***Comparing Regional Human Rights Commissions in Italy and Morocco***

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**1. Introduction**

This paper was prepared to contribute to the Moroccan initiative of comparing practices followed by some states with regard to the relationship between National Human Rights Councils (or Commissions) and Regional Commissions acting in their autonomous or decentralized territories. The paper is aimed to offer an overview on the evolution and current features of the National and Sub-national Human Rights Institutions in the European Union (EU) Member States, with a particular focus on the Italian case.

The present paper is based on the experience, research and documentation produced by the *Comitato per la Promozione e Protezione dei Diritti Umani* – hereafter *Comitato* - a network of today 88 Italian non-governmental organizations working in the field of human rights promotion and protection, established in January 2002, through the initiative of *Fondazione Basso–Sezione Internazionale*, to promote and sustain the legislative process for the establishment in Italy of a “national independent commission for human rights”, in line with the standards endorsed by the General Assembly of the United Nations (UN) in the Paris Principles (Resolution no. 48/134 of 20 December 1993). Since 2003, the *Comitato* has participated in: the International NGO Coalition for the approval of the “Optional Protocol” to the International Covenant on Economic, Social and Cultural Rights; the 2007 Annual Forum of the North-South Centre in co-operation with the Venice Commission and the Office of the Commissioner for Human Rights of the Council of Europe on the role and functions of national human rights institutions (NHRIs); the Fundamental Rights Agency (FRA) of the EU Fundamental Rights Civil Society Platform. Since 2004, the *Comitato* has also contributed to the reporting on human rights to all United Nations Treaty bodies and Special Procedures which have considered Italy. In 2010 the *Comitato* took part to the first cycle of the Universal Periodic Review (UPR) of Italy with a submission of information and an oral contribution under item 6 of the agenda of the plenary of the UN Human Rights Council. In 2011, 2012 and 2013 the *Comitato* elaborated monitoring reports of the follow-up of recommendations received by Italy as State under Review (SuR). The author has served as Spokesperson of the *Comitato* from 2006 to February 2014.

**2. Italy in the Context of the European Union**

**2.1 Establishment of National Human Rights Institutions in the European Union**

Even if there is no single model of NHRI and the existing NHRIs in EU Member States have varying organizational structures, as there is neither a universally accepted ideal “model” of an NHRI nor a recognized standard structure, NHRIs can be defined[[2]](#footnote-2) as bodies established by countries under their Constitutions or under their national legislation to promote and protect human rights. NHRIs have responsibility for promoting and monitoring the effective implementation of international human rights standards at the national level.

The Paris Principles do not dictate any particular model or structure for an NHRI, with the result that NHRIs vary depending on the legal and political traditions of a state. The Paris Principles’ broad approach and flexibility were endorsed by the Vienna Declaration and Programme of Action (1993), which recognizes the right of each state to choose the legal framework for NHRIs which is “best suited to its particular needs at the national level.” The Paris Principles do, however, provide for minimum standards and characteristics, which should be in place irrespective of the model chosen.

The Paris Principles require that an NHRI be established by a constitutional or other legislative act and have suitable infrastructure – in particular adequate funding and budget autonomy. Other factors that operate to ensure independence include pluralism in the composition of governing bodies of NHRIs reflecting the composition of society, including selection and appointment criteria.

NHRI are assessed on the basis of the Paris Principles by the [International Coordinating Committee](http://www.nhri.net/) (ICC) of NHRIs (ICC) Sub-committee on Accreditation. The Sub-committee comprises one representative from each of the four regions of the ICC: Africa, Americas, Asia-Pacific, and [Europe](http://www.ihrc.ie/international/euronhrigroups.html). The sub-Committee reviews the NHRI in accordance with the criteria set out in the Paris Principles[[3]](#footnote-3) and makes recommendations to the ICC on the compliance of that NHRI with the Paris Principles.

On the basis of this robust peer review process of accreditation, the ICC gives each NHRI a status: 'A' Status means that the NHRI is fully in compliance with the Paris Principles. 'A' Status NHRIs are recognized by the UN [Human Rights Council](http://www2.ohchr.org/english/bodies/hrcouncil/), and may make statements or submit documents to the Council. NHRIs also interact with the main [UN human rights mechanisms, such as Treaty Bodies](http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx), Special Procedures and the Universal Periodic Review of the Human Rights Council.

