

The 1948 Universal Declaration of Human Rights (UDHR) – Impact on Central and Eastern European Countries

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ABSTRACT

This chapter presents a comprehensive overview of the development of the Universal Declaration of Human Rights as the cornerstone of the international bill of rights, its legal nature and its impact on universal and regional human rights treaties, based on the extensive literature, the *Travaux Préparatoires* and commentaries on the UDHR, as well as resolutions of the United Nations, the Human Rights Committee, etc., decisions of international courts and national reports of states. The study begins with the concept and meaning of the International Bill of Human Rights and then highlights the contribution of the Universal Declaration of Human Rights to the international human rights system – the impact of the Universal Declaration of Human Rights on human rights instruments at the universal and regional levels. Next important matter addressed is the legal nature of the UDHR as a source of international law and its path from soft law to customary law. And finally, implementation of UDHR (which does not establish any judicial or quasi-judicial system to consider claims by individuals or States) is analysed on the basis of both the practice of the HRC and the national reports of the 16 Central and Eastern European countries that underwent the UPR process.

KEYWORDS

UDHR, Bill of Rights, Soft Law, HRC, UPR, National reports

1. Introduction

The International Bill of Rights represents a fundamental framework of human rights developed on a global level. It consists of the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) (adopted in 1966, and entered into force in 1976), and the International Covenant on Economic, Social and Cultural Rights (ICESCR, adopted in 1966). Together, these documents have become the basis of global efforts to promote, protect and advocate dignity and rights of all. For decades, these documents have continually influenced the development of

Irine Kurdadze, Eka Siradze (2026) 'The 1948 Universal Declaration of Human Rights (UDHR) – Impact on Central and Eastern European Countries' in Kovács, P., Béres, N. (eds.) *The Universal Protection Of Human Rights*. Miskolc–Budapest: Central European Academic Publishing, pp. 149–192. https://doi.org/10.71009/2026.pknb.uphr_4



the international human rights system. Their significance covers not only legal and political aspects, but also social and moral ones.

The UDHR is a foundational document of the International Bill of Rights. It proclaimed that all individuals are born free and equal in dignity and rights, marking a global turning point in consciousness. While not formally legally binding, the UDHR has had immense influence, and many of its provisions are now considered customary international law.¹

The International Bill of Rights establishes a legal framework for human rights protection. The ICCPR and ICESCR set out specific legal obligations for States Parties to the treaties. As can be seen from the title of the documents themselves the ICCPR covers civil and political rights, such as the right to life, freedom of speech, freedom of religion, and the right to a fair trial, while the ICESCR focuses on economic, social, and cultural rights, including the right to work and to an education.

As demonstrated by the practice of application and incorporation, the International Bill of Rights has had a profound impact on national legal systems and constitutions. Many countries have integrated the principles of the Bill into their constitutions and legal systems, strengthening the rule of law, democratic governance, and the protection of fundamental freedoms. The Bill has also led to the creation of national human rights institutions that monitor and combat human rights violations within their jurisdictions.

The International Bill of Rights emphasises the interdependence and interrelatedness of human rights. No one set of rights is more important than another. Civil and political rights (e.g. freedom of speech) are vital for their impact on economic, social and cultural rights (e.g. education, health, housing). Conversely, the enjoyment of economic rights is impossible without the existence of political freedoms. This holistic approach promotes a balanced and inclusive understanding of human dignity.

The bill plays a vital role in monitoring and holding states accountable. The ICCPR is overseen by the Human Rights Committee, which reviews reports submitted by States Parties and complaints under the Optional Protocol. The ICESCR is overseen by the Committee on Economic, Social and Cultural Rights. These bodies make recommendations, identify problem areas and encourage states to improve their human rights practices. Although human rights enforcement mechanisms vary in effectiveness, these procedures promote transparency and therefore strengthen the legal system of states parties in the area of human rights' protection.

Furthermore, the International Bill of Rights has served as a foundation for the development of other international human rights treaties. Its principles have inspired the drafting of numerous specialised human rights conventions, including those protecting the rights of women (CEDAW), children (CRC), persons with disabilities (CRPD), and others. It has also influenced regional human rights systems in Europe, the Americas, and Africa.

1 In details see: Kurdadze and Siradze, 2026, pp. 167–181, subchapter 3.

Finally, the International Bill of Rights remains a powerful tool for civil society and human rights organisations. It provides a common language and framework for activists, human rights defenders, and groups fighting injustice and promoting equality in the entire world. Whether campaigning against discrimination, advocating for equality, or defending free speech, human rights defenders rely on the Covenant's authority and legitimacy to guide their work. The importance of the International Bill of Rights cannot be overstated. It provides a universal, legal, and morally compelling framework affirming the dignity and equality of all human beings. By establishing a uniform standard of rights and responsibilities, it guides the actions of states, empowers individuals, and creates a more just and humane global society.

The chapter provides a comprehensive overview of the development of the UDHR as the cornerstone of the International Bill of Rights, its legal nature, and its impact on universal and regional human rights treaties. It concludes with a detailed analysis of the UDHR's implementation at a national level in 16 Central and Eastern European countries.

This Chapter is divided into several sections and subsections.

The second Section is devoted to the concept and significance of the International Bill of Rights. However, while separate chapters of this manual are devoted to the 1966 Covenants, the main focus remains on the UDHR. As for the Covenants, in addition to their significance, attention is also paid to the historical reasons for the adoption of two separate documents. As for the Declaration, separate subsections are discussed: the reasons for its adoption, the process of drafting and its structure; and the legal nature of the Universal Declaration, its role and place in the hierarchy of sources of international law – due to its non-binding nature, the main question that needs to be answered is, whether it constitutes a soft law or a customary law. A separate subsection explains the concept of “soft law” and defines its characteristics and categories.

The next Section elaborates the Contribution of UDHR to the International Human Rights System. Firstly, what is the influence of UDHR on human right instruments on a universal and regional level. Thus, the first subsection is devoted to the universal system like the HRC, including the UPR and Special Procedures, and the second to the regional level, such as the European Convention on Human Rights and the ECtHR, the EU Charter of Fundamental Rights and OCSE documents². A general and institutional overview of the High Commissioner for Human Rights, the International Court of Justice etc., is covered in another Chapter of the present textbook, therefore those institutions are not considered here.

The fourth Section analyses the level of implementation of the Universal Declaration of Human Rights (UDHR) in all 16 countries of Central and Eastern Europe. Since, unlike covenants or regional human rights instruments (such as the ECHR), the

2 Since the aim of this Chapter is to examine the impact of the UDHR on Central and Eastern European countries, the research was limited to organizations operating in the Eurozone and did not consider say, the American Convention on Human Rights and the African Charter on Human and Peoples' Rights.

UDHR does not establish any judicial or quasi-judicial system for considering claims from individuals or states. Implementation of the UDHR was analysed based on the national reports of the respective countries that underwent the UPR process. Due to limited space, the focus is on the period following 1990, when democratic transformations commenced in these countries.

Finally, the Chapter ends with a conclusion that summarises the main findings and highlights any important issues.

This Chapter may address and explore issues in more detail than in other chapters. The research is based on the review of the extensive literature on subject matters, *Travaux Préparatoires* and commentaries of the UDHR, as well as resolutions of the UN, HRC etc., decisions of international courts and national reports of States.

2. What is the UDHR?

The UDHR was adopted by the United Nations General Assembly on December 10th 1948 in Paris, France. The UDHR is an essential document providing a comprehensive and universal set of principles beyond cultural, religious, and political ideologies. The Declaration was the first instrument of international law to use the phrase “rule of law,”³ establishing the principle that all members of all societies are equally bound by the law. The UDHR is a fundamental constitutive document of the United Nations and for all 193 parties mandated by the UN Charter.⁴

2.1. Adoption of the UDHR

This historic document includes a preamble and 30 articles, which for the first time articulated basic human rights to be universally protected. Although the declaration is not a legal treaty and has not been signed by states, it has inspired more than 80 subsequent human rights conventions and treaties, including the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Today the UDHR, translated into 500 languages, is the best-known and most often cited human rights document on Earth. By setting out, for the first time, fundamental rights to be universally protected, it is a milestone of human interactions and the cause of human rights.⁵

The fundamental rights enshrined in the declaration begin with the fact that everyone is born free and equal in dignity and rights, and end with the fact that no state, group or person has the right to abrogate the rights and freedoms set forth in the declaration. Although the declaration does not bind UN member states, the rights

3 Preamble of UDHR.

4 Despite that, in international law, a declaration is different from a treaty in the sense that it generally states aspirations or understandings among the parties, rather than binding obligations.

5 Gordon, 2016, p. 31.

and freedoms included in it have been used to create other binding documents such as the European Convention on Human Rights.

Over time, the UDHR has been translated into hundreds of languages and dialects, making it the most translated document in the world. The adoption of the UDHR is appreciated as a historic act aimed at strengthening peace through the UN's involvement in one of its main objectives.

The UDHR, was the result of the experience of World War II. After World War II, when the United Nations Organisation was established, members of the international community made a solemn pledge to prevent future atrocities such as those which had occurred during that war. The United States President Harry S. Truman said that 'under this document (the Charter) we have good reason to expect an international bill of rights, acceptable to all the nations involved'.⁶ The UN Charter prominently enshrines human rights in preamble and Art. 1 as a purpose of the Organization: 'reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in equal rights of men and women and of nations large and small' and 'in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion'.

