institute for Human Rights, p. 9-11.

⁴⁷ United Nations General Assembly, Views of States and other stakeholders on the target sectors, focus areas or thematic human rights issues for the fifth phase of the World Programme for Human Rights Education, Report of the Office of the United Nations High Commissioner for Human Rights, 4 August 2023,

<https://documents.un.org/doc/undoc/gen/g23/151/65/pdf/g2315165.pdf?token=ee6MSPlcTq90pA2Yxp&fe=true>.

Most respondents indicated that it is important for the fifth phase (2025–2029) to lay the foundations for a post-2030 world. It was noted, therefore, that it should contribute to the implementation of the 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal 16 Development for peace, justice and strong institutions, as well as target 4.7 for quality education. The strategic importance of human rights education, sustainable development education and global citizenship education was emphasized. After all, through the ongoing revision process of the 1974 UNESCO Recommendation on Education for International Understanding, Co-operation and Peace and Education on Human Rights and Fundamental Freedoms the need to address recent threats related to climate change and the digital revolution is reflected ⁴⁸.

2.2. THE PROMOTION OF HUMAN RIGHTS EDUCATION

2.2.1. Human Rights Education at the United Nations

Since we have already mentioned the foundation of HRE, the UDHR, it is unnecessary to clarify that HRE is primarily a creation of the UN, which since then, through the Programs it has established, has been the main actor in the promotion of HRE. The work of the UN to establish HRE as an essential tool for the promotion and protection of human rights continues with the organization and implementation of systematic initiatives. The importance of the overall work being carried out is evident in the characteristic uniformity of the initiatives, which elaborately end up intertwining.

It is worth referring to the 2030 Agenda for Sustainable Development⁴⁹, which has been approved since 2015 by all member states of the United Nations. The Agenda is a shared plan for peace and prosperity for people and the planet. At its heart are the 17 Sustainable Development Goals, an urgent call for global action, with reference to all countries, developed and developing, to create a global partnership. These Goals weave a complex of actions that start with the eradication of poverty, penetrate through

⁴⁸ Ibid, UN General Assembly, 4 August 2023, p. 11.

⁴⁹ UN, Transforming our world: the 2030 Agenda for Sustainable Development, <https://sdgs.un.org/2030agenda>.

the improvement of the quality of health care provision and the education provided, and end up with the reduction of inequalities, economic development and tackling climate change.

How, then, can the goals, which cover the whole range of human life, be achieved if global community and all actors within it are not properly and effectively informed about global and interrelated human rights? Furthermore, what is the best way to disseminate all the valuable knowledge and practice if not through HRE? The strongest connection, of course, occurs between HRE and Goal 4 on quality and inclusive education and lifelong learning, as noted previously⁵⁰. The realization of quality in education and the concepts of inclusion and sustainable development cannot be understood outside of a system where HRE plays a central role, because it includes every other form of education, since every more specialized field is unhooked from human rights values and fundamental freedoms.

Certainly, there are plenty of other initiatives, campaigns, events, etc. emanating from the UN and its agencies, such as UNICEF and UNESCO, which have been relentlessly promoting both human rights values themselves and HRE for many decades.

On March 23, 2011 the Human Rights Council adopted the *United Nations Declaration on Education and Training in Human Rights*⁵¹. The United Nations General Assembly adopted the Declaration on Human Rights Education and Training, in December 2011⁵². The Declaration affirms that everyone has the right to know, seek and receive information about their human rights and fundamental freedoms. It further recommends an appeal to the UN, governments, non-governmental organizations and any other factor to intensify their efforts to promote respect and understanding of human

⁵⁰ The Danish Institute for Human Rights, *The Human Rights Guide to Sustainable Recovery*, 2021. p.27, https://www.humanrights.dk/files/media/document/HumanRightsGuideToSustainableRecovery_singlepage.pdf.

⁵¹ United Nations Human Rights Council, Resolution 16/1 (adopted on 23 March 2011), United Nations Declaration on Human Rights Education and Training, 8 April 2011, <https://documents.un.org/doc/resolution/gen/g11/124/78/pdf/g1112478.pdf?token=PREdNkIAvGEHflmype&fe=true>.

⁵² United Nations General Assembly Resolution 66/137 (adopted on 19 December 2011), United Nations Declaration on Human Rights Education and Training, 16 February 2012, <https://documents.un.org/doc/undoc/gen/n11/467/04/pdf/n1146704.pdf?token=3iWu1ZraehH0Ukfpad&fe=true>.

rights education and training worldwide⁵³. The rights and responsibilities implied by the Declaration are set out in a series of introductory paragraphs and fourteen articles. The Declaration is a legal non-binding instrument but recommends that governments and non-governmental organizations recognize the importance of human rights education as a fundamental tool for the promotion and protection of human rights on a global scale.

The declaration outlines a set of guiding principles for HRE, including universality, indivisibility and interdependence of human rights, non-discrimination and equality, participatory and student-centered approaches, and finally the promotion of tolerance, understanding and solidarity⁵⁴. The key point is the importance attached to the primary responsibility of states to ensure the implementation of HRE at all levels of education, as well as in non-formal and informal learning environments. The goal will only be achieved if the states themselves follow through on their own mission, which is to adopt comprehensive strategies and policies, so that HRE is integrated into national curricula and education programs.

Finally, the crucial role of educators and civil society is worth-mentioned, who must ensure training and capacity building in order to effectively integrate human rights principles and values into their teaching practices⁵⁵. However, since the universality of rights transcends the national boundaries of states, we understand that it requires the promotion of international cooperation in the field of human rights education and training through, above all, the exchange of best practices.

2.2.2. Human Rights Education at the Council of Europe

Since its inception in 1949⁵⁶, the Council of Europe (CoE) has been steadfast in its commitment to promoting human rights and fundamental freedoms. Recognizing the

⁵³ Organization for Security and Co-operation in Europe (OSCE) and the Office for Democratic Institutions and Human Rights (ODIHR), Guidelines on Human Rights Education, For Human Rights Activists, published by the OSCE, 2013, pp. 13-14, <https://www.osce.org/files/f/documents/5/b/105050.pdf>.

⁵⁴ Gerber, Paula, Education About Human Rights: Strengths and Weaknesses of the UN Declaration on Human Rights Education and Training, *Alternative Law Journal*, Vol. 36, No. 4, Monash University Faculty of Law Legal Studies Research Paper No. 7, 2011, pp.2-3, SSRN: <https://ssrn.com/abstract=2130345>

⁵⁵ *Ibid*, p. 4.

⁵⁶ Royer, Aline. The Council of Europe. Council of Europe, 2010, p. 8.

intrinsic link between education and the realization of human rights, the CoE has consistently championed HRE as a catalyst for social transformation and democratic governance. Through various conventions, recommendations, and action plans, the CoE has laid down a robust framework for advancing HRE across its member states.⁵⁷

The Council of Europe employs a multifaceted approach for the promotion of HRE, through the engagement of governments, educational institutions, civil society organizations, and youth networks. More specifically, some of its key strategies include the development of curricular resources, as the CoE has developed a plethora of educational materials, handbooks, and toolkits tailored to diverse educational contexts⁵⁸. These resources cover a wide array of human rights topics, including gender equality, minority rights, freedom of expression, and combating discrimination. Additionally, the CoE, recognizing the pivotal role of educators in imparting human rights values, conducts teacher training programs, seminars, and workshops to enhance pedagogical skills and integrate HRE into formal education settings⁵⁹. Furthermore, the CoE emphasizes the importance of fostering democratic citizenship through HRE, equipping individuals with critical thinking skills, empathy, and a sense of responsibility towards building inclusive and pluralistic societies. Lastly, it also develops and applies non-formal Education Initiatives in collaboration with youth organizations and non-governmental entities, where the CoE organizes non-formal education activities, such as youth camps, seminars, and peer-to-peer learning initiatives, to reach out to diverse groups and amplify the impact of HRE⁶⁰.

*Human Rights Education Youth Programme*⁶¹ is used as a term to describe all the activities in the youth sector of the Council of Europe and, in particular, it concerns the integration of HRE in youth policy and youth work. On the occasion of the celebration of the 50th anniversary of the European Convention on Human Rights, the program was launched in 2000 and has now been integrated into the *Youth for Democracy*

⁵⁷ CoE, Human Rights Education in the Council of Europe, <https://www.coe.int/en/web/human-rights-education-youth/hre-coe>.

⁵⁸ CoE, Human Rights Education Youth Programme, Resources, <https://www.coe.int/en/web/human-rights-education-youth/resources>.

⁵⁹ Education, Teacher. "THE COUNCIL OF EUROPE." lii. (1993): 21; Also, see Nygren, Thomas. "UNESCO and Council of Europe Guidelines, and History Education in Sweden, c. 1960–20021." Education Inquiry 2.1, 2011, pp. 37-60.

⁶⁰ Friesenhahn, Günter J., et al. "Learning mobility and non-formal learning in European contexts." Policies, approaches and examples. Strasbourg: Council of Europe, 2013, p. 16.

⁶¹ CoE, Human Rights Education Youth Programme, <https://www.coe.int/en/web/human-rights-education-youth>.

Programme, Priority 2 on youth access to rights⁶². In 2020, the *Youth sector strategy 2030* was announced, which provides policy guidance for 2020-30 and is the framework within which the *Youth for Democracy* program is implemented⁶³.

The annual program of activities includes, firstly, the provision of resources for human rights education through non-formal learning. To this end, they primarily contribute to *Compass*⁶⁴, which is the handbook on human rights education with young people and provides practical guidance, methodologies and training activities for educators and youth workers to integrate human rights education into their work, and *Compasito*⁶⁵, the latter refers to a series of handbooks on human rights education with children. *Compasito* specifically focuses on children aged 6 to 12. It offers child-friendly activities that achieve a more engaging and accessible way of learning. Second, the CoE focuses on developing the capacity of trainers in human rights education. Especially the *Training of Trainers in Human Rights Education (TOTHRE)*⁶⁶, which has been held at the European Youth Center in Budapest since 2002. This program equips trainers and youth workers with the knowledge, skills and competences to deliver human rights education effectively. The emphasis is again placed on interactive and participatory methods of education. Third, the Youth Program supports national youth-led human rights activities through the provision of training offered by the *Compass* handbook on human rights education.

The *Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (EDC/HRE)*⁶⁷ was approved in 2010 by the Recommendation CM/Rec (2010)7⁶⁸. The Charter is a point of reference for all of Europe and forms the

⁶² CoE, Youth for democracy, <https://www.coe.int/en/web/youth/programme>.

⁶³ CoE, Youth sector strategy 2030, <https://www.coe.int/en/web/youth/youth-strategy-2030>.

⁶⁴ Patricia Brander, Council of Europe, Manual for Human Rights Education with Young People, <https://book.coe.int/en/human-rights-democratic-citizenship-and-interculturalism/8849-pdf-compass-manual-for-human-rights-education-with-young-people-2nd-edition-updated-in-2020.html#>; The first edition 2012 available in Greek at: <https://arsis.gr/wp-content/uploads/2013/07/4.-Compass.pdf>.

⁶⁵ Nancy Flowers, *Compasito, Manual on human rights education for children*, 2nd Edition, 2009, <http://www.eycb.coe.int/compasito/pdf/Compasito%20EN.pdf>.

⁶⁶ Council of Europe, *Training of Trainers in Human Rights Education (TOTHRE)* <https://www.coe.int/en/web/human-rights-education-youth/training-of-trainers-in-human-rights-education-tothre->.

⁶⁷ CoE, Charter on Education for Democratic Citizenship and Human Rights Education, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016803034e5>.

⁶⁸ Recommendation CM/Rec (2010)7 to Member States on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (2010),

basis for the work of the Council of Europe in this field. The Charter provides definitions for education for democratic citizenship and human rights education⁶⁹, as well as policy guidelines on how to implement national policies and programs. Human rights education appears as the answer to the threats posed by violence, racism, extremism, xenophobia, discrimination and intolerance and as a symbol of developing a human rights culture in Europe. Every five years, the Education and Youth Departments of the CoE carry out a review of the implementation of the Charter in the member states mainly through consultations. With the aim of assessing the progress of implementation, highlighting good practices and investigating challenges. Finally, the Charter recognizes the important role of non-governmental organizations working in the youth sector and their work in providing and promoting HRE through non-formal education⁷⁰.

Following the conclusion of a Consultative Meeting on Advocacy for Human Rights Education, organized by the Joint Youth Council on May 23 and 24, 2023 in Strasbourg, a new roadmap was adopted to prioritize action on education for citizenship and human rights (October 24-25, 2023)⁷¹. We remain to monitor the developments, so that the contribution of the present venture can be highlighted.

<https://www.ohchr.org/en/resources/educators/human-rights-education-training/24-recommendation-cmrec-2010-7-member-states-council-europe-charter-education-democratic-citizenship>.

⁶⁹ Council of Europe, Charter on Education for Democratic Citizenship and Human Rights Education, Art. 2. *Definitions: For the purposes of the present Charter:*

a. *“Education for democratic citizenship” means education, training, awareness-raising, information, practices and activities which aim, by equipping learners with knowledge, skills and understanding and developing their attitudes and behaviour; to empower them to exercise and defend their democratic rights and responsibilities in society, to value diversity and to play an active part in democratic life, with a view to the promotion and protection of democracy and the rule of law.*

b. *“Human rights education” means education, training, awareness raising, information, practices and activities which aim, by equipping learners with knowledge, skills and understanding and developing their attitudes and behaviour; to empower learners to contribute to the building and defence of a universal culture of human rights in society, with a view to the promotion and protection of human rights and fundamental freedoms[...].*

<https://www.ohchr.org/en/resources/educators/human-rights-education-training/24-recommendation-cmrec-2010-7-member-states-council-europe-charter-education-democratic-citizenship>.

⁷⁰ David Kerr, Citizenship Foundation/ University of Bristol, The Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (EDC/HRE): and its Implementation, 2013, p. 2, <https://youthcoop.pt/wp-content/uploads/2017/11/the-council-of-europe-charter-on-edc-and-hre.pdf>

⁷¹ Council of Europe, Joint Council on Youth, Localising Human Rights Education Through Participation and Agency of Young People Roadmap for Education for Democratic Citizenship and Human Rights Education with young people; 2024-2028, Strasbourg, 27 November 2023, p. 2.

The training programme “*HELP: Human Rights Training for Legal Professionals*”⁷², which is primarily aimed at judges, lawyers, prosecutors and law enforcement officials. It provides online courses, training materials and other resources to improve, understand and apply human rights principles in the work of these professionals. The “*Dosta! Campaign*”⁷³ was a campaign with the task of combating discrimination and promoting social cohesion and intercultural dialogue among young people in Europe. The Campaign focused on raising awareness, building understanding and fostering positive attitudes towards diversity and human rights and it was scheduled for 2006-2019. Finally, the “*No Hate Speech Movement*”⁷⁴ was an initiative aimed at combating hate speech and promoting human rights, tolerance and respect for diversity online. It was launched for the period 2012-2017 and by the end of its last year, the movement had been launched in 45 countries⁷⁵.

The CoE’s efforts in promoting HRE have yielded tangible outcomes, including increased awareness of human rights issues, enhanced respect for diversity, and strengthened mechanisms for accountability and redress. Despite the fact that its role in fostering HRE is indisputable, there are some challenges that can be identified. More specifically, despite the availability of resources and guidelines, the effective implementation of HRE remains uneven across member states, owing to varying political, social, and cultural contexts⁷⁶. More to that, adequate funding is crucial for sustaining HRE initiatives and scaling up their impact⁷⁷. However, financeable constraints pose a significant challenge to the CoE’s endeavors in this regard.

Accordingly, the CoE should redouble its efforts to mainstream HRE across educational systems, harnessing digital technologies, innovative pedagogies, and strategic partnerships to reach diverse audiences⁷⁸. Embracing a holistic approach that

⁷² CoE, Human Rights Education for Legal Professionals, <https://www.coe.int/en/web/help>.

⁷³ CoE, The Dosta! Campaign, <https://www.coe.int/en/web/roma-and-travellers/dosta-campaign>.

⁷⁴ CoE, No Hate Speech Youth Campaign,

⁷⁵ Ibid, D. Anagnostopoulou, N. Gaitenidis, E. Sgouridou. V. Chadiou, Training for a European Area of Justice, Combating Hate Speech and Hate Crimes in the EU, Training Manual, Centre of International and European Economic Law, p. 98.

⁷⁶ Flowers, Nancy. “The Global Movement for Human Rights Education.” *The Radical Teacher*, no. 103, 2015, pp. 5–17. JSTOR, <https://www.jstor.org/stable/48694479>, pp. 11-12.

⁷⁷ Council of Europe, ASSERTING CITIZENSHIP AND HUMAN RIGHTS EDUCATION TODAY, A Consultative Meeting to follow-up on the 2022 Turin Forum on Citizenship and Human Rights Education and the 3rd review of the Council of Europe EDC/HRE Charter, DDP-YD/ETD (2023) 227, Strasbourg, 22 September 2023, p. 9.

⁷⁸ Kumbo, Lazaro, Rodrick Frank Mero, and Bernad J. Hayuma. "Navigating The Digital Frontier: Innovative Pedagogies for Effective Technology Integration in Education." *The Journal of Informatics* 3.1, 2023, pp. 18-19.

encompasses formal, non-formal and informal learning spaces will be pivotal in fostering a culture of human rights and democracy for future generations.

2.3. HUMAN RIGHTS TRAINING

2.3.1. Human Rights Education for specific groups of professionals

Human rights training for specific groups of professionals is vital to ensure that individuals in various sectors understand their roles and responsibilities in meeting human rights standards. Undoubtedly, it is well understood that professionals in the field of education play a primary role in the promotion of HRE, the field of justice (enforcement, interpretation and application of the law), health care and the media. In detail, the stakeholders who are teachers and educators in general at all levels of education and those who work in an official relationship in educational institutions, curriculum developers, service employees in the field of education, civil servants in general, the police officers, prison officers, lawyers, judges, prosecutors, notaries, court officials, justice service officials, government officials, parliamentarians, the armed forces, international civil servants, journalists and workers in the field of information, workers in institutions related to the development of human rights curricula and material resources, non-governmental organizations, workers' and employers' organizations, labor unions, religious organizations, community organizations etc.⁷⁹. As a matter of course, each individual and the family are primary agents in promoting and spreading the values of human rights. Beyond the UN Declaration, the CoE Charter⁸⁰ defines the main target groups of human rights education.

We shall first examine the concept of “*human rights training*” which is more commonly used to describe the training of specific groups in HRE. According to Article 3 of the UN Declaration on Human Rights Education and Training, human rights

⁷⁹ Office of the United Nations High Commissioner for Human Rights, Human Rights Education and Human Rights Treaties, Training and Education Publications; Office of the High Commissioner for Human Rights, published jointly by OHCHR with Equitas, Evaluating the Impact of Human Rights Training: Guidance on Developing Indicators, Training and Education Publications, 2020, p. 35, <https://www.ohchr.org/en/publications/training-and-education-publications/evaluating-impact-human-rights-training-guidance>.

https://www.ohchr.org/sites/default/files/Documents/Publications/HR_Treaties2en.pdf

⁸⁰ United Nations Declaration on Human Rights Education and Training (2011), Article 9.

education and training is a lifelong process that concerns all ages⁸¹. Also, it concerns every level of education (preschool, primary, secondary and higher education), every type of education (training and learning, whether in a public or private, formal, informal or non-formal setting, vocational training, training of trainers etc.)⁸² and takes into account the special needs and conditions of the target groups⁸³. To this end, the Declaration focuses on States, which are primarily responsible for promoting HRE and education for democracy.

2.3.1.1. *Judicial and legal professionals*

Training for law enforcement officers focuses on promoting respect for human rights in the performance of their duties. This includes understanding principles such as the prohibition of torture, the fair treatment of prisoners, the prohibition of discrimination and respect for freedom of expression and assembly. Training may also cover conflict resolution techniques and de-escalation strategies to minimize the use of violence.

Lawyers worldwide often witness human rights violations, but they are also often victims of violence, especially those who have been threatened or even killed in the exercise of their duties by their own governments or political opponents⁸⁴.

Over the years the programs designed for HRE are increasing and the interest in designing new as well, either through international or national initiatives or public or private factors. Multiple actions are organized both in the framework of the UN, the European Union and the Council of Europe and in national networks, resulting in the training of many lawyers and judges⁸⁵.

The importance of training legal professionals is already apparent if one looks at the *United Nations Basic Principles on the Role of Lawyers*⁸⁶. Principle no. 16 states that “governments shall ensure that lawyers are able to perform all their professional

⁸¹ Ibid, Article 3, par. 1.

⁸² Ibid, par. 2.

⁸³ Ibid, par. 3.

⁸⁴ PDHRE, People’s Movement for Human Rights Learning, HUMAN RIGHTS LEARNING A PEOPLE’S REPORT, 2006, ISBN 13: 978-1-4243-1479-9, p. 153.

⁸⁵ Indicatively, according to UNESCO’s “10 Years of UNESCO’s Judges’ Initiative: Strengthening the Rule of Law, Freedom of Expression and the Safety of Journalists 2013 – 2023”, 2023, p. 2, the last decade 35,000 judicial actors were trained on international and regional standards about freedom of expression, access to information and safety of journalists; according to

⁸⁶ UN Basic Principles on the Role of Lawyers, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>.

duties without intimidation, hindrance, harassment or improper interference” and Principle no. 17 “*where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities*”. It is worth noting that the OHCHR provides various training programs, workshops, and materials specifically tailored for judges and other judicial professionals⁸⁷. These initiatives focus on topics such as human rights law, fair trial standards, non-discrimination, and the protection of vulnerable groups.

The UN also organizes international and regional conferences and seminars on human rights and the administration of justice, where judges and judicial professionals can exchange knowledge, share best practices, and receive training from experts in the field⁸⁸. In addition, the *United Nations Office on Drugs and Crime* (UNODC) plays a vital role in providing training packages specifically tailored for judges, addressing sensitive issues in the field of justice and human rights. UNODC training packages for judges often deal with sensitive issues such as human trafficking, organized crime, corruption and terrorism. Importantly, UNODC also facilitates peer learning and networking opportunities for judges through workshops, seminars and online platforms⁸⁹. In addition, the *UNESCO Judges Initiative* launched in 2013 has successfully trained thousands of judges from more than 150 countries to international and regional standards on human rights thematic areas through massive open online courses (MOOCs), regional and national on-site trainings, as well as through the publication of tools and guidelines. In this context, UNESCO has established partnerships with regional human rights courts, judicial institutions and associations of prosecutors⁹⁰.

Through the already mentioned European Program for Human Rights Education for Legal Professionals “HELP”⁹¹, the Council of Europe has aimed at enhancing the capacity of legal professionals, including judges, prosecutors, and lawyers, in

⁸⁷ OHCHR's Database on Human Rights Education and Training, <https://hre.ohchr.org/hret/intro.aspx>; see also the manual “PROFESSIONAL TRAINING SERIES No. 9/Add.1: Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors, and Lawyers” provides guidance tailored to judges, prosecutors, and lawyers on the incorporation of principles of human rights in their work in the judicial system. Available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/training9add1.pdf>.

⁸⁸ UN, Human Rights Education and Training Materials and Resources, <https://www.ohchr.org/en/resources/educators/human-rights-education-training/human-rights-education-and-training-materials-and-resources>.

⁸⁹ United Nations Office on Drugs and Crime, Education for Justice, <https://www.unodc.org/e4j/>.

⁹⁰ Ibid, UNESCO, 10 Years of UNESCO's Judges' Initiative, 2023.

⁹¹ CoE, Human Rights Education for Legal Professionals, <https://www.coe.int/en/web/help>.

understanding and applying human rights standards through online courses, training materials, and face-to-face training sessions covering various aspects of human rights law. Furthermore, the European Commission for the Efficiency of Justice (CEPEJ)⁹², a body of the CoE, provides training and capacity building initiatives for judges and judicial professionals across Europe. CEPEJ's activities focus on improving the efficiency, quality and independence of judicial systems, while promoting respect for human rights and the rule of law. On the other hand, the Venice Commission provides legal advice and expertise to CoE member states on constitutional issues, including human rights issues. The committee organizes seminars, workshops and training sessions for judges and legal experts, with the aim of strengthening the capacity of national judicial systems to protect and defend human rights⁹³.

An important initiative of the CoE is the manual *Human Rights Training Curriculum for Initial and Continuous Training of Judges and Prosecutors*⁹⁴ which focuses on educating legal professionals on human rights principles. It aims to enhance participants' understanding of their role in upholding human rights within the justice system and it covers both initial and continuous training to ensure the best results for the group.

For its part, the European Union also has a decisive role in contributing to the global goal of promoting human rights education. It has been actively involved in promoting human rights training for judicial officers in all its member states. Although the EU does not have direct jurisdiction over judicial training, it supports and coordinates efforts in this area through various initiatives and programmes. First, the EU provides financial support and technical assistance to Member States to develop and implement training programs for judicial officers⁹⁵. This support may include funding for capacity building activities, development of training materials and establishment of training institutions. Second, the EU supports the EJTN, a network of training institutions and judicial academies across Europe. EJTN facilitates cooperation

⁹² CoE, Council of Europe European Commission for the efficiency of justice (CEPEJ), <https://www.coe.int/en/web/cepej>.

⁹³ CoE, Venice Commission, Seminars, training workshops and assistance missions, https://www.venice.coe.int/WebForms/pages/?p=02_seminars&lang=EN.

⁹⁴ Dženana Radončić, Ivana Roagna, *Human Rights Training Curriculum for Initial and Continuous Training of Judges and Prosecutors*, Council of Europe Publishing, December 2021, <https://rm.coe.int/human-rights-training-a4-17-3-/1680a60af6>.

⁹⁵ European Commission, Justice Programme, https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/justice-programme_en.

and exchange of best practices in judicial training, including in the field of human rights education. It organizes seminars, workshops and training courses on various legal topics, with an emphasis on EU law and fundamental rights. The European Commission launched a “*Training of justice professionals and training practices*”, after noting the great success of the approved strategy for “*European judicial training 2011-2020*”⁹⁶. The new strategy for *European judicial training 2021-2024*⁹⁷, among other things, refers to the promotion of the principles derived from the Charter of Fundamental Rights. In a related report it is said that the training of the participants led to the acquisition of important knowledge about human rights, while the Charter itself has contributed to the expansion of the scope of action of the European Court of Human Rights⁹⁸.

The *European Union Agency for Fundamental Rights (FRA)*⁹⁹ provides as well with expertise and guidance on human rights issues the EU institutions, Member States and judicial authorities. It conducts research, collects data and produces reports on various human rights issues, including access to justice, non-discrimination and the rights of victims of crime. The FRA’s findings and recommendations inform the development of training programs for judicial officers. Also, the European Court of Human Rights, although not an EU institution, plays an important role in interpreting and enforcing the European Convention on Human Rights, which is binding on all EU member states. The EU supports initiatives aimed at increasing awareness and understanding of ECtHR jurisprudence among judicial officials, including through

⁹⁶ European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Building Trust In EU-Wide Justice, a New Dimension to European Judicial Training, COM/2011/0551 final, 13/09/2011, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0551>.

⁹⁷ European Commission, EU Strategy on the Training of Justice Professionals for 2021 – 2024, 2.12.2020, https://commission.europa.eu/document/download/f782dbde-f970-430a-847d-a77ff3e428a5_en?filename=2_en_act_part1_v4.pdf.

⁹⁸ European Commission, Directorate-General for Justice and Consumers, Directorate B — Criminal law, Unit B.1 — General criminal law and judicial training, Initial training of justice professionals serving the rule of law, FEBRUARY 22-23 2022, p. 12, https://commission.europa.eu/document/download/d5520a5a-29a1-4b4b-b6dd-daa12c3f548c_en?filename=conference_report-initial_training_of_justice_professionals_serving_the_rule_of_law-en.pdf&prefLang=en.

⁹⁹ FRA e-learning: <https://e-learning.fra.europa.eu/>, Infographics: <https://fra.europa.eu/en/publications-and-resources/infographics>, also News: (where upcoming training programs are announced), <https://fra.europa.eu/en/news/2023/fundamental-rights-training-eupol-officers-1>. See also below under [the European Union](#).

training seminars and publications¹⁰⁰. Finally, the *European Institute for Gender Equality* (EIGE) supports efforts to mainstream gender equality in judicial training programs¹⁰¹. It provides resources, tools and expertise to help judicial authorities address gender bias and discrimination in their work, ensuring that human rights, including gender equality, are integrated into judicial training.

2.3.1.2. *Prison and police officers*

Policing reflects fundamental values and principles, as their role in the field of justice and public safety is crucial. It is required that they simultaneously protect perpetrators and victims and faithfully follow their duties, avoiding any prejudices, which lead to unpleasant events as well as serious crimes¹⁰². Deprivation of liberty is most often necessary to investigate a crime or to protect the public or even each individual, but legitimate state interests cannot under any circumstances be abused by allowing unfettered police power¹⁰³.

Many countries have asked for help to improve the human rights training of their police officers. It is believed that information on human rights practices around the world, knowledge of the UN guidelines on humane police practices will help police officers improve their treatment of suspects and arrestees. Examination reveals a deeper malaise that prevails in most police organizations. This thesis suggests that simply providing and being exposed to information is unlikely to bring about significant change in any police organization. Despite overwhelming evidence and public knowledge of rights violations and police malpractice, police officers maintain a spirit of self-denial. Their attitudes and actions cannot be changed by forcing them to take short courses. What is required is a far-reaching change in organizational practice and police culture. It is truly disturbing and sad that surveys have shown that a lack of trust in law enforcement is widespread and this is one reason why many crimes go

¹⁰⁰ EEAS, Delegation of the European Union to the Council of Europe, https://www.eeas.europa.eu/eeas/projects_en?s=51, where there is a plenty of running projects.

¹⁰¹ EIGE, Gender equality training, https://eige.europa.eu/gender-mainstreaming/tools-methods/gender-equality-training?language_content_entity=en.

¹⁰² Jim Murdoch Ralph Roche, *The European Convention on Human Rights and Policing, A handbook for police officers and other law enforcement officials*, Council of Europe Publishing, 2013, p. 21.

¹⁰³ *Idem*, p. 63.

unreported¹⁰⁴. Other research also proves the belief that law enforcement personnel need effective training immediately.¹⁰⁵

Obviously, the international instruments contain provisions from which every subsequent effort to promote the training of police officers originates. For example, Article 10 CAT¹⁰⁶ contains an explicit obligation to include the prohibition of torture in the training of law enforcement personnel, which includes police. In addition, the Human Rights Committee, in General Comment no. 20 of 1992¹⁰⁷ in conjunction with Article 7 ICCPR stated that law enforcement personnel, police officers and any person involved in arrest, detention or imprisonment procedures should receive appropriate training. In addition, in General recommendation No. 19 of 1992, CEDAW noted that gender-sensitive training of law enforcement officers is essential for the effective implementation of the Convention¹⁰⁸.

Regarding some valuable training material on the issue, the *Manual on Human Rights Training for the Police*¹⁰⁹ is a publication developed by the OHCHR. This handbook is designed to provide comprehensive guidance and training material specifically tailored for law enforcement officials, with a focus on promoting respect for human rights in their work. By promoting a human rights-based approach to law enforcement, the handbook helps build trust between the police and the communities they serve, fostering safer and more inclusive societies. Furthermore, the OHCHR published an expanded book on human rights for the police, titled *Human rights standards and practice for the police: expanded pocket book on human rights for the*

¹⁰⁴ European Union Agency for Fundamental Rights (FRA), EU-MIDIS at a glance, Introduction to the FRA's EU-wide discrimination survey, 2009, https://fra.europa.eu/sites/default/files/fra_uploads/414-EU-MIDIS_GLANCE_EN.pdf.

¹⁰⁵ Kostić, Nevena Dičić. "Human Rights and Police—The Role of Police Training and Education." *Collection of Policy Papers on Police Reform in Serbia* (2014), pp. 57-8.

¹⁰⁶ UN, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

¹⁰⁷ UN, General Comment No. 20: Prohibition of torture or other cruel, inhuman or degrading treatment or punishment (article 7) (1992), [https://www.ohchr.org/en/resources/educators/human-rights-education-training/general-comment-no-20-prohibition-torture-or-other-cruel-inhuman-or-degrading-treatment-or#:~:text=a%20General%20Comment%20No.,7%20\(1992\)%20%7C%20OHCHR](https://www.ohchr.org/en/resources/educators/human-rights-education-training/general-comment-no-20-prohibition-torture-or-other-cruel-inhuman-or-degrading-treatment-or#:~:text=a%20General%20Comment%20No.,7%20(1992)%20%7C%20OHCHR).

¹⁰⁸ UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendation No. 19: Violence against women*, 1992, p. 4, <https://www.refworld.org/legal/resolution/cedaw/1992/en/96542>.

¹⁰⁹ United Nations. Office of the High Commissioner for Human Rights, and United Nations Centre for Human Rights. *Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police*. Vol. 5. UN, 1997, <https://www.ohchr.org/sites/default/files/Documents/Publications/training5en.pdf>.

*police*¹¹⁰, which serves as a reference tool to help police officers uphold human rights while carrying out their duties effectively and responsibly.