**2.2 Accreditation and Typology of National Human Rights Institutions in the European Union**

NHRIs must adhere to the Paris Principles and in order to fulfil their role they must be effective and independent, equipped with sufficient resources and the requisite competence to promote and protect the full spectrum of rights. NHRIs in full compliance with those principles are accredited at ‘A’-status. Relatively few EU Member States currently have ‘A’-status NHRIs: ten EU Member States have fully accredited NHRIs (with the United Kingdom having three ‘A’-status NHRIs) and another seven EU Member States have NHRIs with less than full accreditation (with Bulgaria having two ‘B’-status NHRIs). Several EU Member States plan either to establish new NHRIs that are compliant with the main Paris Principles or to bolster existing bodies. By 2020, there could be some 20 EU Member States with fully accredited NHRIs.

As emphasized in the 2012 Brighton *Declaration on the Future of the European Court of Human Rights* (ECHR) and as the EU Agency for Fundamental Rights (FRA) concluded in its 2010 report on NHRIs in the EU Member States[[4]](#footnote-4), NHRIs act as the focal point of the fundamental rights landscape. As one of the main actors on fundamental rights at the national level, an NHRI ensures an independent focus on fundamental rights across a state, by, for example, proactively addressing systemic issues, suggesting solutions and raising fundamental rights awareness and knowledge.

As well as across the globe, the main models of NHRIs in the EU Member States typically used to depict the wide spectrum of existing bodies include: commissions, ombudsperson institutions and institutes or centres. The categorization of NHRIs in literature commonly distinguishes between institutions in other ways, for example, single-member in contrast to multi-member institutions. Among commissions, a sub-category is often provided for those with a more advisory role.

**Table 1: Typology of ‘A’-status NHRIs, by EU Member State**

|  |  |
| --- | --- |
| **Type of NHRI** | **Member States** |
| Commissions | Great Britain (UK)\* Ireland, Northern Ireland (UK)\*, Scotland (UK)\* |
| Advisory commissions | France, Greece\*\*, Luxembourg |
| Ombudsperson institutions | Poland, Portugal, Spain |
| Institutes | Denmark, Germany |

*Notes: \* The United Kingdom has three NHRIs: in Great Britain the Equality and Human Rights Commission covering human rights issues in England and Wales, and certain human rights issues in Scotland (those not devolved to the Scottish Parliament); in Northern Ireland, the Northern Ireland Human Rights Commission; and in Scotland, the Scottish Human Rights Commission.*

*Notes: \*\* The Greek Commission has powers that go beyond advice. It is authorized to handle cases under certain circumstances, intervene in cases of human rights abuses and violations and facilitate solutions.*

*Source: FRA, 2012*

While only 10 of the 27 Member States of the European Union (EU) currently have a fully Paris Principles-compliant-NHRI, both EU Member States and European civil society organizations, also in line with the long acknowledgement of the important role of NHRIs by the United Nations, have clearly recognized their value.

In Europe, also the OSCE, primarily through its Office for Democratic Institutions and Human Rights (ODIHR), the Council of Europe and, in particular, its Commissioner for Human Rights, have constantly highlighted the need for states to have Paris Principles-compliant NHRIs in place. Given the consequences of the Lisbon Treaty, particularly the legally binding nature of the EU Charter of Fundamental Rights and the upcoming EU accession to the ECHR, the EU has made the implementation of human rights at the country level a priority area for action.

Since 2008, a major role in promoting the establishment, upgrading and accreditation of NHRIs, has been played also by peer review of the UPR, since a growing number of recommending states is placing increasing importance on NHRIs by issuing recommendations about them to their fellow states[[5]](#footnote-5). This emphasis has encouraged states under review to either establish NHRIs or upgrade existing NHRIs towards full compliance with the Paris Principles. Within the EU, more experienced NHRIs have always played a key role in supporting new NHRIs through the process. Recently the European Group of National Human Rights Institutions has established a working group to formalize such support.

**Figure 2: NHRIs in EU Member States by accreditation status**



A status

B status C status

Not accredited/ no institution

*Notes: \* The UK has three A-status NHRIs: in Great Britain the Equality and Human Rights Commission covering human rights issues in England and Wales, and certain human rights issues in Scotland (those not devolved to the Scottish Parliament); in Northern Ireland, the Northern Ireland Human Rights Commission; and in Scotland, the Scottish Human Rights Commission.*

*\*\*Bulgaria has two B-status NHRIs. Source: FRA, 2012*

**3. The Italian Case: the Lack of an NHRI and the Role of Sub-national and Regional Human Rights Institutions**

The Italian case is atypical, not only in the European context but also in the global scenario, and should be analysed taking into account two different levels: the national level and the sub-national (regional and local) ones.