World leaders decided to add to the UN Charter a document guaranteeing the rights of every human being, everywhere and at all times. The document they envisioned, which later became the UDHR, was considered at the first session of the General Assembly in 1946. The Assembly considered the draft declaration on fundamental human rights and freedoms. It referred it to the Economic and Social Council 'for transmission to the Commission on Human Rights (...) in the context of its preparation of an international bill of rights'. In 1946, as part of the preliminary work of drafting the Declaration, under the auspices of UNESCO, Jacques Maritain assembled a Philosophers' Committee to identify key theoretical issues in framing a charter of rights for all peoples and all nations. The work of the Philosophers' Committee then moved to the UN Commission on Human Rights.⁷

At its first session in 1947, the Commission authorised its members to elaborate what it called 'a preliminary draft of an international bill of rights'.⁸ This work was later referred to a formal drafting committee composed of Commission members from eight States selected on the basis of equitable geographical representation.⁹

The Commission on Human Rights, comprised of 18 members from diverse backgrounds, was led by Eleanor Roosevelt, who chaired the drafting committee. Alongside her were important figures such as René Cassin, Charles Malik, Peng Chun Chang, and John Humphrey. The drafting of the UDHR in 1947 was primarily driven

6 Cited in Schabas, 2013, p. XXXVII.

7 Gordon, 2016, p. 29.

8 Universal Declaration of Human Rights (1948) Drafting History [Online]. Available at: <https://research.un.org/en/undhr/draftingcommittee#:~:text=Drafting%20Committee%20%2D%20Members&text=In%20February%201947%2C%20in%20accordance,International%20Bill%20of%20Human%20Rights> (Accessed: 20 June 2024).

9 Ibid.

by Mrs. Roosevelt’s activism. The commission’s collaboration resulted in the creation and adoption of the Declaration, with key roles played by individuals from different countries. Eleanor Roosevelt’s leadership and dedication to human rights were instrumental in the drafting process, as recounted in her memoirs. The Commission held its first meeting in 1947. In her memoirs, Eleanor Roosevelt recalls:

‘Dr. Chan was a pluralist and spoke admirably of the fact that there is more than one form of ultimate reality. The Declaration, he said, should reflect more than one Western idea and Dr. Humphrey should have taken an eclectic approach. His remark, though directed at Dr. Humphrey, was actually addressed to Dr. Malik, who immediately responded with a rather lengthy explanation of the philosophy of Thomas Aquinas. Dr. Humphrey enthusiastically engaged in the discussion, and I remember that at one-point Dr. Chan said that the Secretariat could use a few months to study the basics of Confucianism!’¹⁰

While working on the text of the Declaration, it was crucial to clarify what “rights” were. Several options were considered. In essence, were rights merely names for interests (albeit important interests) that could be outweighed by other, more important interests, if society so decided? Were rights stronger than other interests, prevailing over them in the event of conflict, and subject to being balanced only with other rights? Or were rights absolute, protected by immunity from limitation on any grounds, even with respect to other rights?¹¹

However in the end, Humphrey’s draft made clear that the exercise of rights could be limited by the rights of others, and this language was eventually adopted by the General Assembly without controversy.¹²

The second important question concerned the definition of obligations. A number of delegates tried to include the concept of “duties”, as mentioned in the American Declaration of Human Rights, but Eleanor Roosevelt was against this, and the issue of “duties” ended up by being mentioning only in Article 29(1) which states that ‘[E]veryone has duties to the community in which alone the free and full development of his personality is possible’.

The Soviet Union tried to have the declaration allow rights to be limited in accordance with the ‘corresponding requirements of the democratic state’. But it was rejected by a vote of 23 to eight, with nine abstentions. The final language was adopted as:

‘In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of

10 See: Universal Declaration of Human Right (1948) History of the Declaration [Online]. Available at: <https://www.un.org/en/about-us/udhr/history-of-the-declaration> (Accessed: 20 June 2024).

11 See: Waldron, 1984 cited in Knox, 2008, p. 6.

12 Knox, 2008, p. 9.

securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society'.¹³

The drafting of UDHR took place in two main different settings: in the Commission of Human Rights (between early 1947 and summer of 1948), and during the Third Committee of GA (in fall of 1948).¹⁴

Cassin's final draft was presented to the Commission on Human Rights in Geneva. This draft, which was sent to all UN member states for comment, became known as the "Geneva draft". The first draft of the Declaration was proposed in September 1948, and more than 50 member states participated in the final version. Third Committee of GA adopted draft text of the Declaration consisting of 28 articles on 3rd December 1948.¹⁵ This text was complemented by the final draft of the preamble the next day.¹⁶ In its resolution 217A (III) of 10th December 1948, the General Assembly, adopted the UDHR consisting of Preamble and 30 articles. Among the United Nations members at the time, 48 voted in favour, none against, eight abstained and two did not vote.¹⁷ Hernán Santa Cruz (Chile), a member of the Drafting Subcommittee, wrote:

'I was clearly aware that I was witnessing a truly historic event in which a consensus was reached on the supreme value of the human person, a value that is not determined by the decision of any worldly authority, but by the very fact of human existence, which gives rise to the inalienable right to be free from want and oppression and to develop fully as an individual. In the Great Hall (...) there was an atmosphere of genuine solidarity and fraternity between men and women from the most diverse backgrounds, the like of which I have never seen in any other international forum'.¹⁸

13 UDHR Article 29(1).

14 See: Rivera, 2023, p. 2.

15 A/c.3/SC.4/20 (3 December 1948).

16 A/c.3/SC.4/22 (2 December 1948).

17 The following 48 countries voted in favour of the Declaration: Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, and Venezuela. The following eight countries abstained: the Soviet Union, the Ukrainian SSR, the Byelorussian SSR, People's Federal Republic of Yugoslavia, the People's Republic of Poland, the Union of South Africa, Czechoslovakia, and the Kingdom of Saudi Arabia. Honduras and Yemen – both members of the UN at the time – failed to vote or abstain. Former USSR abstained because wanted to postpone adoption to 1949.

18 See: History of the Declaration, available at: <https://www.un.org/en/about-us/udhr/history-of-the-declaration#:~:text=The%20first%20draft%20of%20the%20Declaration%20was%20proposed%20in%20September,to%20be%20a%20colossal%20task> (Accessed: 20 June 2024).

2.2. Analysis of the UDHR Structure

The United Nations Charter encompasses various general commitments to human rights, though it does not define their content. The preamble of the UN Charter referred to the ‘faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women’ held by the peoples of the UN. It also expressed a determination to ‘promote social progress and better standards of life in larger freedom.’ Article 1 of the UN Charter states that one of the purposes of the UN is to ‘achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language, or religion’.

While these provisions laid the foundation for the international recognition of human rights, they did not provide a detailed catalogue of rights or mechanisms for their enforcement. This gap was soon addressed by subsequent instruments, most notably the UDHR.

The UN Charter obligated the UN General Assembly (UNGA) to ‘initiate studies (...) for the purpose of (...) assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion’.¹⁹ The promotion of ‘universal respect for, and observance of, human rights and fundamental freedoms for all without distinction’ was required by the UN on the same four grounds²⁰, and the empowerment to ‘make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all’ was given to the ECOSOC.²¹ Additionally, the UN Charter extended references to human rights to colonies and other non-self-governing territories (Arts. 73 and 76).

Based on UN charter requirement the UDHR outlines a wide range of rights. The Declaration identifies the basic features of human rights, such as universality, interdependence and indivisibility, making it a living and symbolically significant instrument, but its fundamental moral domain lies in the idea of human dignity.²²

The UDHR articulates a broad range of fundamental rights and freedoms to which all human beings are entitled. Its structure is carefully designed to reflect both the philosophical foundations of human rights and their practical implementation across legal, political, and social contexts. The Declaration consists of a preamble and 30 articles that together form a comprehensive and coherent human rights framework.

René Cassin famously likened the Declaration to the portico of a Greek temple, ‘replete with a foundation (Arts. 1–2), steps (preamble), four pillars (Arts. 3–27), and a pediment (Arts. 28–30)’.²³ Cassin’s framework emphasised both individual rights and the collective responsibility of society. Cassin’s architectural analogy effectively highlights the interconnectedness and importance of each element of the UDHR,

19 Art. 13 UN Charter.

20 Ibid., Art. 55.

21 Ibid., Art. 62.

22 See: <https://www.ohchr.org/en/what-are-human-rights> (Accessed: 20 June 2024).

23 Charlesworth, 2008.

ensuring that the declaration serves as a comprehensive framework for protecting human dignity and promoting international cooperation.

2.2.1. Preamble

The UDHR opens with a preamble (steps) that explains the need for the Declaration and affirms that ‘recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family’ is ‘the foundation of freedom, justice and peace in the world.’ The preamble consists of seven paragraphs that provide the ethical and political context for the articles that follow. The preamble also reflects the lessons of World War II, emphasising the need to prevent future atrocities through a shared commitment to universal principles.²⁴ It views human rights not only as moral obligations, but also as essential elements of social progress.

2.2.2. Foundational Principles, Articles 1–2

Articles 1–2, the foundation of the temple, establish the inherent equality, liberty, and dignity of all humans, as well as the “spirit of brotherhood” that should bind them together.

The first two articles establish the core principles of the Declaration: Article 1 proclaims that ‘All human beings are born free and equal in dignity and rights’, affirming universality, freedom, and equality as guiding ideals. Article 2 guarantees that all rights and freedoms in the Declaration apply to everyone without discrimination of any kind, establishing the principle of non-discrimination.

These articles establish a universal ethical framework and provide the normative basis for the rest of the document. They argue that all humans are inherently equal, free, and dignified, and that a “spirit of brotherhood” should bind them together.

2.2.3. Civil and Political Rights, Articles 3–21

These articles address a broad spectrum of civil and political rights, commonly referred to as “first-generation” rights. As noted by Antonio Cassese, these rights can be grouped into three thematic pillars: *First Pillar* (Articles 3–11): Focuses on fundamental individual rights, including the right to life, liberty, equality before the law, and freedom from slavery and torture. *Second Pillar* (Articles 12–17): Covers civil and political entitlements such as the right to privacy, freedom of movement, and the right to a nationality. *Third Pillar* (Articles 18–21): Encompasses constitutional liberties like freedom of thought, conscience, religion, opinion, and peaceful assembly.

These articles collectively affirm: the right to life, liberty, and personal security (Articles 3–5); legal protections, including equality before the law, the presumption of innocence, and safeguards against arbitrary arrest or detention (Articles 6–11); freedoms of movement, thought, expression, assembly, and political participation (Articles 12–21).

24 Ballard et al., 2021.

This section reflects the influence of liberal democratic traditions and underscores the importance of individual autonomy, emphasising the protection of personal freedoms from undue state interference.

