

European Master's Degree in Human Rights and Democratisation

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*Is establishment of an independent National Human Rights  
Institution possible in Poland?  
Legal and operational analysis of the possibility and means of  
implementation of such a body in Poland*

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**Abstract:** This dissertation concerns the possibility of establishment of an independent National Human Rights Institution (NHRI) in Poland and measures necessary to implement such an institution. For the last 50 years, the NHRIs have become important institutional tools for promotion and protection of international human rights law on national level. The thesis proves that the role of NHRIs has been strengthened during the last 20 years after adoption of the UN soft law *Paris Principles* in 1993, which established international minimum standards concerning the status and functioning of national institutions and provided guidelines for States in terms of the independence of NHRIs. Therefore, the Paris Principles' criteria of independence, together with binding functional conditions of independence set forth in the EU Directives, have been chosen as tools of legal and operational analysis and comparison of the level of independence of the Polish NHRIs in order to provide the answer to the main question of the thesis. As a result of this analysis, the Commissioner for Civil Rights Protection (Polish Ombudsman) has proven the only national institution which complies with the Paris Principles in terms of independence. However, it cannot be recognized as an NHRI fully in line with the Paris Principles, due to limitation of its mandate, which is not 'as broad as possible' in terms of promotion and protection of human rights. Moreover, the Commissioner does not fulfill the most important 'functioning' condition of independence of the Directives: providing legal assistance to victims of discrimination. Therefore, the thesis presents the possible solutions and recommendations on changes necessary to establish NHRI in Poland, which would be fully in line both with the independence provisions of the Paris Principles and the Directives. The dissertation also proves lack of harmonisation of standards of 'independence' of NHRI, which can create problems for states such as Poland with double, international and regional, obligations in this area. The criteria of independence of NHRIs that are provided in the Directives are entirely different than those in the Paris Principles. Therefore, the thesis stresses the necessity of strengthening the 'independence' provisions in the EU law to be in line with the Paris Principles.

## Acronyms and Abbreviations

CESCR	International Covenant on Economic, Social and Cultural Rights
CERD	Convention on the Elimination of Racial Discrimination
CHR	Commission on Human Rights
CoE	Council of Europe
CoE CHR	Commissioner for Human Rights of the Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECOSOC	Economic and Social Council
EC	European Community
ECJ	European Court of Justice
ECRI	European Commission against Racism and Intolerance of the CoE
ECHR	European Convention on Human Rights
EESC	European Economic and Social Committee
EU	European Union
GA	General Assembly
GPR	General Policy Recommendations
HCHR	UN High Commissioner for Human Rights
HRC	Human Rights Council
ICC	International Coordinating Committee of NHRIs for the Promotion and Protection of Human Rights
NGOs	Non-governmental organizations
NHRI(s)	National Human Rights Institution(s)
OHCHR	Office of the High Commissioner for Human Rights
OP-CAT	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
PPs	Paris Principles
SCA	Sub-Committee on Accreditation of the ICC
Special Advisor	Special Advisor on National Institutions to the UN High Commissioner for Human Rights
UN	United Nations

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