There are different historical, political and even cultural reasons for the Italian singularity and the consideration of such reasons goes beyond the scope of this paper. It could be worthy in any case to remember that the history of Italian national unity is a recent one (it dates back only to 1861) while the history of the Italian villages, towns, provinces and regions is a millennial history. Italy is today composed of 20 Regions, with broad mandate and power. Among the Italian Regions, five have a recognized status of special autonomy. In addition to the Regions, in Italy, there are two other types of local authorities - Provinces and Municipalities - which play an important role even in terms of promotion and protection of fundamental rights. In Italy there are 110 Provinces that are currently in a process of broad reform.

**3.1 Proliferation of Sectoral Bodies and Lack of an Independent NHRI Compliant with the Paris Principles in Italy**

Italy is one of the States still lacking an independent NHRI and still not fulfilling Paris Principles and Resolution 48/134 endorsed by the UN General Assembly on 20 December 1993, in addition the Resolution of the Council of Europe (97) 11 of 30 September 1997 and all specific relevant recommendations made by each UN Treaty body that has examined the Italian context in the last recent years,[[6]](#footnote-6) which have highlighted this deficiency. In addition, such absence is aggravated also by the unfulfilled commitment deriving from the ratification made by Italy (2206, Law no. 18/2009) of the UN Convention on the Rights of Persons with Disabilities.

Several Recommending States in the context of the first cycle of UPR of the Human Rights Council have expressed concern for the lack of a NHRI in Italy and recommended the establishment in compliance with the Paris Principles. With reference to the political will of the Government to undertake the process to the establishment of a NHRI, there are important formal declarations made by the previous Prodi[[7]](#footnote-7) and Berlusconi[[8]](#footnote-8) Governments, and the last Government[[9]](#footnote-9), ended in February 2014. With reference to the Parliament, four past Legislatures during which many Draft Laws[[10]](#footnote-10) for the establishment of different types of National Commissions for Human Rights or Ombudspersons specific for some sectors (children, detainees, migrants) have only been proposed but have had no concrete follow up, except for the National Ombudsperson for children[[11]](#footnote-11) who, after a very long process, finally in November 2011, was appointed as per Law n. 112 of July 12, 2011 and became operational in 2012.

The human rights infrastructure in Italy is composed of two Parliamentary Bodies (the *Human Rights Committee* at the Chamber of Deputies and the *Extraordinary Human Rights Commission* at the Senate. Both of them unfortunately are not permanent, but renewable at the beginning of every legislature) and several governmental bodies at the Prime Minister’s Office (Presidency of the Council of Ministers) and at the Ministry of Foreign Affairs.

In this context, it is also necessary to highlight that in Italy nine independent authorities currently operate. Among these, four independent authorities have direct relevance to the promotion and protection of human rights:

* The *Authority for Communications*, established in 1997, performs the dual mandate of ensuring fair competition among the players in the market and protecting the fundamental freedoms of citizens in the communications industry, with particular reference to the protection of children;
* The *Authority for the Protection of Personal Data*, established in 1996, in order to ensure the protection of the rights and fundamental freedoms and respect for the dignity of persons in the processing of personal data. It is a collegial body composed of four members elected by the Parliament, who shall hold office for a term of seven years non-renewable.
* The *Commission for Ensuring the Implementation of the Law on Strikes in Essential Public Services* was established in 1990 and is composed of nine members appointed by the Presidents of the Chamber of Deputies and the Senate among experts in the field of constitutional law and labour law, and appointed by decree of the President of the Republic. The Commission has, inter alia, the task of ensuring the balanced exercise of the right to strike with the enjoyment of individual fundamental rights;
* The *National Ombudsperson for Children* was established in 2011, at the conclusion of a long parliamentary process. It is an individual body, which shall be appointed by the Presidents of the Chamber and the Senate among experts with unquestioned morality, independence and professionalism in the field of children rights, for a term of four years. To the National Ombudsperson for children are attributed, among others, the following responsibilities: to promote the implementation of the UN Convention on the Rights of the Child and other international and European legal instruments; to ensure that children shall be guaranteed equal opportunities in the exercise of their right to health and education; to express opinions on laws and regulations affecting the rights of children and adolescents, the national action plan and measures for the protection of the rights and development of subjects in childhood , and the relationship that the Government submit regularly to the Committee on the Rights of the child of the United Nations; to propose to the government, the regions or local authorities, in their respective areas of jurisdiction, all initiatives to ensure full promotion and protection of the rights of the children; to report to the judicial authorities situations of abandon of children; to report to the Public Prosecutor at the Juvenile Court situations of risk of violation of children's rights; to raise awareness on the rights of children by promoting, awareness-raising initiatives, studies and researches. Under Italian law, anyone can complain to the National Ombudsperson for Children and report violations or situations of risk of. The National Ombudsperson for Children shall establish all appropriate forms of cooperation with regional Ombudsperson or similar authorities. To this end, the National Network for the Protection of the Rights of Children was established in 2012 to bring together, under the coordination of the National Ombudsperson for Children, all the regional and sub-national Ombudsperson for Children.