2.2.4. *Economic, Social, and Cultural Rights, Articles 22–27*

Articles 22 to 27 focus on economic, social, and cultural rights, commonly referred to as “second-generation” rights. According to Antonio Cassese, these form the *fourth pillar* of the UDHR. They include: the right to social security and work (Art. 22–23); the right to rest, leisure, and an adequate standard of living (Art. 24–25); the right to education and participation in cultural life (Art. 26–27).

This set of rights reflect a broader conception of human rights that includes material well-being and access to essential services, influenced in part by socialist and welfare state models.

2.2.5. *Duties, Limitations, and Final Provisions, Articles 28–30*

The final three articles address the contextual and structural limitations of rights, as well as the responsibilities of individuals. This set emphasises the individual’s duty to society and the need to balance rights with social responsibility.

Article 28 affirms the right to a social and international order in which rights can be fully realised.

Article 29 introduces the concept of duties to the community and notes that individual rights may be subject to limitations in the interests of general welfare, morality, and public order.

Article 30 acts as a safeguard clause, preventing any interpretation of the Declaration that would justify the destruction of the rights and freedoms it proclaims.

This concluding section balances individual rights with collective responsibilities and ensures the internal coherence of the Declaration.

Importantly, the document acknowledges that all rights are equally vital. These rights reflect genuine needs that every state has a duty to meet for the benefit of all those in its jurisdiction. It is acknowledged that social and economic rights are conceptually linked to civil and political rights because respect for human dignity requires a respect for both. There is also a mutual dependency: civil and political rights secure social and economic rights, and social and economic rights enable the meaningful exercise of civil and political rights. Failure to respect social and economic rights makes people more vulnerable to other human rights violations (e.g. such as forced labour). By enshrining individual, social and economic rights alongside civil and political rights, the document recognises human rights as a unified and interlinked system.

Although the document does not explicitly state who is responsible for fulfilling rights, the modern system of international law assumes that states bear primary responsibility.

The document also suggests that the responsibility for human rights can be attributed to individuals and ‘organizations below the level of the State and to organizations

above the level of the State'.²⁵ These actors include international bodies, private individuals and national authorities, etc.

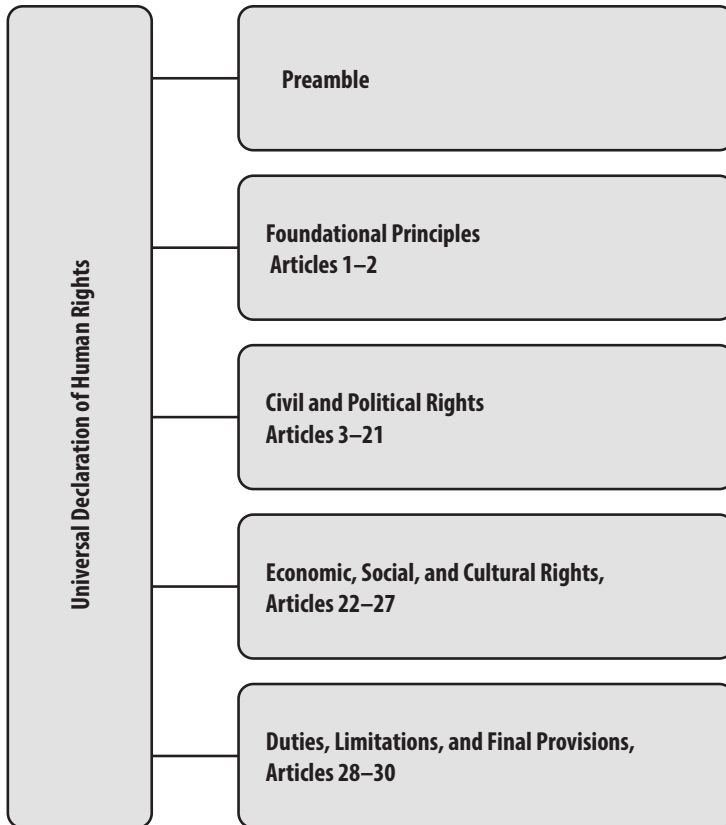
Indeed, the Preamble states that 'every individual and every organ of society (...) shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance'.

States have an obligation to respect the human rights of their citizens. The special position of States is not simply a matter of efficiency and control. States claim a form of legitimacy that distinguishes them from other actors and agencies operating, legally or illegally, in society. The UDHR and the Covenants seek to impose human rights-based conditions on this legitimacy.

Of course, the human rights regime established by the UDHR was intended to serve as a basis, not only for subsequent covenants and international agreements, but also for domestic laws, including constitutions. The national laws of states should in most cases, be the first means of responding to any human rights violations and should be seen as the primary means of realising human rights.

The idea that one entity, such as a state, is responsible for a certain right does not mean that other entities do not have their own obligations. Rights generate waves of responsibility, and these responsibilities can fall on different duty bearers. The UDHR is organised in such a way that it moves from general principles to specific rights, and from individual freedoms to collective responsibility. It carefully balances the different categories of rights – civil, political, economic, social, and cultural – while promoting the principles of universality and indivisibility. This structure enhances the coherence and clarity of the document, reflecting a holistic vision of human dignity that remains relevant across cultures and political systems. The structural integrity of the UDHR has contributed significantly to its enduring influence as a foundational text in the emerging field of international human rights law.

25 Brown, 2016, pp. 79–80.

Figure 1: UDHR Structure

2.3. *Legal Nature of UDHR*

Although some countries have emphasised the perception of the draft declaration as a political manifesto and not a legally binding document, several delegations have supported the draft as the result of an international compromise on the common ideals of humanity, and moreover, South Africa considered voting for the declaration to be binding in the same way as signing a convention would be.²⁶

Thus, from the moment of its adoption, the nature of the UDHR has been a source of legal debates among the scholars. However, the past 75 years have largely confirmed that it is not only universal in its content and scope, but also developed the obligation for States²⁷ and is widely recognised as part of customary law.²⁸ Schabas claims that its

²⁶ Rivera, 2023, p. 3.

²⁷ Rights protected by the Declaration, such as freedom from torture (Article 5) and from arbitrary arrest (Article 9), are recognized as mandatory under U.S. Code § 1350 – Alien's Action for Tort; See: Scoble, 1986, p. 132.

²⁸ Humphrey, 1975; Sohn, 1982; Hannum, 1996, p. 305.

negotiating history and subsequent application indicate that it is treaty-like, and there is no good reason to apply a different approach to the interpretation of the Declaration from that which would be used for a treaty.²⁹

Although the UDHR's current status itself does not cause any doubt and there is little room for debate, the main focus is on the way the Declaration adopted by the GA resolution passed from a so-called soft law instrument, which is not a part of the law as such,³⁰ to the law-binding instrument it became. As Norberto Bobbio rightly underlined back in 1964, the fundamental problem with human rights is not how to justify them, but rather how to protect them.³¹ And in this regard, its legal nature became of paramount importance.

2.3.1. *The Nature of Soft Law*

Lord McNair coined the term “soft law” to describe ‘instruments with extra-legal binding effect’.³²

Long time there was no consensus about the definition and even the existence of “soft law”,³³ however, in recent times the notion of “soft law” has gained more support. As Boyle and Chinkin stated, the

‘soft law is a frequently misunderstood phenomenon, although evidence of its importance as an element in modern international law-making is abundant, most notably in the declarations or resolutions adopted by states in international conferences or in the United Nations General Assembly. While the relationship between treaty and custom is well understood, the interplay between soft law and treaties, custom, or general principles of law is less often appreciated, but it is no less important and has great practical relevance to the law-making and regulatory work of international organizations’.³⁴

Not being the law itself, soft law has limited normative force and should be understood in the sense of programs rather than legal provisions, or guidelines rather than strict legal obligations. It still holds its significant place among other specific sources of international law.³⁵ However, soft law is not a formal source of law in its own right like those listed in Article 38 of the ICJ Statute.

29 Schabas, 2013, p. XXXVIII.

30 Shaw, 2021, p. 100.

31 Bobbio, 1992 cited in Alves, 2000, p. 496. [Online]. Available at: <https://www.jstor.org/stable/4489286> (Accessed: 20 June 2024).

32 Thürer, 2009, p. 1.

33 Aust, 2010, pp. 145–58; Shaw, 2021, p. 100.

34 Boyle and Chinkin, 2007, p. 48.

35 Pataria, 2021, pp. 98–100.

The term soft law may refer to a variety of quasi-legal, non-binding rules, instruments, and processes used in international relations by countries and international organisations. As such, soft law is contrasted with hard law, which is always binding.³⁶

Soft law is used in the legal literature to describe principles, rules, and standards governing international relations which are not considered to stem from one of the sources of international law enumerated in Art. 38 (1) ICJ Statute.³⁷ Generally, the term “soft law” is used to describe international instruments that, although non-binding, have general or universal applications without a mechanism of enforcement, but still expected to be implemented.³⁸

In EU legislation, soft law is defined as the ‘rules of conduct which are laid down in instruments which have not been attributed legally binding force as such, but nevertheless may have certain (indirect) legal effects, and that are aimed at and may produce practical effects’.³⁹

Daniel Thürer distinguishes four aspects common to the current concept of soft law. Firstly, soft law generally expresses common expectations concerning the conduct of international relations, as it is often shaped by, or arises within, the framework of international organisations. Secondly, soft law is created by the subjects of international law – in contrast to commercial customs and rules such as codes of conduct set up by private organisations or companies. Thirdly, soft law rules have not – or not entirely – passed through all stages of the procedures prescribed for international law-making; they do not stem from a formal source of law and thus lack binding legal force. Finally soft law, despite its legally non-committal quality, is characterised by a certain proximity to the law, and above all by its capacity to produce certain legal effects.⁴⁰

C. Chinkin distinguishes both “legal soft law” (i.e. treaties, which include only soft obligations), and “non-legal soft law”, (i.e. non-binding or voluntary resolutions and codes of conduct formulated and accepted by international and regional organisations) from each other.⁴¹ Non-binding instruments may include: Declarations, Codes, Guidelines, Recommendations, Programmes, *etc.* On the other hand, Senden and Van den Brink distinguish between soft regulatory rule-making and soft administrative rule making. The first has a para-law policy-steering function while the purpose of the other is to give post legislative guidance.⁴²

