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## **The importance of the Paris Principles for the organization of human rights activities in sovereign States**

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**Abstract:** The article analyzes the structure and content of the principles concerning the status of national institutions engaged in the promotion and protection of human rights or the Paris Principles. This document is an important international normative instrument that defines the framework for the activities of national human rights institutions. It sets out the minimum guidelines and criteria for the legitimacy of the NHRI.

National human rights institutions are part of the State system and have a clearly defined role in it. Despite belonging to state bodies, the NHRIs do not belong to any of the branches of government. The human rights function is established based on a constitutional or legislative mandate. It is noteworthy that the object of their assessments may be government agencies that have committed human rights violations.

The Paris Principles give NHRIs the tasks of both promoting human rights and protecting them equally. The composition of the national institution and the procedure for appointing its members must comply with the requirement of pluralism, that is, representation in its composition of all strata of society. The independence of NHRIs is ensured through legal, functional, and financial independence; members of a national human rights institution should be granted privileges and immunity.

In addition, this document defines the working methods of the NHRI and the possibility of exercising quasi-judicial powers.

**Keywords:** human rights, protection of rights, Paris Principles, national human rights institutions, NHRI models, human rights mechanisms, independence, pluralism

## **Егеменді мемлекеттерде құқық қорғау қызметін ұйымдастыру үшін Париж принциптерінің маңызы**

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**Түйіндеме:** Мақалада адам құқықтарын немесе Париж принциптерін көтермелеу мен қорғауға арналған ұлттық институттардың мәртебесіне қатысты принциптердің құрылымы мен мазмұны талданады. Бұл құжат ұлттық құқық қорғау мекемелері қызметінің шеңберін айқындайтын маңызды халықаралық-нормативтік құрал болып табылады. Онда ҰҚҚМ заңдылығының минималды параметрлері мен критерийлері тұжырымдалған.

Ұлттық құқық қорғау мекемелері мемлекеттік жүйенің бөлігі болып табылады және онда нақты белгіленген рөлге ие. Мемлекеттік органдарға жататынына қарамастан, ҰҚҚМ билік тармақтарының ешқайсысына жатпайды. Құқық қорғау функциясы Конституциялық немесе заңнамалық мандат негізінде белгіленеді. Бір қызығы, адам құқықтарының бұзылуына жол берген мемлекеттік органдар оларды бағалау объектісі бола алады.

Париж қағидаттары ҰҚҚМ-ге адам құқықтарын көтермелеу және оларды бірдей қорғау міндеттерін береді. Ұлттық мекеменің құрамы және оның мүшелерін тағайындау тәртібі плюрализм талабына, яғни оның құрамындағы қоғамның барлық топтарының өкілдігіне сәйкес келуі керек. ҰҚҚМ тәуелсіздігі заңдық, функционалдық және қаржылық дербестік арқылы қамтамасыз етіледі; ұлттық құқық қорғау мекемесінің мүшелеріне артықшылықтар мен иммунитет берілуі тиіс.

Сонымен қатар, бұл құжат ҰҚҚМ жұмысының әдістерін және квази-сот өкілеттіктерін жүзеге асыру мүмкіндігін анықтайды.

**Негізгі сөздер:** Адам құқықтары, құқықтарды қорғау, Париж қағидаттары, ұлттық құқық қорғау мекемелері, МӨЗ модельдері, құқық қорғау тетіктері, Тәуелсіздік, плюрализм

### **Значение Парижских принципов для организации правозащитной деятельности в суверенных государствах**

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**Аннотация:** В статье анализируются структура и содержание Принципов, касающихся статуса национальных учреждений, занимающихся поощрением и защитой прав человека или Парижских принципов. Данный документ является важным международно-нормативным инструментом, определяющим рамки деятельности национальных правозащитных учреждений. В нем сформулированы минимальные установки и критерии легитимности НПЗУ.

Национальные правозащитные учреждения являются частью государственной системы и имеют четко обозначенную роль в ней. Несмотря

на принадлежность к государственным органам, НПЗУ не относится ни к одной из ветвей власти. Правозащитная функция устанавливается на основе конституционного либо законодательного мандата. Примечательно, что объектом их оценок могут оказаться правительственные органы, которые допустили нарушение прав человека

Парижские принципы наделяют НПЗУ задачами как по поощрению прав человека, так и по их защите, в равной степени. Состав национального учреждения и порядок назначения его членов должен соответствовать требованию плюрализма, то есть представительства в его составе всех слоев общества. Независимость НПЗУ обеспечивается посредством юридической, функциональной и финансовой самостоятельности; члены национального правозащитного учреждения должны наделяться привилегиями и иммунитетом.