Even if the establishment of specialized human rights mechanisms contributes however to the promotion and protection of human rights, nevertheless, there is a risk that their creation will postpone *sine die* or even put aside the establishment of an independent full-fledged NHRI with a broad mandate. However, based on the present situation, it would be necessary to establish an independent NHRI foreseeing a strong interaction and sharing with the already existing National Ombudspersons.

There is a need for a more comprehensive approach, for an overarching body that can ensure that all issues are addressed by some entity, that gaps are covered and that obligations to respect, promote, protect and fulfil human rights are given due attention in their entirety. The choice for the establishment of a unique and independent NHRI with broad and strong power, within which a set of specific sections will operate (e.g. for children, migrants, detainees, for economic, social and cultural rights,) is the *strategic* and *far-sighted* political *concrete* action the *Comitato* keeps recommending to Italy:

1. *Far-sighted,* since it allows to effectively realize the specific human rights and required sectoral specializations avoiding fragmentation of efforts and capabilities, which imply the risk of a non coordinated and unbalance national policy in this domain;
2. *Strategic,* since it would incorporate in its institutional policy the core principles of universality and indivisibility of human rights; and
3. *Concrete,* since the creation of one, unique and plenipotentiary institution for human rights promotion and protection would be the most economic, both in terms of financial and human resources, and effective strategy.

European countries, such as Sweden and the UK, whose juridical tradition is rich of ombudspersons and specialized agencies for human rights, are also moving towards a gradual coordination and – when possible – merging together such mechanisms with a specific or limited mandate in order to set up a well-defined mechanism as practice has shown how human rights need a systematic and comprehensive approach.

The *Comitat*o, in its recent submission of information to the second cycle of UPR that will consider Italy during the 20th Session, to be held in October 2014, has promoted the following recommendations:

* The Italian Government should implement the voluntary pledges undertaken on 8 May 2007 and 11 February 2011 in connection with Italy’s membership to the UN Human Rights Council, and start a transparent, participatory and inclusive process, including the hearing of the civil society, in order to establish a National Independent Human Rights Institution in line with the Paris Principles;
* The Italian Government should make any effort to establish a NHRI able to be accredited with ‘A’ Status within the UN Human Rights Council, after so many years of delay;
* The Italian Government should avail itself of the Technical Advice (juridical advice, hearings, joint studies and training programmes, etc) of the National Institutions Unit of the Office of the UN High Commissioner for Human Rights (OHCHR) in order to take advantage of its expertise with regard to the application of the Paris Principles and the best practices of many countries that have already complied with the requirements contained in the UN Resolution 48/134 of 20 December 1993 creating independent and effective NHRIs.

**3.2 The Role of Sub-National and Regional Human Rights Institutions in Italy.**

Even if, as already mentioned, the *Comitato* strongly support the recognition of the urgent need in Italy for an independent and effective NHRI compliant with the Paris Principles, in order to fill the gap and lack for a coherent, comprehensive, integrated and effective strategy for human rights promotion and protection at country level and in order to avoid the risk for proliferation and fragmentation of sectoral mechanisms, the role of sub-national human rights institutions in Italy has to be recognized and valorised.

In Italy, at the sub-national level - municipal, provincial and regional levels - especially by virtue of the *human rights and peace clause*[[12]](#footnote-12) inserted in thousands of municipal, provincial and regional statutes since 1991, there is a large and diversified group of organs for the promotion and protection of human rights. In Italy there are 2,372 municipalities with population exceeding 5,000 inhabitants, 110 Provinces and 20 Regions, among which five have a recognized status of special autonomy. Since 1991, the *human rights and peace clause* has been embedded in 2,086 Municipality Statutes, in 97 Provinces and in 13 Regions.