So, in contrast, a norm can then be qualified as hard law when it cumulatively prescribes a sufficiently clear obligation that can also be enforced.⁴³ But, what shall

36 Mevorah, 2019, p. 508.

37 Thürer, 2009, p. 1.

38 Wolfrum, 2020, pp. 33–37.

39 Senden, 2004, p. 112.

40 Thürer, 2009, p. 3.

41 Chinkin, 1989.

42 Senden and Brink, 2012.

43 Chamon, 2024, p. 367.

be borne in mind is that the mere usage of a treaty form does not of itself ensure the creation of a hard obligation. The Vienna Convention on the Law of Treaties (VCLT) only requires that a treaty is in writing and subject to international law.⁴⁴ Thus, if a treaty is to be regarded as “hard”, it must be precisely worded and specify the exact obligations undertaken or rights granted. Where a treaty provides only for the gradual acquiring of standards or for general goals and programmed action, it is in itself soft.⁴⁵ For example, the Paris Agreement on Climate is an international treaty under the VCLT, but it is recognised as a document of action, not of result, and despite its treaty nature and form, it can be attributed to softer rather than hard law. On the other hand, the Articles on Responsibility of States for International Wrongful Acts, which is a document approved by a resolution of the UN General Assembly,⁴⁶ has been established as a binding norm within the framework of customary international law through state practice and *opinio juris*.⁴⁷

While hard law is always about the precise obligations and the mechanisms or guarantees for their enforcement, the question may arise as to why soft law is needed at all. It should be remembered that in the field of human rights, the choice is often between soft law and no law.⁴⁸

Soft law should not be considered as an independent, formal source of international law, which extends the scope of the international order in its traditional sense. Nevertheless, the concept of soft law represents an important phenomenon in international relations: a complex system of norms lacking binding force, but producing significant legal effects nevertheless. Soft law is of particular importance where good faith needs to be protected.⁴⁹

Bellow, two major categories of soft law can be found: resolutions of international organisations, and non-binding inter-State agreements (i.e. declarations) which will be considered.

2.3.2. *Legal Effect of GA Resolutions*

Unlike the UN Security Council, which are binding on all member states,⁵⁰ resolutions of the General Assembly are merely recommendatory, putting forward opinions on various issues with varying degrees of majority support.⁵¹ However, as practice has proven, the General Assembly resolution could lay the groundwork for the establishment of a customary rule. For example, in the Nicaragua case, the Court declared, that ‘just as the wording of certain General Assembly declarations adopted by States

44 Article 2.1(a).

45 Baxter, 1980, for a discussion of “hard” and “soft” international agreements.

46 General Assembly resolution 56/83 of 12 December 2001, corrected by document A/56/49 (Vol. I)/Corr.4.

47 See in Dixon et al., 2016, p. 478.

48 Chinkin, 1989.

49 Thürer, 2009.

50 See e.g.: *Legal Consequences for States of the Continued Presence of South Africa in Namibia*, ICJ Reports, 1971, pp. 16, 54.

51 Schlochauer, 1981, p. 277.

demonstrates their recognition of the principle of the prohibition of force as definitely a matter of customary international law'.⁵² Besides, in Nuclear Weapon Advisory Opinion ICJ notes that

'General Assembly resolutions, even if they are not binding, may sometimes have normative value. They can, in certain circumstances, provide evidence important for establishing the existence of a rule or the emergence of an *opinio juris*. To establish whether this is true of a given General Assembly resolution, it is necessary to look at its content and the conditions of its adoption; it is also necessary to see whether an *opinio juris* exists as to its normative character. Or a series of resolutions may show the gradual evolution of the *opinio juris* required for the establishment of a new rule'.⁵³

Thus, there must be sufficient evidence of State practice and *opinio juris*. The elements of the formation of the rules of international custom provide criteria by which the actual expectations and commitments of States can be tested.⁵⁴

For establishing the binding character, the wording and range of influence of the document take on crucial importance. The UDHR, despite being adopted with 46 votes in favour and eight abstentions, i.e. with the participation of only 54 countries in total, in terms of its content and especially of Article 2, truly deserves to be referred to as "universal", because it appeared as the first document establishing the human rights standards for all human beings, regardless of the place of their residence, including territories under colonial or quasi colonial rule, which actually constituted the vast majority of the world at that time. Besides, the universality of the Declaration is also emphasised by the fact that the document was not unacceptable to any major religious, civilizational, cultural or legal systems.⁵⁵

Thus, despite its mild nature, and the fact that it was a resolution of the General Assembly, the potential for universal recognition and binding force was initially built into it. This was confirmed during the process of decolonisation, when newly formed states, despite having had no part in its drafting, eventually recognised and even more used it widely in their fight for freedom and decolonisation, as well as even adopting it into their domestic legislation.⁵⁶ Moreover, the importance and universality of the UDHR was reaffirmed at the 1993 Vienna Declaration, adopted at the World Conference on Human Rights. The World Conference was held in Vienna shortly after the end of the Cold War, and in this case, the number of participating States left no doubt about its genuinely universal character. The Vienna Declaration reaffirms 'commitment to

52 Case *Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicaragua vs. USA)*, Judgment of 27 June 1986, ICJ Reports. Para. 193.

53 See: *Legality of the Threat or Use of Nuclear Weapons* Advisory Opinion, 08 July 1996, ICJ Reports. para. 70.

54 Brownlie, 1992 cited in Chinkin, 1989.

55 Alves, 2000, pp. 481–83.

56 *Ibid.*

the purposes and principles contained in the Charter of the United Nations and the Universal Declaration of Human Rights,⁵⁷ and *inter alia*, ‘urges all States to put an immediate end to the practice of torture and eradicate this evil forever through full implementation of the Universal Declaration of Human Rights (...)’.⁵⁸

2.3.3. *Declarations as Source of Customary Rules*

It is not uncommon for a so-called soft law instrument like a declaration to become a part of customary law. Moreover, there are some authors, who claim that ‘the modern international customary law is based on international (or regional) declarations’.⁵⁹

For example, the 1975 Helsinki Final Act, or 2014 Gulf Declaration of Human Rights, despite their soft nature, have created a doctrinal basis for the protection of human rights at regional levels. The Helsinki Final Act’s influence in Central and Eastern Europe in growing the role and importance of international human rights is undoubtable,⁶⁰ and in case of the Gulf Declaration, the transformation from its normative framework into a system practiced by its states is clearly considered the basis for becoming part of regional customary law.⁶¹

Besides, recent literature in international law suggests that a modern approach to international customary law has risen to the surface. Namely, Anthea Roberts proposes that modern international custom be based on international declarative law, which is founded on declarations rather than traditional State practice, and which is difficult to determine in most cases.⁶² This approach is shared by many contemporary scholars, and it provides a clear and strong ground for the codification of international customs, based on easily identified practice.⁶³ During the 1990s many authors agreed that customary rules based on declarations, provide an important source of law for human rights obligations.⁶⁴

2.4. *International Covenants – Why Two Separate Documents?*

Although the UDHR covers a wide range of rights, the 1966 UN International Covenants were divided into two documents due to differing political and economic views, as well as the desire to legally enshrine human rights. Developing the covenants involved lengthy discussions and compromises among states with different priorities and views on human rights. The International Covenant on Civil and Political Rights was seen as enshrining rights that states should respect, while the International Covenant on Economic, Social, and Cultural Rights was seen as setting standards that states should strive to achieve. However, there was a positive side to this division. The

57 Vienna Declaration and Programme of Action of 25 June 1993.

58 *Ibid.*, para. 57.

59 Alfadhel, 2017, pp. 89–98.

60 See e.g.: the reference to it *Nicaragua v. US*, ICJ Reports, 1986, pp. 3, 100; 76 ILR, pp. 349, 434.

61 Alfadhel, 2017, pp. 89–98.

62 Roberts, 2001, pp. 757–791.

63 Shelton, 2006, pp. 291–323; Boyle, 2018.

64 Bruun, 1993; Lillich, 1996; Roberts, 2001, p. 757.

separation into two covenants allowed for more specificity in the rights and responsibilities of states.

Many countries played an important role in creating the 1966 UN International Covenants on Economic, Social and Cultural Rights and Civil and Political Rights. However, the most influential countries tended to have a rich democratic history and a significant influence on international law. Countries with well-established democratic traditions and systems, such as France, the United Kingdom, and the United States, played a significant role in drafting these covenants by contributing their own ideas and legal principles.

Socialist countries under the rule of the USSR actively promoted social and economic human rights and developed the International Covenant on Economic, Social, and Cultural Rights. There is an objective explanation for this. The USSR's attitude toward political rights were ideologically determined, differing from Western liberal democratic models and the universalist approach enshrined in the UDHR.

The USSR viewed human rights through the Marxist-Leninist ideological lens, which prioritises class interests and the dictatorship of the proletariat over individual freedoms. In this context, political rights (e.g., the freedom of speech, assembly, association, and participation in government) were recognised only if they served the interests of the socialist state and communist construction. The USSR Constitution formally enshrined these rights, including the freedom of speech, freedom of the press, freedom of assembly and rallies, and the right to elect and be elected (e.g., in the 1936 and 1977 editions). In practice, however, the exercising of these rights was severely limited because the USSR only recognised a one-party system, and the right to political participation was limited to members of the Communist Party. Freedom of speech and the freedom of the press existed only within the limits of permissible ideology. Any criticism of the CPSU or the Soviet system was considered “anti-Soviet agitation” and was punishable by law. Independent human rights groups and civil associations were persecuted as threats to the state. State security agencies (e.g., the KGB) monitored this activity to suppress political opposition, including through arrests, exile, and psychiatric repression.