EU publications are equally enlightening as to what should be included in the training of police officers. For instance, FRA has published the manual *Fundamental rights-based police training*¹¹¹, a guide designed to assist police trainers in implementing training programs to promote fundamental rights. The manual provides practical guidance through reference to conducting interactive sessions and evaluating the effectiveness of educational initiatives. The manual is mostly developed by international organizations, government agencies or non-governmental organizations with expertise in human rights and law enforcement.

Lastly, the *Organization for Security and Co-operation in Europe* (OSCE) has developed the *Guidelines on Human Rights Education for Law Enforcement Officials*¹¹². This manual provides guidelines for rights training designed specifically for law enforcement personnel. It is worth mentioning that it consists of six main structural areas which are the human rights-based approach, core competencies, curricula, training processes, assessment and professional development, aimed at effective human rights education of law enforcement personnel.

However, it emerges quite clearly that states have extensive obligations and their main task is the appropriate training of law enforcement officials, aiming to strengthen deep knowledge, skills and attitudes through a human rights-based approach. International standards are indeed explicit and adequately specify the content and methods of education. Their strong focus on practical skills and promoting attitudes towards human rights standards in order to effectively contribute to the respect and defense of human rights is very compulsive.

2.3.1.3. Army personnel

¹¹⁰ United Nations. Office of the High Commissioner for Human Rights, *Human rights standards and practice for the police: expanded pocket book on human rights for the police*, 2004, <https://digitallibrary.un.org/record/517721?ln=en&v=pdf>.

¹¹¹ FRA, *Fundamental rights-based police training A manual for police trainers*, European Union Agency for Fundamental Rights Publications, 2016, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-fundamental-rights-based-police-training-re-edition_en.pdf.

¹¹² Organization for Security and Co-operation in Europe (OSCE), *Guidelines on Human Rights Education for Law Enforcement Officials*, 2012, <https://policehumanrightsresources.org/content/uploads/2012/01/OSCE-ODIHR-Guidelines-on-Human-Rights-Education-for-Law-Enforcement-Officials.pdf?x54919>.

The United Nations Declaration on Human Rights Education and Training in article 11 states that there is an obligation both of the UN itself and of other international and regional organizations to provide education and training in human rights, among others, for military personnel¹¹³. Military personnel, indeed, have a duty to fight and are licensed to kill in the context of a legitimate battle. This legal duty entailed by their mission makes them highly vulnerable to human rights abuses. The purpose of human rights training for military forces is therefore to develop the belief that war is a legitimate activity, to which the rules of international and humanitarian law apply, and that soldiers are responsible for the actions they take in the execution of their duty¹¹⁴. Human rights find their worst treatment in times of war or terrorism. After all, how easy it is to leave space for the protection of human rights where human life is deliberately targeted or considered “collateral damage” obviously cannot be given a simple and straightforward answer. In any case, the protection of rights in such times is certainly more ineffective. However, even in the form of weakened protection, human rights still function and provide at least some minimal protection and hope for justice. The right to life and the prohibition of torture and inhuman and degrading treatment can never be set aside. They are considered so important and fundamental that their observance is required even when the security of a state is at risk¹¹⁵.

The *International Committee of the Red Cross (ICRC)*¹¹⁶ deals with the legal obligation of states to respect international humanitarian law and provide training to their armed forces. Already in 1907, *Hague Convention IV*¹¹⁷ stipulated that there is an obligation to draw up instructions to the armed forces, that would promote the Laws and Customs of War. The *Geneva Conventions of 1949*¹¹⁸, subsequently, stipulated that the States Parties have the obligation to disseminate the imperatives of these Treaties

¹¹³ UN Declaration, article 11: “*The United Nations and international and regional organizations should provide human rights education and training for their civilian personnel and for military and police personnel serving under their mandates*”.

¹¹⁴ Lenhart, Volker, and Kaisa Savolainen. "Human rights education as a field of practice and of theoretical reflection." *International Review of Education* 48.3 (2002), p. 154.

¹¹⁵ CoE, War and terrorism, <https://www.coe.int/en/web/compass/war-and-terrorism>.

¹¹⁶ International Committee of the Red Cross (ICRC), Building respect for the law, <https://www.icrc.org/en/what-we-do/building-respect-ihl>.

¹¹⁷ Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907, <https://ihl-databases.icrc.org/assets/treaties/195-IHL-19-EN.pdf>.

¹¹⁸ International Committee of the Red Cross (ICRC), The Geneva Conventions of 1949 and their Additional Protocols, <https://www.icrc.org/en/doc/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>.

within their territories, both in times of peace and in times of war and, in addition, to include the study in the programs of military and political training, especially in the armed combat forces (Articles 47, 48, 127 and 144 respectively). A similar provision is contained in the Hague Convention of 1954¹¹⁹ for the protection of cultural property during armed conflict (Article 25), while the requirement to disseminate the law is reinforced by *Protocol I of 1977*¹²⁰, in addition to the Geneva Conventions (Article 82 and 83). Undoubtedly, therefore, states have an obligation to train their armed forces in international humanitarian law¹²¹.

Moreover, the OHCHR training manual for the *effective integration of human rights into military training programs and military operations*¹²² focuses on the full integration of human rights principles into programs related to military training and operational activities, so that military personnel gain a deep understanding of human rights standards, with the aim of ensuring compliance with international law and respect for human dignity. In addition, the UN has designed the *Peacekeeping training* which provides UN military, police, and civilian personnel with training to effectively carry out their roles in diverse peacekeeping missions¹²³. This training equips them with the necessary knowledge, skills, and attitudes to meet the evolving challenges of peace operations while adhering to UN principles, policies, and guidelines, drawing from lessons learned in the field. Since 1995 Member States have recognized their responsibility for training personnel for UN peacekeeping operations, as outlined in General Assembly Resolution A/RES/49/37¹²⁴. The resolution called for the development of training materials and the establishment of measures to assist Member States in fulfilling this responsibility.

¹¹⁹ Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954, https://en.unesco.org/sites/default/files/1954_Convention_EN_2020.pdf.

¹²⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, <https://ihl-databases.icrc.org/assets/treaties/470-AP-I-EN.pdf>.

¹²¹ Roberts, David Lloyd. "Training the armed forces to respect international humanitarian law: The perspective of the ICRC Delegate to the Armed and Security Forces of South Asia." *International Review of the Red Cross* (1961-1997) 37.319 (1997), pp. 433-434.

¹²² UN Office of the High Commissioner for Human Rights, *An effective integration of human rights into military training programmes and military operations : training manual*. Volume 1, 1997, <https://digitallibrary.un.org/record/246063?ln=en>.

¹²³ UN, United Nations Peacekeeping Resource Hub, <https://peacekeepingresourcehub.un.org/en/training>.

¹²⁴ UN General Assembly (49th sess.: 1994-1995), RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/49/621)], A/RES/49/37, 9 February 1995, <https://www.refworld.org/legal/resolution/unga/1995/en/35759>.

Since 2007, the *Integrated Training Service of the Department of Peace Operations* has been the central entity responsible for coordinating UN peacekeeping training efforts. This service plays a crucial role in ensuring that peacekeeping personnel receive the necessary preparation to carry out their duties effectively and uphold the core values of the UN.

Furthermore, OSCE has developed a series of publications that focuses on the protection and enforcement of the human rights and fundamental freedoms of armed forces personnel. It includes examples and good practices from across the OSCE region that have proven successful, as well as recommendations to promote States' compliance with international human rights standards and OSCE human dimension commitments¹²⁵.

At the EU level, the importance of effective *civil-military coordination* (CIVMIL) in support of *humanitarian assistance and disaster relief* (HADR) operations has been promoted. The *European External Action Service's* (EEAS) has emphasized the need for seamless cooperation between civil and military actors to enhance the effectiveness of crisis response efforts. In 2019, EEAS announced *the EU concept on Effective CIVMIL Coordination in Support of Humanitarian Assistance and Disaster Relief*¹²⁶. In this context, the promotion of a practical platform for effective dialogue between the EU military and the humanitarian community is mentioned with the aim of promoting a coherent interpretation and implementation of the guidelines (*Oslo Guidelines*¹²⁷; *Guidelines on the Use of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies*¹²⁸; *EU Guidelines on the protection of civilians in EU-led crisis management operations; on children and armed conflict; human rights defenders and standards of behaviour*¹²⁹). To these ends, it is

¹²⁵ Organization for Security and Co-operation in Europe (OSCE), Document Collection, Human Rights of Armed Forces Personnel: Standards, Good Practices and Recommendations, <https://www.osce.org/odihr/480152>.

¹²⁶ European External Action Service (EEAS), EU Concept on Effective CIVMIL Coordination in Support of Humanitarian Assistance and Disaster Relief, Brussels, 30 January 2019, <https://data.consilium.europa.eu/doc/document/ST-5536-2019-INIT/en/pdf>

¹²⁷ Guidelines on the Use of Foreign Military and Civil Defence Assets in Disaster Relief (Oslo Guidelines). Revision 1.1 November 2007.

¹²⁸ Guidelines on the Use of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies. March 2003. Revision I January 2006.

¹²⁹ EU Guidelines on the protection of civilians in EU-led crisis management operations (doc. 14805/03); on children and armed conflict (docs 15634/03, 1521/04, 15957/04); human rights defenders (doc. 10056/04) and standards of behaviour (doc. 8373/3/05).

recommended that EU civil-military organizations ensure effective dissemination of the guidelines to ensure that staff understand their practical application.

More recently, EEAS has developed the *EU Human Rights and International Humanitarian Law Due Diligence Policy (EU HRDDP)* on security sector support to third parties¹³⁰. This Policy is a key step in the progressive consolidation of the EU's long-standing commitment to the promotion and protection of human rights and International Humanitarian Law (IHL) in its external action. In this context, the EU Action Plan on Human Rights and Democracy 2020-2024¹³¹ has emerged, which recognizes the importance of providing training on IHL to the armed forces of third countries. This initiative reflects the EU's wider objectives to promote compliance with IHL standards and protect vulnerable groups, such as children, in conflict situations. The effort to include specific IHL modules in training programs conducted by EU military training missions underlines the importance of providing appropriate training to the armed forces. Furthermore, the reference to special child protection sections reflects the need to safeguard the rights of children, who are disproportionately affected by armed conflict. By integrating IHL training into military programs and emphasizing child protection, the EU aims to strengthen the operational capabilities of the armed forces in compliance with international legal frameworks. This indeed reflects the EU's commitment to upholding human rights and democratic principles in all aspects of its external action, including in conflict and crisis situations.

Since 2006, the Parliamentary Assembly of CoE¹³² referred to the need of training of military employees, who, as stated, must be informed of their rights and receive training to heighten their awareness of human rights. The Council of Europe has also carried out a number of projects aimed at training military personnel in geographical

¹³⁰ European External Action Service (EEAS), European Union's human rights and international humanitarian law due diligence policy on security sector support to third parties (EU HRDDP), Brussels, 5 October 2023, <https://data.consilium.europa.eu/doc/document/ST-13848-2023-INIT/en/pdf>.

¹³¹ European External Action Service (EEAS), EU Action Plan on Human Rights and Democracy 2020-2024, https://www.eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_2020-2024.pdf

¹³² Recommendation 1742 (2006), Human rights of members of the armed forces, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17424&lang=en>.

areas¹³³, and provides free online training programs on human rights for the armed forces¹³⁴.

It is undeniable that the challenges that arise when applying human rights legislation in situations of armed conflict are of a timeless nature. Although it is increasingly recognized that human rights law must be applied during armed conflict, several obstacles remain. To address these challenges, human rights actors and IHL practitioners need to better understand each other's principles of international law and humanitarian law in particular to effectively address the obstacles encountered in the common implementation of human rights legislation and IHL.

2.3.1.4. NGOs

The active role of Non-Governmental Organizations (NGOs) in promoting human rights education is undeniable. NGOs use the concept of human rights strategically to support various social movements. This strategy involves a grassroots approach to education, often taking the form of popular or community initiatives aimed at mobilizing social groups to support social change. In areas where authoritarian regimes have emerged (see Latin America), NGOs have used education as a means of reconciliation and preventing the return of these regimes. Human rights education is therefore seen as both a political and a pedagogical tool, serving to promote democracy and engage citizens in active participation in political processes¹³⁵.

Since 1980, the non-profit NGO sector has experienced significant growth in size and scope of engagement with human rights education initiatives. The number of organizations engaged in HRE today is far greater, and this is attributed to two main reasons: the failure of educators to engage with issues that focus on individual or community rights or social justice, and secondly, the insufficient level of government funding for HRE and increasingly decentralized education systems. However, these

¹³³ CoE, Projects by geographical area, <https://www.coe.int/en/web/national-implementation/projects-by-geographical-area>.

¹³⁴ CoE, Human Rights in the Armed Forces, Help Online Course, <https://rm.coe.int/2209-help-course-brief-human-rights-in-the-armed-force-eng/1680a8025e>.

¹³⁵ Bajaj, M. (2011). Human Rights Education: Ideology, Location, and Approaches. *Human Rights Quarterly*. 33, 481-508. DOI:10.1353/hrq.2011.0019, p. 484.

NGO partnerships with schools and some teachers in some cases have an impact at the national policy level¹³⁶.

Debates on the relationship between NGOs and states in the field of HRE influence the respective concepts and approaches developed for HRE¹³⁷. Despite the fact that the two entities usually work independently, there is a central pole of tension regarding the historical role of NGOs as pioneers in educational reform and the adoption of international measures through the UN. Despite the increased coordination and legitimacy afforded by the UN, cooperation with national governments has caused dilemmas. Efforts to introduce HRE in government schools face difficulties due to the conflictual relationship between NGOs and the state. However, the role of NGOs remains critical to the development of HRE and international resolutions have recognized their importance¹³⁸. Therefore, the development of HRE requires an integrated approach that includes both government and civil society, while NGOs remain critical partners in this process but need also to train their staff continuously in order to stay informed to fulfill their duties.

At this point, it is worth mentioning several initiatives aimed at promoting human rights education. The *Rights Education Action Programme (REAP)* is a 10-year international human rights education initiative spearheaded by Amnesty International Norway and aims to enhance HRE globally¹³⁹. The REAP programs utilize a "multiplier" approach HRE, involving individuals to whom human rights knowledge is disseminate. Success varies based on the states' policies but despite obstacles, REAP has enhanced civil society organization capacities in human rights promotion, leading to increased awareness and realization of human rights among vulnerable populations¹⁴⁰. The *Human Rights Friendly Project*¹⁴¹ is a project which focuses on promoting a culture of human rights within schools. It supports school communities in

¹³⁶ Oguro, Susan, and Nina Burrige. "The contribution of non-government organisations to human rights education in Australian schools." *Third Sector Review* 22.1 (2016), p. 9.

¹³⁷ Mejias, Samuel A. *NGOs and human rights education in the neoliberal age: A case study of an NGO-secondary school partnership in London*. Diss. Institute of Education, University of London, 2012, pp. 15-17

¹³⁸ UN General Assembly, Resolution adopted by the General Assembly on 18 December 2008 [on the report of the Third Committee (A/63/430/Add.2)], 20 March 2009, https://digitallibrary.un.org/record/644041/files/A_RES_63_173-EN.pdf?ln=es.

¹³⁹ Felisa Tibbitts and Human Rights Education Associates, Inc. (HREA), *IMPACT ASSESSMENT OF THE RIGHTS EDUCATION ACTION PROGRAMME (REAP)*, Amnesty International Norway, 10 January 2010.

¹⁴⁰ *Ibid*, p. 105.

¹⁴¹ Amnesty International, *Human Rights Friendly Schools*, <https://www.amnesty.org/en/human-rights-education/human-rights-friendly-schools/>.

integrating human rights values into various aspects of school life. The project aims to showcase the positive impact of a human rights-friendly approach on a global scale¹⁴². If we were to mention the organizations dealing with HRE and the number of initiatives that exist in this field, we would really need to fill lots of pages. Suffice it to say that Amnesty International organized 140 projects in 2022 and also states that HRE is a core capability within *Amnesty International's Strategic Framework 2022-2030*¹⁴³.

Since, therefore, at least at the global level, many mobilizations are taking place, in conclusion, we can state that any actions and initiatives must focus on individuals and their opportunities to participate in lifelong learning, as well as in all aspects of social, cultural and economic life. NGOs can provide a framework, beyond school education, for human rights debate and democratic and active citizen participation. Therefore, there was, and always will be, a need for greater engagement and development in non-formal education. Non-governmental organizations play an important role in providing HRE through non-formal and informal education that complements the education provided by schools. In fact, non-formal education should be bottom-up as opposed to top-down. Collaborative work and collaboration with a range of educational professionals, policy makers and NGOs are therefore required¹⁴⁴.

2.3.1.5. Teachers and educators

Teachers play a critical role in human rights education (HRE) as they are most responsible for imparting knowledge, promoting understanding and human rights values among students. To effectively teach human rights, teachers need to be well trained and knowledgeable in relevant principles and concepts recognizing the distinction between conditions in local and global contexts¹⁴⁵.

¹⁴² BEMIS, pp. 13-14.

¹⁴³ Amnesty International, *The State of Human Rights Education 2022*, POL 32/7160/2023, September 2023, <https://www.amnesty.org/en/documents/pol32/7160/2023/en/>.

¹⁴⁴ *Ibid*, BEMIS, p. 22.

¹⁴⁵ University of Humanistic Studies Utrecht: Wiel Veugelers, Isolde de Groot, Vincent Stolk, *Research for CULT Committee – Teaching, Common Values in Europe*, DIRECTORATE-GENERAL FOR INTERNAL POLICIES, Policy Department for Structural and Cohesion Policies, 2017, http://www.europarl.europa.eu/RegData/etudes/STUD/2017/585918/IPOL_STU%282017%29585918_EN.pdf.

Teachers can integrate human rights education into various subjects across the curriculum, allowing students to learn about human rights issues in a variety of contexts, such as history, literature, social studies, and civics. By incorporating real-world examples, case studies and interactive activities, teachers can engage students in critical thinking and encourage them to analyze complex social issues through the lens of human rights¹⁴⁶. Furthermore, the promotion of active participation and social responsibility, the development of empathy, tolerance and commitment to social justice are central to the promotion of HRE. Through dialogue, discussion and experiential learning, teachers can inspire students to work towards creating a just and inclusive society¹⁴⁷.

The implementation of HRE in schools faces several obstacles, mainly due to the knowledge and opinions of teachers. Firstly, many teachers lack the appropriate knowledge and experience regarding HRE and their role in this area. Second, teaching human rights is seen as difficult and complex, requiring the simultaneous management of facts, emotions, ethics and opinions. Therefore, many educators are wary of including this topic in teaching¹⁴⁸.

But beyond the critical issues of whether and to what extent the teachers themselves receive training and whether and to what extent they teach human rights, it is crucial to refer to how these should be taught and we mean in the context of what kind of education. In article 8 of the Universal Declaration for Human Rights Education and Training it is pointed out that “*the states should develop [...] action plans and programs to implement human rights education and training, such as through its integration into school and training curricula. [...]*”.

At the university level human rights are rarely taught as an autonomous academic discipline. Certainly, we recognize that human rights cover a multitude of issues and knowledge about them is hidden in courses on topics such as immigration, gender and poverty but courses with an exclusive subject are offered by departments of law, political science, history, religion, literature and anthropology. Many of these courses,

¹⁴⁶ Tibbitts, F. and Sirota, S. (2022). Human Rights Education. In Tierney, R., Rizvi, F., Ercikan, K. and Smith, G. (eds.), *International Encyclopedia of Education*, 4th edition. London: Elsevier, p. 58.

¹⁴⁷ Burrige, Nina, et al., Human rights education in the school curriculum, Cosmopolitan Civil Societies Research Centre, 2013, p. 21.

¹⁴⁸ Tomaševski, Katarina. *Human rights obligations: making education available, accessible, acceptable and adaptable*. Right to education primers no. 3, 2001, pp. 23-4. Also, in Quennerstedt, Ann. "Children's and young people's human rights education in school: Cardinal complications and a middle ground." *Journal of Human Rights* 21.4 (2022), p. 384.

however, are neither mandatory nor present their topics through an explicit human rights lens. Thus, human rights lose their own meaning by being included in vague synonyms with “social justice” or “peace” or “multiculturalism”.

There are indeed some countries that integrated human rights issues in formal education. For instance, in Sweden’s curriculum, human rights and democracy are stated as the core value base for the school system. Students are expected to develop knowledge of human rights and human rights values¹⁴⁹. In England, human rights education is not required as a separate subject, but is integrated into various compulsory subjects, which focus on democracy, government and the rights and responsibilities of citizens. Importantly, teaching on human rights and international law takes place¹⁵⁰. Germany is another country which has introduced specific laws or regulations mandating the inclusion of human rights education in school curricula¹⁵¹. Moldova took the lead in developing the first HRE curriculum in 2010, which were subsequently revised and expanded to include modules on non-discrimination and sustainable development, which were approved by the Ministry of Education and National Council for Curricula¹⁵². In Greece, for the last two years, educational programs and cultural actions have been planned for Primary Education, with the aim of making contact and getting to know students with fundamental human rights and the development of respect for rights and freedoms. Specifically, 100 visits will be made to primary schools throughout Greece by teams of special partners to present the educational material and a special kit bag will be developed that will be distributed to the schools and students participating in the program. This program is organized in the context of compatibility with the National Action Plan for the Rights of the Child and the Convention on the Rights of the Child¹⁵³. But generally speaking, most of the countries have not integrated human rights in their curricula as a separate subject¹⁵⁴.

¹⁴⁹ L. Isenström, Collateral human rights learning situations: what are they?, *Cambridge Journal of Education*, 2022, Vol. 52, NO. 3, 271–290 <https://doi.org/10.1080/0305764X.2021.1977782>.

¹⁵⁰ Culhane, Leah, and Emma McGeough. "Respect, equality, participation: Exploring human rights education in Great Britain." Equality and Human Rights Commission (2020).

¹⁵¹ Niendorf, Reitz, The human right to education in the German school system: What will it take to reduce discrimination, *Analysis / German Institute for Human Rights*, 2020, ISBN: 978-3-946499-82-4.

¹⁵² Amnesty International, Moldova: Implementing Human Rights Education into national curricula, June 3, 2019, at: <https://www.amnesty.org/en/latest/education/2019/06/moldova-national-human-rights-curricula/>.

¹⁵³ More details at: <https://www.espa.gr/el/Pages/ProclamationsFS.aspx?item=6119>.

¹⁵⁴ de Kort, F. Human rights education in social studies in the Netherlands: A case study textbook analysis. *Prospects* 47, 55–71 (2017). <https://doi.org/10.1007/s11125-018-9431-3>.

Succeeding in embedding human rights as a curriculum course requires sustained research with an emphasis on the structures and practices that constitute human rights. However, the critical challenge now is to move from human rights knowledge to human rights practice. Daring to go a step further, what is envisioned as an ideal is not only the introduction of human rights as a curriculum or a compulsory course in the education levels but to take seriously the fact that the obligations arising from human rights cover beyond research and teaching the full range of functions and relationships of HRE professionals¹⁵⁵.

All programmes and initiatives related to HRE clearly demonstrate that there is certainly a growing interest in human rights education worldwide. However, a persisting gap is observed until a culture of human rights in school and university environments may be confirmed. Forms of school bullying, discrimination and prejudice plague school communities to this day, and there are not a few times when manifestations of racist behavior are observed by the teachers themselves. Certainly, as we have already mentioned, human rights are so broad in scope that their application varies from setting to setting, and when we consider the discrepancies between different state systems, we realize how intense the confusion becomes as to the most effective methods of teaching and promoting human rights. Thus, it may be considered sufficient to be content with the increase in interest and initiatives taking place worldwide, because, in any case, it strengthens HRE, even if the rate of development differs from state to state and even in the different environments within the same state.

¹⁵⁵ Sarita Cargas & Glenn Mitoma (2019) Introduction to the special issue on human rights in higher education, *Journal of Human Rights*, 18:3, 277-278, DOI:10.1080/14754835.2019.1617122

2.4. HUMAN RIGHTS EDUCATION AS A PREVENTATIVE HUMAN RIGHTS PROTECTION MECHANISM

2.4.1. *The influence of Human Rights Education on the protection of human rights*

Nowadays, an increasing number of societies are making efforts to more effectively incorporate human rights principles and human rights education into their institutional and educational frameworks. To achieve the desired vision of meaningful social change, HRE must be strategically designed to reach and support individuals and groups towards this goal. As education begins in the early years of life, human rights education is of paramount importance when it comes to children's rights. The vulnerability of childhood is perhaps the most critical factor in the promotion of HRE. The first official instrument on the rights of the child was the United Nations Declaration of the Rights of the Child in 1959¹⁵⁶ but it did not have legal binding force. When the legally binding Convention on the Rights of the Child was adopted by the United Nations in 1989¹⁵⁷, the protection of children's civil, political, social and economic rights was ensured. The question arises, however, how will these rights be realized if, in the first place, the children themselves, although they receive a formal education within the school system, are ignorant of the real meaning of securing their rights? Full knowledge and understanding of human rights values will only occur if importance is given to the systematic organization of the knowledge provided¹⁵⁸.

However, the value of HRE can be seen by going beyond its function towards the acquisition of the necessary knowledge and moving towards the complementary concept of education. It is argued that human rights education provides knowledge and opportunities for corrective action which can contribute to the promotion of peace, the

¹⁵⁶ Child Rights International Network, UN DECLARATION ON THE RIGHTS OF THE CHILD (1959), also in P. Naskou - Perraki, K. X. Chrysogonos, C. T. Anthopoulos, The international convention on the rights of the child and the domestic legal order, Interpretation by article, Center for International and European Economic Law, Ant. Sakkoulas Publications, ISBN: 9789601506272, 2002 (in greek). <https://archive.crin.org/en/library/legal-database/un-declaration-rights-child-1959.html#:~:text=The%20child%20shall%20be%20entitled,a%20name%20and%20a%20nationality.&text=The%20child%20shall%20enjoy%20the,natal%20and%20post%2Dnatal%20care.>

¹⁵⁷ UN Convention on the Rights of the Child, 1989, <https://www.ohchr.org/sites/default/files/crc.pdf>.

¹⁵⁸ Carmel Ward, Human rights education in early childhood, published at Early Childhood Ireland website, January 23, 2024, [https://www.earlychildhoodireland.ie/scealta-blog/human-rights-education-in-early-childhood/#:~:text=Children's%20human%20rights%20education&text=CHRE%20involves%20three%20elements%3A,uphold%20the%20rights%20of%20others\).](https://www.earlychildhoodireland.ie/scealta-blog/human-rights-education-in-early-childhood/#:~:text=Children's%20human%20rights%20education&text=CHRE%20involves%20three%20elements%3A,uphold%20the%20rights%20of%20others).)

highest good of global society¹⁵⁹. However, despite the fact that no one, at least publicly, would dare to negate the importance of peaceful globalism, the phenomenon of violence does not cease to worry the global dialogue. HRE and peace education is the key and the solid foundation of creating a culture that will promote human dignity and the realization of human rights¹⁶⁰.

Some of the most serious and violent conflicts are caused by human rights violations, whether real or perceived. Through a peace process based on recognition, fulfillment and universal dignity, students can learn the difference between constructive and destructive conflict. Furthermore, they understand that non-violent conflict can be used as a means to overcome injustice and achieve more truly peaceful social orders. Moreover, conflict is perceived as an important process in all social changes.

Through HRE, the aim of teaching conflict resolution skills is to expand the possibilities to prevent conflicts from exploding into violence and to ensure efforts to reach just solutions that respect human dignity¹⁶¹. The role of HRE is also intertwined with an intercultural approach to education¹⁶². It is undeniable that the most serious and violent conflicts driven by national hostilities require an emphasis on human rights. Knowledge of and respect for other cultures are considered essential factors in promoting human rights and preventing violence. Ethnic problems highlight the importance of human rights as guiding principles not only for conflict resolution but also for the entire peace process. In negotiating and establishing peace agreements between ethnic groups, human rights must be taken into account to ensure a fair agreement¹⁶³.

Discussing specifically the systematic undermining of prosperity in poor countries by current economic structures, we shall mention structural violence, which is fueled by existing institutions and policies that limit the quality of life of most people in these

¹⁵⁹ UNESCO, The UNESCO Recommendation on Education for Peace, Human Rights and Sustainable Development: an explainer, 2024, p. 4, <https://unesdoc.unesco.org/ark:/48223/pf0000388330>.

¹⁶⁰ Indicators and a Monitoring Framework, Launching a data revolution for the Sustainable Development Goals, SGD 4.7, <https://indicators.report/targets/4-7/>.

¹⁶¹ Rolf Gollob, Ted Huddleston, Peter Krapf, Don Rowe, Wim Taelman, Living in Democracy, EDC/HRE lesson plans for lower secondary level, Volume III of EDC/HRE Volumes I-VI Education for Democratic Citizenship and Human Rights in school practice Teaching sequences, concepts, methods and models, Council of Europe Publishing, 2008, p. 62, <https://www.living-democracy.com/pdf/en/V3/V03.pdf>.

¹⁶² Batelaan, Pieter, and Fons Coomans. The International Basis for Intercultural Education Including Anti-Racist and Human Rights Education, 1995, p. 35, <https://files.eric.ed.gov/fulltext/ED402400.pdf>.

¹⁶³ Betty A Reardon, "Human Rights Education for Peace", George J Andreopolous, Richard Pierre Claude (eds.) Human Right Education for Twenty First Century, p.27,(University of Pennsylvania Press, 1997)

countries¹⁶⁴. HRE addresses social and personal responsibilities and can develop the concept of development as a process towards a society based on normative principles that promote economic, social and cultural justice, and the eradication of poverty and the fair distribution of resources¹⁶⁵.

Finally, we should not overlook the importance of HRE in maintaining cultural harmony. In a globalized world, where different cultures and religions coexist, peaceful interaction is vital. The UDHR provides standards of behavior that are universally ascribed. HRE therefore ensures the link between global human rights standards and local values and practices, promoting intercultural dialogue and reducing conflict. It strengthens mutual respect around universal values and develops knowledge, skills, understanding and attitudes that contribute to peace building, promoting peaceful and harmonious coexistence.

2.4.2. *Global citizenship education and Education for democratic citizenship*

As a concept, citizenship «connects the individual with the collective and is characterized by three main elements: responsibilities/obligations, collectivity, and participation. Moreover, beyond being a theoretical and academic concept, it is a lived experience and therefore cannot be understood outside the temporal and national context». Citizenship is linked to culture, history and legal tradition and is a concept that, as it is composed in the context of each local society but also of the global society, changes and is reshaped.¹⁶⁶

Global citizenship education (GCE) encompasses a variety of educational approaches aimed at equipping students with the knowledge, skills, values and attitudes necessary to participate actively in a globalized society and economy. The ultimate goal is to foster a sense of responsibility among individuals to create a fairer, safer and more

¹⁶⁴ Diana Rodríguez-Gómez and S. Garnett Russell, Human Rights Violations Through Structural Violence: A Case Study of Human Rights Education in New York Cit, *American Educational Research Journal*, 2022, 59:1, pp. 45-47.

¹⁶⁵ Claude, Richard Pierre, The right to education and human rights education, *Sur. Revista Internacional de Direitos Humanos* 2 (2005), pp. 1-2.

¹⁶⁶ Spyros Makris, Chrysothea Basia, “Feminism, equality and citizenship” in *Democracy, Citizenship and Equality in the European Union*, Proceedings of Conferences co-organized by the Jean Monnet Chair of the University of Macedonia and The European Information Centre “Europe Direct American Farm School” on November 22, 2013 and April 7, 2014 and the Law Department of the Aristotle University of Thessaloniki on April 25, 2013, University of Macedonia Press, p. 263.

sustainable world for future generations¹⁶⁷. Global citizenship education (GCED) is promoted by UNESCO to equip students with the knowledge, skills, values and attitudes necessary to understand and address the interconnected challenges facing the world today. This can be achieved by tailoring curricula and courses to provide a comprehensive understanding of issues such as human rights, environmental concerns, inequalities and historical events, by sharpening critical thinking about equality and justice, resolving conflicts in a constructive way and encouraging cooperation between people from different backgrounds.

Encouraging active participation in society to address global, national and local challenges is central to fostering values such as respect for diversity, empathy and justice that guide students in their interactions and decision-making processes¹⁶⁸. GCE and HRE are recognized for their significant contributions to citizenship education. The interface between GCE and HRE has been explored in various curricula developed by international organizations such as UNESCO, NGOs, etc. Both could be said to be about a philosophy that emphasizes cosmopolitanism, global human rights norms, cultural diversity, sustainable development and curriculum design based on such issues. The compatibility between the goals of GCE and HRE lies in the joint achievement of enhancing awareness of global issues and promoting values¹⁶⁹.

On the other hand, education for democratic citizenship (EDC) is a concept provided by the CoE Charter on Education for Democratic Citizenship and Human Rights Education where it is referred that it means “*education, training, awareness-raising, information, practices and activities which aim, by equipping learners with 6 knowledge, skills and understanding and developing their attitudes and behaviour, to empower them to exercise and defend their democratic rights and responsibilities in society, to value diversity and to play an active part in democratic life, with a view to the promotion and protection of democracy and the rule of law*”¹⁷⁰.