The Human Rights Centre of the University of Padua conducted the deepest and most comprehensive analysis of the Sub-national Human Rights Structures in Italy in 2011.[[13]](#footnote-13) According to this research, even if 96% of the population in Italy is entitled by law to human rights promotion and protection by local authorities, only 53% of the Italian population is *de facto* protected by an established and operating human rights local institution.

Of course, underlying that formal recognition by law is a first step that must be followed by law enforcement and establishment of effective institutions at the local level and that all Italian population should enjoy this kind of protection, we have to highlight that, thanks to the broad dissemination of the *human rights and peace clause*, Italy has thousand of operating local human rights entities and that the sub-national human rights institutions in Italy include:

* Peace Human Rights Offices in Municipalities, Provinces and Regions;
* Ombudspersons in the Italian Regions and Provinces; and
* Several National Coordinating Bodies of sub-national human rights institutions, such as: the National Coordinating Body of Ombudspersons; the Network of Ombudspersons for Children and Adolescents; the National Coordinating Network of Ombudspersons for the Rights of Detainees; the National Coordinating Body of Local Authorities for Peace and Human Rights.

On 21 February 2014, a seminar on "The contribution of Regional Italian Ombudsman Institutions to Human Rights Implementation: a European Endeavour" was organized by the Human Rights Centre of Padua University with the Ombudsperson of the Region of Veneto and the Italian National Network of the Regional and Local Ombudspersons. This seminar was aimed at launching an on-line platform, the Digital Administration Programme (DIASPRO), first developed by the Ombudsperson of Lombardy, which allows the regional Ombudsperson Offices to share case information. Spreading the use of such an electronic platform may in fact enhance cooperation among the Ombudsperson structures and contribute to sharing the wealth of public relations, information, resources and knowledge that Regional and Sub-national Ombudspersons in Italy have accumulated during the last 25 years, partially compensating for the lack of human rights institutions at the national level.

**4. Concluding Remarks in a Comparative Perspective**

In order to contribute to the international research seminar convened by the Permanent Mission of the Kingdom of Morocco to the United Nations, through a comparative analysis of the Italian sub-national human rights machinery and the Moroccan system, some concluding remarks can be highlighted.

The Italian system is characterized, on the one hand, by the lack of an independent national human rights institution compliant with the Paris Principles and, on the other hand, by a well-developed sub-national human rights architecture in 13 among the 20 Italian Regions. The Regional human rights institutions in Italy were developed throughout the last 25 years thanks to a normative provision – the so-called *human rights and peace clause* – embedded for the first time by Region Veneto Statute after the adoption of the reform on local autonomies.

Differently from the Moroccan system, not all of the 20 Italian Regions have human rights institutions and the 13 Italian Regions which have them, have individual human rights institutions (Ombudsperson), appointed locally. The funding of the Regional human rights institutions in Italy originates from the budget of the Region. They can make their reports public directly.

Concerning the accessibility by Regional Ombudspersons to international human rights human rights protection mechanisms, the theme is currently discussed in Italy. The above-mentioned seminar, organized by the Human Rights Centre of Padua University with the Ombudsperson of the Region of Veneto and the Italian National Network of the Regional and Local Ombudspersons on 21 February 2014, aimed at investigating the contribution that regional and local Italian Ombudspersons can provide to promoting and monitoring human rights in accordance with European and international standards, in the context of the relationships that Italian Regional Ombudspersons have established with European and international Ombudspersons and human rights institutions and networks. An important focus was on the EU Fundamental Rights Agency (FRA) capacity- building support it can provide to Regional ombudsperson institutions in Italy and another focus was on DIASPRO, a digitalized platform of data management, which allows the regional Ombudsman offices to share case information and proactively interact with partner institutions nationwide and in Europe.

The Paris Principles’ broad approach and flexibility do not dictate any particular model or structure and the Vienna Declaration and Programme of Action (1993) recognize the right of each state to choose the legal framework for NHRIs that is “best suited to its particular needs at the national level.” In the case of Italy, even acknowledging the role carried out by Regional and sub-national human rights institutions, the need for an independent and effective national human rights institution has to be stressed and this need is recognized also by: the Italian National Coordinating Body of Ombudspersons; the Italian Network of Ombudspersons for Children and Adolescents; the Italian National Coordinating Network of Ombudspersons for the Rights of Detainees; the Italian National Coordinating Body of Local Authorities for Peace and Human Rights.