Accordingly, the USSR criticised the Western concept of individual political freedoms, viewing it as a facade for “bourgeois democracy” that protected the interests of capital. During international human rights negotiations, such as those leading to the drafting of the ICCPR, the Soviet Union prioritised social and economic rights. Although the USSR signed and ratified the ICCPR in 1973, it did not allow for effective international control mechanisms, nor did it ensure the pact's provisions were genuinely implemented domestically.

Thus, while the Soviet Union formally declared political rights, it did not ensure their realisation. Citizens' political activity was strictly controlled and limited by the ideology and interests of the ruling party. The USSR viewed political rights not as universal and inalienable but as tools of socialist construction applicable only to those loyal to the state.

3. Contribution of the UDHR to the International Human Rights System

The UDHR was a defining moment in the evolution of international law and global governance. While not legally binding, it laid the groundwork for a body of human rights treaties, conventions, and institutional practices. It articulated a universal set of rights and freedoms to which all individuals are inherently entitled. This has profoundly influenced the international legal order.

Perhaps the UDHR's most significant contribution is its transformation of human rights from aspirational ideals into a fundamental component of international law. The UDHR established a common standard of achievement for all peoples and nations, providing the baseline for drafting national constitutions, domestic legislation, and judicial interpretations. Furthermore, the UDHR played a pivotal role in incorporating human rights norms into customary international law, thereby impacting both treaty-based and non-treaty legal developments. The UDHR introduced several key conceptual innovations that continue to shape human rights discourse. Firstly, it enshrined the idea of universal and inalienable rights, asserting that these rights belong to all individuals by virtue of their humanity, regardless of nationality, race, or religion. Secondly, the UDHR promoted the indivisibility and interdependence of civil, political, economic, social, and cultural rights. This understanding has become foundational to holistic approaches to human rights. Thirdly, the UDHR advanced the notion that human rights transcend state sovereignty. This challenges the traditional Westphalian principle of non-interference and affirms the legitimacy of international concern for how individuals are treated within states. In practical terms, the UDHR has catalysed the development of institutional mechanisms for monitoring, reporting, and addressing human rights violations. It has helped to elevate international norms and procedures for evaluating state conduct, which are now embedded in the work of United Nations treaty bodies, special rapporteurs, and international courts. Additionally, the UDHR has provided a moral and legal basis for the global human rights movement, empowering civil society organisations, human rights defenders, and activists worldwide to demand accountability and reform.

3.1. Influence on Global Level

3.1.1. Direct Influence on Global International Treaties

The UDHR's foundation directly shaped the drafting and adoption of several binding international treaties, particularly during the post-World War II period. The global community sought to institutionalise protections against the past's atrocities. Chief among these are the 1966 covenants: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). As already mentioned, together with the UDHR, these instruments form the International Bill of Human Rights. It encapsulates a broad spectrum of civil, political, economic, social, and cultural rights.

Beyond the core covenants, the UDHR's influence extends to a series of specialised human rights treaties, including the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), and the Convention on the Rights of the Child (1989). Each of these instruments builds upon the UDHR's foundational principles, extending its reach and operationalising its values through detailed obligations for member-states.

The spirit of the UDHR has profoundly influenced all monitoring bodies, which have been established under the above-mentioned treaties. The UN treaty bodies, such as the Human Rights Committee (HRC), the Committee on the Elimination of Racial Discrimination (CERD), and the Committee Against Torture (CAT), often reference the UDHR in their decisions to: provide a historical and normative context for the rights enshrined in binding treaties; shows a progression from early national documents and limited international agreements to a more comprehensive global system; interpret provisions: Aid in interpreting treaty provisions by referencing the UDHR's articulation of fundamental rights; reinforce principles: Emphasise the universality and inalienability of human rights as outlined in the UDHR.

The UDHR is cited in individual decisions, also known as “views”,⁶⁵ issued by United Nations human rights treaty bodies. The UDHR itself serves as a foundational document that informs the interpretation and application of binding international human rights treaties.

This has been proofed by e.g. the Human Rights Committee, which monitors the implementation of the International Covenant on Civil and Political Rights (ICCPR) jurisprudence. The UDHR is a foundational text that informs the interpretation and application of the ICCPR, and the Committee often reflects its values in its reasoning. In the case of *Diergaardt v. Namibia*,⁶⁶ the Committee addressed issues related to language rights and discrimination. While the UDHR wasn't quoted directly, the Committee's emphasis on non-discrimination and the rights of minorities aligns with the UDHR's principles. The Committee found that the authors, as Afrikaans speakers, were victims of a violation of Article 26 of the ICCPR, due to the state's refusal to communicate with them in their language, reflecting the UDHR's commitment to equality and cultural rights.

In *Raihman v. Latvia*,⁶⁷ the Committee examined the state's refusal to register the author's name without Latvian grammatical endings. Although the UDHR wasn't cited, the Committee's focus on privacy and cultural identity resonates with the UDHR's provisions on personal dignity and cultural rights.

65 The United Nations Human Rights Treaty System, Fact Sheet No. 30/Rev.1, UN, New York and Geneva, 2012.

66 Communication No. 760/1997.

67 Communication No. 1621/2007.

The UN Committee on the Elimination of Racial Discrimination (CERD) addressed an anti-Semitic speech in the case of *The Jewish Community of Oslo et al. v. Norway*.⁶⁸ The Norwegian Supreme Court had acquitted the speaker, citing freedom of expression.

The CERD Committee found that the speech promoted racial superiority and hatred, violating the UDHR's principles. Such expressions are not protected when they incite discrimination or hatred. Norway's failure to convict the speaker violated Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.

These cases illustrate how the Human Rights Committee's decisions are influenced by the UDHR, even when not referenced directly. The UDHR remains a guiding principle in the Committee's efforts to protect human rights worldwide. These examples demonstrate how UN treaty bodies use the UDHR to provide context and strengthen the interpretation of binding treaty obligations in specific cases.

3.1.2. From CHR to HRC

The United Nations Commission on Human Rights, originally composed of 18 States members, was established in 1946 by the main United Nations legislative body working to promote and protect human rights.

Among the main themes addressed by the Commission were: the right to self-determination; racism; the question of the violation of human rights in the occupied Arab territories, including Palestine; the question of the violation of human rights and fundamental freedoms in any part of the world; economic, social and cultural rights; civil and political rights; the human rights of women, children, migrant workers, minorities and displaced persons; indigenous issues; the promotion and protection of human rights, including the work of the Sub-Commission, treaty bodies and national institutions; and advisory services and technical cooperation in the field of human rights.

The Commission's activities can be conditionally divided into three main stages. The first stage covers the years 1947–67, when the main goal of the Commission was to develop and establish human rights standards, which it successfully accomplished, first by adopting the UDHR and then by establishing two covenants. The second stage began in 1967, when the Commission was given the right to respond to violations of human rights, and the third stage began around 1993, when the Commission acquired a new function, providing an advisory service and technical assistance to states in ensuring human rights for all.⁶⁹

The Special Procedures of the Commission on Human Rights was mandated to examine, monitor and publicly report either on human rights situations in specific

68 Communication No. 30/2003.

69 See more: <https://www.ohchr.org/en/hr-bodies/chr/background> (Accessed: 20 June 2024).

countries or territories or on major phenomena of human rights violations worldwide (known as thematic mechanisms or mandates).⁷⁰

Although the Commission has performed well in terms of the establishment of human rights standards, it has increasingly come under fire for its ineffective response to human rights violations, as well as for frequent and serious human rights breaches by its members.⁷¹

In 1947, the Economic and Social Council passed a resolution stating that the Commission had ‘no power to take any action with regards to any complaints concerning human rights’.⁷² This statement was reaffirmed in ‘Communications concerning human rights: note by the Secretary-General’ later in same year, in which, *inter alia*, it has been proposed to the CHR to establish an ad hoc committee at each session, which would meet shortly before the next session of the Commission, to consider a confidential list of communications prepared by the Secretary-General and to recommend which of these communications could be made available to members.⁷³

In its second session the Commission adopted the resolution which requested the Economic and Social Council to reconsider the procedure for communications relating to human rights. The result of this request, namely Resolution 75 (V),⁷⁴ suggests that the Secretary-General be requested (a) before each session of the Commission to compile two lists of communications received concerning human rights with a brief summary of the substance of each of the following: (1) a non-confidential list of communications in which the authors state that they have already divulged or intend to divulge their names, or that they have no objection to their names being divulged; (2) a confidential list which will be furnished to the Commission, in private meeting, without divulging the identity of the authors of the communications.⁷⁵ However, despite this and many other changes that Resolution 75 (V) underwent in the 1950s and early 1960s, the statement that there was no power to take any action with regard to any complaints concerning human rights, prevailed.⁷⁶ A statement that might have been objectively acceptable in 1947 was completely irrelevant 20 years later. The situation demanded real change, and the role of trigger for the navigation of the situation received individual petitions from South Africa in 1965. It became necessary to develop procedures to address the issues of combating racism, segregation and apartheid. The result came in 1967, when the Commission established a temporary working group of experts to investigate the human rights situation in South Africa. By resolution 8 (XXIII), entitled ‘Study and investigation of situations which reveal

70 Ibid.

71 Blanchfield and Weber, 2022.

72 The Economic and Social Council resolution 75(V) (1947).

73 Commission of Human Rights Communications Concerning Human Rights, Note by Secretary-General, E/CN.V27 of 27.10.1947 [Online]. Available at: <https://digitallibrary.un.org/record/561096?ln=ru&v=pdf> (Accessed: 20 June 2024).

74 Res. 75(V) of August 5th, 1947, 1st Session of CHR.

75 See: Res. E/CN. 4/64, 17.12.1947 of the 2nd Session of CHR [Online]. Available at: <https://digitallibrary.un.org/record/561292?v=pdf> (Accessed: 20 June 2024).

76 Möller, 1979, p. 58.

a consistent pattern of violations of human rights', the CHR had requested that the Economic and Social Council authorise the Commission and the Sub-Commission to study grave violations of human rights and to authorise them 'to make thorough study and investigation of situations which reveal a consistent pattern of violations of human rights and to report with recommendations thereon to the Economic and Social Council.'⁷⁷ By the time of resolution 1235 (XLII) on 6th June 1967, the Economic and Social Council had granted that authority to the CHR and hence put out the statement that there was no power to take any action with regard to any complaints concerning human rights.⁷⁸ However, it took the ECOSOC another three years to approve the rules for filing and reviewing complaints. Finally, in resolution 1503 (XLVIII), adopted in 1970, the Council established a procedure to deal confidentially with complaints relating to a consistent pattern of gross violations of human rights.