The need to integrate EDC with HRE has been highlighted by international bodies and is being advanced as a political priority, so that relevant educational policies can be established. Human rights education helps to strengthen democracy and encourage the

¹⁶⁷ Myers, J. P. “Charting a Democratic Course for Global Citizenship Education: Research Directions and Current Challenges”. Education Policy Analysis Archives, vol. 24, May 2016, p. 55, doi:10.14507/epaa.24.2174.

¹⁶⁸ UNESCO, What you need to know about global citizenship education, <https://www.unesco.org/en/global-citizenship-peace-education/need-know>.

¹⁶⁹ Ibid, BEMIS, p. 7.

¹⁷⁰ CoE Charter on Education for Democratic Citizenship and Human Rights Education, article 2a.

active participation of young people and is put forward as a critique of authoritarian school structures and the tendency in civic education programs to prioritize responsibilities over rights. The Council of Europe's Charter on Education for Democratic Citizenship and Education for Human Rights distinguishes citizenship education from human rights education, demonstrating the broader scope of HRE. Citizenship education focuses primarily on democratic rights but also the obligations-responsibilities that this status implies, as well as active participation in various social spheres, while HRE addresses a wide range of human rights in all aspects of life, which include the fundamental freedoms of the individual ¹⁷¹.

Human rights education is essential to promote global citizenship in a democratic society by familiarizing students with the universality of human rights and promoting humanitarian appreciation of people at all levels, local, regional and global. Through the teaching of human rights, students understand how poverty, violence and oppression affect lives and development, supporting the desire for change. However, there is always the danger of confusion between understanding the protection of human rights with personal interventions. This is normal, especially for young students, however through alternative forms of learning, such as volunteering and experiential learning, it is almost certain that the necessary skills can be developed¹⁷².

In order to promote a type of education that follows the above-mentioned standards, the development of a meaningful and internationally agreed-upon framework, together with corresponding evaluation tools for both citizenship and HRE, is critical. The evaluation of knowledge, practices, value beliefs, attitudes and behavioral intentions at various levels will lead to an integrated evaluation approach that will allow the evaluation of the effectiveness of training initiatives, which should aim to develop informed and responsible citizens worldwide ¹⁷³.

2.5. Current challenges

¹⁷¹ BurrIDGE, Nina, et al. "Human rights education in the school curriculum." (2013), p. 21.

¹⁷² Barton, K. C. (2020). Students' understanding of institutional practices: The missing dimension in human rights education. *American Educational Research Journal*, 57(1), 188-189.

¹⁷³ Dirk Hastedt, "Evaluation of Citizenship and Human Rights Education can be a sensitive area, but it is necessary and possible" in Council of Europe, Report on the state of citizenship and human rights education in Europe, "LEARNING TO LIVE TOGETHER", June 2017.

In evaluating the concept of HRE we realize that it extends beyond legal and political spheres, including issues of economic and social equality, rule of law and inclusive participation in decision-making processes. In a global society where different ideologies, races, genders and religions are developed and promoted, it is imperative that HRE is embraced by all citizens.

However, there are numerous challenges to overcome, including the entrenched social, cultural and economic inequalities maintained by the status quo and the neoliberal imperatives of globalization. Migration and cultural diversity have long been integral aspects of European societies, but their importance has grown in recent decades. As a result, young people in Europe are increasingly experiencing living conditions in culturally pluralistic environments. The recent refugee crisis has further intensified the challenge for the European continent with education for refugee children a major global demand. In this context, it is imperative for European education systems to prioritize certain key objectives. These include cultivating a new generation that not only respects human rights, but aims for open, democratic and pluralistic societies. Moreover, ensuring equal access to education for all children and young people is not only a fundamental human right, but also a democratic and fair approach for both individuals and society at large. Failure to provide equal access to education risks widening social inequalities, perpetuating exclusion at personal and community levels and increasing conflict between ethnic groups within society¹⁷⁴. For meaningful change to occur, HRE must be embedded in progressive and critical pedagogies that promote social justice and pluralistic democracy, accompanied by a shared sense of creating an inclusive and just future for all. Therefore, HRE should be instilled in the minds of citizens as a form of lifelong learning that concerns all people from all walks of life and at every level of development.

More generally, global society faces daily issues of access and equity, with inequalities in the quality of education still driven by perennial factors such as poverty, conflict and discrimination. In addition, the integration of human rights education into formal curricula remains a barrier, requiring comprehensive and age-appropriate content in various subjects. In addition, the insufficient training of a large number of teachers does not allow us to hope for an effective teaching of human rights that will

¹⁷⁴ Kesidou, Anastasia. "Preparing educators and researchers for multicultural/intercultural education: A Greek perspective." *Education for democratic intercultural citizenship*. Brill, 2019, pp. 148-149.

be able to handle sensitive issues. Promoting critical thinking and active participation requires innovative teaching methods that enable effective engagement with human rights issues. The rise of digital technologies, which is linked to the emerging issues of digital literacy and the digital divide, is an ever greater challenge. But most crucial of all is to stop the resistance put forward by political authorities, so that systematic actions can be achieved to promote the value of human rights education. Overcoming these challenges requires collaboration between governments, educational institutions, civil society and other stakeholders to ensure that human rights education becomes a transformative force for building more just and inclusive societies.

Human Rights Education in the school curriculum should become a priority for governments and at the same time extend beyond formal education to connect with people's real lives. Without a clear vision of the interplay between the right to education and human rights education, the promotion of HRE remains empty. Unless systematic data collection and progress are made, the perpetuation of abuses will continue and ignorance will persist¹⁷⁵. Therefore, each generation of young people is called upon in adulthood to experience conditions of cultural pluralism¹⁷⁶. In this context, HRE functions as a preventive mechanism as it is the necessary strategy for building a culture of human rights which tends to dissolve the structures of oppression¹⁷⁷. It is indeed very optimistic, though, that some states have followed the road of integration of HRE in the school system. When results are drawn from the evaluation of their functioning, perhaps the majority will accept its paramount importance for the protection of human rights worldwide.

2.6. Conclusion

Human Rights Education is a comprehensive approach aimed at fostering an understanding and appreciation of human rights principles, values, and responsibilities. It involves providing knowledge about human rights laws and instruments, developing

¹⁷⁵ Tomaševski, Katarina. *Human rights obligations: making education available, accessible, acceptable and adaptable*. Right to education primers no. 3, 2001, p. 43.

¹⁷⁶ Ibid, Kesidou, Anastasia, 2019, pp. 148-149.

¹⁷⁷ Abu Moghli, Mai. "Re-conceptualising human rights education: from the global to the occupied." *International Journal of Human Rights Education* 4.1 (2020): 5, p. 25-6.

skills for advocacy and conflict resolution, cultivating attitudes of respect and empathy, and encouraging action to promote and protect human rights. HRE is integrated into various levels of education, including formal schooling and informal learning environments, and relies on partnerships between governments, educational institutions, civil society organizations, and international bodies. Ultimately, HRE empowers individuals to become active participants in advancing a culture of human rights, contributing to a more just and inclusive society. Beyond the Universal Declaration of Human Rights, the first official document that introduced human rights education, although not explicitly, there are other conventions, recommendations, etc., that refer to the HRE. We highlighted the importance of the Convention on Human Rights and article 29 about the aims of education.

From the historical preview of the HRE, we moved on to its promotion by the United Nations and the Council of Europe, where interest in the proliferation of actions to spread the importance of the HRE is gradually growing. We then referred to specific groups of professionals directly related to the field of human rights to illustrate the concept of human rights training, which is the vehicle for establishing human rights values. Then, in order to recognize the HRE as a preventive mechanism for the protection of rights, we commented on its impact, going one step further, focusing on its essential contribution to society and we additionally mentioned the concepts of Global Citizenship Education and Education for Democratic Citizenship as closely intertwined with HRE.

Finally, we emphasized that there are significant challenges to overcome, including entrenched social, cultural and economic inequalities perpetuated by the status quo and the neoliberal imperatives of globalization. Immigration and cultural diversity, the need to re-prioritize the main goals of education systems and inequalities in access to education highlight the weaknesses found in modern society. We emphasized that to achieve meaningful change, HRE must be embedded in progressive and critical pedagogies that promote social justice and pluralistic democracy. We reiterate that this requires a comprehensive and age-appropriate content in various courses, as well as innovative teaching methods that encourage critical thinking and active participation of learners.

In summary, we view HRE as a preventive human rights protection mechanism and as a strategy necessary for building a human rights culture, which requires

continuous assessment and commitment to ensure meaningful and effective protection of human rights worldwide.

3. HUMAN RIGHTS PROTECTION EXISTING SYSTEMS

3.1. *United Nations Monitoring System*

3.1.1. *Introduction*

Starting from the definitions given to the concept of "monitoring", we shall say that "monitoring" is "*the process through which we measure to what extent those commitments are being met, and this is done in a variety of ways, and through a variety of different bodies, each with expertise in its own area*"¹⁷⁸. Human rights monitoring refers to the collection, verification, and use of information about human rights violations. Indeed, monitors use a systematic approach to collect, verify, and analyze information to identify violations of human rights. Human rights monitoring is occasionally referred to as fact-finding. Fact-finding involves examining a particular incident or accusation of human rights abuses, gathering or discovering a collection of facts that confirm or refute the occurrence and circumstances of the incident, and corroborating allegations or rumors¹⁷⁹. Human rights monitoring plays a crucial role as a tool for driving systematic and long-term social or legal change. By systematically observing and documenting human rights violations, monitoring mechanisms can shine a spotlight on issues that require attention and action. This documentation serves as evidence that can be used to advocate for policy reforms, legal changes, or other measures aimed at addressing the root causes of human rights abuses¹⁸⁰. Finally, human rights monitoring helps to hold governments and other actors accountable for their actions or inactions regarding human rights. By publicly reporting on violations,

¹⁷⁸ CoE, Monitoring bodies of the Council of Europe, <https://www.coe.int/en/web/portal/monitoring-bodies>.

¹⁷⁹ UN Women, The Virtual Knowledge Centre to End Violence Against Women and Girls, What is human rights monitoring?, December 21, 2011, <https://www.endvawnow.org/en/articles/994-what-is-human-rights-monitoring.html>.

¹⁸⁰ The Advocates for Human Rights, Human Rights Tools for a Changing World, A step-by-step guide to human rights fact-finding, documentation, and advocacy, January 2015, p. 15, ISBN: 0-929293-76-2.

monitoring mechanisms can exert pressure on authorities to take corrective measures, provide redress to victims, and prevent future abuses¹⁸¹.

The United Nations Human Rights Monitoring System encompasses a wide array of mechanisms, institutions, and processes aimed at upholding and promoting human rights globally. One of the primary components of this system is the network of treaty bodies. These bodies are comprised of independent experts who monitor the implementation of specific human rights treaties ratified by member states. These committees review state reports, engage in dialogues with governments, and issue recommendations to address human rights violations and improve compliance with treaty obligations.

In addition to treaty bodies, the United Nations (UN) rely on special procedures, also known as the Special Rapporteurs, Independent Experts, and Working Groups, appointed by the UN Human Rights Council. These individuals possess expertise in specific thematic or country-specific human rights issues and are tasked with conducting investigations, monitoring developments and reporting on human rights violations worldwide. Their reports shed light on pressing issues such as arbitrary detention, freedom of expression, torture, and discrimination, providing valuable insights and recommendations for action¹⁸².

Furthermore, the Office of the High Commissioner for Human Rights (OHCHR) plays a pivotal role in coordinating and supporting the UN's human rights monitoring efforts. Through its field presences, technical assistance programs, and capacity-building initiatives, OHCHR strengthens national human rights institutions, empowers civil society organizations, and enhances the capacity of states to fulfill their human rights obligations. OHCHR also engages in advocacy, raising awareness about human rights issues and mobilizing support for action at the international and national levels¹⁸³.

Another integral component of the UN monitoring system is the Universal Periodic Review (UPR). This unique process involves the regular assessment of the human rights records of all UN member states, providing a platform for peer review and constructive dialogue. During the UPR, states present their human rights achievements and challenges, receive feedback and recommendations from other states,

¹⁸¹ Guzman, Manuel. What is monitoring. Vol. 1. Huridocs, 2003, p. 14.

¹⁸² Subedi, Surya. The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights. 1st ed. New York: Routledge, 2017.

¹⁸³ Ramcharan, Bertrand G. Modernizing the UN Human Rights System. Brill, 2019.

and commit to addressing identified shortcomings through national action plans. This process fosters transparency, accountability and cooperation among states, encouraging continuous improvement in human rights protection¹⁸⁴.

Moreover, regional human rights mechanisms, such as the European Court of Human Rights, the Inter-American Commission on Human Rights, and the African Commission on Human and Peoples' Rights, complement the UN monitoring framework by providing additional avenues for redress and accountability at the regional level.

In conclusion, the UN monitoring system for human rights embodies the collective commitment of the international community to uphold the inherent dignity and equal rights of all individuals. By leveraging a combination of treaty bodies, special procedures, OHCHR support, the Universal Periodic Review, and regional mechanisms, the system strives to promote accountability, strengthen national human rights protection systems and advance the realization of human rights for all. Through sustained engagement and collaboration, it seeks to build a world where justice, equality, and respect for human dignity prevail.

3.1.1.1. Charter-based bodies

Charter-based bodies within the United Nations system are entities established under the UN Charter to fulfill specific functions related to human rights, peace, security, and development. These bodies operate under the principles and provisions outlined in the UN Charter, which serves as the foundational document of the organization. Charter-based bodies are distinct from treaty-based bodies, which are established through international treaties or conventions.¹⁸⁵

Among the many characteristics and functions of charter-based bodies, it is worth mentioning the promotion and protection of human rights, as Charter-based bodies primarily focus on the promotion and protection of human rights globally. They address

¹⁸⁴ McMahon, Edward, and Marta Ascherio. "A Step Ahead in Promoting Human Rights? The Universal Periodic Review of the UN Human Rights Council." In *Global Governance: A Review of Multilateralism and International Organizations*. Online publication date: August 12, 2012.

¹⁸⁵ United Nations, Instruments & mechanisms, <https://www.ohchr.org/en/instruments-and-mechanisms#:~:text=The%20charter%2Dbased%20bodies%20include,Periodic%20Review%20and%20Independent%20Investigations>.

various human rights issues, monitor compliance with international human rights standards, and advocate for the rights of individuals and vulnerable groups. Additionally, Charter-based bodies typically have universal membership, meaning that all UN member states have the opportunity to participate in their deliberations and decision-making processes. This inclusivity ensures broad representation and enhances the legitimacy of their actions. At the same time, they provide advice, recommendations, and guidance to UN member states, governments, and other stakeholders on human rights issues. They monitor human rights situations in different countries, conduct investigations into alleged violations, and issue reports and findings.¹⁸⁶

These bodies contribute to the development of international norms and standards related to human rights. Through resolutions, declarations, guidelines, and other documents, they establish principles and guidelines to guide states in fulfilling their human rights obligations. Charter-based bodies facilitate cooperation and dialogue among UN member states, civil society organizations, international agencies, and other stakeholders. They provide platforms for discussions, exchanges of best practices, and collaboration to address human rights challenges effectively¹⁸⁷.

3.1.1.1.1. Human Rights Council

The Human Rights Council (HRC) is an intergovernmental body within the United Nations system responsible for promoting and protecting human rights around the world. It was established in 2006 to replace the former UN Commission on Human Rights, with the aim of strengthening the UN's human rights machinery and addressing human rights challenges more effectively.

The HRC holds regular sessions throughout the year at the UN Office In Geneva, Switzerland. These sessions typically include high-level discussions, thematic debates, interactive dialogues with special rapporteurs and independent experts, and consideration of country-specific human rights situations. The Council may also convene special sessions to address urgent human rights issues¹⁸⁸.

¹⁸⁶ Shelton, Dinah L., ed. *The United Nations System for Protecting Human Rights*. Vol. IV. New York: Routledge.

¹⁸⁷ Donnelly, Jack. *Universal Human Rights in Theory and Practice*. 3rd ed. Ithaca, NY: Cornell University Press, 2013.

¹⁸⁸ *Ibid.*

The primary mandate of the Human Rights Council is to promote and protect human rights globally. It fulfills this mandate through various functions, including: examining human rights situations in countries around the world and issuing resolutions and recommendations, establishing special procedures, such as special rapporteurs and working groups, to investigate specific human rights issues or country situations, conducting the Universal Periodic Review to assess the human rights records of all UN member states periodically, and addressing thematic human rights issues through the adoption of resolutions, statements, and reports¹⁸⁹.

In general, the Human Rights Council serves as a central forum for addressing human rights issues at the international level. Through its various mechanisms and functions, the Council plays a crucial role in holding states accountable, advocating for vulnerable populations, and upholding the principles of the Universal Declaration of Human Rights¹⁹⁰.

3.1.1.2. *Complaint Procedure/ Independent Investigations*

The Complaint Procedure enables individuals, groups, or non-governmental organizations (NGOs) to submit complaints, known as *communications*, to the Human Rights Council alleging human rights violations. Communications can address a wide range of human rights issues, including civil, political, economic, social, and cultural rights. They must be submitted in writing and provide detailed information about the alleged violations, including the identities of the victims, perpetrators, and any relevant evidence.

These communications are reviewed by the *Council's Working Group on Communications*. The Working Group assesses the admissibility of communications, considering factors such as exhaustion of domestic remedies, the specificity of allegations, and the credibility of the source. If a communication is deemed admissible, the Working Group may request the concerned state to provide information on the allegations and to investigate and address the human rights violations.

¹⁸⁹ Terlingen, Yvonne. "The Human Rights Council: A New Era in UN Human Rights Work?" *Ethics and International Affairs* 21, no. 2 (2007): 169.

¹⁹⁰ Scannella, Paul, and Splinter, Peter. "The United Nations Human Rights Council: A promise to Be Fulfilled." *Human Rights Law Review* 7, no. 1 (2007), p. 42.

Recommendations may be issued to the Human Rights Council regarding the situation, including the possibility of further action or follow-up¹⁹¹.

In cases where serious and systematic human rights violations are alleged, the Human Rights Council may authorize independent investigations to examine the situation. These investigations may be conducted by special rapporteurs, independent experts, or commissions of inquiry appointed by the Council. They involve gathering evidence, conducting interviews with witnesses and victims, and analyzing relevant documentation to establish the facts surrounding the alleged violations¹⁹².

Independent investigators have the authority to visit the country in question, meet with government officials, civil society representatives, and other stakeholders to gather information. Once the investigation is completed, a report is presented to the Human Rights Council, detailing the findings, conclusions, and recommendations for action. The Council may then decide on appropriate measures to address the human rights situation, including issuing resolutions, recommendations, or referring the matter to other UN bodies or mechanisms for further action¹⁹³.

2.1.1.1.3. *Universal Periodic Review*

The Universal Periodic Review (UPR) is a unique mechanism of the Human Rights Council that aims to assess the human rights records of all UN member states in a periodic manner. The UPR is characterized by several key features. The UPR involves a comprehensive assessment of the human rights situation in each UN member state, regardless of their size, wealth, or political influence. The review covers all human rights issues, including civil, political, economic, social, and cultural rights, as well as thematic concerns such as gender equality, freedom of expression, and the rights of minorities¹⁹⁴.

¹⁹¹ Rahmani-Ocora, Liana. "Giving the Emperor Real Clothes: The UN Human Rights Council." *Global Governance* 12 (2006), p. 15.

¹⁹² Schrijver, Nico. "The UN Human Rights Council: A New 'Society of the Committed' or Just Old Wine in New Bottles?" In *The Protection of the Individual in International Law. Essays in Honor of John Dugard*, edited by Skouteris, Takis, and Vermeer-Künzli, Anja, 258-272. Cambridge, UK and NY, USA: Cambridge University Press, 2007.

¹⁹³ Davies, David. "Rhetorical Inaction? Compliance and the Human Rights Council of the United Nations." *Alternatives* 35 (2010), p. 452.

¹⁹⁴ Seligman, Scott. "Politics and Principle at the UN Human Rights Commission and Council (1992–2008)." *Israel Affairs* 17, no. 4 (2011), p. 538.

The UPR process is participatory, involving the reviewed state, other UN member states, and civil society organizations. The reviewed state submits a national report detailing its human rights situation, including achievements, challenges, and measures taken to address human rights concerns. Other UN member states provide input and recommendations during the review, based on their assessment of the reviewed state's human rights record. Civil society organizations also play a significant role in the process by submitting information, reports, and recommendations to inform the review¹⁹⁵. The interactive dialogue allows for a frank and open exchange of views, enabling states to share best practices, identify challenges, and discuss ways to improve human rights protection and promotion¹⁹⁶. The reviewed state commits to implementing these recommendations through a national action plan, addressing human rights challenges and strengthening human rights protection at the national level. The HRC monitors the implementation of UPR recommendations and provides support and technical assistance to facilitate their realization¹⁹⁷.

The UPR operates on a regular cycle, with each UN member state undergoing review approximately every four to five years. This periodicity ensures that all states receive regular scrutiny of their human rights records and encourages continuous improvement in human rights protection and promotion¹⁹⁸.

2.1.1.1.4. Special Procedures

Special Procedures are independent human rights experts appointed by the Human Rights Council to address specific human rights issues or country situations. They play a crucial role in the monitoring, reporting, and advocacy efforts related to human rights violations worldwide. These mandate holders are individuals with expertise in various human rights fields, including civil, political, economic, social, and cultural rights.

¹⁹⁵ Patel, Girish. "How 'Universal' Is the United Nations' Universal Periodic Review Process? An Examination of the Discussion Held on Polygamy." *Human Rights Review* 18 (2017), p. 465.

¹⁹⁶ McMahon, Edward, and Marta Ascherio. "A Step Ahead in Promoting Human Rights? The Universal Periodic Review of the UN Human Rights Council." In *Global Governance: A Review of Multilateralism and International Organizations*. Online publication date: August 12, 2012.

¹⁹⁷ Tistounet, Eric. *The UN Human Rights Council: A Practical Anatomy*. Elgar Practical Guides. Cheltenham, UK: Edward Elgar Publishing, 2020.

¹⁹⁸ Ramcharan, B. G. *A History of the UN Human Rights Programme and Secretariat*. Brill, 2020.

There are two main types of mandates: thematic mandates and country mandates. Thematic mandate holders focus on specific human rights themes or issues, such as freedom of expression, torture, right to education, rights of women, rights of minorities, etc. Country mandate holders are tasked with monitoring and reporting on human rights situations in particular countries or territories, conducting visits, and engaging with relevant stakeholders to assess the human rights landscape¹⁹⁹.

Special Procedures undertake various functions and activities to fulfill their mandates. They conduct country visits to assess the human rights situations and prepare reports based on their findings and observations. These reports highlight human rights violations, identify root causes, and provide recommendations for action. Mandate holders also engage in advocacy efforts to raise awareness about specific human rights issues, promote dialogue, and mobilize support for action. They receive and respond to communications or allegations of human rights violations, intervene with governments to address these allegations, and monitor the implementation of their recommendations²⁰⁰.

2.1.1.1.5. *Office of the High Commissioner for Human Rights (OHCHR)*

The Office of the High Commissioner for Human Rights (OHCHR) is a principal body of the United Nations system dedicated to promoting and protecting human rights worldwide. The OHCHR's primary mandate is to promote and protect human rights as enshrined in the Universal Declaration of Human Rights and other international human rights instruments. It works to mainstream human rights across all areas of the UN's work, including peace and security, development, humanitarian assistance, and the rule of law. It also provides support to UN bodies, member states, civil society organizations, and other stakeholders in advancing human rights principles, policies, and practices²⁰¹.

¹⁹⁹ Schrijver, Nico. "The UN Human Rights Council: A New 'Society of the Committed' or Just Old Wine in New Bottles?" In *The Protection of the Individual in International Law. Essays in Honor of John Dugard*, edited by Skouteris, Takis, and Vermeer-Künzli, Anja, 258-272. Cambridge, UK and NY, USA: Cambridge University Press, 2007.

²⁰⁰ Tistounet, Eric. *The UN Human Rights Council: A Practical Anatomy*. Elgar Practical Guides. Cheltenham, UK: Edward Elgar Publishing, 2020.

²⁰¹ Shelton, Dinah L., ed. *The United Nations System for Protecting Human Rights*. Vol. IV. New York: Routledge.

The OHCHR monitors human rights situations worldwide, conducting research, analysis, and reporting on emerging human rights issues, trends, and challenges. It produces thematic and country-specific reports, highlighting human rights violations, documenting cases of abuse, and providing recommendations for action by states, the UN, and other actors²⁰².

At the same time, it provides technical assistance and capacity-building support to member states to strengthen their human rights institutions, legal frameworks, and practices, offering guidance, training, and resources to governments, national human rights institutions, and civil society organizations to enhance their ability to promote and protect human rights effectively.

The OHCHR engages in human rights education and outreach efforts to raise awareness about human rights principles, values, and standards among diverse audiences. It develops educational materials, conducts training programs, and organizes public events to promote a culture of human rights and empower individuals to exercise their rights and freedoms. Additionally, it provides support to UN treaty bodies and Special Procedures, including mandate holders appointed by the Human Rights Council, to fulfill their monitoring, reporting, and advocacy functions. It facilitates communication between treaty bodies, Special Procedures, states, and other stakeholders, ensuring coordination and coherence in the human rights system²⁰³.

Additionally, it engages in advocacy efforts to promote adherence to international human rights standards, principles, and norms, and participates in international fora, conferences. To engage in these actions, it maintains field offices and presence in various regions and countries to provide direct support to governments, civil society organizations, and communities in addressing human rights challenges at the local level²⁰⁴.

3.1.1.2. *Treaty-based bodies*

²⁰² Anagnostou, Dia, and Alina Mungiu-Pippidi. "Domestic Implementation of Human Rights Judgments in Europe: Legal Infrastructure and Government Effectiveness Matter." *European Journal of International Law* 25, no. 1 (2014): 205–27.

²⁰³ Tistounet, Eric. *The UN Human Rights Council: A Practical Anatomy*. Elgar Practical Guides. Cheltenham, UK: Edward Elgar Publishing, 2020.

²⁰⁴ Forsythe, David P., and Park, Beth. "The Changing of the Guard: From the UN Human Rights Commission to the Council." *Human Rights Law Journal* 29, no. 1–5 (2008), p. 4.

As already mentioned, the United Nations represents a beacon of hope regarding the protection and promotion of human rights worldwide. Reference, where it was mentioned? Among its various mechanisms, the Treaty-Based Bodies (TBBs) play a central role in ensuring the implementation and monitoring of international human rights treaties. These bodies serve as guardians of fundamental freedoms and are instrumental in holding states accountable for their obligations under these treaties. Treaty-Based Bodies are committees of independent experts established under international human rights treaties ratified by UN member states. These treaties, also known as human rights conventions, delineate legal obligations and standards to protect and promote human rights across different spheres of life. The TBBs oversee the implementation of these treaties by monitoring state compliance, providing guidance, and issuing recommendations to enhance human rights protection²⁰⁵.

Treaty-Based Bodies perform several crucial functions to promote and protect human rights. They monitor compliance by reviewing state reports on treaty implementation, assess progress, and identify areas of concern regarding human rights violations. Additionally, they provide recommendations and observations to states, offering guidance on measures to strengthen human rights protection and address existing challenges. In response to serious human rights violations, TBBs may conduct inquiries to investigate alleged abuses and provide remedies to victims. They also engage with civil society organizations, human rights defenders, and other stakeholders to gather information, amplify voices, and ensure inclusive participation in their activities. Furthermore, TBBs produce general comments and interpretations of treaty provisions to clarify state obligations and promote consistent application of human rights standards²⁰⁶.

Despite their significant role, UN Treaty-Based Bodies (TBBs) encounter various challenges that impede their effectiveness. Resource constraints, including insufficient funding, staffing, and logistical support, hinder their capacity to fulfill their mandates comprehensively. Some states exhibit reluctance in fulfilling their reporting obligations or selectively report information to conceal human rights abuses, undermining the

²⁰⁵ Tistounet, Eric. *The UN Human Rights Council: A Practical Anatomy*. Elgar Practical Guides. Cheltenham, UK: Edward Elgar Publishing, 2020.

²⁰⁶ Roberts Lyer, Kristin. "Parliaments as Human Rights Actors: The Potential for International Principles on Parliamentary Human Rights Committees." *Nordic Journal of Human Rights* 37, no. 3 (2019), pp. 195–215.

monitoring process. Even with TBB recommendations, states may fail to implement necessary reforms or take adequate measures to address human rights violations, leading to persistent impunity. Moreover, TBBs lack direct enforcement mechanisms, relying primarily on moral suasion and diplomatic pressure to compel states to comply with their recommendations. Additionally, TBBs often face criticism, backlash, and politicization from states reluctant to accept scrutiny or accountability for their human rights records, affecting the credibility and independence of these bodies²⁰⁷.

3.1.1.2.1. *UN Human Rights Committee (CCPR)*

The UN Human Rights Committee (CCPR) has a basic role in the global architecture of human rights protection. Established under the International Covenant on Civil and Political Rights, the CCPR is one of the key Treaty-Based Bodies of the United Nations. Its primary mandate is to monitor state compliance with the provisions of the ICCPR, which encompasses a wide range of civil and political rights fundamental to human dignity and freedom.

The functions of the CCPR are multifaceted. Central to its role is the review of state reports on compliance with the ICCPR. As already mentioned, states parties are required to submit periodic reports detailing legislative, judicial, and administrative measures taken to give effect to the rights enshrined in the Covenant. The CCPR scrutinizes these reports, assesses progress, and provides recommendations to address shortcomings and enhance human rights protection²⁰⁸.

Moreover, in the framework of the CCPR, there is a system of individual complaints, also known as communications, allowing individuals or groups to submit petitions alleging violations of their rights under the ICCPR by states parties. Upon receiving a complaint, the CCPR conducts a thorough examination, affording both the complainant and the state party an opportunity to present their respective arguments and evidence. If the CCPR finds a violation, it issues recommendations and remedies

²⁰⁷ Lupu, Yonatan. "Best Evidence: The Role of Information in Domestic Judicial Enforcement of International Human Rights Agreements." *International Organization* 67, no. 3 (2013), pp. 469–503.

²⁰⁸ Forsythe, David P., and Park, Beth. "The Changing of the Guard: From the UN Human Rights Commission to the Council." *Human Rights Law Journal* 29, no. 1–5 (2008).

to redress the harm suffered by the victim²⁰⁹. In addition to its role in reviewing state reports and individual complaints, the CCPR engages in various other activities to protect civil and political rights globally. Furthermore, the CCPR participates in thematic discussions, seminars, and consultations to address emerging challenges and promote dialogue on pressing human rights issues²¹⁰.

Despite its important mandate, the CCPR faces several challenges in fulfilling its functions effectively. The CCPR's decisions and recommendations are non-binding, relying primarily on moral persuasion and diplomatic pressure to encourage state compliance. While the Committee's findings carry moral authority and contribute to the development of international human rights jurisprudence, they lack enforceability mechanisms, limiting their impact on state behavior²¹¹. Furthermore, the politicization of human rights issues and the reluctance of certain states to accept scrutiny or accountability pose challenges to the credibility and independence of the CCPR. Despite these challenges, the Committee remains steadfast in its commitment to promoting and protecting civil and political rights globally²¹².

3.1.1.2.2. *Committee on Economic, Social and Cultural Rights (CESCR)*

The UN Committee on Economic, Social, and Cultural Rights (CESCR) is one of the principal Treaty-Based Bodies established under the United Nations to monitor and promote human rights. Formed under the International Covenant on Economic, Social and Cultural Rights, CESCR plays a vital role in safeguarding the economic, social, and cultural rights of individuals worldwide.

CESCR monitors state compliance through a combination of periodic reporting and dialogue with state representatives through the regularly submitted reports to CESCR, detailing the measures taken to implement the rights enshrined in the ICESCR.

²⁰⁹ Donnelly, Jack. *Universal Human Rights in Theory and Practice*. 3rd ed. Ithaca, NY: Cornell University Press, 2013.

²¹⁰ *Ibid*, Tistounet, 2020.

²¹¹ Subedi, Surya. *The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights*. 1st ed. New York: Routledge, 2017.

²¹² Jensen, Søren L.B., Sylvain Lagoutte, and Stéphane Lorion. "The Domestic Institutionalisation of Human Rights: An Introduction." *Nordic Journal of Human Rights* 37, no. 3 (2019), pp. 165–176.

By examining these reports, it analyzes the progress made by states, and provides constructive feedback and recommendations to address existing challenges²¹³.

In addition to reviewing state reports, CESCR engages in a constructive dialogue with state representatives during its sessions. This dialogue allows CESCR to seek clarification on specific issues, gather additional information, and discuss best practices for advancing economic, social, and cultural rights²¹⁴.

One of CESCR's key functions is to develop general comments and recommendations to provide guidance on the interpretation and implementation of economic, social, and cultural rights, clarifying the scope of state obligations, identifying emerging challenges, and offering practical recommendations to enhance the protection and realization of these rights. CESCR's general comments serve as authoritative interpretations of the ICESCR and are widely used by states, civil society organizations, and other stakeholders to inform policy development and advocacy efforts²¹⁵.

It also plays a crucial role in promoting international cooperation and solidarity in the field of economic, social, and cultural rights. By fostering dialogue and collaboration among states, CESCR seeks to promote the equitable distribution of resources, facilitate technology transfer, and support capacity-building initiatives to advance the realization of economic, social, and cultural rights for all²¹⁶.