An overarching independent and effective NHRI, in compliance with the Paris Principles, is needed in order to realize a coherent, comprehensive, integrated and effective strategy for human rights promotion and protection at country level and in order to avoid the risk for proliferation and fragmentation of sectoral mechanisms. The role of sub-national human rights institutions has to be recognized and valorised in the perspective of complementarity and meaningful contribution, not as competing institutions.

The Paris Principles do provide for minimum standards and characteristics, which are in place irrespective of the model chosen, but should be complied with both at Regional and National levels. The compliance with the minimum standards set forth in the Paris Principles is fundamental in order to obtain the ‘A’ status for the NHRI, but also to hold both for credibility and effectiveness for both National and Regional human rights institutions.

It is worth recalling what is expressly recommended by the Paris Principles: the creation of a human rights institution should be carried out through a transparent, participatory and inclusive process of all social forces of the civil society; as they clearly refer to a broad conception of civil society including non-governmental organizations and associations active in the field of human rights and in the social sector, trade unions, professional categories, philosophical and religious thinking and university; finally they recommend the involvement and active participation of civil society at least in three phases of the life of the national institution for human rights, such fundamental requirements should be clearly kept in mind at governmental level in the process of establishing human rights institutions.

In the case of Italy, the *Comitato* recommends that, more specifically, particular attention should be given to the following three steps of such an endeavour, which probably fit perfectly also with the Moroccan situation:

1. *Creation*: as the decision-making moment marking the beginning of the iter leading to the creation of the NHRI cannot exclude the involvement of civil society, which has to express its opinion about the role and the functions of the institution, mandate and powers, and finally the issues that it will have to deal with.
2. *Composition/Appointment of NHRI Members*: credibility and legitimacy of the human rights institutions are important and its members are an expression of the principle of pluralism and diversified reality (social, ethnic, religious, and cultural), which each national entity represents. Most of the democratic character of the institution depends on this: again it is fundamental that civil society be involved both in the identification of appointment criteria for its members and in the consultation that will entrust assignments. In both cases, a broad, participatory and transparent process of consultation is desirable.
3. *Mechanisms and Methods of Cooperation between the Human Rights Institutions and Civil Society:* such mechanisms must be defined in the law establishing the institution, with the reservation that further definition or specification is remitted to the regulations which the institution must adopt once it has been established.

One can compare the experience in Italy and in other European countries with the Moroccan system through the lens of the six key criteria in the Paris Principles:

1. Independence guaranteed by law;
2. Autonomy from the Government;
3. Pluralism, including in membership;
4. Broad mandate based on universal human rights standards;
5. Adequate powers of investigation;
6. Adequate resources,

In this respect, the Moroccan system differs from the Italian system regarding the high number of the members of the Regional Commission (from 23 to 33) and for the *pro bono* basis of the service of members of the National Human Rights Council and Regional Commissions.

Comparing with the recommendations made to EU Member States by the ICC, the OHCHR and the FRA, Human Rights Commissions’ members should have relevant experience in the field of human rights, integrity, courage and competence. They should work on a full-time basis and have a salary comparable to senior judicial officers. Commissioners should not be removed except for reasons specified in the enabling law, which should be equivalent to those applicable to members of the judiciary.

Concerning the staff of the Human Rights Commissions, it would be recommendable that the Commission be able to hire its own staff, according to its priorities, strategy and needs. Recruiting or seconding staff from public administrative bodies is not a recommended practice, as it can affect the independence of the Commission. The recruitment of permanent staff through public competition would be advisable and in line with the Paris Principles and best practices. Staffing of human rights institutions should ensure quality, competency to fulfil the mandate of the institution and sustainability, including ensuring institutional memory.

Additionally, according to the recommendations made to EU Member States by the ICC, the OHCHR and the FRA, the establishment of a successful human rights institution requires an institution that results from a consultative, inclusive and transparent process, involving and mobilizing all relevant elements of the state and civil society. Indeed, public consultations are an important element in the establishment of human rights institutions.

In relation to the appointment process, it is important that it take place in an open and transparent manner which is defined by the enabling law. The appointment criteria should take into account the society’s different characteristics (ethnicity, religion, language, gender, socio-economic issues) and ensure both respect of diversity and pluralist representation of social forces involved in the promotion and protection of human rights.

The ideal number of Commissioners recommended for EU Member States is between five and eleven, since this size can facilitate the representation of several constituencies in the institution and is more likely to produce effective working methods.

The selection process should include public vacancies and be transparent.

Concerning the competences of the Regional Commissions, human rights should be defined not only by reference to domestic law but also by reference to international norms and treaties whether or not ratified by the state.