During the next decades, the Human Rights Commission received thousands of human rights-related communications every year, which were divided into two parts, confidential and non-confidential lists, in accordance with the above-mentioned resolution. Although there was no effective mechanism for responding to human rights violations and, accordingly, to communications, the authors nevertheless believed that the gathering of all communications about human rights violations in the Commission was having a positive result, because at least the members of the Commission, whose main goal was to introduce human rights standards, had a more or less complete picture of the current situation in the field of human rights in the world.⁷⁹

Viewing the overall picture, despite the US Secretary of State Edward Stettinius considered the creation of the CHR to be one of the greatest achievements of the San Francisco Conference⁸⁰ in 1945, it appeared in practice that the CHR had a relatively weak mandate in line with the political considerations of UN member states. Some experts even have referred to it as a 'moral talk shop'.⁸¹ Moreover, as former Secretary General of UN Kofi Annan stated, by 2005

'the Commission's capacity to perform its tasks has been increasingly undermined by its declining credibility and professionalism. In particular, States have sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others. As a result, a credibility deficit has developed, which casts a shadow on the reputation of the United Nations system as a whole'.⁸²

77 Operative Para. 5.

78 See the text of the resolution [Online]. Available at: <https://digitallibrary.un.org/record/214657?ln=en&v=pdf> (Accessed: 10 May 2024).

79 Möller, 1979, p. 57.

80 Lauren, 2007, pp. 307–345.

81 Forsythe and Park, 2008.

82 Report of the Secretary General, In Larger Freedom: Towards development, security and human rights for all, (2005) UN Doc. A/59/2005. para. 182.

As a result, the Human Rights Council (HRC) was created to replace the Human Rights Commission by General Assembly resolution 60/251 on 3rd April 2006.

The primary decision on the establishment of a Human Rights Council was formally taken by a summit of world leaders in September 2005.⁸³ As a matter of fact, replacing the Commission with a Council was a part of the project of the then UN Secretary-General Kofi Annan, as part of his reforms of the UN.⁸⁴

Some authors claim that a political body such as the CHR and HRC cannot do more than the member states allow it to do, and as the result cannot be blamed for being driven by their political motivations.⁸⁵ Nevertheless, the accusations of excessive politicisation significantly undermined the Commission's reputation and pushed the need to create a new body.⁸⁶

The Human Rights Council differs from its predecessor, the CHR in several important respects. Firstly, the subordination – the Council is a subordinate body of the General Assembly, while the Commission was one of the subordinate bodies of the UN Economic and Social Council. The Council consists of 47 members,⁸⁷ which must meet at least three times a year for no less than ten weeks,⁸⁸ while the Commission, consisting of 53 members,⁸⁹ had met for six weeks in a year. However, the most important difference between these two bodies is the mechanism of Universal Periodic Review (UPR) of the implementation of human rights obligations by all UN Member States, which has significantly increased the potential of the Council. The UPR was created as a mechanism that would prevent the selectivity,⁹⁰ which widely characterised the Commission – the ultimate and universally recognised goal of the Universal Periodic Review is to improve the human rights situation in all countries, which should have a positive impact on all people.

3.1.3. *The Influence of the UDHR on the Universal Periodic Review (UPR)*

Besides UN treaty bodies, the UDHR plays a crucial role in institutional human rights structures, one of the most prominent of which is the Universal Periodic Review (UPR). Established in 2006 by the UN Human Rights Council, the UPR is a peer-review process that assesses the human rights records of all UN Member States.

At its core, the UDHR established a common standard of achievement for all peoples and nations by declaring that 'all human beings are born free and equal

83 Resolution adopted by the General Assembly on 16 September 2005, 60/1. 2005 World Summit Outcome; paras. 157–159.

84 Report of the Secretary General, In Larger Freedom: Towards development, security and human rights for all, (2005) UN Doc. A/59/2005, para. 183.

85 Lakatos, 2022.

86 See: Preamble of GA Resolution 60/251.

87 The majority of its 47 members are developing countries, so the balance of power on the HRC mirrors that of the GA.

88 Ibid.

89 Since 1992.

90 In larger freedom: towards development, security and human rights for all (2005), Report of the Secretary General, A/59/2005, Add 1, para 2.

in dignity and rights'. The UPR reflects this universalism by applying equally to all countries, regardless of their size, power, or geopolitical influence. This demonstrates the UDHR's influence in establishing a non-discriminatory system of human rights accountability.

The UDHR's wide and comprehensive classification of human rights – including civil, political, economic, social, and cultural rights – has also formed the scope of the UPR. In its reviews, the UPR covers an extensive range of rights, including those not limited to those in legally binding treaties. This mirrors the UDHR's comprehensive approach to human dignity, emphasising the interlinked nature of rights and the idea that none of them are more important than the others.

The UDHR emphasis on participation and transparency has significantly influenced the procedural aspects of the Universal Periodic Review (UPR). The UDHR's recognition of the role of individuals and communities in promoting human rights is reflected in its encouragement of civil society organisations, national human rights defenders, and other stakeholders participating in the review process.

Moreover, many States refer to the UDHR when defending their documents and either accepting or rejecting recommendations. The moral authority of the UDHR often provides additional weight to recommendations that comply with its principles, even when they go beyond treaty obligations.

The UDHR also provides guidance to States in developing national legislation and policies in response to UPR recommendations. For example, reforms in areas such as anti-discrimination laws, access to justice, and gender equality often draw on the UDHR as a source of inspiration or justification.

Despite its significant influence, the UDHR's impact on the UPR is not without limitations. Some states contest the interpretation or applicability of certain UDHR rights, particularly when they are in conflict with local cultural or religious norms. Additionally, because the UPR relies on voluntary state cooperation, implementation of UDHR-based recommendations often varies in commitment and effectiveness.

Furthermore, while the UDHR establishes ideal standards, the UPR operates within a political context where states may prioritise national sovereignty or strategic interests over universal values. Nevertheless, the UDHR remains a vital reference point that civil society and other states can invoke to encourage compliance and progress.

The influence of the UDHR within the UPR is profound and permanent. As a fundamental human rights instrument, it provides not only moral but also normative basis. Its universal approach and comprehensive scope form how human rights are assessed and promoted by the UPR. Despite the challenges, its influence is vital in ensuring that the UPR becomes more than just a diplomatic exercise, but an effective mechanism for advancing human dignity worldwide.

The UPR is a cooperative mechanism with the full involvement of the country concerned.⁹¹ It is a new, unique institutional mechanism of the United Nations in the

91 See: Human Rights Council, 2007b.

field of human rights protection. As then UN Secretary-General Ban Ki-moon noted, the Universal Periodic Review, established by the Human Rights Council, ‘holds great promise for opening a new chapter in human rights promotion and underscores the universality of human rights’.⁹²

The uniqueness of UPR lies in the fact that, unlike the treaty mechanisms, the mandate of which applies only to the member states of the treaty and is bound by a specific area of human rights or a circle of persons in the review process, the UPR review procedure applies to all 193 UN member states and has the potential to review all aspects of human rights. As rightly noted, ‘no country – big or small – will be immune from scrutiny’.⁹³

It is very important to underline, that the UPR is similar to other UN mechanisms, in that it is based on the principle of cooperation and interactive dialogue and is intended to complement the activities of other human rights bodies, including treaty bodies, and not to replace them.

The UPR model of studying human rights implementation allows the development of the overall picture of the situation in the country, which with a high probability can lead to an improvement in the situation, including the prevention of violations. Ultimately, such an approach has a positive impact on the fulfilment of the obligations undertaken by the state.

The UPR was established in 2006 by General Assembly resolution 60/251 (establishing the HRC). The Human Rights Council resolution 5/1 of 2007 set up the sources, principles, objectives and rules of conducting of the UPR in details. This resolution also laid down details for the conduct and review of special procedures, provided for the creation of the Human Rights Council Advisory Committee, composed of eighteen experts serving in their personal capacity, intended to function as a think-tank for the Council and work at its direction,⁹⁴ and providing for the establishment of a confidential complaints procedure based upon the mechanism created by ECOSOC resolution 1503 (1970).⁹⁵ To facilitate the participation of developing countries in the universal review process and the implementation of the results of the process at a national level, two financial mechanisms were established: the Voluntary Trust Fund for the Universal Periodic Review, and the Voluntary Fund for Financial and Technical Assistance.⁹⁶

The Universal Periodic Review operates on a four-and-a-half-year cycle.⁹⁷ Work with the State party consists of several stages: preparation of documents on which the review is based, the review itself, the adoption of recommendations and conclusions,

92 United Nations, 2007.

93 Ibid.

94 Para. 65 of Annex of HRC Res. 5/1.

95 Ibid., para. 86.

96 Human Rights Council, 2007b adopted without a vote.

97 Originally the periodicity was fixed as four years. Since the first periodic review in 2008, all 193 UN Member States have been reviewed three times. The fourth UPR cycle began in November 2022 and will end in May 2027.

and finally the implementation of follow-up actions on recommendations and conclusions. The UPR's engagement is not limited to the State party. The various stages of the review include the participation of relevant regional intergovernmental organisations, national institutions, and representatives of civil society, including NGOs, human rights defenders and academia. Based on the experience gained from the completion of the UPR round, the Human Rights Council may consider and decide to redesign its mechanism and review the periodicity issues, in order to ensure best practices and address existing procedural shortcomings.