3.1.1.2.3. *Committee on the Elimination of Racial Discrimination (CERD)*

The Committee on the Elimination of Racial Discrimination (CERD) represents a key pillar in the United Nations' framework for protecting and promoting human rights, specifically focusing on combatting racial discrimination globally. It is established under the International Convention on the Elimination of All Forms of Racial Discrimination.

²¹³ Murray, Rachel. *The Role of National Human Rights Institutions at the International and Regional Levels: The Experience of Africa*. Oxford: Hart Publishing, 2007.

²¹⁴ Roberts Lyer, Kristin. "Parliaments as Human Rights Actors: The Potential for International Principles on Parliamentary Human Rights Committees." *Nordic Journal of Human Rights* 37, no. 3 (2019), pp. 195–215.

²¹⁵ Ramcharan, B. G. *A History of the UN Human Rights Programme and Secretariat*. Brill, 2020.

²¹⁶ Subedi, Surya. *The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights*. 1st ed. New York: Routledge, 2017.

CERD's mandate encompasses a broad spectrum of responsibilities aimed at eradicating racial discrimination in all its forms. The committee closely scrutinizes state parties' legislative, judicial, administrative, and other measures to ensure effective implementation of the ICERD. Through its review process, CERD evaluates progress made by states in eliminating racial discrimination and identifies persistent challenges requiring remedial action by reviewing the state reports and engaging in discussions with the relevant state representatives²¹⁷.

Moreover, CERD operates a confidential complaints procedure under the Optional Protocol to the ICERD, allowing individuals or groups to submit complaints alleging violations of their rights under the Convention. Upon receiving a complaint, CERD conducts a thorough examination, including seeking information from the state party concerned and providing opportunities for both parties to present their arguments. If CERD finds a violation of the ICERD, it issues recommendations to the state party aimed at remedying the situation and preventing future occurrences of racial discrimination. The committee regularly engages with civil society organizations, national human rights institutions, and other stakeholders to exchange information, share best practices, and enhance collaboration. Through its advocacy efforts, CERD amplifies voices of marginalized communities affected by racial discrimination and strives to mobilize support for their rights and dignity²¹⁸.

3.1.1.2.4. Committee on the Elimination of Discrimination against Women (CEDAW)

The Committee on the Elimination of Discrimination against Women (CEDAW) is a critical component of the United Nations human rights framework dedicated to advancing gender equality and protecting the rights of women worldwide. CEDAW's primary mandate is to monitor state compliance with the Convention on the Elimination of All Forms of Discrimination against Women and assess the progress made in achieving gender equality and eliminating discrimination against women. To fulfill this mandate, CEDAW employs a comprehensive monitoring mechanism that includes

²¹⁷ Thornberry, Patrick. "Confronting Racial Discrimination: A CERD Perspective." *Human Rights Law Review* 5, no. 2 (2005), pp. 239–269. <https://doi.org/10.1093/hrlr/ngi015>.

²¹⁸ Castellino, Joshua. "How effective has CERD been in protecting minorities?". In *Fifty years of the International Convention on the Elimination of All Forms of Racial Discrimination*, (Manchester, England: Manchester University Press, 2017), <https://doi.org/10.7765/9781526116482.00022>.

reviewing state reports, engaging in dialogue with state representatives, and issuing recommendations and general recommendations²¹⁹.

State parties to the Convention on the Elimination of All Forms of Discrimination against Women are required to submit periodic reports to CEDAW, detailing the measures taken to implement the convention and address gender-based discrimination. CEDAW reviews these reports, assesses the implementation of women's rights obligations, and identifies areas where further action is needed to achieve substantive equality between men and women.

In addition to reviewing state reports, CEDAW conducts interactive dialogues with state representatives during its sessions. These dialogues provide an opportunity for CEDAW members to seek clarification, gather additional information, and discuss challenges and best practices related to women's rights and gender equality. Through this dialogue, CEDAW aims to promote accountability, transparency, and cooperation between states and the committee in advancing women's rights²²⁰.

One of CEDAW's key functions is the development of general recommendations to provide guidance on the interpretation and implementation of the Convention on the Elimination of All Forms of Discrimination against Women. CEDAW's general recommendations are interpretations of the convention and serve as valuable tools in advancing gender equality and women's empowerment²²¹.

CEDAW also plays a crucial role in promoting international cooperation in the field of women's rights. Recognizing that gender inequality is a global challenge that requires collective action, CEDAW encourages states to engage in meaningful cooperation to address gender-based discrimination and promote women's rights at the national, regional, and international levels²²².

²¹⁹ Englehart, Neil A., and Melissa K. Miller. "The CEDAW Effect: International Law's Impact on Women's Rights." *Journal of Human Rights* 13, no. 1 (2014), pp. 22-47. DOI: 10.1080/14754835.2013.824274.

²²⁰ Cusack, Simone, and Lisa Pusey. "CEDAW and the Rights to Non-Discrimination and Equality." *Melbourne Journal of International Law* 14, no. 1 (June 2013): 54-92.

²²¹ Vijayarasa, Ramona. "Three Decades of CEDAW Committee General Recommendations: A Roadmap for Domestication, Reporting and Stronger Accountability for Women's Rights", *Max Planck Yearbook of United Nations Law Online* 25, 1 (2022): 797-826, doi: https://doi.org/10.1163/18757413_02501014.

²²² Byrnes, Andrew C., and Marsha Freeman. "The Impact of the CEDAW Convention: Paths to Equality." *UNSW Law Research Paper No. 2012-7*. February 20, 2012, <http://dx.doi.org/10.2139/ssrn.2011655>.

3.1.1.2.5. *Committee against Torture (CAT)*

The Committee against Torture (CAT) is another component of the United Nations human rights framework, tasked with the combating and preventing of the use of torture and other cruel, inhuman, or degrading treatment or punishment worldwide.

CAT's primary task is the monitoring of state compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the assessment of the progress made in preventing and eradicating torture and ill-treatment through a comprehensive monitoring mechanism²²³.

State parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are required to submit periodic reports to CAT, detailing the measures taken to implement the convention and the relevant measures it encompasses²²⁴. In addition to reviewing state reports, CAT conducts confidential inquiries into allegations of systematic torture or ill-treatment in states parties. CAT investigates allegations impartially, seeking clarification from the concerned state, and may recommend remedial measures to address the situation and provide redress to victims.²²⁵ CAT, as every other TBB, engages in a constructive dialogue with state representatives during its sessions, discussing challenges and best practices related to the prevention of torture and ill-treatment²²⁶. It also develops general comments to provide guidance on the interpretation and implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. These general comments clarify the scope of state obligations, address any emerging issues, and offer practical recommendations to enhance the protection of individuals from torture and ill-treatment²²⁷.

²²³ Gaer, Felice. "Chapter 7: The Committee Against Torture: Implementing the Prohibition Against Torture." In *Research Handbook on Torture*, edited by Malcolm D. Evans and Jens Modvig, 128–153. Cheltenham, UK: Edward Elgar Publishing, 2020.

²²⁴ Kelly, Tobias. "The UN Committee against Torture: Human Rights Monitoring and the Legal Recognition of Cruelty." *Human Rights Quarterly* 31, no. 3 (2009): 777–800. <http://www.jstor.org/stable/40389967>.

²²⁵ Ramcharan, Bertrand G. *Modernizing the UN Human Rights System*. Brill, 2019.

²²⁶ Gaer, Felice. "Chapter 7: The Committee Against Torture: Implementing the Prohibition Against Torture." In *Research Handbook on Torture*, edited by Malcolm D. Evans and Jens Modvig, 128–153. Cheltenham, UK: Edward Elgar Publishing, 2020.

²²⁷ Kelly, Tobias. "The UN Committee against Torture: Human Rights Monitoring and the Legal Recognition of Cruelty." *Human Rights Quarterly* 31, no. 3 (2009): 777–800. <http://www.jstor.org/stable/40389967>.

3.1.1.2.6. *Committee on the Rights of the Child (CRC)*

The Committee on the Rights of the Child (CRC) represents a paramount entity within the United Nations' human rights framework, devoted specifically to safeguarding and promoting the rights of children worldwide and it was established under the Convention on the Rights of the Child.

At its core, the CRC is tasked with monitoring state compliance with the Convention on the Rights of the Child, which outlines a comprehensive set of rights for children, including civil, political, economic, social, and cultural rights. Through a systematic monitoring mechanism, the CRC assesses the progress made by states in implementing these obligations. The CRC is also tasked with the review of state reports stemming from the Convention on the Rights of the Child and detailing the relevant national measures regarding the rights and welfare of children within their jurisdictions²²⁸. In addition to reviewing state reports, the CRC engages in discussions with state representatives offering clarifications and additional information on various issues related to child rights.²²⁹ Furthermore, as a TBB, it develops general comments and recommendations to guide states in interpreting and implementing the Convention on the Rights of the Child as interpretations of the convention, offering guidance to states on various topics as is child protection, education, health care, juvenile justice, and the rights of vulnerable groups such as children with disabilities, refugees, and indigenous children²³⁰.

Another key aspect of the CRC's work is its engagement with civil society organizations, children's rights advocates, and other stakeholders. The CRC values the input and expertise of these actors and actively seeks their participation in its activities, including the review of state reports and the development of general comments²³¹.

²²⁸ Karp, Judith. "Chapter 3: Reporting and the Committee on the Rights of the Child." In *The UN Human Rights Treaty System in the 21st Century*, edited by Anne Bayefsky, 253–304. Leiden, Netherlands: Brill, 2020. https://doi.org/10.1163/9789004502758_007.

²²⁹ Doek, Jaap, Lothar Krappmann, and Yanghee Lee. "The Role of the Committee on the Rights of the Child in Monitoring Child Abuse and Neglect." *Child Abuse & Neglect* 110, part 1 (2020): 104517. <https://doi.org/10.1016/j.chiabu.2020.104517>.

²³⁰ Vandenhole, Wouter. "The Committee on the Rights of the Child—Size Matters Sometimes, Somewhat: A Comment." *Journal of Human Rights Practice* 14, no. 1 (February 2022): 101–107. <https://doi.org/10.1093/jhuman/huac022>.

²³¹ Doek, Jaap, Lothar Krappmann, and Yanghee Lee. "The Role of the Committee on the Rights of the Child in Monitoring Child Abuse and Neglect." *Child Abuse & Neglect* 110, part 1 (2020): 104517. <https://doi.org/10.1016/j.chiabu.2020.104517>.

3.1.1.2.7. *Committee on Migrant Workers (CMW)*

The Committee on Migrant Workers (CMW) is another entity within the United Nations framework, with a special focus on safeguarding the rights of migrant workers and their families globally. It was established under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The primary objective of the CMW is to monitor and ensure the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by state parties. This convention outlines a comprehensive set of rights for migrant workers and their families, encompassing various aspects such as labor rights, social security, access to justice, and protection against exploitation and abuse²³².

One of the key characteristics of the CMW is the review of the relevant state reports submitted by parties to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, detailing the measures taken by states to fulfill their obligations under the convention. By scrutinizing these reports, the CMW identifies areas of concern, and provides recommendations to states.²³³ In addition to reviewing state reports, the CMW engages in dialogues with state representatives, as every other TBB²³⁴.

Furthermore, the CMW develops general comments and recommendations to guide states in interpreting and implementing the Convention, expressed as practical guides to states on how to fulfill their respective obligations, in relevant topics such as labor migration, access to social services, family reunification, and the rights of vulnerable groups such as migrant children and victims of trafficking²³⁵.

3.1.1.2.8. *Committee on the Rights of Persons with Disabilities (CRPD)*

²³² Pécoud, Antoine. "The UN Convention on Migrant Workers' Rights and International Migration Management." *Global Society* 23, no. 3 (2009): 333-350. <https://doi.org/10.1080/13600820902958741>.

²³³ Mertus, Julie. *The United Nations and Human Rights: A Guide for a New Era*. Routledge, 2005.

²³⁴ Subedi, Surya. *The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights*. 1st ed. New York: Routledge, 2017.

²³⁵ Mertus, Julie. *The United Nations and Human Rights: A Guide for a New Era*. Routledge, 2005.

The Committee on the Rights of Persons with Disabilities (CRPD) is dedicated to the promotion and protection of the rights of persons with disabilities worldwide and it was established under the Convention on the Rights of Persons with Disabilities.

The CRPD is tasked with the monitoring of states' compliance with the Convention on the Rights of Persons with Disabilities, which seeks to ensure the full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities. The convention adopts a holistic approach to disability rights, recognizing the inherent dignity and worth of persons with disabilities and emphasizing their right to participation, equality, and inclusion in all aspects of society²³⁶.

One of the primary functions of the CRPD is the review of state reports detailing the relevant state measures for the promotion of the rights and well-being of persons with disabilities within their jurisdictions, following the same reviewing and dialoguing procedure as other TBBs as well as the development of general comments and recommendations, covering a wide range of topics, including accessibility, education, health care, employment, and participation in political and public life²³⁷.

3.1.1.2.9. *Committee on Enforced Disappearances (CED)*

The Committee on Enforced Disappearances (CED) constitutes another TBB of the United Nations human rights framework, with a special dedication to addressing and preventing enforced disappearances globally, established under the International Convention for the Protection of All Persons from Enforced Disappearance.

The basic mandate of the CED is the monitoring the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance by states parties, defining enforced disappearance as the arrest, detention, abduction, or any other form of deprivation of liberty by state agents or their affiliates followed by a refusal to acknowledge the deprivation of liberty or to disclose the fate or whereabouts of the disappeared person²³⁸. Its primary focus is the review of

²³⁶ Celik, Elif. "The Role of CRPD in Rethinking the Subject of Human Rights." *The International Journal of Human Rights* 21, no. 7 (2017): 933-955. <https://doi.org/10.1080/13642987.2017.1313236>.

²³⁷ Cardenas, Sonia. *Conflict and Compliance: State Responses to International Human Rights Pressure*. University of Pennsylvania Press, 2007.

²³⁸ Mertus, Julie. *The United Nations and Human Rights: A Guide for a New Era*. Routledge, 2005.

state reports and the relevant taken national measures and the investigation of cases of enforced disappearance, and the provision of remedies to victims and their families²³⁹.

3.1.1.2.10. Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)

The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) is specifically tasked with preventing torture and ill-treatment in places of detention worldwide. It is established under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

The primary objective of the SPT is to prevent torture and other forms of ill-treatment by conducting regular visits to places of detention, such as prisons, police stations, immigration detention centers, psychiatric hospitals, and juvenile detention facilities. These visits are conducted without prior notice to ensure the integrity and effectiveness of the monitoring process. During these visits, SPT members interview detainees in private, inspect facilities, review records, and assess the treatment and conditions of detention²⁴⁰.

3.1.1.3. State Reporting

Pursuant to international human rights treaties and conventions, States Parties are required to submit periodic reports to the respective treaty bodies, outlining the measures adopted to implement and ensure compliance with their human rights obligations within their jurisdictions. The process of state reporting begins with the ratification or accession to a human rights treaty by a state. Upon becoming a party to a treaty, the state assumes legal obligations to respect, protect, and fulfill the rights enshrined in that treaty. One of these obligations includes submitting regular reports to

²³⁹ Ramcharan, B. G. *A History of the UN Human Rights Programme and Secretariat*. Brill, 2020.

²⁴⁰ González Pinto, Lorena. "The United Nations Subcommittee on Prevention of Torture: The Effects of Preventive Action." *Journal of Human Rights Practice* 14, no. 1 (February 2022): 134–159. <https://doi.org/10.1093/jhuman/huac018>.

the relevant treaty body, providing information on legislative, administrative, judicial, and other measures taken to implement the treaty provisions²⁴¹.

Each human rights treaty establishes its own reporting cycle and requirements. For example, some treaties may require states to submit reports annually, biennially, or every few years. The content and format of these reports are also determined by the treaty body, often through guidelines or reporting forms provided to states parties. Once submitted, state reports undergo a thorough review by the respective treaty body. This review process involves several stages, including the consideration of the state report by the treaty body, the preparation of a list of issues or questions by the treaty body, and, in some cases, a constructive dialogue between the state delegation and the treaty body during a formal session²⁴².

During the review, the TBB examines the state's compliance with its obligations under the relevant treaty, identifies areas of progress, and raises concerns about gaps or shortcomings in implementation. The TBB may seek clarification, request additional information, and make recommendations to address human rights challenges and improve compliance with treaty obligations²⁴³. In addition to state reports, treaty bodies may also consider information from other sources, including reports from national human rights institutions, non-governmental organizations, and independent experts. This allows TBBs to obtain a comprehensive and balanced assessment of the human rights situation in the state under review²⁴⁴. Following the review, the TBB issues its concluding observations or recommendations, which are transmitted to the state party. States parties are expected to take these recommendations into account and incorporate them into their human rights policies and practices²⁴⁵.

State reporting serves several important purposes within the UN human rights system. It promotes transparency and accountability by providing a platform for states to disclose their human rights record and engage in dialogue with the international community. It also facilitates peer review and mutual learning among states, allowing them to share experiences, best practices, and challenges in advancing human rights.

²⁴¹ United Nations, UN Human Rights Treaty Bodies, <https://unsdg.un.org/2030-agenda/strengthening-international-human-rights/un-treaty-bodies>.

²⁴² Ibid.

²⁴³ Ibid.

²⁴⁴ Cardenas, Sonia. *Conflict and Compliance: State Responses to International Human Rights Pressure*. University of Pennsylvania Press, 2007.

²⁴⁵ Commonwealth Secretariat and Universal Rights Group. "The Global Human Rights Implementation Agenda: The Role of National Parliaments." Policy Brief, 2018.

Furthermore, state reporting helps to identify patterns of human rights violations, trends, and emerging issues at the national and regional levels. This information enables treaty bodies to prioritize their work, target technical assistance and capacity-building efforts, and advocate for policy changes to address systemic human rights challenges²⁴⁶.

Despite its importance, state reporting faces various challenges and limitations. Some states may submit incomplete or inaccurate reports, they may fail to comply with reporting deadlines, or lack the capacity to implement treaty obligations effectively. Moreover, the review process can be resource-intensive and time-consuming for both states and treaty bodies, leading to delays in the consideration of reports and implementation of recommendations²⁴⁷.

3.1.1.4. Complaint mechanisms

Complaint mechanisms regarding human rights in the United Nations have a central role in ensuring accountability and redress for human rights violations worldwide. These mechanisms provide individuals, groups, and communities with avenues to seek justice, remedy, and protection when their rights are violated by state authorities or other actors.

One of the primary complaint mechanisms within the UN human rights framework is the treaty body system. Under various international human rights treaties, individuals or groups can submit complaints, known as communications or petitions, to the respective treaty bodies alleging violations of their rights by states parties. These communications are typically considered confidential and may address a wide range of human rights issues, including torture, discrimination, arbitrary detention, and violations of freedom of expression or assembly, as previously explained.

TBBs examine the admissibility and merits of complaints through established procedures, often involving written submissions from both the complainant and the state party concerned. If a complaint is found admissible, the TBB may request further information, conduct an inquiry, and issue recommendations to the state party to address the alleged violations and provide redress to the victim. While TBBs'

²⁴⁶ Ibid.

²⁴⁷ Goodman, Ryan, and Thomas Pegram, eds. *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions*. Cambridge University Press, 2012.

recommendations are non-binding, they carry moral and political weight, and states parties are expected to take them seriously and implement them in good faith²⁴⁸.

Another important complaint mechanism in the UN human rights system is the special procedures of the Human Rights Council. Special procedures are independent human rights experts, known as special rapporteurs, working groups, or independent experts, appointed by the HRC to examine and report on specific human rights issues or country situations. Individuals, organizations, or communities can submit information, known as communications or allegations, to special procedures alleging human rights violations within their mandate areas.²⁴⁹ Special procedures may conduct fact-finding missions, engage with states and other stakeholders, and issue public reports and recommendations to address the alleged violations and promote accountability²⁵⁰.

Furthermore, the Office of the High Commissioner for Human Rights operates several mechanisms to address human rights violations, including the communications procedure, which allows individuals and groups to submit complaints directly to OHCHR alleging human rights violations. OHCHR may undertake various actions in response to these complaints, including monitoring, advocacy, and technical assistance to support victims and promote accountability²⁵¹.

Additionally, regional human rights mechanisms, such as the European Court of Human Rights, the Inter-American Commission on Human Rights, and the African Commission on Human and Peoples' Rights, offer complaint mechanisms for individuals and groups to seek redress for human rights violations within their respective regions.²⁵² These mechanisms may involve adjudicative processes, conciliation, or other forms of dispute resolution to address alleged violations and provide remedies to victims²⁵³.

²⁴⁸ Fox Principi, Karen. "Implementation of Decisions under Treaty Body Complaints Procedures: Do States Comply? How Do They Do It?" Sabbatical Report, Treaty Bodies Branch, UN Office of the High Commissioner for Human Rights (OHCHR), 2017.

²⁴⁹ Boyle, Kevin. "The United Nations Human Rights Council: Origins, Antecedents, and Prospects." In *New Institutions for Human Rights Protection*, edited by Kevin Boyle, 231-254. Oxford, UK: Oxford University Press, 2009.

²⁵⁰ Tistounet, Eric. *The UN Human Rights Council: A Practical Anatomy*. Elgar Practical Guides. Cheltenham, UK: Edward Elgar Publishing, 2020.

²⁵¹ Subedi, Surya. *The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights*. 1st ed. New York: Routledge, 2017.

²⁵² Doise, Willem. "Human Rights: Common Meaning and Differences in Positioning." *Psicologia: Teoria e Pesquisa* 19, no. 3 (2003). <https://doi.org/10.1590/S0102-37722003000300002>.

²⁵³ Pease, Kelly-Kate. *Human Rights and Humanitarian Diplomacy*. Manchester, UK: Manchester University Press, 2016.

Despite their importance, complaint mechanisms regarding human rights in the UN face several challenges and limitations. Some states may not recognize the competence of treaty bodies or special procedures to consider complaints, leading to non-cooperation or lack of implementation of recommendations²⁵⁴. Moreover, accessing complaint mechanisms may be difficult for marginalized or vulnerable groups, including victims of discrimination, violence, or reprisals²⁵⁵. Furthermore, the effectiveness of complaint mechanisms depends on states' willingness to cooperate, implement recommendations and ensure access to justice and remedies for victims²⁵⁶.

3.1.1.5. Individual communications

Referred to as complaints or petitions, the individual communications empower individuals to directly highlight purported violations of their rights to international human rights mechanisms, including treaty bodies, special procedures, and the Office of the High Commissioner for Human Rights²⁵⁷. Under various international human rights treaties and conventions, individuals or groups have the right to submit communications to the respective treaty bodies, alleging violations of their rights by states parties. These communications typically address specific incidents or patterns of violations, such as torture, arbitrary detention, discrimination, violations of freedom of expression or assembly, or denial of access to justice²⁵⁸.

The process of submitting an individual communication involves several steps. First, the complainant or their representative prepares a written submission detailing the alleged human rights violations, including relevant facts, evidence, and legal arguments. The communication is then submitted to the appropriate treaty body or other UN human rights mechanism, following the specific rules and procedures established by each mechanism. Upon receipt of a communication, the relevant human rights mechanism assesses its admissibility and merits. Admissibility criteria may include

²⁵⁴ Musalo, Karen. *When Rights and Cultures Collide*. Santa Clara, CA: Markkula Center for Applied Ethics, Santa Clara University, 2015. Accessed January 15, 2024. <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/when-rights-and-cultures-collide/>.

²⁵⁵ Le, Nga. "Are Human Rights Universal or Culturally Relative?" *Peace Review: A Journal of Social Justice* 28 (2016), p. 209.

²⁵⁶ Gruffydd-Jones, Jack J. "Citizens and Condemnation: Strategic Uses of International Human Rights Pressure in Authoritarian States." *Comparative Political Studies* 52, no. 4 (2019), p. 589.

²⁵⁷ United Nations, *Individual Communications*, <https://www.ohchr.org/en/treaty-bodies/individual-communications>.

²⁵⁸ *Ibid.*

requirements such as exhaustion of domestic remedies, timeliness of the complaint, and identification of the alleged victim and the state responsible for the violation. If the communication meets the admissibility criteria, the mechanism proceeds to consider its merits.

During the consideration of a communication's merits, the human rights mechanism may request additional information from the complainant and the state concerned, conduct inquiries, and engage in dialogue with both parties. The objective is to thoroughly examine the allegations, assess the credibility and reliability of the evidence presented, and determine whether human rights violations have occurred in violation of international law. If a communication is found to be well-founded, the human rights mechanism may issue recommendations to the state concerned to address the alleged violations and provide redress to the victim. These recommendations may include measures such as conducting investigations, prosecuting perpetrators, providing reparations to victims, and implementing legislative or policy reforms to prevent future violations²⁵⁹.

It should be emphasized that the recommendations formulated by international human rights mechanisms in the context of individual communications do not possess legally binding force. However, they carry moral and political weight, and states parties are expected to take them seriously and implement them in good faith. Moreover, the publicity and scrutiny generated by individual communications can create pressure on states to comply with their human rights obligations and improve their human rights records²⁶⁰.

Individual communications regarding human rights in the UN serve several important purposes. They provide a mechanism for victims of human rights violations to access justice, seek redress, and hold perpetrators accountable. They also contribute to the development of international human rights law and jurisprudence by clarifying the scope and application of human rights norms and standards. Additionally, individual communications raise awareness about human rights violations and contribute to public discourse and advocacy efforts to promote respect for human rights worldwide²⁶¹.

²⁵⁹ Ibid.

²⁶⁰ Gruffydd-Jones, Jack J. "Citizens and Condemnation: Strategic Uses of International Human Rights Pressure in Authoritarian States." *Comparative Political Studies* 52, no. 4 (2019), p. 589.

²⁶¹ Hafner-Burton, Emilie M., Tsutsui, Kiyoteru, and Meyer, John W. "International Human Rights Law and the Politics of Legitimation." *International Sociology* 23, no. 1 (2008), p. 115.

Although crucial, individual communications encounter diverse obstacles and constraints. Certain nations might dispute the authority of human rights mechanisms to address individual communications, resulting in reluctance or failure to follow recommendations. Additionally, marginalized or vulnerable groups, such as those subjected to discrimination, violence, or retaliation, may encounter challenges in accessing individual communications mechanisms. Moreover, the efficacy of individual communications hinges on states' readiness to collaborate, enact recommendations, and guarantee victims' access to justice and redress²⁶².

3.1.1.6. *State-to-State complaints*

State-to-state complaints serve as a means by which states can confront purported human rights transgressions committed by other states. This procedure enables a state to highlight to the UN and the global community situations where another state is thought to have violated its human rights responsibilities under international law²⁶³.

The state-to-state complaints procedure typically involves a formal communication or submission by one member state to relevant UN bodies, such as the Human Rights Council or the Office of the High Commissioner for Human Rights, detailing the alleged human rights violations committed by another member state. These complaints may cover a broad spectrum of human rights issues, including civil, political, economic, social, and cultural rights²⁶⁴.

Upon receiving a state-to-state complaint, the UN may undertake various actions to address the alleged human rights violations. This could involve initiating diplomatic dialogue between the concerned states, facilitating mediation or conciliation efforts to resolve the dispute amicably, or conducting investigations or fact-finding missions to gather evidence and assess the situation on the ground²⁶⁵.

The process of state-to-state complaints is governed by principles of sovereignty, non-interference in domestic affairs, and respect for the equality and dignity of states.

²⁶² De Schutter, Olivier. *International Human Rights Law: Cases, Materials, Commentary*. Cambridge: Cambridge University Press, 2010.

²⁶³ United Nations, *Inter-state complaints*, <https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/inter-state-complaints>.

²⁶⁴ *Ibid.*

²⁶⁵ ISHR Academy, *Treaty Bodies: Going Deeper*, <https://academy.ishr.ch/learn/treaty-bodies/inter-state-complaints#:~:text=The%20process%20for%20inter%2Dstate,order%20to%20invoke%20this%20procedure>.

It is conducted in accordance with the provisions of the UN Charter, international law, and established diplomatic protocols and procedures²⁶⁶.

State-to-state complaints represent an important tool for promoting accountability and addressing human rights violations at the international level. By enabling member states to raise concerns about human rights abuses committed by other states, this mechanism helps to shine a spotlight on violations, generate diplomatic pressure for accountability, and encourage states to uphold their human rights obligations²⁶⁷.

However, state-to-state complaints also face certain challenges. One challenge is the politicization of human rights issues, where states may use the complaints procedure for political gain or to advance their own interests rather than to genuinely address human rights violations. Additionally, the effectiveness of state-to-state complaints depends on the willingness of the accused state to cooperate and engage constructively in resolving the dispute²⁶⁸. Furthermore, state-to-state complaints may not always result in tangible outcomes or concrete actions to address human rights violations. Diplomatic considerations, power dynamics, and geopolitical interests may influence the response of the UN and member states to such complaints, leading to varying degrees of accountability and follow-up²⁶⁹.

3.1.2. The effectiveness of the United Nations mechanisms

Since its inception in 1945, the United Nations has played a pioneering role served in formalizing human rights by establishing norms, standards, and monitoring mechanisms to promote their implementation. Nonetheless, a significant obstacle persists in effectively implementing human rights through UN channels.

Monitoring states' adherence to international human rights obligations poses significant challenges. Firstly, international organizations heavily rely on states' self-reporting, yet in numerous instances of human rights violations, state executive branches are the primary perpetrators of these transgressions. Consequently, states may

²⁶⁶ Ramcharan, Bertrand G. *Modernizing the UN Human Rights System*. Brill, 2019.

²⁶⁷ Cardenas, Sonia. *Conflict and Compliance: State Responses to International Human Rights Pressure*. University of Pennsylvania Press, 2007.

²⁶⁸ Lagoutte, Sylvain. "The Role of State Actors within the National Human Rights System." *Nordic Journal of Human Rights* 37, no. 3 (2019), pp. 177–94.

²⁶⁹ Gruffydd-Jones, Jack J. "Citizens and Condemnation: Strategic Uses of International Human Rights Pressure in Authoritarian States." *Comparative Political Studies* 52, no. 4 (2019), pp. 589.

be hesitant to provide information to international organizations, as it could lead to adverse conclusions against them. Secondly, unlike other policy areas such as pollution or trade, human rights violations typically do not directly affect other states, reducing the rational incentives for robust human rights mechanisms or inter-state pressure for compliance²⁷⁰. Consequently, the logical motivations for states to create robust human rights mechanisms or to exert pressure on each other for compliance are diminished compared to other areas of policy²⁷¹. Ultimately, there is uncertainty regarding the existence of a shared normative framework that enables a universal interpretation of human rights across various regions and cultures on a global scale²⁷². In connection with this, there exists a significant disparity between states' willingness to ratify international human rights treaties and their subsequent adherence to those treaties.²⁷³ Consequently, scholars are intrigued by the circumstances under which states adhere to international human rights norms and seek to understand how policies can be adjusted to encourage compliance in cases of deviation.

There are numerous tools available to oversee how states adhere to their international human rights commitments. Among these, the United Nations' treaty bodies and Universal Periodic Review are significant mechanisms for evaluating states' human rights practices globally. Treaty bodies consist of independent expert committees tasked with monitoring states' adherence to the ten major UN human rights treaties. Their primary duty involves conducting state reporting procedures, where member states are assessed on how they fulfill their treaty obligations and provided with recommendations for enhancement²⁷⁴. Conversely, the Universal Periodic Review involves a peer assessment process, where states evaluate each other's human rights performance. Similar to treaty bodies, states under review receive recommendations for improvement. However, the effectiveness of these mechanisms in enhancing state compliance with human rights remains uncertain. While scholarly discourse explores

²⁷⁰ Oona A. Hathaway, "Do Human Rights Treaties Make a Difference?" *Yale Law Journal* 111 (2002): 1935–2042; Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Cambridge University Press, 2009).

²⁷¹ Xinyuan Dai, "Information Systems in Treaty Regimes," *World Politics* 54, no. 4 (July 2002): 405–446; Darren Hawkins, "Explaining Costly International Institutions: Persuasion and Enforceable Human Rights Norms," *International Studies Quarterly* 48 (2004): 779–804; Beth Simmons, "Treaty Compliance and Violation," *Annual Review of Political Science* 13, no. 1 (2009), pp. 273–296.

²⁷² Jun, Zhao. "China and the Uneasy Case for Universal Human Rights." *Human Rights Quarterly* 37, no. 1 (February 2015), pp. 29–52.

²⁷³ Avdeyeva, Olga. "When Do States Comply with International Treaties? Policies on Violence Against Women in Post-Communist Countries." *International Studies Quarterly* 51 (2007), pp. 877–900.

²⁷⁴ Mertus, Julie. *The United Nations and Human Rights: A Guide for a New Era*. Routledge, 2005.

various reasons for state compliance with international obligations, evaluating the efficacy of a public organization like these mechanisms presents challenges. It necessitates isolating the organization's impact on fostering compliance from numerous intervening factors, such as other entities advocating similar standards²⁷⁵.

Academic accounts on the treaty bodies abound²⁷⁶. Works assessing their impact tend to focus on a selected number of cases, and generally show that recommendations are implemented only in some cases, and with high variation across countries²⁷⁷. When scholars find a link between treaty bodies and policy change, they generally argue that this impact derives from a favorable domestic context: for example, treaty bodies are seen as instrumental in providing opportunities for domestic actors to push for their preferred policy outcomes²⁷⁸.