Кроме того, данный документ определяет методы работы НПЗУ и также возможность реализации квазисудебных полномочий.

**Ключевые слова:** права человека, защита прав, Парижские принципы, национальные правозащитные учреждения, модели НПЗУ, правозащитные механизмы, независимость, плюрализм

### **Introduction**

Human rights are recognized as the highest value throughout the civilized world, their implementation is guaranteed by international and national law. In that way, each particular State undertakes to protect human rights and forms appropriate legislation and institutional structures for this: State institutions, law enforcement and judicial bodies, non-governmental organizations, educational systems. National human rights institutions (NHRIs) occupy a special place in this list.

Long-term discussions on the status of national institutions responsible for the promotion and protection of human rights culminated in the development and adoption in 1993 of the Principles relating to the Status of National Institutions for the Promotion and Protection of Human rights or the Paris Principles [1]. This document is a set of standards for analyzing the reliability, independence, and effectiveness of national human rights structures. As noted in the anniversary publication of the Commissioner of the Council of Europe for Human Rights Dunja Mijatovic, it is the NHRIs endowed with authority and independence that act as the cornerstone of democracy, law and human rights [2].

The role of national human rights institutions in the realization and protection of human rights is increasing. Moreover, their functioning shows the responsibility of the state to its citizens for possible miscalculations or improper actions on the part of its bodies and structures. The decision to establish an NHRI means that the State is ready to become an object of independent and impartial control by human rights institutions. The role of NHRIs is especially valuable in transition States where democratic institutions do not have a long history of development, since in such countries there are more risks of corruption and abuse by the authorities.

The Republic of Kazakhstan has joined lots of international treaties dealing with human rights issues. An important step towards the implementation of obligations under these agreements was the establishment of the Institute of the Commissioner for Human Rights (CHR) in 2002 [3]. 14 years later, in 2016, the position of Children's Ombudsman or Commissioner for Children's Rights (CCR) was approved [4]. In addition, there are consultative and advisory bodies in the country.

In this case, the relevant question is what is the content of the Paris Principles of December 20, 1993? What standards of the work of NHRIs must be observed for the effective promotion and protection of human rights?

### **Materials and methods**

Modern democratic public systems include human rights organizations, moreover, there is a constant increase in their number. State organizations, independent institutions, NGOs, informal groups, social movements should also be classified as human rights structures, since they are elements of a complex, multi-level system for the promotion and protection of human rights. It is important to note that the scientific understanding of the problem of the effectiveness of national institutions engaged in the promotion and protection of human rights begins relatively recently, including due to the youth of the institute of the National Human Rights Institution itself.

The object of the study is the system of public relations related to the implementation and protection of human rights, as well as the international legal basis for ensuring the activities of the NHRIs. The subject of the study is the main provisions of the Paris Principles.

The theoretical and methodological basis of the research was the works of domestic and foreign scientists on the problems of ensuring and protecting human rights; official reports of international experts, national reports, analytical reviews of international organizations whose activities are aimed at the realization and protection of human rights were also used.

During the research, general methods of scientific cognition were applied: analysis and synthesis, formal-logical, comparative-legal.

### **Discussion**

The category of human rights is still controversial both in the scientific community and among legal practitioners. We are talking about the content and scope of this concept, the clash of different values and worldviews, the influence of digital reality, the legislative balance [5, p. 22]. One of the central issues arising in these discussions is the issue of domestic extrajudicial and non-normative human rights mechanisms. The search for the ideal model has found its embodiment in the State structures for the promotion of human rights and their protection, which are the NHRIs. The most important milestone in their formation and development in a variant that meets modern realities was the adoption in 1993 of the Principles

concerning the Status of National Institutions Engaged in the Promotion and Protection of Human Rights. In a short version - the Paris Principles [1].

The UN General Assembly Resolution No. 48/134 of December 20, 1993, which adopted the Paris Principles, indicates the diversity of existing approaches to the promotion and protection of human rights in the world and recognizes that each state has the right to choose those models of human rights activities that meet its specific needs [6]. The Paris Principles became the document that established standards for the work of national human rights institutions, considering their diversity. In addition, the need to create these bodies has become officially recognized.