The legal bases of UPR are: the Charter of the United Nations; the UDHR; human rights instruments to which a State is party; voluntary pledges and commitments made by States, including those undertaken when presenting their candidatures for election to the Human Rights Council; and applicable international humanitarian law.⁹⁸

The review is based on the compilation of three written reports: a national report, which is a self-assessment of the human rights situation in the national context;⁹⁹ an external report on the State's human rights obligations, which is a compilation of information provided by a number of United Nations bodies; and finally an external report on the State's human rights obligations, which is based on information provided by stakeholders such as non-governmental organisations (NGOs) or other national human rights institutions.¹⁰⁰ Following the dissemination of these reports, State representatives are invited to discuss the reports and develop questions and recommendations to be addressed to the State under review at a key stage of the review process: an interactive dialogue session. Each State review is formally conducted by the Universal Periodic Review Working Group, which is composed of the 47 member states of the UN Human Rights Council. However, during the interactive dialogue phase, any UN Member State may take the stage and express its views, ask questions or make recommendations to the State under review on any human rights issue. In response, the State under review must respond promptly.¹⁰¹ After the discussions, a final report is drawn up, containing all comments, questions, recommendations and responses provided by States.¹⁰² NGOs can submit information and attend the UPR Working Group sessions and can make statements at the regular session of the Human Rights Council when the outcome of the State reviews are being considered.¹⁰³

Among the main objectives of the Universal Periodic Review are the improvement of the human rights situation on the ground via a dialogical peer review process; the fulfilment of the State's human rights obligations and commitments, and an

98 Ibid.

99 Ibid., Section 15(a).

100 Ibid., Sections 15(b)–(c).

101 Human Rights Council, 2008a, para. 4.

102 See: HRC Resolution 5/1 on institution building of the UN Human Rights Council, Annex 1 Section 27 [Online]. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/res/5/1 (Accessed: 10 June 2024).

103 Ibid., para. 15

assessment of positive developments and challenges faced by the State; the sharing of best practice among States and other stakeholders; support for cooperation in the promotion and protection of human rights; and the encouragement of full cooperation and engagement with the Human Rights Council, other human rights bodies and Office of High Commissioner for Human Rights (OHCHR).¹⁰⁴

Following the review by the Working Group, a report is prepared by the Troika with the involvement of the State under review and assistance from the OHCHR. This report, referred to as the “outcome report”, provides a summary of the actual discussion. It therefore consists of the questions, comments and recommendations made by States to the country under review, as well as the responses by the reviewed State. As noted in the letter of the President of the Human Rights Council dated 1st November 2022, on the launch of the 4th cycle of the Universal Periodic Review, ‘the role of Trika is to facilitate each review, including the preparation of working group report by fully involving the state under review’.¹⁰⁵ The primary aim of this process is to promote and protect the universality of all human rights issues and concerns, by asking the following question: has this claim of promoting and protecting the universality of the human rights been met, or challenged, during state reviews in the UPR process?¹⁰⁶

The State has the responsibility to implement the accepted recommendations contained in the final outcome. So, the UPR differs from other mechanisms by its essentially inter-State character, i.e. the recommendations are issued by States individually and not by the Council as a body.¹⁰⁷

The implementation of UPR recommendations aims to strengthen national human rights protection systems, addressing the root causes of human rights violations, the implementation of recommendations can have a preventive effect. Not having a Special Rapporteur assigned to a particular country does not absolve that country from its obligations under the UDHR and every other human rights treaty.¹⁰⁸

The UPR ensures that all countries are accountable for any progress or failure in implementing these recommendations. During the second review the State is expected to provide information on what they have been doing to implement the recommendations made during the first review as well as on any developments in the field of human rights. The international community will assist in implementing the recommendations and conclusions regarding capacity-building and technical assistance, in consultation with the country concerned. If necessary, the Council will address cases where States are not co-operating. The HRC will decide on the measures it would need to take in case of persistent non-co-operation by a State with the UPR.¹⁰⁹

To summarise, the most important positive aspect of the UPR process is the monitoring of all UN member states in terms of human rights compliance, equal treatment

104 Ibid.

105 Villegas, 2022.

106 Patel, 2017, p. 5.

107 Viegas e Silva, 2013, p. 106.

108 United Nations, 2007.

109 Human Rights Council, 2025.

of all States, consideration of capacity building needs, sharing of good practices as well as the broad participation of Stakeholders in the process.¹¹⁰

3.2. Influence on Regional Human Rights Systems

3.2.1. Impact on Council of Europe

The UDHR has also significantly influenced regional human rights regimes. For example, the European Convention on Human Rights (1950) was the first regional treaty to legally bind many UDHR provisions, establishing the European Court of Human Rights (ECtHR). Similar processes followed in the Americas and Africa, with the adoption of the American Convention on Human Rights in 1969, and the 1981 African Charter on Human and Peoples' Rights, respectively. In each case, the UDHR served as an inspiration and a substantive reference point for rights and enforcement mechanisms.

It is notable that the ECHR was adopted in 1950, preceding the major universal human rights treaties. This chronological difference is not coincidental but rather reflects the relative ease of achieving consensus among a smaller, more politically and culturally aligned group of states. The Council of Europe, comprising mainly from Western European democracies with shared values and legal traditions, was able to negotiate and adopt a binding regional human rights instrument more rapidly than the broader international community represented in the United Nations. In contrast, the drafting of universal treaties required negotiations among a vastly larger and more diverse group of states, encompassing different legal systems, political ideologies, and levels of development. Reaching a common will under such conditions naturally proved to be more complex and time-consuming, delaying the adoption of universal instruments. The ECHR thus serves as an early and influential model of regional human rights protection, demonstrating how regional cooperation can sometimes advance more quickly than global consensus.

The European Court of Human Rights (ECtHR) has occasionally referenced the UDHR in its judgments, when interpreting and reinforcing the principles established in the European Convention on Human Rights (ECHR). Its influence is evident in the Court's jurisprudence. It serves as a foundational text that informs the understanding and application of human rights within the European context.

The ECtHR does not treat the UDHR as a directly enforceable treaty, but the Court repeatedly uses it as a contextual and interpretive authority because the ECHR was drafted in the same post-war legal environment, and its Preamble explicitly refers to the UDHR. The Court most often invokes the UDHR either in the Convention's Preamble or as a source of general principles – such as dignity, asylum, and non-discrimination – when interpreting Convention rights. These practices illustrate the manner in which the ECtHR integrates the principles of the UDHR into its interpretation and

¹¹⁰ During 3rd cycle total number of submissions by the stakeholders reached 6131. Universal Periodic Review Facts and Figures 2024.

application of the ECHR, even in the absence of direct citation, thereby affirming the enduring influence of the UDHR on European human-rights jurisprudence. In this context, the Court has consistently employed an interpretive methodology that situates the ECHR within the broader framework of international human-rights law, with a particular reference to the UDHR. The following cases exemplify this jurisprudential approach: *Tyrer v. United Kingdom*¹¹¹ – concerning the judicial corporal punishment of a minor, the Court emphasised the evolving standards of decency. While not directly quoting the UDHR, the Court acknowledged that the ECHR should be interpreted in light of contemporary conditions, reflecting the UDHR's influence. *Soering v. United Kingdom*¹¹² – the Court examined extradition of a German national to the U.S., where he faced the death penalty. It held that extradition would violate Article 3 ECHR. The Court referred to the UDHR, noting that the ECHR was designed to give effect to the rights and freedoms enshrined in the UDHR, reinforcing the universality of human rights principles. *Lehideux and Isorni v. France*¹¹³ – involving convictions for publishing an article defending Philippe Pétain, the Court held that Article 10 of the ECHR (freedom of expression) was violated. It implicitly aligned its interpretation with the UDHR, emphasising the universal freedom of opinion and expression. *Novaya Gazeta and Others v. Russia*¹¹⁴ – recent freedom-of-expression rulings situate the Convention within the UDHR's wider framework: 'Universal Declaration of Human Rights... and similar clauses were later (...)' *S.S. and Others v. Italy*¹¹⁵ – the judgment on the right to seek asylum links the principle to the UDHR: 'In many ways, the principle is the logical complement to the right to seek asylum recognized in the Universal Declaration of Human Rights.' *Ships Waste Oil Collector B.V. and Others v. The Netherlands*¹¹⁶ – the Court refers to the Convention's Preamble and notes the connection to the UDHR as part of the interpretive background. *Ukraine and the Netherlands v. Russia*¹¹⁷ (2025) – the ECtHR held that Russia's military attacks in Ukraine were 'extensive, strategically planned' and 'wholly at odds with any notion of chaos,' departing from *Georgia v. Russia (II)*. The Court recognised a systematic pattern of violations, held Russia responsible, and extended jurisdiction to affected individuals. Importantly, it cited the UDHR preamble: '(...) It was expressed in the preamble to the Universal Declaration of Human Rights (...)', affirming the rule of law as the core safeguard of human rights. *Alneel v. Norway*¹¹⁸ – some recent judgments recall that Article 1 of the ECHR obligations should be interpreted against the general human-rights landscape, including the UDHR: 'The relevant part of the United Nations Universal Declaration of Human Rights (...)'.

111 *Tyrer v. United Kingdom*, Application No. 5856/72, 1978.

112 *Soering v. United Kingdom*, Application No. 14038/88, 1989.

113 *Isorni v. France*, Application No. 55/1997/839/1045.

114 *Novaya Gazeta and Others v. Russia*, Applications Nos. 35023/13 and 25657/15, 2023.

115 *S.S. and Others v. Italy*, Application No. 21660/18, 2023.

116 *Ships Waste Oil Collector B.V. and Others v. The Netherlands*, Application No. 2799/16, 2025.

117 *Ukraine and the Netherlands v. Russia*, Application No. 43800/14, 8019/16, 28525/20 et al, 2025.

118 *Alneel v. Norway*, Application No. 14368/22, 2025.

Moreover, the ECHR itself was designed to give effect to certain rights stated in the UDHR. These rights were made binding within the European legal framework. The Convention's regulations frequently reflect those of the UDHR, demonstrating the shared dedication to basic human rights and liberties. This alignment illustrates the UDHR's enduring impact on the development and interpretation of human rights law in Europe.¹¹⁹

In summary, the ECtHR's practice shows that it's consistently engaged with the UDHR. It uses the UDHR as a kind of compass to interpret the ECHR and affirm the universal values that underpin human rights protections across Europe.