Critiques against enforcement models revolve around two primary issues. Initially, certain scholars argue that actors may not anticipate all the outcomes of their

²⁷⁵ Carraro, Valentina. "Promoting Compliance with Human Rights: The Performance of the United Nations' Universal Periodic Review and Treaty Bodies." *International Studies Quarterly* 63 (2019), pp. 1079–1093.

²⁷⁶ Alston, Philip, and James Crawford. *The Future of UN Human Rights Treaty Monitoring*. Cambridge: Cambridge University Press, 2000; Nowak, Manfred, and Elizabeth McArthur. *The United Nations Convention against Torture*. Oxford: Oxford University Press, 2008; Alston, Philip, and Ryan Goodman. *International Human Rights*. Oxford: Oxford University Press, 2013; Creamer, Cosette D., and Beth A. Simmons. "Transparency At Home: How Well Do Governments Share Human Rights Information with Citizens?" In *Transparency in International Law*, edited by Andrea Bianchi and Anne Peters, pp. 239–268. Cambridge: Cambridge University Press, 2013.

²⁷⁷ Heyns, Christoph, and Frans Viljoen. "The Impact of the United Nations Human Rights Treaties on the Domestic Level." *Human Rights Quarterly* 23 (2001), pp. 483–535; McQuigg, Ronagh. "How Effective Is the United Nations Committee Against Torture?" *The European Journal of International Law* 22, no. 3 (2011), pp. 813–828; Krommendijk, Jasper. "The (In)Effectiveness of UN Human Rights Treaty Body Recommendations." *Netherlands Quarterly of Human Rights* 33, no. 2 (2014), pp. 194–223; Krommendijk, Jasper. *The Domestic Impact and Effectiveness of the Process of State Reporting Under UN Human Rights Treaties in the Netherlands, New Zealand and Finland*. Antwerp: Intersentia, 2014; Krommendijk, Jasper. "The Domestic Effectiveness of International Human Rights Monitoring in Established Democracies: The Case of the UN Human Rights Treaty Bodies." *The Review of International Organizations* 10, no. 4 (2015), pp. 489–512.

²⁷⁸ Krommendijk, Jasper. "The Domestic Effectiveness of International Human Rights Monitoring in Established Democracies: The Case of the UN Human Rights Treaty Bodies." *The Review of International Organizations* 10, no. 4 (2015), pp. 489–512; Creamer, Cosette D., and Beth A. Simmons. "Transparency At Home: How Well Do Governments Share Human Rights Information with Citizens?" In *Transparency in International Law*, edited by Andrea Bianchi and Anne Peters, pp. 239–268. Cambridge: Cambridge University Press, 2013; Few comparisons of the UPR and treaty bodies have been undertaken, so far. Exceptions are some scholars who either compare the two mechanisms and discuss their potential for complementarity or duplication or who studies the effects of politicization on their ability to advance human rights (see Gaer, Felice D. "A Voice Not an Echo: Universal Periodic Review and the UN Treaty Body System." *Human Rights Law Review* 7, no. 1 (2007), pp. 109–139; Rodley, Nigel. "UN Treaty Bodies and the Human Rights Council." In *UN Human Rights Treaty Bodies: Laws and Legitimacy*, edited by Helen Keller and Geir Ulfstein, pp. 58–73. Cambridge: Cambridge University Press, 2012; Carraro, Valentina. "The United Nations Treaty Bodies and Universal Periodic Review: Advancing Human Rights by Preventing Politicization?" *Human Rights Quarterly* 39, no. 4 (2017), pp. 943–970).

actions²⁷⁹. Additionally, it is commonly asserted that enforcement models often overlook the processes shaping interest formation: preferences are presumed to be externally determined, without considering how these preferences change depending on the circumstances in which actors are situated²⁸⁰.

The UN Human Rights Council faces ongoing criticism for failing to uphold its normative principles and adequately protect victims of human rights abuses, even in dire situations. An opportunity to enhance its institutional performance arose with the review process mandated by UN General Assembly resolution 60/251 after five years of its establishment. Unfortunately, the outcome of the HRC review yielded minimal improvements²⁸¹. Nonetheless, the HRC has informally introduced several measures in its operations, including urgent debates, ad hoc fact-finding missions, inquiry commissions, and new country mandates. The current dynamics within the Council have led to assessments of human rights situations in countries and thematic issues, which are often more aligned with realities on the ground. However, HRC member states sometimes hold divergent perceptions of reality on certain issues. Therefore, this thesis aims to explore developments and practices from a non-state actor perspective that could make the HRC more oriented towards victims and rights-holders²⁸².

Furthermore, there is often an overlap between the UN and regional human rights systems in terms of their scope, without prescribing rigid implementation measures. This implies that various domestic actors (including governmental, independent state, and non-state actors) have multiple roles to fulfill. Addressing these challenges necessitates an examination of whether the current international human rights system could benefit from enhancing coordination and capitalizing on synergies at the national level²⁸³.

With the conclusion of the Treaty Body Review 2020, it is pertinent to shift focus towards the domestic arena and evaluate the effectiveness of national monitoring and

²⁷⁹ March, James G., and Johan P. Olsen. "The Institutional Dynamics of International Political Orders." *International Organization* 52, no. 4 (1998), pp. 943–969.

²⁸⁰ Ibid; Checkel, Jeffrey T., and Andrew Moravcsik. "A Constructivist Research Program in EU Studies?" *European Union Politics* 2, no. 2 (2001), pp. 219–249.

²⁸¹ Rathgeber, Theodor. "The Human Rights Council after the Review: Tangible Changes or Business as Usual?"

http://www.fes-globalization.org/geneva/documents/06-07Oct2011_Report_HRC%20Review_FES_FMR_DIMR.pdf.

²⁸² Rathgeber, Theodor. "Performance and Challenges of the UN Human Rights Council: An NGOs' View." Friedrich Ebert Stiftung, February 2013.

²⁸³ Geneva Academy of International Humanitarian Law and Human Rights. "Beyond the 2020 Treaty Body Review: The Role of National Human Rights Systems." Geneva Academy, June 2020.

implementation strategies²⁸⁴. Anchored in Sustainable Development Goal 16, this shift is predicated on the assumption that without a responsive domestic human rights infrastructure, initiatives at the UN and regional levels risk encountering structural and procedural hurdles that may impede a more interconnected system of human rights monitoring. As an increasing number of recommendations are integrated at the domestic level, it is essential for UN and regional outputs to align with national input, emphasizing the distinct value contributed by each component of this process²⁸⁵.

Despite its commendable efforts in establishing a comprehensive legal framework for human rights, the United Nations has faced challenges in effectively implementing human rights due to various reasons. The primary obstacle stems from the inherent nature of international law and the fundamental principles of human rights, which emphasize the relationship between individual citizens and nation-states, with the primary responsibility for safeguarding human rights resting with the state itself²⁸⁶. The UN system lacks direct enforcement mechanisms at the state level to ensure compliance with its directives. When nations ratify relevant human rights treaties, they assume direct obligations to safeguard the human rights of their citizens without discrimination.

UN mechanisms employ a cooperative and dialogic approach, and the outcomes of these processes are primarily advisory in nature. The implementation of these recommendations is solely at the discretion of each individual state, which determines whether to enforce international human rights laws and protect the rights of its citizens²⁸⁷.

In the absence of direct enforceability of international human rights laws at the state level, the predominant factor in implementing human rights provisions becomes the political commitments of state parties. However, due to vested interests in power, state parties often exhibit insufficient political commitment to upholding human rights principles²⁸⁸. As a political forum of states, the UN mechanism frequently adopts politically influenced double standards when addressing human rights issues. The UN

²⁸⁴ Abashidze, A., and A. Koneva. "The Process of Strengthening the Human Rights Treaty Body System: The Road towards Effectiveness or Inefficiency?" *Netherlands International Law Review* 66 (2019), pp. 357–389. <https://doi.org/10.1007/s40802-019-00150-6>.

²⁸⁵ Ramcharan, B. G. *A History of the UN Human Rights Programme and Secretariat*. Brill, 2020.

²⁸⁶ Gruffydd-Jones, Jack J. "Citizens and Condemnation: Strategic Uses of International Human Rights Pressure in Authoritarian States." *Comparative Political Studies* 52, no. 4 (2019), p. 589.

²⁸⁷ Subedi, Surya. *The Effectiveness of the UN Human Rights System: Reform and the Judicialisation of Human Rights*. 1st ed. New York: Routledge, 2017.

²⁸⁸ Goodman, Ryan, and Thomas Pegram, eds. *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions*. Cambridge University Press, 2012.

faces constraints in taking a strong stance against politically and economically powerful states, despite clear cases of severe human rights violations²⁸⁹. Instances such as the operations of the Guantanamo detention center and the human rights situations in Afghanistan and Gaza highlight this failure.

Moreover, bloc politics heavily influence the functioning of the UN human rights system, resulting in a more state-oriented approach rather than prioritizing human rights principles and standards²⁹⁰. Another challenge lies in the ineffective mainstreaming of human rights across the UN system, hindering the objective functioning of the human rights system²⁹¹. For example, despite firm resolutions by the Human Rights Council regarding gross human rights violations, the political stance of the UN Security Council could obstruct the effectiveness of the Human Rights Council's resolutions.

In conclusion, despite their inherent limitations, UN mechanisms provide a legal framework for human rights implementation. Importantly, they still serve as essential tools for exerting political pressure on non-compliant governments. However, there is no substitute for strengthening national-level human rights enforcement mechanisms in accordance with international standards set by the UN.

3.1.3. Conclusion

The United Nations Human Rights Monitoring System encompasses a diverse array of mechanisms, institutions, and processes dedicated to upholding and advancing human rights worldwide. Recognized as a cornerstone in the global efforts to safeguard individuals from abuses, discrimination, and injustices, this system plays a paramount role in promoting a world where human rights are respected and protected.

At the heart of this monitoring system are the treaty bodies, comprising independent experts responsible for overseeing the implementation of specific human rights treaties ratified by member states. These bodies, which we discussed about earlier, such as the Human Rights Committee and the Committee on the Elimination of

²⁸⁹ Lagoutte, Sylvain. "The Role of State Actors within the National Human Rights System." *Nordic Journal of Human Rights* 37, no. 3 (2019), pp. 177–94.

²⁹⁰ Macaj, Gjovalin. "Squaring the Circle? EU Outreach and Bloc Politics in the UN Human Rights Council." Paper prepared for the Workshop on "EU External Representation in International Contexts: Reform Practices after Lisbon," Clingendael Institute, The Hague, February 22, 2012.

²⁹¹ de Búrca, Gráinne. "Human Rights Experimentalism." *American Journal of International Law* 111, no. 2 (2017): 277-316. doi:10.1017/ajil.2016.16.

Discrimination Against Women, meticulously assess state reports, engage in dialogue with governments, and provide recommendations to address human rights violations and enhance compliance with treaty obligations. Operating within the United Nations system, the Human Rights Council, on the other hand, serves as an intergovernmental body with a primary mandate to promote and safeguard human rights globally. Through mechanisms like the Complaint Procedure and the Universal Periodic Review (UPR), individuals, groups, and non-governmental organizations can lodge complaints or raise human rights concerns, ensuring accountability and redress for violations. Special Procedures, comprising autonomous human rights specialists designated by the HRC, play a pivotal role in monitoring, reporting, and advocating against human rights violations on a global scale. Finally, we examined the Office of the High Commissioner for Human Rights (OHCHR) which stands as a key entity committed to advancing and safeguarding human rights globally.

Furthermore, Treaty-Based Bodies act as guardians of fundamental freedoms by ensuring the enforcement and oversight of international human rights treaties. Through monitoring state adherence and issuing recommendations, Treaty-Based Bodies hold states accountable for their commitments under these treaties. Complaint mechanisms within the United Nations provide also essential channels for individuals, groups, and communities to seek justice and accountability for human rights violations. Whether through individual communications, state-to-state complaints, or other avenues, these mechanisms enable stakeholders to address alleged violations and uphold human rights principles on a global scale.

However, the effectiveness of these mechanisms in enhancing state compliance remains uncertain, with challenges in isolating their impact from other factors influencing compliance. Scholarly discourse on treaty bodies emphasizes their impact on policy change, often attributed to favorable domestic contexts. Critiques of enforcement models highlight challenges in anticipating outcomes and overlooking processes shaping interest formation. Moreover, the Human Rights Council faces criticism for inadequate protection of victims, despite introducing measures such as urgent debates and fact-finding missions. Overlaps between the UN and regional human rights systems underscore the need for enhanced coordination at the national level.

The conclusion of the Treaty Body Review 2020 calls to evaluate national monitoring and implementation strategies, aligning with Sustainable Development Goal 16. Challenges in implementing human rights stem from the cooperative nature

of UN mechanisms, relying on state discretion for enforcement. Political interests often hinder the ability of the UN to address severe human rights violations, leading to double standards and a state-oriented approach. Mainstreaming human rights across the UN system remains ineffective, impacting the objective functioning of human rights mechanisms. To sum up, while the UN establishes a comprehensive legal framework for human rights, challenges persist in effectively implementing and enforcing these principles, necessitating greater national and international cooperation to address systemic issues and ensure the protection of human rights worldwide.

3.2. THE EUROPEAN FRAMEWORK OF HUMAN RIGHTS PROTECTION

3.2.1. European Union Framework for human rights protection

3.2.1.1. Introduction

The European Union (EU) has progressively emerged as a key player in the promotion and protection of human rights. Although the original Treaty of Rome contained no explicit reference to fundamental rights, the Court of Justice of the European Union progressively recognized their protection as general principles of Community law, notably in Case 11/70 *Internationale Handelsgesellschaft*²⁹². Today, the promotion and protection of human rights constitute foundational values of the European Union, as explicitly enshrined in Articles 2, 3(5) and 6 of the Treaty on European Union²⁹³ and further reinforced by the binding force of the Charter of Fundamental Rights of the European Union.²⁹⁴

At the core of its efforts lies the Charter of Fundamental Rights, a comprehensive document that outlines a wide range of civil, political, economic, and social rights²⁹⁵. This Charter serves as a foundational framework guiding EU policies and actions aimed at upholding human dignity, equality, and justice. This Charter serves as a foundational framework guiding EU policies and actions aimed at upholding human dignity, equality, and justice²⁹⁶.

The European Commission²⁹⁷, as the executive arm of the EU, plays a crucial role in ensuring the implementation of human rights principles across member states. Through its various directorates and initiatives, the Commission monitors compliance

²⁹² Court of Justice of the European Union, *Internationale Handelsgesellschaft mbH v. Einfuhr- und Vorratsstelle für Getreide und Futtermittel*. Case 11/70, 17 Dec. 1970. *European Court Reports*, 1970.

²⁹³ European Union, *Consolidated Version of the Treaty on European Union*. Official Journal of the European Union, C 202, 7 June 2016.

²⁹⁴ European Union, *Charter of Fundamental Rights of the European Union*. Official Journal of the European Union, C 202, 7 June 2016.

²⁹⁵ Official Journal of the European Communities, Charter of Fundamental Rights of the European Union, 18.12.2000, C 364/1-22, https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

²⁹⁶ European Parliament, *The European Social Charter in the context of implementation of the EU Charter of Fundamental Rights*, PE 536.488, January 2016, [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/536488/IPOL_STU\(2016\)536488_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/536488/IPOL_STU(2016)536488_EN.pdf).

²⁹⁷ European Commission, https://commission.europa.eu/index_en.

with human rights standards, provides guidance and support to member states, and takes enforcement actions when necessary to address violations.

Additionally, central to the EU's human rights protection mechanisms is the Court of Justice of the European Union (CJEU)²⁹⁸, which interprets and applies EU law, including the Charter of Fundamental Rights²⁹⁹. The CJEU's rulings have significant implications for human rights protection within the EU, shaping legal frameworks and ensuring accountability at both the national and EU levels³⁰⁰.

Moreover, the EU's Fundamental Rights Agency (FRA)³⁰¹ serves as a key institution dedicated to monitoring, researching, and promoting fundamental rights across the EU. Through its reports, studies, and expertise, the FRA provides valuable insights into human rights challenges and trends, informing policy-making and fostering dialogue among stakeholders³⁰².

However, despite these efforts, challenges persist. One significant challenge is the gap between EU laws safeguarding human rights and their implementation at the national level³⁰³. This disjuncture can result in discrepancies in human rights protection across member states, undermining the EU's overarching objectives³⁰⁴. Furthermore, the rise of populist movements and authoritarian tendencies within certain member states poses a direct threat to human rights values, necessitating a unified response from the EU³⁰⁵.

²⁹⁸ European Union, Court of Justice of the European Union, https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/court-justice-european-union-cjeu_en.

²⁹⁹ European Commission, EU Charter of Fundamental Rights, https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en.

³⁰⁰ European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies, *The European Court of Justice's jurisdiction over national judiciary related measures*, 2023, p. 15,

[https://www.europarl.europa.eu/RegData/etudes/STUD/2023/747368/IPOL_STU\(2023\)747368_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2023/747368/IPOL_STU(2023)747368_EN.pdf).

³⁰¹ European Union Agency for Fundamental Rights, <https://fra.europa.eu/en>.

³⁰² Safjan, Marek. "Areas of Application of the Charter of Fundamental Rights of the European Union: Fields of conflict?", (2012), p. 2.

³⁰³ Dia Anagnostou, Alina Mungiu-Pippidi, *Domestic Implementation of Human Rights Judgments in Europe: Legal Infrastructure and Government Effectiveness Matter*, *European Journal of International Law*, Volume 25, Issue 1, February 2014, p. 206, <https://doi.org/10.1093/ejil/chu001>.

³⁰⁴ Hammond, John L. "Teaching Human Rights: Confronting the Contradictions." *The Radical Teacher*, no. 104, 2016, p. 6, JSTOR, <https://www.jstor.org/stable/48694543>.

³⁰⁵ Margaux Devreese & Martin Galland, *Mapping European Populism: Panel 6 — Populist radical right/left parties and far-right movements in Benelux countries and Switzerland*, December 24, 2022, article published in: *European Center for Populism Studies (ECPS)*,

Externally, the EU grapples with complex issues such as migration, terrorism, and shifting global power dynamics, all of which have implications for human rights protection. Balancing security concerns with respect for fundamental freedoms remains a delicate endeavor for the EU, requiring nuanced approaches and robust dialogue. Nevertheless, the EU has made significant strides in advancing human rights both within its borders and beyond. Its accession criteria³⁰⁶ and monitoring mechanisms have played a crucial role in promoting democratic transitions in candidate countries, fostering respect for human rights as a precondition for membership. Moreover, the EU's active engagement in international fora, such as the United Nations Human Rights Council, amplifies its influence in shaping global human rights norms and standards³⁰⁷.

Looking ahead, continued cooperation, solidarity, and vigilance are essential to address ongoing challenges and uphold human rights within the European Union and beyond³⁰⁸. The EU's commitment to promoting human rights remains a cornerstone of its identity and serves as a beacon of hope for individuals and communities striving for dignity, equality, and justice.

3.2.1.1.1. *European Commission*

The European Commission plays a crucial role in the protection and promotion of human rights within the European Union. As the executive arm of the EU, the Commission is responsible for ensuring the implementation of EU laws and policies, including those related to human rights. One of the key instruments guiding the Commission's actions in this regard is the EU Charter of Fundamental Rights, which enshrines a wide range of civil, political, economic, and social rights for EU citizens. The European Commission also collaborates closely with other EU institutions and bodies³⁰⁹.

<https://www.populismstudies.org/category/publications/page/6/>.

³⁰⁶ About the accession criteria: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/glossary/accession-criteria_en.

³⁰⁷ i.e. the EU at the UN General Assembly, about the cooperation of EU and UN.

<https://www.consilium.europa.eu/en/policies/unga/#cooperate>.

³⁰⁸ CICCHI, Lorenzo, GENSCHEL, Philipp, HEMERIJCK, Anton, NASR, Mohamed, *EU solidarity in times of Covid-19*, Policy Briefs, 2020/34, European Governance and Politics Programme, p. 2. <https://hdl.handle.net/1814/67755>.

³⁰⁹ Rodrigues, Rowena. "Legal and human rights issues of AI: Gaps, challenges and vulnerabilities." *Journal of Responsible Technology* 4 (2020): 100005, p. 2.

Through its various departments and directorates, the Commission works to mainstream human rights across all areas of EU policy-making³¹⁰. It monitors compliance with human rights standards by member states and addresses any infringements through legal and diplomatic channels. Additionally, the Commission plays a pivotal role in promoting dialogue and cooperation among member states to foster a common understanding and commitment to human rights principles³¹¹.

One of its primary tasks is to mainstream human rights considerations into all areas of EU policy-making, facilitated by departments such as the Directorate-General for Justice and Consumers, which oversees issues related to fundamental rights, non-discrimination, and equality³¹². Additionally, the Directorate-General for Employment, Social Affairs and Inclusion³¹³ works to uphold social rights enshrined in the European Social Charter, ensuring fair labor practices, social protection, and inclusion for all EU citizens. Moreover, the Directorate-General for Neighbourhood and Enlargement Negotiations focuses on promoting human rights and democracy in candidate countries, using accession negotiations as a lever for reform.

3.2.1.1.2. *Court of Justice of the European Union (CJEU)*

The Court of Justice of the European Union (CJEU) plays a pivotal role in ensuring the protection of human rights within the European Union. As the EU's highest judicial authority, the CJEU interprets and applies EU law, including the Charter of Fundamental Rights, in cases brought before it³¹⁴.

One of the primary aims of the CJEU is to ensure the uniform interpretation and application of EU law across all member states³¹⁵. In matters concerning human rights, the CJEU plays a critical role in clarifying the scope and content of fundamental rights enshrined in the EU Charter. Through its jurisprudence, the CJEU establishes legal

³¹⁰ Landman, Todd, and Marco Larizza. "EU policy discourse: Democracy, governance, and human rights." *Stockholm: International Institute for Democracy and Electoral Assistance* (2010), p. 4.

³¹² European Commission, Justice and Consumers, https://commission.europa.eu/about-european-commission/departments-and-executive-agencies/justice-and-consumers_en.

³¹³ European Commission, Employment, Social Affairs & Inclusion, <https://ec.europa.eu/social/home.jsp>.

³¹⁴ De Búrca, Gráinne, 2013, p. 172.

³¹⁵ Court of Justice of the European Union, Court of Justice, https://curia.europa.eu/jcms/jcms/Jo2_7024/en/.

principles and standards that guide member states in upholding human rights obligations³¹⁶.

Moreover, the CJEU acts as a guardian of the rule of law and the principle of supremacy of EU law.³¹⁷ It has the authority to review the compatibility of national legislation and practices with EU law, including fundamental rights. In cases where national measures conflict with EU human rights standards, the CJEU provides remedies and ensures the primacy of EU law, thereby safeguarding individual liberties and upholding the EU's values³¹⁸.

Additionally, the CJEU adjudicates cases involving alleged violations of human rights by EU institutions and member states³¹⁹. Individuals, organizations, and member states can bring cases before the CJEU to challenge decisions or actions that infringe upon their rights. Through its judgments, the CJEU holds accountable those responsible for human rights violations and provides legal redress to victims. There are some landmark decisions which demonstrate the CJEU's commitment to protecting human rights within the EU and ensuring the consistent application of fundamental rights principles across member states. By addressing complex legal issues and setting clear precedents, the CJEU plays a crucial role in advancing human rights protection and upholding the rule of law within the European Union. More specifically, these rulings have addressed fundamental principles such as non-discrimination, privacy, asylum, and religious freedom, setting important precedents for EU member states and individuals alike³²⁰.

In the case of *Rottmann v. Freistaat Bayern* (2010), the CJEU underscored the importance of EU citizenship and the right to nationality. The court ruled that member states must consider EU law when making decisions on nationality, ensuring that

³¹⁶ Fact Sheets on the European Union European Parliament, Competences of the Court of Justice of the European Union, <https://www.europarl.europa.eu/factsheets/en/sheet/12/competences-of-the-court-of-justice-of-the-european-union>.

³¹⁷ European Parliament, Report - A9-0341/2023, 7.11.2023 - (2022/2143(INI)), MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION on the implementation of the principle of primacy of EU law, https://www.europarl.europa.eu/doceo/document/A-9-2023-0341_EN.html.

³¹⁸ European Parliament (EU), MEPs want to see the principle of primacy of the EU law written in the Treaties, 21.11.2023, Published at: <https://secure.ipexl.eu/IPEXL-WEB/>.

³¹⁹ Court of Justice of the European Union, The Institution, https://curia.europa.eu/jcms/jcms/Jo2_6999/en/.

³²⁰ European University Institute, Robert Schuman Centre for Advanced Studies, e-Booklet on the Use of the Charter of Fundamental Rights of the EU, in the Framework of the Project "E-Learning National Active Charter Training (E-NACT)", p. 20, https://cjc.eui.eu/wp-content/uploads/2020/05/eNACT_ebooklet.pdf.

individuals do not lose their EU citizenship rights arbitrarily. This decision reaffirmed the principle of non-discrimination and emphasized the interconnectedness of EU and national citizenship³²¹. The *Schrems v. Data Protection Commissioner* (2015) case highlighted the crucial issue of data protection and privacy in the digital age. The CJEU invalidated the EU-U.S. Safe Harbor Agreement due to concerns about the adequacy of data protection safeguards for EU citizens' personal data. This decision underscored the CJEU's commitment to upholding privacy rights and ensuring the protection of individuals' personal data in cross-border data transfers³²². In *NS v. Secretary of State for the Home Department* (2011), the CJEU addressed the right to asylum and protection against refoulement. The court ruled that EU member states cannot transfer asylum seekers to countries where they would face a risk of torture or inhuman treatment, even if those countries are not EU members. This decision reaffirmed the EU's commitment to upholding international human rights standards and protecting the rights of asylum seekers³²³. The *Digital Rights Ireland and Seitlinger and Others* (2014) case examined the balance between security and privacy in the context of data retention. The CJEU struck down the EU Data Retention Directive, citing concerns about its compatibility with the right to privacy and data protection. This decision highlighted the importance of proportionality and necessity in surveillance measures and reaffirmed the CJEU's role as a guardian of fundamental rights in the digital era³²⁴. Finally, in *Achbita and Another v. G4S Secure Solutions* (2017), the CJEU addressed the issue of religious freedom in the workplace. The court ruled that private employers may prohibit employees from wearing visible religious symbols, such as the Islamic headscarf, as long as the ban is based on a general policy of neutrality and applies equally to all

³²¹ CJEU, Case C-135/08, *Janko Rottmann v Freistaat Bayern*, Judgment of the Court (Grand Chamber) of 2 March 2010, ECLI:EU:C:2010:104.

³²² CJEU, Case C-362/14, *Maximilian Schrems v Data Protection Commissioner*, Judgment of the Court (Grand Chamber) of 6 October 2015, ECLI:EU:C:2015:650.

³²³ CJEU, Joined cases C-411/10 and C-493/10, *N. S. v Secretary of State for the Home Department and M. E. and Others v Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform*, Judgment of the Court (Grand Chamber) of 21 December 2011, European Court Reports 2011, ECLI:EU:C:2011:865.

³²⁴ CJEU, Joined Cases C-293/12 and C-594/12, *Digital Rights Ireland Ltd v Minister for Communications, Marine and Natural Resources and Others and Kärntner Landesregierung and Others*, Judgment of the Court (Grand Chamber), 8 April 2014, ECLI:EU:C:2014:238.

religious and political symbols. This decision underscored the need to balance freedom of religion with the principle of non-discrimination in employment settings³²⁵.

Furthermore, the CJEU plays a crucial role in promoting the coherence and effectiveness of EU human rights protection mechanisms. It collaborates with other EU institutions, such as the European Commission and the European Court of Human Rights, to ensure coordinated action and mutual reinforcement in safeguarding human rights within the EU legal framework³²⁶. The relationship between the two European Courts, the CJEU and the ECtHR, is based on the presumption of equivalent protection of human rights and on the CJEU's commitment to follow ECtHR jurisprudence³²⁷.

In conclusion, the Court of Justice of the European Union serves as a cornerstone for the protection of human rights within the European Union. Through its jurisprudence and legal oversight, the CJEU upholds the rule of law, ensures the uniform application of EU law, and provides remedies for human rights violations. By fulfilling its mandate, the CJEU contributes to the promotion of democracy, equality, and justice for all individuals within the EU.

3.2.1.1.3. *EU Charter of Fundamental Rights*

The EU Charter of Fundamental Rights represents a landmark document that underpins the protection and promotion of human rights within the European Union.³²⁸ Its significance lies not only in its legal status as a binding instrument but also in its comprehensive scope and the principles it embodies. It was drafted by the European Convention and solemnly proclaimed on 7 December 2000 by the European Parliament, the Council of Ministers and the European Commission. However, its then legal status

³²⁵ CJEU, Case C-157/15, *Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV*, Judgment of the Court (Grand Chamber), 14 March 2017, ECLI:EU:C:2017:203.

³²⁶ Patricia R. Waagstein, *Human Rights Protection in Europe: Between Strasbourg and Luxembourg*, Freeman Spogli Institute for International Studies, 2010, https://fsi9-prod.s3.us-west-1.amazonaws.com/s3fs-public/humanrights_in europe_Layout_1.pdf.

³²⁷ Alexandros-Ioannis Kargopoulos, *ECHR and the CJEU, Competing, overlapping, or Supplementary Competences?*, *European criminal law and human rights*, Issue 3/2015, EUCRIM, THE EUROPEAN CRIMINAL LAW ASSOCIATIONS' FORUM, p. 96, https://eucrim.eu/media/issue/pdf/eucrim_issue_2015-03.pdf#page=22; see cases: ECtHR, *Bosphorus Hava Yollari Turizm ve Ticaret Anonim Sirketi v. Ireland* [GC] no 45036/98, ECHR 2005-VI and ECtHR, *M. & Co. v. Germany*, no. 13258/87.

³²⁸ Official Journal of the European Communities, *Charter of Fundamental Rights of the European Union*, 18.12.2000, C 364/1-22, https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

was uncertain and it did not have full legal effect until the entry into force of the Treaty of Lisbon on December 1st 2009³²⁹.

First and foremost, the Charter serves as a powerful tool for ensuring that human rights are respected, protected, and fulfilled across all EU member states³³⁰. It sets out a wide range of rights and freedoms, including civil liberties such as the right to freedom of expression, assembly, and association, as well as political rights such as the right to vote and stand for election. Additionally, the Charter encompasses social and economic rights, including the right to work, fair working conditions, education, and access to healthcare. It has the same legal value as the Treaties upon which the EU is based (the TEU³³¹ and TFEU³³²). All three are therefore regarded as EU primary law and, therefore, ranked first among the sources of EU law.³³³ For this reason, EU institutions are obliged to respect the Charter, as are Member States when they are implementing EU law. This expression means that the Charter does not replace national constitutions, although in certain cases it may override them.

Moreover, the Charter incorporates principles that are essential for the protection of human dignity and equality.³³⁴ It prohibits discrimination on various grounds, such as gender, race, ethnic origin, religion, disability, age, or sexual orientation, thereby promoting inclusivity and diversity within the EU. Furthermore, the Charter emphasizes the right to human dignity, which serves as the cornerstone of all human rights, underpinning the inherent worth and value of every individual.

The Charter's legal significance extends beyond its role as a statement of rights. It serves as a reference point for EU legislation and policies, ensuring that human rights

³²⁹ Craig, P., De Burca, G., & Craig, P. P., "Chapter 11 Human rights in the EU," In Craig, P. & De Burca, G. (eds) *EU Law: Text, Cases and Materials* (7th ed.), Oxford: Oxford University Press, 2007, p. 15.

³³⁰ D. Anagnostopoulou, "The enhancement of European citizenship - Towards an Inclusive European Citizenship?" (in Greek) in L. PAPAPOPOULOU / D. ANAGNOSTOPOULOU (eds.), "Towards an Inclusive European Citizenship?", Jean Monnet Center of Excellence, Papazisis publications, Athens 2019, pp. 61-63.

³³¹ Official Journal of the European Union, Consolidated Version of the Treaty on European Union, 26.10.2012, C 326/13, https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF.

³³² Official Journal of the European Union, Consolidated version of the Treaty on the Functioning of the European Union, 26.10.2012, C 326/47, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT>.

³³³ European Commission, Types of EU law, https://commission.europa.eu/law/law-making-process/types-eu-law_en.

³³⁴ European Union Agency of Fundamental Rights (FRA), Promoting & Protecting Your Fundamental Rights across the EU, 2019, p. 3.

considerations are mainstreamed into all areas of EU action.³³⁵ EU institutions, including the European Commission, the European Parliament, and the Council of the European Union, must respect and uphold the rights enshrined in the Charter when adopting laws and policies.

Additionally, the Charter provides a basis for legal remedies in cases where individuals believe their rights have been violated. The Court of Justice of the European Union interprets and applies the Charter's provisions in cases brought before it, offering legal redress and upholding the rule of law. Through its jurisprudence, the CJEU plays a crucial role in clarifying the scope and application of the Charter, ensuring its effective implementation across member states³³⁶.

3.2.1.1.4. *European Fundamental Rights Agency (FRA)*

The European Fundamental Rights Agency (FRA)³³⁷ plays a central role in safeguarding and promoting human rights within the European Union. Established in 2007, the FRA serves as a key EU agency tasked with monitoring, researching, and providing expert advice on fundamental rights issues across the EU member states.