**Bibliography**

* Commonwealth Secretariat, *National Human Rights Institutions, Best Practice*, 2001.
* European Network of Equality Bodies (EQUINET), *Between Impartiality and Responsiveness, Equality Bodies and Practices of Independence*, 2008.
* European Union Agency for Fundamental Rights (FRA), *National Human Rights Institutions in the EU Member States, Strengthening the Fundamental Rights Architecture in the EU*, 2010.
* European Union Agency for Fundamental Rights (FRA), *Handbook on the Establishment and Accreditation of National Human Rights Institutions in the European Union*, 2012.
* International Council on Human Rights Policy and Office of the United Nations High Commissioner for Human Rights (OHCHR), *Assessing the Effectiveness of National Human Rights Institutions*, 2005.
* Office of the United Nations High Commissioner for Human Rights (OHCHR), *National Human Rights Institutions. History, Principles, Roles and Responsibilities*, 2010.
* Human Rights Centre of the University of Padua*, Italian Yearbook of Human Rights*, Peter Lang International Academic Publishers (Brussels), 2011, 2012, 2013.
1. Secretary-General, Italian Association of Fundraising Foundations and Institutions (ASSIFERO). [↑](#footnote-ref-1)
2. The [United Nations Paris Principles](http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx) set forth the role and function, and list the requirements for independence and the broad mandate of NHRIs. They were formulated at a 1991 conference devoted to the subject of NHRIs convened by the UN Commission on Human Rights, the precursor to the UN Human Rights Council. The UN General Assembly adopted the principles in 1993 and they are internationally recognized standards. [↑](#footnote-ref-2)
3. The ICC Sub-Committee has adopted in May 2013 General Observations on Accreditation. These are an authoritative interpretation of the Paris Principles and inform the Accreditation process. [↑](#footnote-ref-3)
4. FRA- European Union Agency for Fundamental Rights, *Strengthening the Fundamental Rights Architecture in the EU*, 2010. [↑](#footnote-ref-4)
5. Database of [www.upr-info.org](http://www.upr-info.org) can be consulted by RC- Recommending States and by SuR- State under Review. [↑](#footnote-ref-5)
6. CRC/C/15/Add198 of 18 March 2003; CESCR/ ITA/ 04 of 26 November 2004; CCPR/C/ITA/CO/05 of 2 November 2005, CEDAW, 2005 A/60/38 (SUPP); CAT/C/ITA/CO/4 of 18 May 2007, CERD/C/ITA/CO/15 of 7 March 2008, CERD/C/ITA/CO/16-18, 9 March 2012). [↑](#footnote-ref-6)
7. On 8 May 2007, Romano Prodi’s Government, in the voluntary pledge for membership to the UN Human Rights Council, committed itself in front of the UN General Assembly to “*create the National Independent Commission for the Promotion and Protection of Human Rights and Fundamental Freedoms*”. [↑](#footnote-ref-7)
8. On 10 December 2008, under Silvio Berlusconi’s Government, on the 60th Anniversary of the Universal Declaration of Human Rights, the Italian Minister for Foreign Affairs, Mr Frattini, formally announced a draft Bill for a NHRI prepared by the Government. On 11 February 2011, Berlusconi’s Government, in the voluntary pledge for the second mandate of membership to the UN Human Rights Council, committed itself before the UN General Assembly to “*implement in a timely manner all (UPR) accepted recommendations…and the commitment to establish a national independent human rights institution in accordance with the Paris Principles”.*  [↑](#footnote-ref-8)
9. On 19 September 2013, the Letta Government,on the occasion for the launching of the *Annuario Italiano dei Diritti Umani 2013* (*Italian Yearbook of Human Rights*) the President of the Human Rights Commission of the Senate, Mr Luigi Manconi, formally announced the intention of Italy to propose its candidature, for the third mandate to the UN Human Rights Council in 2019. [↑](#footnote-ref-9)
10. From 2004 to 2006, during the XIV Legislature (from May 2001 to April 2006), Draft Bill no. 3300, *Creation of the Italian Commission for the promotion and protection of human rights as per Resolution no. 48/134 UN General Assembly of 20 December 1993*- first under-signer Senator Antonio Iovene and undersigned by other 28 senators- presented to the Senate in 2004, could not start its legislative *iter* for discussion. Notwithstanding specific UN Recommendations (2.11.2005; 26.11.2004; 18.3.2003) and pressure on behalf of the civil society, it was not assigned to the competent Commissions of the Parliament. In June 2006**,** at the beginning of the XV Legislature (from April 2006 to February 2008), the Draft Bill with no. 247 was again presented to the Senate - first under-signer Sen. Antonio Iovene, undersigned by other 32 senators- and was assigned to the