The Paris Principles are the basis for a peer review of national institutions for the promotion and protection of human rights by the Accreditation Subcommittee and the International Coordinating Committee [7, p. 4]. The Subcommittee on Accreditation deals with the interpretation of the Paris Principles, collected in the so-called "General Comments". On their basis, important guidelines and methodological tools are being created to explain the provisions of the Paris Principles.

As a document, the Paris Principles consist of 4 parts: 1) Powers and functions; 2) Composition and guarantees of independence and pluralism; 3) Methods of work; 4) Additional principles concerning the status of commissions with quasi-judicial powers [1]. Let's reveal their contents.

Part one of the Principles "Powers and Functions" contains an important indication that the national human rights institution is given the widest possible powers. As can be understood from the context of the name of this type of institution, their main tasks are equally the promotion of human rights and their protection. The promotion of human rights relates to work with public consciousness, education, educational activities, promotion of the values of respect for human rights and non-discrimination. The protection of rights involves working directly with human rights violations, actively studying cases, making conclusions on them, and making recommendations. The main purpose of these events is to bring the perpetrators to justice, as well as legal protection of victims of human rights violations [8, p. 21].

World experience shows a variety of models of refineries. Some deal only with civil and political rights, others are related to the rights of individual social groups, and others focus on investigating cases of discrimination. The best model remains the one whose powers cover all human rights. But it is also important to note that "it is possible to have a limited mandate and at the same time comply with the Paris Principles" [9, p. 32]. These powers should be set out in a constitutional or legislative act that clearly establishes both the composition and the scope of its activities/jurisdiction. This provision reinforces the fact that the resolutions and decrees of the executive authorities do not comply with the requirements of the Paris Principles, since they do not ensure the proper sustainability of the refinery. It would be ideal to ensure not only the constitutional basis, but also separate legislation on the refinery. It is at the level of individual legislation that a high level of detail of the powers of a national human rights institution can be ensured.



National human rights institutions usually have no authority over the Parliament, whose members are protected by immunities and privileges. Courts and judges, as well as the private sector, represented by companies and corporations, are exempt from the supervision of NHRIs. Issues related to the armed forces, security services and state decisions on international relations are debatable [9, p. 33]. In addition, it is important to pay attention to the temporary jurisdiction, that is, the opportunity to consider issues that arose before the creation of a national institution.

This section defines seven basic functions of a national institution [1]:

1) making recommendations, conclusions, proposals, opinions and reports to the government, parliament and other competent authority on current legislation, administrative regulations and draft laws aimed at ensuring and protecting human rights; on cases of human rights violations; on the position and reaction of the government to human rights violations;

2) coordination of national law and practice with the norms of international human rights law, ensuring their effective implementation;

3) promoting the ratification and implementation of international human rights instruments;

4) participation in the preparation of reports submitted by the state to the UN and regional structures within the framework of the implementation of contractual obligations;

5) cooperation with the international and regional human rights system, national institutions of other countries in the promotion and protection of human rights;

6) assistance and participation in educational and research activities on human rights issues.

7) educational work, information and awareness-raising in the field of human rights.

The second part of the Principles "Composition and guarantees of independence and pluralism" establishes requirements for the structure of the NHRI. The Principles require that the composition of the national institution and the procedure for appointing its members comply with the requirement of pluralism. That is, procedures should be implemented to guarantee the representation of various actors involved in human rights activities: representatives of NGOs, trade unions, university circles and the expert community, parliament, government bodies (as consultants) [1].

The principle of pluralism means, therefore, the representation of all strata of society in the composition of the NHRIs. It is important to ensure the participation of women in the work of the national institution. This requirement also applies to the staff of the refinery, which should also reflect the diversity of social forces in society. The pluralism of the composition of NHRIs can be ensured in various ways: over time (since the composition may change), through advisory councils, through broad cooperation, through educational programs and research projects. The principles emphasize that the infrastructure of the national institution should ensure the

efficiency of work. This also applies to financing issues. The refinery should have its own office and staff. This will allow it to function independently from the government and avoid financial control [1].

Of course, independence is not only the most important principle, but also complex and ambiguous. The complexity is generated by the fact that the REFINERY is a state body. Independence is ensured through legal independence (the presence of a separate legal personality of the NHRI), functional (independence in developing their own rules and procedures for daily activities) and financial (the availability of their own funds for the full implementation of the mandate) independence [9, pp. 40-41].

An important point in the implementation of the principle of independence is the ability to appoint and dismiss employees, transparency and clarity of procedures, deadlines and criteria for the appointment of personnel of the refinery. These circumstances should be fixed in the constituent legislation.