At the core of the FRA's mandate is the promotion of human rights standards and the prevention of human rights violations. Through its research and analysis, the agency identifies emerging human rights challenges and provides evidence-based recommendations to EU institutions, member states, and civil society organizations. By monitoring human rights developments and trends, the FRA contributes to the formulation of effective policies and measures aimed at protecting and promoting human rights within the EU³³⁸.

One of the FRA's key functions is to collect data and information on a wide range of human rights issues, including discrimination, racism, xenophobia, and hate crime. Through its surveys, reports, and studies, the agency generates valuable insights into the prevalence and nature of human rights violations, shedding light on areas of concern and areas for improvement. This data-driven approach enables policymakers and

³³⁵ Reding, Viviane. "The importance of the EU Charter of Fundamental Rights for European legislative practice." Lecture given at the German Institute for Human Rights. Berlin 17 (2010), p. 4.

³³⁶ De Búrca, Gráinne, "After the EU Charter of Fundamental Rights: The Court of Justice as a human rights adjudicator?." *Maastricht Journal of European and Comparative Law* 20.2 (2013), pp.171-2.

³³⁷ European Fundamental Rights Agency (FRA), Promoting and protecting your fundamental rights across the EU, <https://fra.europa.eu/en>.

³³⁸ FRA, About FRA, <https://fra.europa.eu/en/about-fra>.

stakeholders to make informed decisions and take targeted action to address human rights challenges.

Moreover, the FRA serves as a focal point for promoting dialogue and cooperation on human rights issues within the EU. The agency facilitates exchanges of best practices, knowledge-sharing, and capacity-building initiatives among EU member states and relevant stakeholders. By fostering collaboration and networking, the FRA strengthens the EU's collective efforts to protect and promote human rights and build a culture of respect for fundamental rights across the EU.

Additionally, the FRA plays a crucial role in raising awareness and promoting a human rights culture among EU citizens. Through its communication and outreach activities, including publications, events, and online resources, the agency engages with the public and educates them about their rights and responsibilities. By empowering individuals to assert their rights and advocate for change, the FRA contributes to the democratization of human rights and the promotion of active citizenship within the EU.

3.2.1.2. The effectiveness of the EU system

Safeguarding human rights stands as a primary value within the European Union, enshrined in both the Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU).

The central provision articulating this principle is found in Article 2 of the TEU, which reads: “*the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights*”. Adding to that, according to the wording of Article 3(5) TEU the EU “*shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter*”.

Regarding the domain of common foreign and security policy, as stipulated in Article 21 of the TEU (subsequently reaffirmed in Article 205 of the TFEU) “*the Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of*

human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law”.

Two distinct legal instruments hold significant importance in discussions concerning human rights protection within the European Union: the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union. Although closely intertwined, they originate from separate entities: the Council of Europe and the European Union, respectively.

There are specific differences that can be identified between the two legal instruments. More specifically, the ECHR was formulated by the Council of Europe, an international organization comprising 46 Contracting Parties. Conversely, the EU Charter operates as a legal instrument of the European Union, applicable solely to EU member states.

Under the ECHR, contracting parties are obligated to adhere to its provisions in all actions or omissions within their jurisdiction, while member states are subject to the EU Charter only when acting within the realm of EU law. The EU Charter encompasses certain rights not explicitly guaranteed in the ECHR, such as the right to asylum or the right to data protection. While the latter is not directly addressed in the ECHR, significant jurisprudence exists within the ECtHR under Article 8 of the ECHR.

Within the ECHR framework, a dedicated court oversees compliance with the Convention. Individuals whose rights are violated can appeal to the ECtHR. Conversely, in the EU Charter system, individuals cannot directly petition a specific court; rather, recourse is available indirectly through the CJEU. However, the systems of the EU and the CoE are interconnected, as the provisions of the ECHR have served as the foundation for the EU Charter of Fundamental Rights. Additionally, all 27 EU Member States are also members of the Council of Europe, thereby bound by its human rights standards.

Negotiations regarding the EU's accession to the ECHR commenced in 2010. Following three years of discussions, the (then) 47 Member States of the Council of Europe and the European Union reached an initial provisional agreement. However, the CJEU, in its Opinion 2/13 dated 18 December 2014, deemed the 2013 draft agreement

incompatible with the EU Treaties³³⁹. Consequently, negotiations were put on hold for a few years until they resumed in September 2020, with the Commission representing the EU in the talks. Progress towards EU accession to the European Convention on Human Rights was notably advanced during the 18th and final meeting of the "46+1 Group" from 14 to 17 March 2023³⁴⁰. All outstanding issues have been successfully addressed³⁴¹. To ensure the effectiveness and fairness of the Committee of Ministers' monitoring process post-EU accession, the Group reached a consensus on the voting rules to be applied when the Committee supervises the implementation of the Strasbourg Court's judgments by the EU (as outlined in Article 7 of the 2013 draft accession agreement). The EU has indicated its intention to internally resolve the sole remaining issue concerning EU acts within the Common Foreign and Security Policy domain that fall outside the jurisdiction of the European Court of Justice. Progress in this matter will be regularly communicated to the Council of Europe Steering Committee for human rights.

3.2.2. Human rights monitoring mechanisms of the Council of Europe

3.2.2.1. Introduction

The Council of Europe (CoE) constitutes a beacon of human rights, democracy, and rule of law across the European continent³⁴². Among its multifaceted efforts and actions, the promotion of human rights education is a cornerstone in fostering inclusive societies³⁴³. The role of the Council of Europe is crucial in advocating for and

³³⁹ CJEU, Opinion of the Court (Full Court) of 18 December 2014, Case Opinion 2/13, ECLI:EU:C:2014:2454.

³⁴⁰ CoE, 18th Meeting of the CDDH ad hoc negotiation group on the accession of the European Union to the European Convention on Human Rights, Final consolidated version of the draft accession instruments, 46+1(2023)36, 17 March 2023, <https://rm.coe.int/final-consolidated-version-of-the-draft-accession-instruments/1680aaaecd>.

³⁴¹ EEAS, Major progress on the path to EU accession to the ECHR: Negotiations concluded at technical level in Strasbourg, 31.03.2023, https://www.eeas.europa.eu/delegations/council-europe/major-progress-path-eu-accession-echr-negotiations-concluded-technical-level-strasbourg_en?s=51

³⁴² CoE, Monitoring bodies of the Council of Europe, <https://www.coe.int/en/web/portal/monitoring-bodies>.

³⁴³ Greer, Steven, Janneke Gerards, and Rose Slowe. "Human rights in the Council of Europe and the European Union: achievements, trends and challenges." (2018), p. 13.

advancing human rights education, elucidating its strategies, initiatives, and impact in shaping a culture of respect, tolerance, and understanding³⁴⁴.

Numerous human rights monitoring mechanisms have emerged since the inception of the Universal Declaration of Human Rights in 1948, both within the United Nations and at regional levels such as in Europe³⁴⁵. This proliferation underscores the formal acknowledgment that human rights standards constitute a global imperative and that collaborative efforts at the international and regional levels are essential for their effective implementation. Indeed, there are over 80 monitoring mechanisms with a human rights mandate operating under the auspices of various international organizations such as the United Nations (UN), the Council of Europe (CoE), and the European Union (EU)³⁴⁶. On account of its mechanisms, the Council of Europe can oversee the implementation of its standards, identify instances of non-compliance, and offer solutions or make recommendations to each of its member states³⁴⁷. It is a fact that the dialogue on the human rights protection mechanisms of the Council of Europe is not as extensive as that of the United Nations Organization. This is particularly noticeable for the non-judicial mechanisms, as we will distinguish them immediately below. The aim of this subchapter is to focus on the human rights protection mechanisms operating within the Council of Europe in order to demonstrate, through their role, their effectiveness in the protection of human rights.

It is worth noting at this point that the mechanisms of the CoE are divided into judicial and non-judicial³⁴⁸. Starting from the non-judicial, we will then proceed to the

³⁴⁴ Low-Beer, Ann. *The Council of Europe and school history*. Strasbourg: Council of Europe, 1997, p. 16.

³⁴⁵ Global Citizenship Commission. "Implementation of Human Rights." *The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World*, edited by Gordon Brown, 1st ed., vol. 2, Open Book Publishers, 2016, p. 81. JSTOR, <http://www.jstor.org/stable/j.ctt1bpmb7v.14>. Accessed 17 Mar. 2024.

³⁴⁶ European Union Agency for Fundamental Rights (FRA), *Monitoring mechanisms*, <https://fra.europa.eu/en/content/monitoring-mechanisms>.

³⁴⁷ Council of Europe, Directorate General Human Rights and Rule of Law, *Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states*, 2014, p. 7.

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806d22c8#:~:text=evolving%20interpretation%20of%20the%20ECHR,systems%20of%20member%20states%20%E2%80%93%20the>.

³⁴⁸ European Institutions, International Commission of Jurists, *Fostering Access to Immigrant Children's Rights (FAIR Project)*. I. V. Access to international human rights mechanisms, p. 2, https://www.ecre.org/wp-content/uploads/2019/07/4.25.-Module-4_Access-to-international-human-rights-mechanisms.pdf.

European Court of Human Rights, the judicial mechanism of the Council of Europe³⁴⁹, which, at least, has occupied more than any other mechanism of the CoE. This mechanism will surely be examined later. Therefore, the non-judicial mechanisms of the Council of Europe do not make binding decisions, nor do they have the role of alternative dispute resolution, as is the case with quasi-judicial mechanisms³⁵⁰. Their role is to assess the level of human rights protection by Council of Europe member states in general. This is achieved through the cooperation and permanent dialogue they try to maintain with the states themselves³⁵¹. More specifically, their operation is based on the use of state reports, which may also contain questions and answers. These reports are used by the mechanisms in order to formulate recommendations to the member states³⁵².

On the contrary, judicial mechanisms are activated only if they receive a complaint and they may proceed with the imposition of sanctions in response to the respective violations of human rights. However, they can take ad hoc and interim measures before deciding on a complaint. Moreover, they affect the respective dispute on which they decide, and their decisions entail an obligation to be implemented by the specific party to the dispute³⁵³. This perception can also be supported by the fact that although the jurisprudence of the European Court of Human Rights is used to create or utilize *res judicata*, the Court is not obliged to observe it. Eventually, judicial and quasi-

³⁴⁹ Djeflal, Christian. "Dynamic and Evolutive Interpretation of the ECHR by Domestic Courts? An Inquiry into the Judicial Architecture of Europe." *The Interpretation of International Law by Domestic Courts*. Oxford University Press, 2016.

³⁵⁰ Quasi-judicial mechanism refers to "a proceeding conducted by an administrative or executive official or organization that is similar to a court proceeding, e.g. a hearing conducted by a human rights commission. A court may review a decision arising from a quasi-judicial proceeding [...] or a judicial act performed by an official who is either not a judge or not acting in his or her capacity as a judge", available in:

[https://www.law.cornell.edu/wex/quasi-](https://www.law.cornell.edu/wex/quasi-judicial#:~:text=Quasi%2Djudicial%20refers%20to%20a.by%20a%20human%20rights%20commissio)

[judicial#:~:text=Quasi%2Djudicial%20refers%20to%20a.by%20a%20human%20rights%20commissio](https://www.law.cornell.edu/wex/quasi-judicial#:~:text=Quasi%2Djudicial%20refers%20to%20a.by%20a%20human%20rights%20commissio)n; Violini, Lorenza. "The Role of Non-Judicial Bodies in Human Rights Implementation." *Human Rights Tectonics: Global Dynamics of Integration and Fragmentation*. intersentia, 2018. 92-3.

³⁵¹ Meier, Benjamin Mason, Hanna Huffstetler, and J. Bueno de Mesquita. "Monitoring and review to assess human rights implementation." *Foundations of Global Health & Human Rights* (2020), p. 161-2.

³⁵² Council of Europe, Monitoring bodies of the Council of Europe, <https://www.coe.int/en/web/portal/monitoring-bodies>.

³⁵³ Jasna Omejec, The concept of domestic remedies, application of judicial and non-judicial mechanism in experience of Croatia, II. Judicial and non-judicial mechanisms, in Council of Europe International Conference on Protection of Human Rights in Montenegro, CONFERENCE REPORT "Use of Domestic Remedies, Judicial and Non-Judicial Mechanisms by Legal Professionals", 28 June 2016, p. 26, <https://rm.coe.int/16806f14d3>.

judicial mechanisms assume a guiding role for human rights monitoring mechanisms in general and thereby contribute significantly to the interpretation of human rights standards³⁵⁴.

3.2.2.2. Treaty-based v. non-treaty-based mechanisms

Based on their reference document, the human rights monitoring mechanisms of the CoE are distinguished into treaty-based and non-treaty-based mechanisms³⁵⁵. Monitoring mechanisms created through treaties and through which compliance is monitored are the treaty-based mechanisms, while, conversely, mechanisms established by virtue of other legal instruments are non-treaty-based mechanisms, and by these legal instruments, acts receive the order for their action. For instance, some of the treaty-based mechanisms are the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which was created by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT), the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), which was established based on the Framework Convention for the Protection of National Minorities (FCNM), and the Committee of Experts of the European Charter for Regional or Minority Languages (CECL), which was created by the European Charter for Regional or Minority Languages (ECRML). These mechanisms therefore fulfill the role of monitoring compliance with the human rights standards enshrined in the aforementioned treaties. On the contrary, the European Committee of Social Rights (ESCR), which was created by the European Social Charter (ESC), is referred to as an independent quasi-judicial body but also as a treaty-based non judicial mechanism. Its function is focused on the interpretation of the rights contained in the European Social Charter and the enforcement of States' compliance with its provisions. These mechanisms will be discussed below³⁵⁶.

On the other hand, examples of non-treaty-based mechanisms are the Commissioner for Human Rights, which was created by Resolution (99)50 of the

³⁵⁴ Ibid, De Beco, Gauthier, p. 4-5.

³⁵⁵ Ibid, De Beco, Gauthier, p. 6-7.

³⁵⁶ Council of Europe, Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states, H/Inf (2010) 7, 2010, p. 9. <https://www.refworld.org/policy/legalguidance/coe/2010/en/84197>, where it is referred as a quasi-judicial body; *ibid*, G. de Beco, p. 7, where it appears as a treaty-based monitoring mechanism.

Committee of Ministers with the aim of “*promoting education, awareness, and respect for human rights, such as incorporated into the Council of Europe’s human rights bodies*”, and ECRI, which was created by Resolution (2002) of the Committee of Ministers to combat racism, racial discrimination, xenophobia, anti-Semitism, and intolerance. Both of these mechanisms, along with others, will be discussed further below.

The Council of Europe’s human rights monitoring mechanisms are designed to foster continuous dialogue with governments, aiming to enhance the implementation of human rights treaties. Their approach hinges on the examination of national reports to evaluate compliance and offer suggestions for improvement. Moreover, they undertake direct visits and engage in questioning of member states to bolster their monitoring endeavors. Although there is no single body solely responsible for monitoring the human rights situation, non-judicial mechanisms are converging on their general tasks, i.e., creating the appropriate conditions required to ensure effective protection of human rights, as opposed to judicial mechanisms, which aim to provide redress to individuals³⁵⁷. A brief mention of each of the mechanisms will follow in order to have a clear view of them.

3.2.2.3. *Human rights non-treaty-based monitoring mechanisms*

3.2.2.3.1. *Committee of Ministers*

The Committee of Ministers³⁵⁸ is one of the main decision-making bodies within the Council of Europe. The Committee is deeply involved in monitoring human rights across member states and it assumes a significant role in overseeing the adherence to human rights standards set forth by the CoE.

Specifically, the Committee of Ministers actively engages in monitoring member states’ compliance with human rights obligations outlined in various instruments of the Council of Europe, including the European Convention on Human Rights (ECHR)³⁵⁹

³⁵⁷ *ibid.* Violini, p. 104.

³⁵⁸ CoE, <https://www.coe.int/en/web/cm/about-cm>.

³⁵⁹ ECHR, https://www.echr.coe.int/documents/d/echr/convention_ENG.

and its protocols, as well as other relevant conventions³⁶⁰. This monitoring process entails assessing the implementation of judgments from the European Court of Human Rights and ensuring that member states fulfill their commitments to upholding human rights principles³⁶¹.

Moreover, the Committee of Ministers employs a multifaceted approach to human rights monitoring, which includes regular reviews of member states' progress in meeting their obligations, as well as addressing specific human rights challenges through collective action and cooperation. It may also initiate dialogue and cooperation mechanisms with member states to address systemic human rights issues or concerns³⁶².

In cases where member states persistently fail to uphold their human rights obligations or demonstrate a lack of cooperation in the monitoring process, the Committee of Ministers retains the authority to take appropriate measures³⁶³, such as issuing recommendations or adopting resolutions to encourage compliance³⁶⁴. Additionally, it may collaborate with other bodies within the Council of Europe, such as the Commissioner for Human Rights and the Parliamentary Assembly, to enhance human rights monitoring efforts and promote positive change³⁶⁵.

3.2.2.3.2. *Parliamentary Assembly of the Council of Europe (PACE) and Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe (Monitoring Committee)*

The Monitoring Committee, also known as the *Committee on the Honouring of Obligations and Commitments by member States of the Council of Europe*, operates within the Parliamentary Assembly of the Council of Europe (PACE)³⁶⁶, having been

³⁶⁰ Article 46 of the European Convention on Human Rights as amended by Protocols No. 11 and No. 14; see also the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements (adopted by the Committee of Ministers on 10 May 2006 at the 964th meeting of the Ministers' Deputies, <https://rm.coe.int/16806eebf0>.

and amended on 18 January 2017 at the 1275th meeting of the Ministers' Deputies),

³⁶¹ CoE, Committee on Legal Affairs and Human Rights, Overview of core Council of Europe human rights monitoring mechanisms and related activities, Information Document prepared by the Secretariat, 4 December 2014, pp.1-2.

³⁶² See Rule 8 par. 2b - Access to information, of the Rules of the Committee of Ministers, 2006.

³⁶³ See Rule 6 par. 2b - Supervision of the execution of judgments, of the Rules of the Committee of Ministers, 2006.

³⁶⁴ Article 15b of Statute of the Council of Europe, London, 5.V.1949, European Treaty Series - No. 1.

³⁶⁵ See Rule 5 – General Provisions, of the Rules of the Committee of Ministers, 2006.

³⁶⁶ CoE, Parliamentary Assembly, <https://pace.coe.int/en/>.

established in 1997 through PACE Resolution 1115³⁶⁷. Its primary duty involves assessing whether member states uphold their obligations as outlined in the Statute of the CoE, the European Convention on Human Rights and its protocols, as well as other conventions within the Council of Europe framework. Additionally, it ensures member states fulfill specific commitments made upon accession³⁶⁸.

The Committee conducts its evaluations through cooperation and dialogue with national delegations of countries undergoing monitoring procedures. Its conclusions and recommendations stem from on-the-ground fact-finding missions. According to Rule 8.2.b. of its *Rules of Procedure*³⁶⁹, if a member state persistently fails to honor its obligations and commitments or lacks cooperation in the monitoring procedure, the Assembly reserves the right to question the credentials of that state's national delegation, often based on a report compiled by the Monitoring Committee.

Furthermore, the Assembly's monitoring functions benefit from the efforts of specific committees, notably the Committee on Legal Affairs and Human Rights (AS/Jur)³⁷⁰ and the Committee on Political Affairs and Democracy (AS/Pol)³⁷¹. The AS/Jur plays a vital role in advocating for and safeguarding human rights. Its rapporteurs conduct inquiries into specific legal and human rights matters, while also serving as the Assembly's de facto legal advisors. The Committee on Political Affairs and Democracy assesses the overall policy of the CoE, especially concerning political developments of particular concern. When necessary, it reports on urgent political situations and crises³⁷².

³⁶⁷ Resolution 1115/1997, Setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee), <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16526&lang=en>.

³⁶⁸ See par. 5 of the Resolution 1115/1997, <https://pace.coe.int/pdf/83c5099cbf0c3a8ee902079b7d5edafb5729c1e379f04fa0c859c64caabaa2cd/res.%201115.pdf>.

³⁶⁹ Rule 8.2.b., Rules of Procedure of the Assembly (January 2023), (Resolution 1202 (1999) adopted on 4 November 1999) with subsequent modifications of the Rules of Procedure, https://assembly.coe.int/nw/xml/RoP/RoP-XML2HTML-EN.asp?id=ENtoc_N0A29C3B0N0A2E28A0#Format-It.

³⁷⁰ Parliamentary Assembly, Committee on Legal Affairs and Human Rights, <https://pace.coe.int/en/pages/committee-5/committee-on-legal-affairs-and-human-rights>.

³⁷¹ Parliamentary Assembly, Committee on Political Affairs and Democracy, <https://pace.coe.int/en/pages/committee-9>.

³⁷² Refworld, UNHCR's Global Law and Policy Database, Overview of core Council of Europe human rights monitoring mechanisms and related activities, 2014, <https://www.refworld.org/reference/themreport/coepace/2014/en/103355>.

3.2.2.3.3. *Commissioner for Human Rights*

The Commissioner for Human Rights is an independent body of the Council of Europe whose mandate is found in Resolution (99)50³⁷³, which was approved by the Committee of Ministers in 1999. The resolution mandated the undertaking of a range of tasks. Among these as the most important, we can mention the identification of deficiencies in the legislation and practice of the member states in the field of human rights, the promotion of effective implementation of human rights standards in the member states and the provision of assistance to them in addressing the identified deficiencies, promoting human rights awareness training, encouraging the creation of national human rights structures where they do not already exist, and, at the same time, facilitating activities initiated to promote human rights³⁷⁴.

In carrying out its duties, the Commissioner submits regular reports both to the Committee of Ministers and to the Parliamentary Assembly in order to assess whether respect for human rights is being effectively promoted within the member states³⁷⁵. These reports contain recommendations that arise from the conclusions drawn following the official visits to the member states. The Commissioner also issues opinions on specific legislative deficiencies and makes individual recommendations to specific member states on specific human rights issues. Finally, the Commissioner organizes seminars and conferences with the aim of highlighting current and critical human rights thematics in order to promote the activity and establishment of mediators and human rights institutions in general. These conferences often take place through the organization of round tables, where regular dialogue takes place with national authorities³⁷⁶.

3.2.2.3.4. *European Commission against Racism and Intolerance (ECRI)*

³⁷³ Committee of Ministers of the Council of Europe, Resolution (99) 50 on the Council of Europe Commissioner for Human Rights (adopted by the Committee of Ministers on 7 May 1999 at its 104th Session), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e305a.

³⁷⁴ *ibid.* Violini, p. 103.

³⁷⁵ Tanasescu, Tudor. "The Council of Europe and Its Mechanisms for Protecting and Guaranteeing Human Rights." *AGORA Int'l J. Jurid. Sci.* 10 (2016), pp. 31-2.

³⁷⁶ Council of Europe, Council of Europe independent human rights mechanisms and institutions. <https://www.un.org/esa/socdev/enable/rights/ahc7docs/ahc7council.eu1.pdf>.

The European Commission against Racism and Intolerance (ECRI)³⁷⁷, established in 1994, by Resolution (2002)8³⁷⁸ of the Committee of Ministers, is an independent human rights monitoring body specializing in issues related to racism and racial discrimination. Members of the Commission are appointed on the basis of their recognized expertise in tackling racism, xenophobia, anti-Semitism and intolerance. ECRI's main role is to monitor the situation on the aforementioned issues in all member states. The reports that are addressed to the member states are usually accompanied by recommendations for the purpose of states' compliance³⁷⁹. ECRI is also tasked with the elaboration of General Policy Recommendations addressed to all member states (known as *Guidelines for the formulation of national strategies and policies*³⁸⁰) as well as the development of relations with civil society (information activities and awareness-raising)³⁸¹.

3.2.2.3.5. European Committee of Social Rights (ECSR)

As mentioned in the introduction, the European Committee of Social Rights refers in theory to both a non-judicial mechanism and a quasi-judicial one³⁸². The European Committee of Social Rights³⁸³ and the governmental committee of the European Social Charter³⁸⁴ have undertaken monitoring of how member states respect their obligations

³⁷⁷ CoE, European Commission against Racism and Intolerance (ECRI), <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance>.

³⁷⁸ COUNCIL OF EUROPE COMMITTEE OF MINISTERS Resolution Res(2002)8 on the statute of the European Commission against Racism and Intolerance, (Adopted by the Committee of Ministers on 13 June 2002 at the 799th meeting of the Ministers' Deputies, amended by Resolutions CM/Res(2013)12 and CM/Res(2014)2 adopted, respectively, on 9 October 2013 and 19 February 2014 at their 1180th and 1192nd meetings), <https://rm.coe.int/0900001680973356>.

³⁷⁹ CoE and the ECRI, ECRI European Commission against Racism and Intolerance, <https://rm.coe.int/leaflet-ecri-2022/1680a969e9>.

³⁸⁰ CoE and the ECRI, Compilation of ECRI's General Policy Recommendations, Strasbourg, March 2018, <https://rm.coe.int/compilation-of-ecri-s-general-policy-recommendations-march-2018/16808b7945>.

³⁸¹ CoE, Council of Europe independent human rights mechanisms and institutions, <https://www.un.org/esa/socdev/enable/rights/ahc7docs/ahc7council1.pdf>; Also in D. Anagnostopoulou, N. Gaitenidis, E. Sgouridou, V. Chadiou, Training for a European Area of Justice, Combating Hate Speech and Hate Crimes in the EU, Training Manual, Centre of International and European Economic Law, pp. 93-4.

³⁸² See 21; also in European Parliament, Directorate-General for External Policies of The Union, Directorate B, Policy department, Study, The Role of Regional Human Rights Mechanisms, 2010, p. 15; and in European Parliament, Directorate-General for Internal Policies, Policy department C, Citizen's Rights and Constitutional Affairs, Civil Liberties, Justice and Home Affairs, Towards A Comprehensive EU Protection System for Minorities, 2017, p. 34.

³⁸³ CoE, <https://www.coe.int/en/web/european-social-charter/european-committee-of-social-rights>.

³⁸⁴ CoE, <https://www.coe.int/en/web/european-social-charter/governmental-committee>,

based on the European Social Charter³⁸⁵, on which social and economic rights are based. Initially, the European Committee of Social Rights was tasked with interpreting the fundamental social rights enshrined in the European Social Charter and deciding whether the legislation and practice of member states are in line with the commitments made³⁸⁶. Reforms over time and substantial additions have resulted in the fundamental transformation of the Charter into a powerful instrument, which in turn has brought about changes in both law and practice in areas such as trade union rights, child employment, health protection, equality issues, and opportunities for people with disabilities.

The monitoring process stemming from the Charter is based on national reports submitted by States Parties as well as collective complaints³⁸⁷. The collective complaints procedure was introduced by the 1995 Additional Protocol providing for a collective complaints system, which was adopted³⁸⁸. These reports are reviewed by the ECSR, which then decides whether or not there is compliance with the Charter. They differ from those of UN treaty-monitoring bodies in that they are explicit findings of conformity/non-conformity³⁸⁹. If a state does not take any measures and does not comply with the Charter, the Committee of Ministers will address a recommendation to that state in order to improve the situation through necessary changes in its legislation or practice³⁹⁰. The Committee is not competent to consider complaints submitted by individuals. This procedure can be useful in cases of systemic violations of the economic, social or cultural rights of children. For instance, in 2012, the Committee decided on the health rights of migrant children in the Complaint of the Defence for

³⁸⁵ European Social Charter 1961, <https://rm.coe.int/168006b642>, Revised European Social Charter 1996, <https://rm.coe.int/168007cf93>.

³⁸⁶ A. Nolan 'A Brief Overview of the European Social Charter System', Working Paper, March 2020, p. 3.

³⁸⁷ CoE, European Committee of Social Rights, Rules, PART VIII: THE COLLECTIVE COMPLAINTS PROCEDURE, CHAPTER 1 – INTRODUCTION, Rule 23: Submission of complaints and signature, <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>.

³⁸⁸ CoE, <https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure>.

³⁸⁹ A. Nolan 'A Brief Overview of the European Social Charter System', Working Paper, March 2020, p. 3.

³⁹⁰ CoE, Reporting system of the European Social Charter, [https://www.coe.int/en/web/european-social-charter/reporting-system#{%222263920490%22:\[2\]}](https://www.coe.int/en/web/european-social-charter/reporting-system#{%222263920490%22:[2]}); See also Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states, p. 10.

Children International against Belgium³⁹¹. Moreover, the ECSR has issued rulings regarding cases involving Roma housing and evictions. Numerous European and international civil society organizations have filed collective complaints, citing violations against Roma rights³⁹².

Since 1998, it has been possible to submit complaints about violations of the Charter to the European Commission of Social Rights by international organizations of employers and trade unions, as well as by other NGOs. In these cases, the Commission examines the respective complaint and, if is deemed admissible, makes a decision on its merits, which is forwarded to the interested parties and the Committee of Ministers through a report³⁹³. This report was made public within four months of its transmission³⁹⁴.

3.2.2.4. Human rights treaty-based monitoring mechanisms

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

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)³⁹⁵ is in charge of monitoring how countries respect their commitments to corresponding Convention (*European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*) and organizes visits to places of detention such as prisons, juvenile detention centers, police stations, immigration detention centers, psychiatric hospitals and nursing homes³⁹⁶.

³⁹¹ European Committee of Social Rights, Decision on the merits of 23 October 2012, *Defence for Children International (DCI) v. Belgium* Complaint No. 69/2011, https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/EN%20-%20ESCR%2C%20%20Defence%20for%20Children%20International%20%28DCI%20%29%20v.%20Belgium%2C%20Collective%20Complaint%20No.%2069_2011.pdf.

³⁹² Ibid, European Parliament, Directorate-General for Internal Policies, 2017, p. 34.

³⁹³ CoE, European Committee of Social Rights, Rules, Article 5 par. 2, <https://rm.coe.int/rules-of-the-european-committee-of-social-rights-rev-2-bil/1680788a3d>.

³⁹⁴ Council of Europe, Council of Europe independent human rights mechanisms and institutions. <https://www.un.org/esa/socdev/enable/rights/ahc7docs/ahc7council1.pdf>.

³⁹⁵ CoE, <https://www.coe.int/en/web/cpt>.

³⁹⁶ Ibid. Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states, p. 10.

Article 3 of the European Convention on Human Rights³⁹⁷ inspired the drafting of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in 1987³⁹⁸. The Convention provides a non-judicial preventive mechanism for the protection of persons deprived of their liberty and is essentially a system of visits to places of detention by members of the Commission, who are independent and impartial experts elected by the Committee of Ministers. One member is elected as a representative of each contracting state. The completion of each visit is followed by the drawing up of a report on the findings and a possible recommendation when it is shown that an improvement in the situation of persons deprived of their liberty is required. This report is confidential to the state concerned, which undertakes to respond in writing at a later time and specify the measures taken to implement the recommendations made by the Commission³⁹⁹.

As can be seen, therefore, the CPT does not process individual complaints from individuals, as is the case in the jurisdictional framework of the European Court of Human Rights neither does it intervene in legal proceedings. It only deals with complaints of ill-treatment committed by private individuals, when the victim is deprived of his/her liberty by a public authority⁴⁰⁰.

The Committee, through its role over the years, has succeeded in developing standards on how people deprived of their liberty should be treated through its annual general reports⁴⁰¹. Areas of interest include police custody, imprisonment, prison health services, foreign national prisoners, involuntary placement in mental institutions, juveniles and women deprived of their liberty, and law enforcement training⁴⁰².

3.2.2.4.2. Group of Experts on Action against Violence Against Women and Domestic Violence (GREVIO)

³⁹⁷ ECHR, Art. 3, “« No one shall be subjected to torture or to inhuman or degrading treatment or punishment.»”.

³⁹⁸ European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2002, <https://rm.coe.int/16806dbaa3>.

³⁹⁹ Committee on Legal Affairs and Human Rights, p. 2.

⁴⁰⁰ CoE, The CPT in brief, p. 2, <https://rm.coe.int/16806dbbf1>.

⁴⁰¹ CoE, CPT Annual Reports, <https://www.coe.int/en/web/cpt/annual-reports>.

⁴⁰² CoE, Council of Europe independent human rights mechanisms and institutions, <https://www.un.org/esa/socdev/enable/rights/ahc7docs/ahc7council.eu1.pdf>.

The Group of Experts on Action against Violence Against Women and Domestic Violence (GREVIO)⁴⁰³ is an independent body engaged in monitoring the implementation of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (*Convention of Istanbul*)⁴⁰⁴ by the states parties. Article 68⁴⁰⁵ of the Convention stipulates that GREVIO draws up a questionnaire through which the states parties must submit to the Secretary General of the CoE a report on the measures they apply to comply with the provisions of the said Convention.

GREVIO may proceed to require a state to submit a special report when, having received reliable information, it decides that a situation requires immediate attention due to serious violations of the Convention or failure to effectively prevent them⁴⁰⁶. The report drawn up by the state is intended to provide information on the measures taken to prevent a serious, massive, or persistent pattern of violence against women⁴⁰⁷.