Constitutional Affairs Commission and Justice Commission of the Senate. In December 2006,the Draft Bill was also presented to the Chamber of Deputies - first under-signer Hon. Tana de Zulueta. In December 5, 2006, the *Comitato*, and the *National Institutions Unit of the Office of the High Commissioner for Human Rights of the United Nations*, co-organized an International Workshop, held in Rome at the Chamber of Deputies, to which a UN experts delegation participated together with institutional representatives, parliamentarians, academic experts, media and representatives of the civil society and ONGs. Due to the strong impact of the workshop, the Draft Bill presented at the Chamber of Deputies was unified with the Draft Bill for an *Ombudperson* for the Rights of Detainees and of Persons Deprived of their Personal Liberty. On 5 April 2007 the Chamber of Deputies approved Draft Bill no. 1463: *National Commission for the Promotion and Protection of Human Rights and the Safeguard* *of the Rights of Detainees and Persons Deprived of Their Personal Liberty,* resulting from the unification of Draft Bills presented by Hon. Mazzoni (no. 626); Hon. Mascia, Hon. Forgione, Hon. Farina, Hon. Frias and Hon. Russo (no. 1090); Hon. Boato and Hon. Mellano (no. 1441) and Hon. De Zulueta (no. 2018). With regard to its *iter* for Parliamentary discussion, notwithstanding specific Recommendations of CESCR no. 32 and CCPR no. 7 –no consultative procedure, inclusive, transparent and participatory, taking into account and involving civil society, was applied. In May 2007, Draft Bill no. 1463 was approved by the Chamber of Deputies and then past over, as foreseen by the Italian legal system, to the Senate and assigned in September by the President of the Senate jointly to the Commissions Constitutional Affairs and Justice. Nevertheless, Draft Bill no. 1463 was never included on the agenda, and therefore with no date for examination, and never discussed in the Senate. In June 2008, at the very beginning of the XVI Legislature (from April 2008 to December 2012), again new Draft Laws were again presented to the Senate (Sen. Marcenaro DDL 1223) and to the Chamber of Deputies (Hon. Maran DDL 1918 and Hon. Giulietti DDL 1720). The text was finally consolidated by the Senate into the DDL 4534 on July 20, 2011. The DDL 4534, however, never managed to complete its legislative *iter* as it did not succeed in having the second approval on behalf of the Chamber of Deputies (as required by the Italian legal system the two Chambers must express their consent for a DDL to become a binding Law), where it underwent various changes but the process was never concluded. The entire process from 2008 to 2012 when the Legislature ended, never formally included the civil society, notwithstanding the continuous work carried out by the organizations that have been monitoring and contributing through information and knowledge on this matter and the human rights mechanisms at international level and in the country. on 20 May 2013,Draft Bill n. 1004 “Creation of a National Commission for the Promotion and Protection of Human Rights”, (Hon. Kjalid Chaouki and 82 parliamentarians) was presented to the Chamber of Deputies, during the XVII Legislature (from April 2013 to February 2014). The text presented is based on the previous consolidated DDL with some small changes and no involvement of the civil society. Even if assigned to the Commission for Constitutional Affairs, it not examined or discussed. [↑](#footnote-ref-10)
11. According to the CRC, a “child” is any person below the age of 18. [↑](#footnote-ref-11)
12. In March 1991, following the adoption of the Law 142 of 8 June 1990 on the organization and autonomy of local authorities, the Human Rights Centre of the University of Padua, at the meeting of the National Coordinating Assembly of Local Authorities for Peace and Human Rights, launched the proposal to include in the new statutes of the Italian municipalities and provinces a *clause* on human rights and peace that made explicit reference to the Italian Constitution and international human rights law. The original formulation of this *clause* was already contained in the regional law of the region of Veneto (regional law 18/1988, now updated by regional law 55/1999). [↑](#footnote-ref-12)
13. The *Italian Yearbook of Human Rights* is a periodic publication edited by the Human Rights Centre of the University of Padua. The Italian version is published by Marsilio publishing (Venice); the English version is published by Peter Lang International Academic Publishers (Brussels). The first edition of the Yearbook was published in 2011, the year in which the 150th anniversary of Italian Unification was celebrated. [↑](#footnote-ref-13)