The same principle applies to the requirement of granting privileges and immunities. The PKA comments that members of the national human rights institution should enjoy immunity from civil and criminal proceedings in connection with actions committed by them in their official capacity. Members and employees of the institution must be inviolable [9, pp. 42-43].

The third part "Methods of work" defines effective methods of activity of the national human rights institution. Let's consider how this is defined in the Principles [1].

1. The NHRI is free to analyze any issues within the scope of its activities. In this case, it does not matter how they are submitted for consideration: by the applicant, the government, the employee.

2. In its work, the institution can receive any information to analyze the situation. This is possible by interviewing individual subjects, obtaining a document or requesting information.

3. The NHRI can appeal to civil society directly or through the media. Such methods make it possible to realize the publicity of the activities of the national institution, to make public its positions and proposals.

4. The NHRI meets regularly, including with the involvement of all members of the institution with their prior notification.

5. If necessary, it is possible to create working groups of existing members, as well as local and regional offices to support the implementation of the functions of the NHRIs.

6. Advising judicial and non-judicial institutions (ombudsmen, arbitrators, etc.).

7. It is important to develop relations with human rights NGOs whose activities are diverse and focused on socio-economic development, combating discrimination, defending the interests of vulnerable segments of the population, etc.

The fourth part "Additional principles concerning the status of commissions with quasi-judicial powers" concerns additional principles establishing the right to

hear and examine appeals concerning the situation of individuals. This authority is called quasi-judicial. Such functions assigned to the refinery are fixed by law.

In order to exercise quasi-judicial powers, the following principles must be observed [1]:

1) The decision on the case in question must be binding. It is necessary to strive to achieve a mutually beneficial agreement. The principle of confidentiality must be considered when making decisions.

2) It is important to inform the applicant about his rights, opportunities for obtaining legal protection and access to it.

3) There are no restrictions on which applications are subject to consideration. If necessary, these appeals can be redirected to other authorities.

4) On the basis of the cases considered, the NHRI may recommend to state bodies to amend the current legislation and administrative practice.

In the methodological literature commenting on the Paris Principles, it is noted that institutions endowed with quasi-judicial powers have greater efficiency and accessibility (due to less formality, lack of payment requirements) compared to traditional courts. The results of investigations presented in the form of reports can then be submitted to the court.

### **Results**

National human rights institutions were formed in the specific conditions of the socio-cultural environment. Therefore, it is impractical to require strict uniformity to their organization and name. The World Programme of the High Commissioner for Human Rights identifies four main models of national human rights institutions: 1) human rights commissions (make up approximately 45%); 2) ombudsmen or individual bodies with general competence concerning supervision of the effective exercise of state power (make up approximately 11%); 3) "mixed" institutions combining several competencies (make up approximately 26%); 4) advisory commissions on human rights and research institutes [10, p. 77].

Based on the compliance of the NHRIs with the provisions of the Paris Principles, the Subcommittee on Accreditation of the HA of the NHRIs assigns these institutions the following status: status "A" in case of full compliance with the Paris Principles; status "B" in case of incomplete compliance with the Paris Principles or in case of failure to provide sufficient documentation to make such a decision; status "C" in the case when the NHRIs does not comply with the Paris Principles [11, p. 17].

### **Conclusions**

The status is assigned for a period of 5 years, after this period the status is reviewed again. NHRIs with the "A" status have the right to participate independently in the work of the UN HRC. Although such a right is not given to NHRIs with the status "B", they can contact UN bodies and provide parallel reports [11, p. 16].

In that way, a comprehensive system of legally binding norms has now been established in the world to ensure the promotion and protection of human rights.



States are charged with obligations to respect, protect and fulfil human rights. The institutional system for the promotion and protection of human rights includes the UN, State bodies, independent institutions, NGOs, and social movements. In this system, national institutions engaged in the promotion and protection of human rights or national human rights institutions (NHRIs) occupy a special place.

The establishment of the NHRI was the result of the search for effective domestic extrajudicial and non-normative human rights mechanisms. Since the right of each State to choose the most authentic models of human rights activities is recognized, common standards for the work of such institutions were needed. As such standards, UNGA Resolution No. 48/134 of December 20, 1993 adopted the Principles relating to the Status of National Institutions for the Promotion and Protection of Human rights, or the Paris Principles. This document is an important international normative instrument that defines the framework for the activities of national human rights institutions. It sets out the minimum guidelines and criteria for the legitimacy of the NHRI.

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