3.2.2.4.3. *Group of Experts on Action Against Trafficking in Human Beings (GRETA)*

With its Convention on Action against Trafficking in Human Beings (CETS No. 197)⁴⁰⁸, the Council of Europe created a legally binding instrument in Europe to fully combat the problem of human trafficking. The Convention entered into force in 2008 and is open for signature by third countries of the CoE as well as member states. It covers every form of trafficking, every type of victim and every kind of exploitation and focuses on the "three P's": preventing trafficking, protecting the human rights of victims of trafficking, prosecuting traffickers⁴⁰⁹. Since 2009, an independent group of 15 experts called GRETA (*Group of Experts on Action Against Trafficking in Human*

⁴⁰³ CoE, GREVIO, <https://www.coe.int/en/web/istanbul-convention/grevio>.

⁴⁰⁴ Council of Europe Convention on preventing and combating violence against women and domestic violence, 12 April, 2011, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c>.

⁴⁰⁵ Convention of Istanbul, Art. 68 – Procedure “1. Parties shall submit to the Secretary General of the Council of Europe, based on a questionnaire prepared by GREVIO, a report on legislative and other measures giving effect to the provisions of this Convention, for consideration by GREVIO”.

⁴⁰⁶ Also, in Convention of Istanbul, Art. 68 par. 3.

⁴⁰⁷ Burek, Wojciech. "Reservations to the Istanbul Convention and the Role of GREVIO: A Call for New Approach." *Human Rights Law Review* 22.4, 2022, p. 6.

⁴⁰⁸ CoE, Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16.V.2005, Council of Europe Treaty Series - No. 197, <https://rm.coe.int/168008371d>.

⁴⁰⁹ Europe's Human Rights Watchdog, Convention against Trafficking – and GRETA, https://www.europewatchdog.info/en/treaties_and_monitoring/against-trafficking/.

Beings)⁴¹⁰ has been monitoring the situation in signatory states regarding the implementation of the Convention and providing support to their governments.

GRETA makes its expertise in combating human trafficking available to signatory states. It also regularly visits each signatory state and prepares an assessment report, on which the government of the country in question is invited to comment⁴¹¹. The comments are included in the report, which is then published by the Council of Europe. On the basis of GRETA's reports, a Committee of the Parties to the Convention, composed of representatives of both the Committee of Ministers and non-members of the CoE which are parties to the Convention, formulates recommendations upon which the government of the country concerned is invited to comment as well⁴¹².

GRETA oversees the implementation by states of the obligations contained in the Council of Europe Convention on Action against Trafficking in Human Beings⁴¹³. Building on existing international instruments, the Convention goes beyond minimum standards and strengthens the protection afforded to victims, providing a human rights perspective. The Convention includes all forms of human trafficking and takes into account all persons who are potentially victims of trafficking⁴¹⁴.

3.2.2.4.4. *Committee which monitors the Lanzarote Convention*

⁴¹⁰ CoE, GRETA, <https://www.coe.int/en/web/anti-human-trafficking/greta>.

⁴¹¹ GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS (GRETA), Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties adopted on 17 June 2009 and amended on 21 November 2014 (the rules as amended will enter into force on 1 January 2015), Rule 9 – Country visits, 21 November 2014.

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805a983c>.

⁴¹² See also Rule 15 – Report and conclusions.

⁴¹³ Art. 36 of the Convention.

⁴¹⁴ Irish Human Rights and Equality Commission, The Council of Europe Group of Experts on Action against Trafficking (GRETA), <https://www.ihrec.ie/reports-international-bodies/council-europe-group-experts-action-trafficking-greta/#:~:text=Building%20on%20existing%20international%20instruments,are%20potentially%20victims%20of%20trafficking>.

Article 39⁴¹⁵ of the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (also known as *Lanzarote Convention*)⁴¹⁶ defines the establishment of a Committee of the Parties (*Lanzarote Committee*)⁴¹⁷, which consists of representatives of the parties to the Convention. The Committee of the Parties is convened by the Secretary General of the CoE and meets whenever at least one third of the Parties or the Secretary General so requests⁴¹⁸.

The Committee of the Parties monitors the implementation of this Convention and its role is to facilitate the collection, analysis and exchange of information, experiences and good practices among states in order to improve their ability to prevent and combat the sexual exploitation and sexual abuse of children. The Committee is tasked with monitoring the effective implementation of the Convention, identifying any problems that arise and reviewing the results of declarations or reservations made under the Convention. It may also express an opinion on any issue related to the implementation of the Convention⁴¹⁹.

3.2.2.4.5. *Advisory Committee of monitoring the Framework Convention for the Protection of National Minorities and the Committee of experts for the European Charter for Regional or Minority Languages*

The Framework Convention for the Protection of National Minorities⁴²⁰ is an extensive list of principles for the protection of national minorities and is designed to promote constructive dialogue with all interested parties. The evaluation of the effective implementation of the Framework Convention by the Parties is carried out by the Committee of Ministers and the Advisory Committee⁴²¹, which functions as an

⁴¹⁵ Lanzarote Convention, Art. 39 for the establishment of the Committee of the Parties.

⁴¹⁶ Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), <https://rm.coe.int/1680084822>.

⁴¹⁷ CoE, Lanzarote Committee, <https://www.coe.int/en/web/children/lanzarote-committee>.

⁴¹⁸ See also art. 39 of the Lanzarote Convention.

⁴¹⁹ Rutai, Zsuzsanna. "The Lanzarote Committee: protecting children from sexual violence in Europe and beyond." *Pecs J. Int'l & Eur. L.* (2020), p. 29.

⁴²⁰ CoE, Framework Convention for the Protection of National Minorities, (ETS No. 157), <https://www.coe.int/en/web/conventions/cets-number/-/abridged-title-known?module=treaty-detail&treaty-num=157>.

⁴²¹ CoE, Advisory Committee on the Framework Convention for the Protection of National Minorities, <https://www.coe.int/en/web/minorities/advisory-committee>.

auxiliary.

States parties are invited to submit a report providing clear and accurate information on legislative and other measures taken to properly implement the principles of the Framework Convention. These reports are made public and reviewed by the Advisory Committee, which then issues an opinion on the measures each state has taken⁴²².

The Committee of Ministers, after evaluating the state report and the subsequent opinion of the Advisory Committee, proceeds with recommendations to the state party concerned. An important feature of this process is its collective nature, which is ensured both by the role of the Committee of Ministers and the possibility of recourse to independent expertise through the opinions of the Advisory Committee, which ensures fair and equal treatment of all member states⁴²³.

The Advisory Committee carries out systematic visits to states parties, through which significant progress has been made, such as improvements in legislation and institutions, as well as actual practices, with direct intervention in the situation of national minorities⁴²⁴.

The provisions of the Framework Convention encompass the teaching in and teaching of minority languages, whether in public or private schools, and at all educational levels. These obligations complement those outlined in the European Charter for Regional or Minority Languages⁴²⁵.

The Committee of Experts of the European Charter for Regional or Minority Languages⁴²⁶ established under the auspices of the CoE and in accordance with Article 17 of the Charter⁴²⁷. Its primary responsibility is to monitor the implementation of the Charter by the member states that have ratified the charter. The committee assesses the measures taken by states to protect and promote regional or minority languages in their territory. It also makes recommendations and guides member states on how to achieve the strengthening of their efforts in this area. The Committee of Experts plays an

⁴²² Ibid, Council of Europe independent human rights mechanisms and institutions, pp. 3-4.

⁴²³ Art. 26 of the Framework Convention for the Protection of National Minorities.

⁴²⁴ Council of Europe, Council of Europe independent human rights mechanisms and institutions, <https://www.un.org/esa/socdev/enable/rights/ahc7docs/ahc7councileu1.pdf>.

⁴²⁵ CoE, About the Framework Convention for the Protection of National Minorities, Questions & Answers, [https://www.coe.int/en/web/minorities/at-a-glance#%2279030665%22:\[5\]](https://www.coe.int/en/web/minorities/at-a-glance#%2279030665%22:[5]).

⁴²⁶ CoE, Committee of Experts of the European Charter for Regional or Minority Languages, <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/committee-of-experts>.

⁴²⁷ Art. 17 of the European Charter for Regional or Minority Languages.

important role in ensuring compliance with the provisions of the Charter but also in promoting the protection of linguistic diversity in Europe⁴²⁸.

3.2.2.4.6. *Access Info Group and the Consultation of the Parties for the Convention on Access to Official Documents*

This is the first international legal treaty that recognizes the right to access official documents. The Convention on Access to Official Documents (CETS No. 205), also known as the Tromsø Convention⁴²⁹, entered into force on 1 December 2020. It has two monitoring bodies: the Access Info Group⁴³⁰, made up of technical experts, and a political body called the Consultation of the Parties⁴³¹.

3.2.2.4.7. *Consultative Committee for the Convention 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data*

The Council of Europe prioritizes ensuring the right to privacy and the right of individuals in the processing of their data. Convention 108⁴³² is the only legally binding international treaty on data protection. Oversight of adherence to the principles of the Convention is entrusted to a Consultative Committee⁴³³ tasked with monitoring how countries uphold these standards.

3.2.2.4.8. *Cybercrime Convention Committee*

The Convention on Cybercrime is an international treaty, the so-called *Budapest Convention on Cybercrime* (ETS No. 185)⁴³⁴ that provides the countries with the means

⁴²⁸ CoE, European Treaty Series - No. 148, Explanatory Report to the European Charter for Regional or Minority Languages, Strasbourg, 5.XI.1992, Part IV – Application of the Charter Articles 15-17, p. 21, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800cb5e5>.

⁴²⁹ CoE, Council of Europe Treaty Series - No. 205, Council of Europe Convention on Access to Official Documents Tromsø, 18.VI.2009, <https://rm.coe.int/1680084826>.

⁴³⁰ CoE, Access Info Group, <https://www.coe.int/en/web/access-to-official-documents/group-of-specialists>.

⁴³¹ CoE, Consultation of the Parties, <https://www.coe.int/en/web/access-to-official-documents/presentation-of-the-cop>.

⁴³² European Treaty Series - No. 108 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data Strasbourg, 28.I.1981, <https://rm.coe.int/1680078b37>.

⁴³³ CoE, Consultative Committee, <https://www.coe.int/en/web/data-protection/consultative-committee-tpd>.

⁴³⁴ CoE, European Treaty Series - No. 185 Convention on Cybercrime Budapest, 23.XI.2001, <https://rm.coe.int/1680081561>.

to work together to combat crimes carried out through computer systems. The Cybercrime Convention Committee⁴³⁵ aims to facilitate the effective use and implementation of the Convention by States Parties, the exchange of information and the consideration of any future amendments.

3.2.2.4.9. *The Group of states against corruption (GRECO)*

The Group of states against corruption (GRECO)⁴³⁶ was established in 1999. It is tasked with the improvement of member states' ability to fight corruption through the monitoring of their compliance with the Council of Europe's anti-corruption standards ("*horizontal*" *evaluation procedure*). This happens through a dynamic process of peer review and peer pressure. It identifies serious shortcomings in national anti-corruption policies and urges legislative, institutional and practical reforms (*compliance procedure*)⁴³⁷. GRECO also has a platform through which the exchange of best practices for the prevention and detection of corruption is attempted.

3.2.2.4.10. *Conference of the Parties for the Warsaw Convention*

The Conference of the Parties⁴³⁸ is a body of the CoE that monitors the Convention on Money Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198)⁴³⁹. This Convention, otherwise known as the "Warsaw Convention", is the only international treaty that grants national authorities the power to stop any suspicious transaction taking place in order to prevent its movement through the financial system.

3.2.2.4.11. *Committee of experts on the evaluation of anti-money laundering measures and the financing of terrorism (MONEYVAL)*

⁴³⁵ CoE, Cybercrime Convention Committee, <https://www.coe.int/en/web/cybercrime/tcy>.

⁴³⁶ CoE, Group of States against Corruption, <https://www.coe.int/en/web/greco/about-greco/what-is-greco>.

⁴³⁷ CoE, How does GRECO work?, <https://www.coe.int/en/web/greco/about-greco/how-does-greco-work>.

⁴³⁸ CoE, Conference of the Parties to CETS 198, <https://www.coe.int/en/web/cop198/about-cop/structure>.

⁴³⁹ CoE, Council of Europe Treaty Series - No. 198 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism * Warsaw, 16.V.2005, <https://rm.coe.int/168008371f>.

To evaluate the states' measures against money laundering and financing of terrorism the CoE has set up a Committee of Experts, the *MONEYVAL* or the *Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism*⁴⁴⁰ as a permanent monitoring body. This Committee monitors how states comply with international standards to combat money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction⁴⁴¹. The MONEYVAL is answerable directly to the Committee of Ministers.

Thus, the Committee evaluates⁴⁴² whether the states' compliance with the specific standards is effective and, for this purpose, sends recommendations to the national authorities, in order to promote efforts to note the necessary improvement at the national level. Therefore, we notice that the Committee also operates through a dynamic process of mutual evaluations, peer evaluation and regular monitoring of its reports.

3.2.2.4.12. *Committee of Parties for the Medicrime Convention*

The Convention on the counterfeiting of medical products and similar crimes involving threats to public health (also as the *Medicrime Convention*)⁴⁴³ aims to stop the trade in fake medicines and medical equipment that endanger people's lives and health. To this aim, a Committee of Parties⁴⁴⁴ has established in order to monitor how it is translated into national law. The Committee of the Parties consists both of the members of the MEDICRIME Committee, who are representatives of the Parties to the Convention, and of participants and observers.

3.2.2.5. *Current challenges*

⁴⁴⁰ CoE, Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, <https://www.coe.int/en/web/moneyval>.

⁴⁴¹ FINANCIAL ACTION TASK FORCE, International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, The FATF Recommendations, Updated November 2023, <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>.

⁴⁴² To see about the Evaluation Cycles of the Committee: <https://www.coe.int/en/web/moneyval/evaluations>.

⁴⁴³ Council of Europe Treaty Series - No. 211 Council of Europe Convention on the counterfeiting of medical products and similar crimes involving threats to public health * Moscow, 28.X.2011, <https://rm.coe.int/168008482f>.

⁴⁴⁴ CoE, Committee of Parties, <https://www.coe.int/en/web/medicrime/plenary-meetings>.

The final annual report of the Commissioner for Human Rights⁴⁴⁵ to the Parliamentary Assembly of the Council of Europe (PACE) states that human rights challenges are of an evolving nature due to both technological developments and the COVID-19 pandemic, as well as social and political movements. The report highlights the importance of defending human rights and democratic principles in times of crisis, given the ongoing conflict between Russia and Ukraine and the current conflict between Armenia and Azerbaijan in the Karabakh region. In this wake is added the decades-old issue of refugee movements. These events, obviously, apart from the fact that they primarily entail a risk to human life, undermine the European and global system of international protection. Inciting actions for political gain is in stark contrast to states' obligations under human rights law. The result is the undermining of human rights themselves, as uncertainty and growing frustration act as fuel to drive people away from asserting their own rights. In particular, we observe an ever-increasing incidence of discrimination against women and LGBTI people. Globally, acts of racism and intolerance are taking place, including anti-Semitism, anti-Muslim hatred and anti-Gypsyism.

Furthermore, the focus is on the safety of journalists and human rights defenders, since unjust prosecutions, crimes of bodily harm occur every day, and the prolonged detention of these individuals is a never-ending trend. There is, indeed, a serious problem, as impunity for such crimes against journalists continues to occur and cases of this nature remain unsolved. Subsequently, the environmental crisis is still one of the most critical international issues, since the triple dimension of environmental pollution, climate change and the loss of biodiversity are existential threats to human rights. Finally, digital technologies and especially artificial intelligence are and will be a permanent concern until we can achieve the creation of a - as safe as possible - strict regulatory framework to mitigate the risks to human rights and democracy. The unchecked use of artificial intelligence poses threats to everyone, to privacy, equality and freedom of expression.

However, despite the challenges facing the global community and individual member states, it is very important and hopeful that organized and individual efforts are being made to encourage a renewed commitment to human rights principles and

⁴⁴⁵ Council of Europe Commissioner for Human Rights, Presentation of the 2023 Annual Activity Report to the Council of Europe Parliamentary Assembly, Strasbourg, 22 January 2024, <https://rm.coe.int/presentation-of-the-2023-annual-activity-report-of-the-commissioner-fo/1680ae4216>.

standards by promoting the systematic and effective implementation of human rights. rights. As emphasized in every official international text, the key to ensuring a note of progress is the pursuit of international cooperation in order to achieve the maintenance of global stability and the support of democratic values.

Regarding the non-judicial mechanisms examined in this chapter, they exhibit a remarkable degree of fragmentation, often exceeding that observed in the functioning of judicial mechanisms for the protection of human rights. Unlike courts, which share some basic structural elements, such as the independence of their members and adherence to legal principles, non-judicial mechanisms differ widely in their institutional composition and operate at different levels of governance. Despite these differences, they share common operational features, such as monitoring and promoting rights, particularly focusing on promoting equality and human dignity.

In order to strengthen the sustainability of political and legal systems, however, it is imperative to reassess the judicial protection of rights on a global scale. After all, the proliferation of non-judicial mechanisms suggests a perception that judicial protection of rights may not be all that adequate, and this concern is, in fact, constantly exacerbated by ongoing social and economic upheavals. In Europe, there is a feeling of pressure to commit the member states and the EU itself to credible human rights policies in the midst of these challenges. To achieve this, concerted efforts are required at all levels of the state machinery, with non-judicial bodies playing a central role.

The possibility of supplementing judicial mechanisms with non-judicial ones is evident in the evolving landscape of European institutions and also of National Human Rights Institutions (NHRIs)⁴⁴⁶. However, simply recognizing this potential is only a first step, which, certainly, is not enough to notice any change. It is imperative to promote non-judicial mechanisms and cooperation between human rights organizations, facilitating the exchange of information, the sharing of methods and mutual cooperation. Furthermore, the international human rights bodies should regularly review their working methods and strive to become more effective and relevant. Actual impact over the long term must remain the ultimate benchmark for holding governments accountable for their human rights performance⁴⁴⁷. These efforts appear to be vital in enhancing the sustainability of human rights protection⁴⁴⁸.

⁴⁴⁶ Information about the NHRIs at: <https://ennhri.org/about-nhris/>.

⁴⁴⁷ Ibid, G. de Beco, Preface, p. 14.

⁴⁴⁸ *ibid.* Violini, p. 107-109.

Finally, we shall not forget to mention the important cooperation efforts that are taking place between the European monitoring systems. In the *Conclusions on EU priorities for cooperation with the Council of Europe 2023-2024*⁴⁴⁹, the EU expresses its commitment to support the activities of various Council of Europe bodies and some agreements, such as the Venice Commission, GRECO, MONEYVAL, GREVIO, GRETA, CEPEJ, the Pompidou Group, the CPT, the Lanzarote Commission, the European Commission of Social Rights and other mechanisms focusing on human rights, democracy and the rule of law. It is important that there is a general acknowledgment of the role of the CoE in promoting European standards and building capacity during the reform processes.

3.2.2.6. The judicial human rights monitoring mechanism of the Council of Europe: The European Court of Human Rights

The European Convention on Human Rights (ECHR)⁴⁵⁰ is fundamental regarding human rights protection, enshrining fundamental freedoms and principles for over seven decades. The Convention which is considered to be the strongest of all regional human rights treaties embodies a commitment to upholding the inherent dignity and rights of every individual⁴⁵¹. Adopted by the CoE in 1950 and entered into force in 1953, the Convention outlines a comprehensive set of civil, political, economic, and social rights aimed at safeguarding individuals from arbitrary state action and ensuring the rule of law⁴⁵².

At its core, the ECHR enshrines principles such as the right to life, liberty, and security of person, prohibition of torture and degrading treatment, the right to a fair trial, freedom of expression, assembly, and association, and protection of privacy and

⁴⁴⁹ Council of the EU, *Conclusions on EU priorities for cooperation with the Council of Europe 2023-2024*,

<https://www.consilium.europa.eu/en/press/press-releases/2023/01/30/conclusions-on-eu-priorities-for-cooperation-with-the-council-of-europe-2023-2024/>.

⁴⁵⁰ CoE, European Convention on Human Rights, 1950, https://www.echr.coe.int/documents/d/echr/convention_ENG.

⁴⁵¹ CoE, European Court of Human Rights, *The European Convention on Human Rights, A living instrument*, September 2022, p. 4,

https://www.echr.coe.int/documents/d/echr/Convention_Instrument_ENG.

⁴⁵² CoE, European Court of Human Rights, *European Court of Human Rights, Questions & Answers*, p. 4, https://www.echr.coe.int/documents/d/echr/questions_answers_eng.

family life. These rights are interdependent and indivisible, forming the bedrock of democratic societies and the rule of law⁴⁵³.

The European Convention on Human Rights establishes a dual mechanism for the enforcement and protection of rights: the European Court of Human Rights (ECtHR)⁴⁵⁴ and the Committee of Ministers⁴⁵⁵. More specifically, as the judicial arm of the Convention, the ECtHR adjudicates individual and inter-state applications alleging violations of the rights enshrined in the Convention by the states themselves. Through its jurisprudence, the Court interprets and applies the Convention in a manner consistent with evolving societal values and international human rights standards. Its judgments are legally binding on states parties, contributing to the development of a common European human rights jurisprudence. Comprising representatives of member states, the Committee of Ministers oversees the execution of the ECtHR's judgments and ensures compliance with the Convention's obligations⁴⁵⁶. It monitors the implementation of measures to remedy human rights violations and addresses systemic issues to prevent recurrence⁴⁵⁷.

The European Convention system holds a unique position in the realm of human rights protection. It is part of the broader global framework of international law but is deeply rooted in its regional context, making it more relatable and accessible to European nations compared to the UN system⁴⁵⁸. While it operates within transnational processes, it also functions as its own distinct system. It mirrors global trends but also sets the pace for the universal level.

Since its inception, the Court has played a pivotal role in safeguarding human dignity, ensuring accountability, and promoting the rule of law. It is an internationally recognized court for its valuable work in the protection of human rights⁴⁵⁹. The European Court of Human Rights, based in Strasbourg, France, was established in 1959 to enforce the provisions of the ECHR and it was established as a permanent court in

⁴⁵³ Ibid, European Court of Human Rights, Questions & Answers, p. 4.

⁴⁵⁴ ECHR, Article 19 - Establishment of the Court,
https://www.echr.coe.int/documents/d/echr/convention_ENG.

⁴⁵⁵ ECHR, Article 46 - Binding force and execution of judgments,
https://www.echr.coe.int/documents/d/echr/convention_ENG.

⁴⁵⁶ ECHR, Article 46.

⁴⁵⁷ Ibid, T. Tanasescu, p.28.

⁴⁵⁸ David, Raluca. "Comparative Study of Three International Human Rights Systems and Their Enforcement Mechanisms." Available at SSRN 1566495 (2009), p. 4 and 16.

⁴⁵⁹ Renucci, Jean-François. Introduction to the European Convention on Human Rights: the rights guaranteed and the protection mechanism. Vol. 1. Council of Europe, 2005, p. 95.

1998 with the adoption of Protocol 11⁴⁶⁰. This protocol dissolved the former Commission and transferred its responsibilities to the newly established court. Court's primary mandate is to adjudicate individual and interstate applications alleging violations of the rights and freedoms enshrined in the Convention. The Court operates independently of the European Union and serves as the final arbiter in human rights disputes among the 47 member states of the Council of Europe⁴⁶¹.

Before a case can be heard by the ECHR, it must meet certain criteria, including the requirement to exhaust all domestic remedies⁴⁶². This means that the applicant must have pursued all available legal avenues within their own country's judicial system before turning to the ECHR.

Consequently, the Court often looks to support its decision-making process by referencing the arguments and outcomes of the domestic proceedings. However, if there is disagreement among national authorities or if legislative measures have not been taken to address the issue, the Court has more flexibility in its decision-making. It seeks to place its interpretations within the context of existing interpretations at the European level, comparing solutions adopted by different European states and determining whether there is a consensus on certain issues⁴⁶³. The Court considers international trends and standards in its deliberations, ensuring coherence and consistency with international human rights law. This international perspective is an essential aspect of the Court's interpretative process⁴⁶⁴.

Regarding its key functions, three can be mentioned: the adjudication, the interpretation of the Convention and the precedent setting. More specifically, the Court examines individual and interstate complaints alleging violations of the rights protected by the ECHR, including but not limited to the right to life, freedom from torture, right to a fair trial, and freedom of expression⁴⁶⁵. Moreover, the Court plays a crucial role in interpreting the provisions of the ECHR, elaborating on the scope and application of human rights standards and principles across diverse legal systems and cultural

⁴⁶⁰ Drzemczewski, Andrew. "The European Human Rights Convention: Protocol No. 11-Entry Into Force and First Year of Application." *Human Rights Law Journal* 21.1/3 (2000), p. 358.

⁴⁶¹ Viljanen, Jukka. "The role of the European court of human rights as a developer of international human rights law." *Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol* 62 (2008), p. 249.

⁴⁶² ECHR, Art. 35 - Admissibility criteria.

⁴⁶³ Gerards, Janneke H., and Lize R. Glas. "Access to justice in the European Convention on Human Rights system." *Netherlands Quarterly of Human Rights* 35.1 (2017), p 16.

⁴⁶⁴ *Ibid*, Viljanen, Jukka, 2008, p. 251.

⁴⁶⁵ *Ibid*, Viljanen, Jukka, 2008, p. 250.

contexts. Lastly, through its judgments and advisory opinions, the Court establishes precedents that guide national authorities, legal practitioners, and policymakers in upholding human rights standards and ensuring compliance with the Convention⁴⁶⁶.

It is crucial to mention also the Steering Committee for Human Rights (CDDH), an advisory body to the Committee of Ministers of the CoE, which focuses on general human rights law and policy. The CDDH is composed of government experts and civil society observers and addresses two main areas, the issues regarding the European Convention on Human Rights system, including national implementation and the functioning of the European Court of Human Rights, and the development of human rights standards in new or challenging areas. The CDDH produces reports and draft instruments for adoption by the Committee of Ministers, ranging from non-binding guidelines and recommendations to binding conventions and protocols. The Committee often reviews member states' implementation of its non-binding instruments and provides technical advice on recommendations from other Council of Europe bodies⁴⁶⁷.

Over the decades, the European Court of Human Rights has delivered numerous landmark judgments that have had a profound impact on human rights protection and legal development in Europe. Regarding its most notable cases, some examples include *Marckx v. Belgium* (1979) establishing gender equality as a fundamental principle of the Convention, affirming the rights of illegitimate children to inherit from their fathers,⁴⁶⁸ *Soering v. United Kingdom* (1989) where the Court ruled that the extradition of an individual to a country where they faced a real risk of torture or inhuman treatment would violate the prohibition of torture under Article 3 of the Convention,⁴⁶⁹ and *Goodwin v. United Kingdom* (2002) where the Court held that the refusal to issue a new birth certificate reflecting a transgender person's acquired gender identity violated the right to privacy and personal autonomy under Article 8 of the Convention⁴⁷⁰.

⁴⁶⁶ Zwaak, Leo F. "Effectiveness and fulfillment of the judgements on human rights: the experience of the European System. *Revista IIDH* 46 (2007), p. 338.

⁴⁶⁷ CoE, Steering Committee for Human Rights, <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation/presentation-of-the-cddh>.

⁴⁶⁸ ECtHR, Case of *Marckx v. Belgium*, Application no. 6833/74, Strasbourg, Judgement 13 June 1979, <https://hudoc.echr.coe.int/fre?i=001-57534>.

⁴⁶⁹ ECtHR, Case of *Soering v. United Kingdom*, Application no. 14038/88, Strasbourg, Judgement 07 July 1989, <https://hudoc.echr.coe.int/eng?i=001-57619>.

⁴⁷⁰ ECtHR, Case of *Goodwin v. United Kingdom*, Application no. 28957/95, Strasbourg, Judgement 11 July 2002, <https://hudoc.echr.coe.int/fre?i=001-60596>.

The impact of the European Court of Human Rights extends beyond its legal pronouncements, influencing legislative reforms, institutional practices, and societal attitudes towards human rights. By holding states accountable for violations and setting clear standards for human rights protection, the Court contributes to the consolidation of democratic governance, the rule of law, and the protection of vulnerable individuals and marginalized groups.

However, its ability to serve as a source of inspiration for the world, demonstrating the effectiveness of an integrated human rights protection system, is now facing significant challenges. It is no longer assumed that the ECHR and its adjudicatory system represent the ultimate benchmark for human rights⁴⁷¹.

3.2.2.7. Current challenges

The former Secretary General of the Council of Europe, Thorbjorn Jagland, issued annual reports in 2017⁴⁷² and 2018⁴⁷³ regarding the status of democracy, human rights, and the rule of law. These reports, based on assessments conducted by CoE bodies, highlighted the threats posed by populism and underscored the vulnerability of domestic institutions. In the 2019 report, the Secretary General urged member states to strengthen the CoE to better confront forthcoming challenges. Specifically, he noted that certain populist and nationalist factions refuse to acknowledge the authority of the European Court of Human Rights, urging member states to take proactive measures to uphold legal standards.⁴⁷⁴ In the 2021 report, it is mentioned that “*what can be seen is a clear and worrying degree of democratic backsliding*” and that “*democracy is essential if people are to live in freedom, dignity and security ... it is also required as a backstop for maintaining human rights and the rule of law. The three pillars ... are in*

⁴⁷¹ Philipp Aust, Helmut. "Chapter 1: Introduction: The European Court of Human Rights - the past in the present". The European Court of Human Rights. Cheltenham, UK: Edward Elgar Publishing, 2021, p. 14, <https://doi.org/10.4337/9781839108341.00007>.

⁴⁷² CoE, State of Democracy, Human Rights and the Rule of Law How Strong are Europe's Checks and Balances?, 2017, <https://edoc.coe.int/en/an-overview/7345-pdf-state-of-democracy-human-rights-and-the-rule-of-law.html>.

⁴⁷³ CoE, State of Democracy, Human Rights and the Rule of Law – Role of Institutions, Threats to Institutions, 2018, <https://rm.coe.int/state-of-democracy-human-rights-and-the-rule-of-law-role-of-institutio/168086c0c5>.

⁴⁷⁴ CoE, Ready for Future Challenges – Reinforcing the Council of Europe, April 2019, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168093af03>.

fact inseparable”⁴⁷⁵. In the 2023 Report, drafted through the Russian invasion of Ukraine, it is mentioned that the CoE “*was established to ensure peace based on unity, underpinned by human rights, democracy and the rule of law. Democratic security of this kind, however, relies on political will*” and that “*we must work with the EU itself to conclude the positive and important progress made over the past year towards its accession to the European Convention on Human Rights*”⁴⁷⁶.

Despite its significant achievements, the ECtHR faces several challenges and criticisms, including the fact that the Court grapples with a large backlog of cases, leading to delays in the adjudication of applications and hindering access to justice for individuals seeking redress for human rights violations⁴⁷⁷. While the Court issues binding judgments, the effective implementation of its decisions by member states remains a challenge, with some states displaying reluctance or resistance to comply with the Court’s rulings⁴⁷⁸. Adding to that, the ECtHR operates in a complex political environment, where member states may exert political pressure or seek to undermine the Court’s independence and authority, particularly in cases involving sensitive issues or national security concerns⁴⁷⁹.

To address these challenges and reinforce its impact, the ECtHR must continue to prioritize efficiency, transparency, and accessibility in its adjudicatory processes. Strengthening dialogue and cooperation with national authorities, legal professionals, and civil society actors is essential for enhancing the implementation of judgments and fostering a culture of human rights compliance across Europe⁴⁸⁰.

To address these challenges and consolidate the achievements of the European Convention on Human Rights, the ECtHR needs to enhance its efficiency and capacity

⁴⁷⁵ CoE, State of Democracy, Human Rights and the Rule of Law - A democratic renewal for Europe, 2021, <https://rm.coe.int/annual-report-sg-2021/1680a264a2>.

⁴⁷⁶ CoE, State of Democracy, Human Rights and the Rule of Law - An Invitation to Recommit to the Values and Standards of the Council of Europe, 2023, <https://rm.coe.int/secretary-general-report-2023/1680ab2226>.

⁴⁷⁷ Lursmanashvili, Lasha. “Reasonable Time Requirement: ECtHR Approach: It Is Said That: ‘Justice Delayed Is Justice denied.’”. *Caucasus Journal of Social Sciences*, vol. 11, no. 1, Nov. 2023, p. 142, doi:10.62343/cjss.2018.179.

⁴⁷⁸ Stefanovska, Vesna. "The constitutional character of the ECHR: overview, challenges in implementation and limitations." *Balkan Social Science Review* 20.20 (2022), p. 688.

⁴⁷⁹ Tsarapatsanis, Dimitrios. "Human Rights beyond Ideal Morality: The ECHR and Political Judgment." *Laws* 10.4 (2021), p. 2.

⁴⁸⁰ VOORHOOF, Dirk, The right to freedom of expression and information under the European Human Rights system : towards a more transparent democratic society, EUI RSCAS, 2014/12, Centre for Media Pluralism and Media Freedom (CMPF), p. 5 <https://hdl.handle.net/1814/29871>.

through reforms, including streamlining procedures, increasing judicial resources, and promoting alternative dispute resolution mechanisms. Additionally, the enhancement of awareness and education is needed regarding the promotion of public awareness and education about the ECHR and human rights principles, fostering a culture of respect, tolerance, and accountability, encouraging constructive dialogue and cooperation among member states, civil society organizations, and other stakeholders to address systemic human rights challenges and promote mutual understanding⁴⁸¹.

3.2.2.8. The effectiveness of the human rights monitoring system of the Council of Europe

As previously mentioned, the CoE and its primary human rights instrument, the ECHR, have recently marked 70 years since their establishment. Throughout its history, the CoE has encountered numerous trials, including the Greek dictatorship in the 1960s. Based on findings from its human rights body, the organization was prepared to suspend Greece's membership, leading to a temporary withdrawal from the CoE. Additionally, the CoE has witnessed a significant increase in membership, largely attributed to the inclusion of formerly Communist-ruled nations following the end of the Cold War. Amidst the dissolution of the Soviet Union and the former Yugoslavia, the organization faced multiple conflicts characterized by severe human rights violations within its jurisdiction. However, the primary focus lies on contemporary challenges, primarily stemming from the rise of authoritarianism and illiberal democracies.

Regarding the challenges the CoE has faced, PACE, playing a pivotal role in safeguarding the principles of the Council of Europe, faced a significant challenge during a corruption scandal within its own ranks. This issue was substantiated by a report from an Investigation Body established for this purpose in April 2018⁴⁸². As a result, the Assembly expelled several of its members and adopted a policy of zero tolerance towards corruption going forward.

⁴⁸¹ Helfer, Laurence R. "Redesigning the European Court of Human Rights: embeddedness as a deep structural principle of the European human rights regime." *European Journal of International Law* 19.1 (2008), p. 132.

⁴⁸² Council of Europe, Independent investigation body on the allegation of corruption within the Parliamentary Assembly, Report of 15 April 2018, <http://assembly.coe.int/Communication/IBAC/IBAC-GIAC-Report-EN.pdf>.

The ECtHR undoubtedly stands as the cornerstone of the ECHR system. However, its remarkable success has led to challenges, primarily stemming from a high influx of applications. Many judgments remain unenforced, placing strain on the authority of the Committee of Ministers responsible for overseeing their implementation. Consequently, the Interlaken process, culminating in the Copenhagen Declaration on the Reform of the European Convention of Human Rights System in 2018, prioritized enhancing efficiency and ensuring the enforcement of judgments⁴⁸³.

The Council of Europe, notably its Parliamentary Assembly, has been proactive in addressing democratic setbacks in certain member states where attempts have been made to politicize judicial institutions. This effort has been supported by legal opinions, studies, and reports from the Venice Commission for Democracy through Law⁴⁸⁴, established three decades ago and renowned for its expertise in constitutional and legal matters. However, the effectiveness of its recommendations, particularly in cases involving Turkey, the Russian Federation, Hungary, or Poland, has been limited. There's a pressing need for stronger political support for the Venice Commission's suggestions, extending beyond the Committee of Ministers and potentially involving entities like the European Union, particularly concerning EU member states. The European Commission is increasingly utilizing infringement procedures, with judgments from the European Court of Justice thus far being adhered to⁴⁸⁵.

Continuously, fresh challenges arise, such as the recent anti-LGBTI campaigns in Poland. Consequently, approximately 100 Polish municipalities and local authorities have proclaimed themselves "free from LGBT ideology". This echoes similar initiatives and legislation in the Russian Federation targeting the 'propaganda of homosexuality', purportedly in defense of traditional values. The ECtHR, in the *Bayev* case, explicitly condemned these laws, a stance echoed by other Council of Europe

⁴⁸³ Council of Europe, Committee of Ministers, Copenhagen Declaration of 13 April 2018, para 20, https://www.echr.coe.int/Documents/Copenhagen_Declaration_ENG.pdf. We note that the Declaration is characterized by many as a problematic text, which does not really present new or innovative solutions or ideas. More information can be reached at: <https://strasbourgobservers.com/2018/04/18/the-final-copenhagen-declaration-fundamentally-improved-with-a-few-remaining-caveats/> and also at: <https://nordics.info/show/artikel/the-european-convention-on-human-rights-copenhagen-declaration-2018>.

⁴⁸⁴ CoE, Venice Commission, https://www.venice.coe.int/WebForms/pages/?p=01_Presentation&lang=EN.

⁴⁸⁵ Wolfgang Benedek, "Are the Tools of the Council of Europe Sufficient to Protect Human Rights, Democracy and the Rule of Law from Backsliding?" *European Convention on Human Rights Law Review* 1 (2020): 151-158.

bodies. However, these condemnations have yet to yield success, as the Russian Constitutional Court previously upheld the laws as consistent with the Russian constitution⁴⁸⁶.

Regarding the COVID-19 crisis, the Council of Europe promptly issued a toolkit for member states, providing guidance on upholding human rights, democracy, and the rule of law during health and hygiene crises. This toolkit offered basic advice and outlines the procedure for declaring a state of emergency under Article 15 of the European Convention on Human Rights⁴⁸⁷. Member states have exhibited varying practices in response to this crisis. For instance, Romania diligently notified their restrictions under the ECHR, while others, like Hungary, with stricter measures, refrained from such notifications. Nonetheless, this did not prevent the Secretary General from expressing concerns about Hungary's measures⁴⁸⁸. Although the state of emergency in Hungary was lifted in June 2020, special powers persist, notably through government decrees issued under emergency laws without subsequent parliamentary approval. In light of the health crisis measures, the President of the Parliamentary Assembly of the Council of Europe emphasized the importance of respecting red lines, particularly singling out Hungary for implementing measures deemed grossly disproportionate under the pretext of the pandemic⁴⁸⁹.

The Commissioner for Human Rights underscored the worsening conditions faced by migrants amid the health crisis, exemplified by the plight of refugees residing in camps in Greece. Additionally, issues such as pushbacks and escalating police brutality along the so-called Balkan route were brought to attention. In response to these concerns, the Committee for the Prevention of Torture conducted a prompt investigative visit to Greece to assess the treatment of migrants⁴⁹⁰. Their findings revealed

⁴⁸⁶ ECtHR, *Bayev and Others v. Russia*, App nos 67667/09, 44092/12, 56717/12, Judgment 20.6.2017.

⁴⁸⁷ Council of Europe, 'Respecting Democracy, Rule of Law and Human Rights in the Framework of the covid-19 Sanitary Crisis. A Toolkit for Member States', SG/Inf(20120)11 of 7 April 2020, <https://www.coe.int/en/web/congress/covid-19-toolkits>.

⁴⁸⁸ Council of Europe, 'Secretary General writes to Victor Orbán Regarding covid-19 State of Emergency in Hungary', Press Release of 24 March 2020, <https://www.coe.int/en/web/portal/-/secretary-general-writes-to-victor-orban-regarding-covid-19-state-of-emergency-in-hungary>.

⁴⁸⁹ Council of Europe, 'PACE President on covid-19: Let's not Normalize the Abnormal', Press Release of 24 April 2020, <https://www.coe.int/en/web/portal/-/pace-president-on-covid-19-let-s-not-normalise-the-abnormal->.

⁴⁹⁰ Council of Europe, Commissioner for Human Rights, 'Pushbacks and Border Violence Against Refugees Must End', Press Release of 19 June 2020, <https://www.coe.int/en/web/portal/-/pushbacks-and-border-violence-against-refugees-must-end>.

overcrowded camps with inadequate health and legal services, effectively trapping migrants. Moreover, the Commissioner emphasized the pandemic's broader impact on other vulnerable groups and called for renewed efforts to bolster human rights protections. Her annual activity report offers a comprehensive overview of the significant human rights challenges prevalent across the European continent.

The recent increase in significance of the Special Representative of the Secretary General on Migration and Asylum⁴⁹¹ is notable. In response to reports of pushbacks at the Greek and Croatian borders, the Representative collaborated with the EU Fundamental Rights Agency to publish a note addressing the fundamental rights of refugees, asylum seekers, and migrants at European borders. This joint effort serves as a reminder to member states of their obligations under relevant Council of Europe instruments and European law⁴⁹². While this cooperation with EU and sometimes OSCE bodies is commendable and enhances the effectiveness of recommendations or advice, it underscores the necessity for stronger political support.

The COVID-19 crisis saw various countries implementing measures purportedly aimed at combating fake news, impacting freedom of expression and the safety of journalists. For instance, the Hungarian government enacted a decree criminalizing the dissemination of distorted truth, deemed by the government to impede an effective response to the coronavirus. In response, the Commissioner for Human Rights released a statement underscoring the crucial role of journalists in furnishing accurate information, combating disinformation, and holding decision-makers accountable to the public⁴⁹³.

Additionally, the European Commission on Racism and Intolerance (ECRI) serves a significant role in advancing anti-discrimination measures and offering guidance to member states. Nevertheless, in cases where member states fail to implement the recommendations, there is limited recourse available to enforce them. PACE possesses more potent resources, such as reports generated by its committees

⁴⁹¹ CoE, Special Representative of the Secretary General on Migration and Refugees, <https://www.coe.int/en/web/special-representative-secretary-general-migration-refugees>.

⁴⁹² EU Fundamental Rights Agency/Council of Europe, Note on Fundamental Rights of Refugees, Asylum Applicants and Migrants at European Borders, https://fra.europa.eu/sites/default/files/fra_uploads/fra-coe-2020-european-law-land-borders_en.pdf.

⁴⁹³ Council of Europe, Commissioner for Human Rights, Support a Free, Independent and Safe Press, Press Release of 30 April 2020, <https://www.coe.int/en/web/commissioner/-/support-a-free-independent-and-safe-press>.

addressing various areas of concern. For instance, its report and resolution 2230 (2018) on the persecution of LGBTI individuals in the Chechen Republic of Russia provided a robust factual account and generated consequential recommendations⁴⁹⁴.

The Parliamentary Assembly also holds the authority to subject specific member states to its monitoring procedure. This occurred with Turkey in December 2017, during its state of emergency period. Currently, ten countries are under full monitoring procedures, with three engaged in post-monitoring dialogues⁴⁹⁵. The objective is to monitor the obligations and commitments undertaken upon accession to the Council of Europe. This mechanism enables constructive dialogue with the countries involved, provided there is willingness on their part.

The Secretary General of the Council of Europe should enhance the utilization of her powers and authority to address the diverse challenges hindering the realization of human rights and democracy, relying on the factual findings established by the Council of Europe bodies. Within this framework, she should more effectively employ her investigative powers outlined in Article 52 of the European Convention on Human Rights (ECHR), particularly concerning measures implemented during states of emergency. Article 52 grants the Secretary General the right to seek explanations from member states regarding how their domestic legislation ensures the effective implementation of the Convention.

So far, it has been demonstrated that the Council of Europe possesses a wide array of tools to combat regression in human rights and democracy. It has robust mechanisms for gathering on-the-ground information and leverages high-quality expertise to offer pertinent advice. However, aside from judgments rendered by the European Court of Human Rights, these tools lack binding force, leading to challenges in implementation. The proceedings before the Court often take too long to address structural issues, and interim measures in urgent cases may not sufficiently prevent imminent irreparable harm.

Inter-state applications, like the one concerning Greece's deteriorating human rights situation, are typically pursued only in the most severe instances. The actual

⁴⁹⁴ Parliamentary Assembly, Resolution 2230 (2018) of 27 June 2018 on Persecution of LGBTI People in the Chechen Republic (Russian Federation), <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=24962&lang=en>.

⁴⁹⁵ Parliamentary Assembly, 'Václav Havel Human Rights Prize 2018 Awarded to Oyub Titiev', <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=7218&lang=2&cat=37>.

threat posed by illiberal democracies and authoritarian regimes often goes unnoticed by top political bodies such as the Committee of Ministers, necessitating more decisive political action. Sanctions against the Russian Federation following the annexation of Crimea and the conflict in Donbass highlight the limitations of the CoE's enforcement powers.

Nevertheless, the CoE could bolster its pivotal role by developing procedures for a coordinated response, harnessing the collective strength of its diverse tools. This unified approach, coupled with strong leadership within the organization, could enhance the effectiveness of its responses to ongoing setbacks in pluralist democracy, human rights, and the rule of law. The continuation of an annual report identifying challenges and offering oversight on CoE's actions to address these issues is deemed crucial.

The Commissioner for Human Rights serves an important early warning function and collaborates closely with human rights defenders. The Secretary General should fully utilize oversight powers and serve as an active advocate for the organization's conscience. However, the CoE, in line with its values and commitments, requires stronger political and financial support from member states for the implementation and execution of findings, decisions, and recommendations issued by its bodies.

3.2.2.9. *Conclusion*

In this subchapter we dealt with the European human rights protection system, as provided by the European Union and the Council of Europe. Regarding the European Union system, the European Commission, as the executive branch of the EU, is pivotal in safeguarding and advancing human rights within the Union and is guided by the EU Charter of Fundamental Rights, that anchors the protection and advancement of human rights within the EU. We noticed that EU Charter has a double crucial role as it holds legal weight as a binding instrument and also encompasses a wide range of rights and principles, making it a cornerstone of human rights protection in the EU. The European Fundamental Rights Agency (FRA) is the body which contributes to the implementation and enforcement of the Charter, fostering a culture of respect for fundamental rights and also serves as a researcher and advisor on fundamental rights

issues by collecting data, conducting research and providing expert advice to EU institutions, member states and civil society organizations. In terms of the judicial mechanism, the Court of Justice of the European Union (CJEU) plays an important role in protecting fundamental rights within the EU as the highest court in the EU legal system, ensuring the consistent interpretation and application of EU law, including the fundamental rights enshrined in the EU Charter of Fundamental Rights. The 2023 Charter report⁴⁹⁶ focuses on ensuring effective legal protection and access to justice to further effectively defend the fundamental rights enshrined in the Charter and EU law. National courts are certainly equally responsible for the application of EU law. EU and Member States for their part must provide adequate remedies for effective legal protection under EU law.

Furthermore, we presented the human rights protection mechanisms of the Council of Europe. The Council of Europe remains a valuable investment, defying expectations. Primarily, the Council doesn't advocate for a specific political or governmental agenda. Instead, it relies on the expertise and knowledge of national experts from its 46 Member States. Paradoxically, its lack of overt political influence lends it credibility in shaping legal standards and recommendations. Consequently, the Council is perceived as a more impartial political entity compared to the European Union.

These characteristics enable the Council to engage member states in dialogue and tackle emerging issues openly and constructively to prevent division. Its primary strength lies in the trust and credibility built over many years of successful collaboration. Indeed, the close cooperation between the Council of Europe and the EU is crucial for upholding the rule of law. Effective functioning necessitates shared values and principles among members of both institutions.

Successful collaborations on rule of law issues have occurred through various mechanisms like the Venice Commission, GRECO, CEPEJ, and the efforts of the Commissioner for Human Rights. Therefore, any initiatives within the EU to establish new rule of law mechanisms should consider existing instruments within the Council

⁴⁹⁶ European Commission, Brussels, 4.12.2023, COM(2023) 786 final, REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, Effective legal protection and access to justice, 2023 Annual report on the application of the EU Charter of Fundamental Rights, pp. 3-4, https://commission.europa.eu/document/download/435ae4e8-f5f4-432b-a391-b05468474a1e_en?filename=COM_2023_786_1_EN_ACT_part1_v3.pdf.

of Europe, particularly the Rule of Law Checklist. The broad coverage of the Council's mechanisms across the continent should be viewed as an advantage rather than a weakness, ensuring a consistent approach to the rule of law.

In comparison to the human rights protection system of the United Nations Organization, the mechanisms of the Council of Europe for safeguarding and guaranteeing human rights present a more integrated framework, offering additional avenues for reparatory compensations in cases of human rights violations. While the UN system tends to be cautious in acknowledging the possibility for willing states or individuals who have suffered prejudice to challenge the implementation of human rights in practice, the European system goes further by establishing various procedures through which states can be summoned and compelled to provide explanations. Ultimately, they may be required to enforce certain verdicts that determine human rights violations against their citizens. In such instances, states may be obligated to provide reparatory compensations and take measures to restore the rights of individuals whose fundamental rights have been violated.

Protecting and ensuring the independence of monitoring and enforcement mechanisms is crucial to their effectiveness. This generally applies to all Council of Europe mechanisms. Ensuring this independence requires attention to the process of appointing committee members and other officials, as well as an impartial funding system for the mechanisms.

Those working on behalf of these bodies also have a responsibility to ensure the integrity of the proceedings. They must avoid prejudices and keep their approach independent of party politics. Governments must be willing to listen to informed criticism, even when those messages may be exploited by the opposition. They must acknowledge that international representatives are in touch with and listening to non-governmental groups. Confusing overlaps must be avoided and the principle of subsidiarity respected. It is necessary to avoid contradictions in the messages given by the various mechanisms. Indeed, there is no need for composure. We must constantly remember the enormous responsibility we bear, as so many people around the world have trusted our earnest efforts⁴⁹⁷.

⁴⁹⁷ De Beco, 2012, Preface.

Strengthening the collaborative relationship between the Council and the EU involves increasing the EU's contribution to ensure the implementation of the Council's recommendations by EU Member States. Additionally, the EU could consider becoming a full member of selected mechanisms like GRECO or the Venice Commission to leverage the Council's instruments for better rule of law enforcement within the EU, especially in areas where EU powers are limited. Finally, for the maintenance of the rule of law in Europe, it's crucial that the EU fulfills its commitments and accedes to the ECHR. As for the reference was made to the judicial mechanism for the protection of human rights of the CoE, the ECtHR, despite its importance, the successful outcome of an appeal to the ECtHR is severely limited by its practices. Therefore, proper preparation and high legal training is essential for individuals but especially for lawyers submitting an application⁴⁹⁸.

Certainly, the efforts of the Council of Europe to combat the backsliding in human rights and democracy are remarkable. However, although the Council of Europe has strong mechanisms for gathering information and expert advice, its non-binding tools face challenges in implementation. On the other hand, in terms of the judicial system for the protection of human rights, the proceedings before the European Court of Human Rights are often slow and the interim measures that may be imposed are not always guaranteed to prevent irreparable damage. Inter-state applications are pursued in serious cases, but threats from illiberal democracies and authoritarian regimes may go unnoticed by top political bodies.

To improve effectiveness, the CoE should develop coordinated response processes, collectively use various tools and mechanisms, and maintain annual oversight reports. It is therefore necessary to cooperate both within the institutional framework of the CoE itself with its bodies and mechanisms, as well as with the states parties themselves for their effective compliance with European mandates and standards. Undoubtedly, stronger political and financial support from the member states is required for the implementation of the findings, decisions and recommendations of the CoE.

⁴⁹⁸ Dr. Kutlay, Telli, A Comprehensive Evaluation of the Admissibility Procedures of the European Court of Human Rights, 2023, published in LEGAL BLOG: <https://legal.com.tr/blog/insan-haklari-hukuku/a-comprehensive-evaluation-of-the-admissibility-procedures-of-the-european-court-of-human-rights/>.

4. HUMAN RIGHTS EDUCATION BEFORE JUDICIAL PRACTICE

4.1. The contribution of Human Rights Education to judicial practice

Human rights are understood as international, regional and national rules as well as standards, adopted collectively by states as binding obligations towards each local society and the international community. This includes customary *jus cogens*, which are non-negotiable rules of international law, such as the prohibition of slavery, genocide, etc. We would not characterize the application of international human rights law as uniform if we were to consider its incorporation into the various national legal systems, since in practice most states incorporate the rules of international law into their domestic legislation and then these are interpreted and enforced by national courts. This process, however, requires the extraction of universally agreed principles on human rights violations and at the same time addressing the challenges posed by different interpretations of these rights. Furthermore, constantly changing circumstances lead to the need to reinterpret these rights⁴⁹⁹.

Jurisprudence plays a critical role in safeguarding human rights by ensuring impartial justice under the law. It is therefore imperative to step up efforts to strengthen the independence and effectiveness of justice worldwide, in line with the established international principles of the rule of law rather than standing only in questioning this position as impossible to happen⁵⁰⁰.

Regional human rights courts, such as the European Court of Human Rights, which we examined in this thesis, serve as powerful mechanisms for the defense of human rights, and their strengthening requires adequate resources and effective staffing. For that reason, and as we do not dispute the existing situation and their effective protection, it is considered appropriate to encourage the establishment of new regional human rights courts, which will have the competence to examine private and state complaints without requiring applicants to submit to costly and time-consuming

⁴⁹⁹ Jones, Nathaniel R. "The Role of Judges in Advancing the Protection of Human Rights in Domestic Courts." (1992) pp. 184-186, PDHRE, People's Movement for Human Rights Learning, Human Rights Learning, A People's Report, 2006, ISBN 13: 978-1-4243-1479-9, p. 37.

⁵⁰⁰ Keller, Helen. "How to Improve Independence and Impartiality of Judges of the European Court of Human Rights." *European Convention on Human Rights Law Review*. Vol. 4. No. 3. Brill Nijhoff, 2023, pp. 1-4.

procedures, which ultimately prevent the submission of reports to judicial bodies. Suffice it to say that cases at the ECtHR often take up to 5 years to reach a final decision.

However, beyond procedural doubts, the interpretation of rights is of paramount importance. Judicial practice definitely facilitates the transfer of legal culture, whenever it results in legal interpretations on the occasion of the examination of cases of various states, establishing them as new European standards but, however, avoiding introducing new standards. In its jurisprudence, the Court upholds high European standards, especially in cases concerning fundamental freedoms, freedom of the press, etc., but in sensitive issues such as e.g. abortion, the Court often favors the margin of appreciation in favor of national legal systems⁵⁰¹.

Since its establishment in 1959 until 201, the Court has issued 24,511 judgments. About 40% of these concerned 3 member states of the Council of Europe: Turkey (3,820), the Russian Federation (3,116) and Italy (2,466). The violation most frequently found by the ECtHR concerns Article 6 (right to a fair hearing). and almost a quarter of all violations found by the Court related to this provision⁵⁰².

As for the effectiveness of the applications before the ECtHR, we shall mention that an effective application to the Court consequently requires a comprehensive analysis of the admissibility criteria set by the Convention system. To speak with statistical data, it is worth mentioning that 79%(!) of appeals in 2022 were rejected as inadmissible without reaching the examination on the merits⁵⁰³. In 2023, the percentage of the applications that were declared inadmissible or struck out of the list of cases by a single judge, a Committee, a Chamber or a Grand Chamber, decreased compared to 2022 by 12% and those that were declared inadmissible by a Grand Chamber, a Chamber or a Committee or struck out increased by 18%⁵⁰⁴.

Factors such as exhaustion of domestic remedies, subsidiarity, margin of appreciation and compliance with the four-month time limit required to run from the

⁵⁰¹ Gábor Kardos, “Human Rights in Europe Today”, Proceedings, I. Setting the Pace, Human Rights Education Forum, European Youth Centre Budapest, 7 - 12 November 2000, pp. 21-23.

⁵⁰² ECtHR, Overview 1959-2021, February 2022, https://www.echr.coe.int/documents/d/echr/Overview_19592021_ENG.

⁵⁰³ ‘Analysis of Statistics 2022’, Official Website of the ECtHR, [https://www.echr.coe.int/documents/d/echr/stats_analysis_2022_eng#:~:text=In%202022%2C%2035%2C402%20applications%20were,than%20in%202021%20\(27%2C967\)](https://www.echr.coe.int/documents/d/echr/stats_analysis_2022_eng#:~:text=In%202022%2C%2035%2C402%20applications%20were,than%20in%202021%20(27%2C967)).

⁵⁰⁴ ‘Analysis of Statistics 2023’, Official Website of the ECtHR, [https://www.echr.coe.int/documents/d/echr/stats-analysis-2023-eng#:~:text=In%202023%2C%2031%2C329%20applications%20were,than%20in%202022%20\(30%2C585\)](https://www.echr.coe.int/documents/d/echr/stats-analysis-2023-eng#:~:text=In%202023%2C%2031%2C329%20applications%20were,than%20in%202022%20(30%2C585)).

final national Court's decision are crucial. Grounds of incompatibility include *ratione loci*, *ratione personae* and *ratione temporis*, while the most common grounds of inadmissibility include manifestly unfounded allegations and lack of substantial disadvantage.

The former vice-president of the Court, Françoise Toulquen, has emphasized that ECtHR's decisions should be the starting point for a process that makes rights and freedoms effective. This involves two main aspects. First are individual measures to remedy violations for the applicant, which often include restoring the situation before the violation occurred, such as reopening cases for fair trials. The second aspect is the general measures to prevent similar violations in the future. The effective implementation of these measures, however, depends on the national authorities of the states. It is therefore understandable that without effective enforcement at the national level, the repeated emphasis placed by the ECHR on these measures becomes pointless. Even if infringement proceedings result in another decision of the Court, there are no additional measures within the Council of Europe to ensure compliance. Achieving compliance depends primarily on the domestic political will of member states. The European system of human rights protection therefore becomes powerless in the face of bad faith, posing an existential threat to the system as a whole⁵⁰⁵.

Nevertheless, it is particularly crucial that the ECtHR's decisions have direct binding force and, even more, the fact that they go beyond any specific difference, ultimately reaching the preservation of the rules of the ECHR. As we have already noted, however, the issuing of decisions often does not reach their execution, certainly not always immediately or effectively.

Human rights education, on the other hand, is necessary in order to create a culture of human rights, as we have repeatedly emphasized, which must include shared values and beliefs among individuals. However, the ultimate success of this venture also requires challenging dominant cultural narratives and legal frameworks that perpetuate oppression. It is, however, indeed challenging to adopt a subversive approach which will confront dominant legal constructions⁵⁰⁶. Where governments fail to uphold human rights, HRE acts as a framework for redressing violations and creating dialogue

⁵⁰⁵ Sergei Golubok, *The Achilles' heel of the European Court of Human Rights*, October 27, 2017, published at "*Open Global Rights*", <https://www.openglobalrights.org/the-achilles-heel-of%20the-european-court-of-human-rights/>.

⁵⁰⁶ PDHRE, *People's Movement for Human Rights Learning, Human Rights Learning, A People's Report*, 2006, ISBN 13: 978-1-4243-1479-9, p. 35.

between human rights norms and standards. While states are free not to ratify human rights treaties, hesitation or even compromise is often shown, when they do so, and the result is the formulation of rules that are characterized by ambiguity and difficult to understand concepts for the recipients of these rules. HRE is capable of going beyond the outdated transmission of knowledge of existing human rights texts and treaties, promoting a continuous and participatory process of producing and enforcing human rights norms by recognizing timeless as well as current social issues, such as discrimination, xenophobia and intolerance.

However, HRE has to face human rights criticisms that come with the belief that human rights are nothing more than a means to serve global sovereignty and the interests of the powerful. It has, moreover, to address global structural inequalities and recognize that an obsession with the universality and indivisibility of human rights is insufficient. Emphasis needs to be placed on the complexity of human rights policy and its implications for the global context⁵⁰⁷. Especially in non-progressive or conservative states or simply badly organized politics, where education exudes outdated and old-fashioned concepts, the teaching of human rights is perceived as another poorly made educational policy, where learners only acquire sterile knowledge captured in books. The actual implementation of these rights and their realization requires substantial changes in society to align with the principles of human rights, which will ultimately achieve the improvement of human life⁵⁰⁸.

4.2. Human Rights Education: A preventative mechanism or a complementary tool for human rights protection

Recognizing the key role of the ECtHR in the protection of human rights at the regional level, but also the impact that the Court's practice has worldwide, we understand that the ECtHR and any other court cannot by their very nature be compared to the HRE. Of course, such a comparison is not the purpose of this thesis either. On the contrary, it attempts to highlight the importance of HRE in cultivating a culture that

⁵⁰⁷ *ibid*, p. 57-68.

⁵⁰⁸ Bajaj, M. (2011). Human Rights Education: Ideology, Location, and Approaches. *Human Rights Quarterly*. 33, 481-508. DOI:10.1353/hrq.2011.0019, pp. 488-9.

will succeed in establishing human rights values in everyday practice. It is precisely in this achievement that HRE's promotional mood lies. Indeed, the legal world is trained in fundamental concepts related to the field of human rights, as are other groups of professionals who are taught Law. The closer a profession is to the field of human rights, the more specialized the knowledge a professional possesses. However, as mentioned earlier, there is no assurance that knowledge is acquired to a satisfactory degree nor is care taken to continuously expand human rights knowledge.

The importance of human rights will emerge in its full scope only when human rights are recognized as part of compulsory teaching in formal education and this not because of the underestimation of the importance of non-formal education or the programs already established but because of the need for their universal distribution. Only then will human rights education gain its rightful place in the education system, when it is recognized as a necessary knowledge that every citizen is called upon to serve throughout his or her life. It is very important for every child and adult to know what their inalienable rights are and how these rights entail corresponding obligations, such as the very first obligation to respect and protect the rights of others.

The above reasoning allows us to assess the importance of HRE but, goes further, to understand how HRE in the form of a well-organized systemic approach to human rights can function either as a fundamental human right, as CoE notes⁵⁰⁹, a complementary tool in the global organized system of human rights protection or as a mechanism to prevent human rights violations, in an effort to highlight it in a more emphatic way. In a system in which formal education is the primary means of training and education, anything outside of it ends up being treated as of secondary value or, at any rate, as knowledge not required for a person's personal or professional advancement. It is therefore easily understood that the systematic promotion of the principles and values of human rights would lead to a different approach to them and, consequently, would not only limit the number of violations attempted within a territory but would also prompt a stronger reaction in the violations noted. The difference of HRE from existing protection mechanisms lies in its ability to instill values, ideas and principles of behavior in the human mind and does not rely on past violations to highlight human rights standards, as is the case in judicial practice, which we see as

⁵⁰⁹ CoE, Introducing human rights education, Human rights education is a fundamental human right, <https://www.coe.int/en/web/compass/introducing-human-rights-education>.

primarily operating repressive and indirectly preventive in the form of applying pressure to prevent future violations and imposing sanctions. In other words, HRE focuses on the moral dimension of human rights beyond the legal, social, political and economic.

CONCLUSION

This thesis is an attempt to approach HRE as a tool for the promotion of human rights and the prevention of their violations in comparison with the existing systems for monitoring the situation of human rights. To this end, the main content was divided into two parts. Following the introduction, in the second chapter, which consists of three sub-sections, we dealt with the international monitoring system of the UN and its mechanisms for the protection of human rights. In the second sub-section, the structure of the CoE monitoring system was presented, followed by the main EU bodies and their role in promoting the strengthening of fundamental rights. In the third and final chapter, we developed the notion of Human Rights Education. Starting from its beginnings, we moved on to present some important initiatives for the promotion of HRE by the UN and the CoE, and then focused on human rights training for some specific groups of professionals. Most of the issues analyzed are accompanied by reference to the current challenges related to them, as well as an attempt to evaluate the effectiveness, mainly of the existing human rights protection mechanisms. Highlighting their effectiveness or not is very critical to be able to answer the question posed by the present thesis. Are the existing human rights protection systems effective? If so, what more can HRE offer and how necessary is its promotion so that it is worth making efforts to strengthen it?

We emphasized that an organized and systematic institutionalization of HRE is required in order to undertake actions, either by governmental or non-governmental organizations, by educational institutions and Ministries through the drawing up of new educational policies or - even more difficult - to integrate human rights into the formal education system. Indeed, it is admirable how the existing systems, as we have examined them, both the UN and the CoE, have achieved great results.

However, in order to focus on the specific research question hereof, we shall first state that the establishment of the regional courts, especially the ECtHR, which we are dealing with in this case, is of vital importance for the suppression of human rights violations. Even if the legal dispute between individuals and states or between states is expensive, time-consuming and even if the majority of the appeals end up inadmissible the ECtHR is certainly irreplaceable. As to whether it serves the purpose of deterring human rights violations - since we accept the view that it works effectively in the treatment of violations - we remain skeptical. The existence of legal instruments, like the rules of law, is not a necessary factor in preventing future violations. This is due to

the fact that despite the effectiveness of the European Court, violations take place with just as much intensity, and states that find it difficult or indifferent to comply with their convictions will continue to be considered "underminers" of the establishment of human rights values worldwide.

This is where the importance of human rights education lies. Education is a key to preventing violations because the former is capable of creating or redefining deeply held beliefs and the latter requires appropriate knowledge and critical thinking in order to achieve. On the one hand, we do not disagree that the existing rights protection systems lead to the enforcement of the rules they propose. The binding decisions of the ECtHR have a direct effect on every state, since it essentially penetrates every internal legal order forcing the cessation of existing violations and the adoption of new measures, even drastic ones. However, the word "penetration" is better suited to HRE, which can actually cause a shift in human thinking and uproot prejudices from the mind.

Certainly, although in recent decades great achievements have been made in HRE, nevertheless many criticize its importance and the role it can play in the protection of human rights. We shall conclude that the criticism leveled at HRE is most likely based on ignorance of its importance and achievements, or on the absence of the human rights culture itself.

We remain on the positive side and the ever-increasing actions to defend human rights through HRE. After all, HRE is an issue that concerns the whole global society, beyond the certain professional groups we have focused on. HRE as a lifelong learning process starts within the family itself, extends to the formal education system and continues to be involved in every area of our lives. After all, the role of HRE is also crucial for other groups of professionals not mentioned earlier, such as journalists, health professionals, workers in the business sector et al.

Over time and as HRE becomes established on a global scale - which we expect in the near future - the extent to which it can work effectively in the protection of human rights will be demonstrated. What we must not overlook is that modern reality requires deep awareness and open minds with broad thinking.

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