3.2.2. *Impact on OSCE Documents*

The UDHR served as a blueprint for many postwar human rights instruments, including those that shaped the formation of the OSCE (then the CSCE) in the 1970s.

The 1975 Helsinki Final Act, the OSCE's foundational document, explicitly acknowledges the UDHR as a standard for international human rights norms. Participating states pledged to respect human rights and fundamental freedoms 'in accordance with the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights'.¹²⁰

The UDHR influenced the framing of rights in the Helsinki Final Act, particularly covering freedom of thought, conscience, religion, and belief (Art. 18 of the UDHR) and freedom of expression (Art. 19 of the UDHR). 'VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.'¹²¹

The UDHR is directly referred to in various OSCE Documents and institutions. Among them are the following examples:

The 1990 Copenhagen Document: This human rights document references to the UDHR several times. It emphasises the 'universality of human rights'¹²² and affirms that participating States 'categorically and irrevocably declare that the commitments undertaken in the field of the human dimension (...) are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned'.¹²³ The principles laid out in the UDHR underlie commitments to free elections, fair trial rights, and freedom of association.

The 1991 Moscow Document: This document reiterates that the UDHR and other international instruments provide the framework for the OSCE human rights

119 European Convention on Human Rights [Online]. Available at: <https://www.echr.coe.int/european-convention-on-human-rights/> (Accessed: 15 May 2024).

120 Chapter VII, para 8.

121 See: Helsinki Final Act, 1975 Chapter VII. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief [Online]. Available at: https://www.osce.org/files/f/documents/5/c/39501_1.pdf (Accessed: 15 May 2024).

122 Para 24.

123 Para 27.

commitments. It expands on the idea that democratic institutions and the rule of law are essential to securing the rights listed in the UDHR.

Several OSCE institutions and mechanisms embody and operationalise the principles of the UDHR.

ODIHR (Office for Democratic Institutions and Human Rights): This Warsaw-based institution was established to help participating States implement their human dimension commitments. The ODIHR works in areas such as electoral observation, judicial reform, freedom of assembly, and minority rights, all of which are grounded in UDHR values.

High Commissioner on National Minorities (HCNM): The HCNM reflects the UDHR's principles of non-discrimination and protection of minority rights, especially Articles 2 and 27.

Though not legally binding, the UDHR serves as: 1) a moral compass, providing legitimacy and normative weight to OSCE assessments and recommendations; 2) a universal benchmark for evaluating compliance with human rights standards, particularly in politically sensitive situations; 3) a reference point during dialogue with participating States about human rights performance.

To sum up, the UDHR is key to the OSCE's human rights commitments and activities because it is referenced in key OSCE documents and guides human rights mechanisms and monitoring activities. By reinforcing the idea that respect for human dignity is essential to peace and security, the UDHR has helped the OSCE establish a common language of human rights across a diverse range of participating States.

3.2.3. Impact on EU Human Rights System

The European Union (EU) is an association of countries that cooperate in areas of mutual interest, as well as a community of values. Respect for human rights is one of the EU's founding values and guides its actions. The European Economic Communities were created to prevent future wars – a desire that underpins the UDHR.

To strengthen the protection of human rights and make them more visible and explicit for people in the 27 EU member states, the EU adopted a legally binding document known as the Charter of Fundamental Rights, which is part of the TEU. The EU Agency for Fundamental Rights (FRA) is an independent agency dedicated to advancing human rights within the EU. The FRA engages with stakeholders at all levels, providing expert advice to policymakers and conducting research, collecting data, and publishing reports on various human rights issues. The FRA assists EU institutions and member states in better promoting and protecting human rights across the EU by offering expert insights.

The UDHR plays an important role in guiding EU external policies and serves as a useful reference for how the EU conceives fundamental rights. While the EU Treaty does not explicitly mention the UDHR, it provides for the strict observance and development of international law, including respect for the principles of the UN Charter. According to Article 21 of the Treaty on the European Union, EU external policies should promote the universality of human rights – which is also the core

of the UDHR. Therefore, the Declaration is an important source of reference for EU legislation and policy documents. For instance, Recital 9 of the 2014 Regulation establishing a financing instrument for democracy and human rights worldwide states, '[T]he Union's contribution to democracy and the rule of law, as well as the promotion and protection of human rights and fundamental freedoms, is rooted in the Universal Declaration of Human Rights, among other international instruments'. The anti-discrimination directives contain a reference in their recitals to the right to equality before the law and protection against discrimination for all persons, as enshrined in the UDHR. The 2016 Directive on strengthening certain aspects of the presumption of innocence and the right to be present at a trial in criminal proceedings refers to Article 11 of the UDHR.¹²⁴ Many bilateral agreements, such as the recent trade agreements with Canada, Japan, and Singapore, include an explicit reference to the UDHR in their preambles. The standard human rights clause included in many framework and trade agreements¹²⁵ also contains an explicit reference to the UDHR as the normative framework for respecting human rights.

The EU has been unable to accede to all binding human rights treaties, except for the 2006 Convention on the Rights of Persons with Disabilities. But, due to its nonbinding nature, the UDHR has played a significant role in the EU's approach to human rights. The universal character of the UDHR makes it a useful tool for the EU's efforts to develop a uniform policy supporting human rights and democracy.¹²⁶

4. The Impact of the UDHR on National Law of 16 Central and Eastern European Countries – National Reports Overview

The UDHR, despite its binding nature as a norm of customary law, remains a resolution of the UN General Assembly and accordingly, it does not have the mechanisms established by human rights treaties where persons can file complaints or applications in cases of alleged violations of the relevant human rights obligations by state(s).

Thus, in the context of the UDHR, monitoring of the implementation of state obligations is carried out within the framework of the Human Rights Council. Accordingly, before directly analysing the practice of specific countries, it is appropriate to briefly touch upon the Human Rights Council and its predecessor, the Human Rights Commission: mandate, implementation and enforcement mechanisms, if any, etc.

Thus, when examining country practices, the scope of the study was limited to the Human Rights Convention and the UDHR. Accordingly, the practice of the Human Rights Commission has not been examined.

124 Directive (EU) 2016/343 of 9 March 2016, Para (1) of Preamble.

125 E.g.: EU agreements with the Republic of Korea [2010], Central America [2012], Colombia and Peru [2012], Georgia [2013], and Moldova [2013].

126 EPRS_ATA (2018) 628295_EN, The Universal Declaration of Human Rights and its relevance for the European Union, 2018.

Therefore, within the framework of the present research, the compliance of States with the UDHR at a national level is examined based on the HRC's so-called 'institution-building' package,¹²⁷ which *inter alia* includes National Reports, other stakeholders information, National Reports of working group, and National Reports of the HRC.

4.1. National Reports Overview

Therefore, the UPR of the following 16 Central and Eastern European countries: Albania, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Croatia, Estonia, Hungary, Latvia, Lithuania, Montenegro, North Macedonia, Poland, Romania, Serbia, Slovakia, and Slovenia are examined instead of case law (see: Figure 1 below).

Figure 2^{128,129}

Country	Date of Consideration of		Compliance with UDHR
Albania	1st National Report	2nd December 2009	First National Report in Para 33 contains a single reference to UDHR, when lists the international human rights instruments Albania is party to.
	2nd National Report	28th April 2014	No direct reference has been made to the implementation of UDHR
	3rd National Report	6th May 2019	No reference has been made to the implementation of UDHR
	4th National Report	4th November 2024	No reference has been made to the implementation of UDHR
Bosnia and Herzegovina	1st National Report	17th February 2010	No reference has been made to the implementation of UDHR
	2nd National Report	5th November 2014	No reference has been made to the implementation of UDHR
	3rd National Report	13th November 2019	No reference has been made to the implementation of UDHR
	4th National Report	29th January 2025	No reference has been made to the implementation of UDHR
Bulgaria	1st National Report	4th November 2010	Para 22 of the National Report states that '[T]he legal system of Bulgaria is based on the core UN international instruments of human rights' including the Universal Declaration of Human Rights.
	2nd National Report	7th May 2015	No reference has been made to the implementation of UDHR
	3rd National Report	6th November 2020	No reference has been made to the implementation of UDHR
	4th National Report	Deadline for National Report – 4th August 2025	No National Report has been presented yet

127 See: Human Rights Council 5/1. Institution-building of the United Nations Human Rights Council, adopted in 9th meeting of 18 June 2007.

128 In 2022 the UPR's third cycle has ended and the fourth cycle has begun which will last until 2027. By the end of June 2025 all above-mentioned states have submitted 3 national and some four National Reports for the UPR cycles.

129 The information is obtained from official website of the Human Rights Council [Online]. Available at: <https://www.ohchr.org/en/hr-bodies/upr/si-index> (Accessed: 30 June 2024).

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Country	Date of Consideration of		Compliance with UDHR
Croatia	1st National Report	8th November 2010	Para 4 of the National Report states, that '[T]he reference framework for the preparation is a combination of the . . . General Guidelines and the rights and freedoms contained in the Universal Declaration of Human Rights as well as emphasis in particular national priorities'.
	2nd National Report	12th May 2015	No reference has been made to the implementation of UDHR
	3rd National Report	10th November 2020	No reference has been made to the implementation of UDHR
	4th National Report	Deadline for National Report 4th August 2025	No National Report has been presented yet
Czech Republic	1st National Report	16th April 2008	No reference has been made to the implementation of UDHR
	2nd National Report	22th October 2012	No reference has been made to the implementation of UDHR
	3rd National Report	6th November 2017	No reference has been made to the implementation of UDHR
	4th National Report	23rd January 2023	No reference has been made to the implementation of UDHR
Estonia	1st National Report	2nd February 2011	No reference has been made to the implementation of UDHR
	2nd National Report	19th January 2016	No reference has been made to the implementation of UDHR
	3rd National Report	4th May 2021	Para 58 states, that the curriculum for basic schools based on the study of the Constitution, Universal Declaration of Human Rights (UDHR) and Convention on the Rights of the Child. Para 59 states, that the Estonian Institute of Human Rights has carried out a project for students about understanding the UDHR.
	4th National Report	Deadline for National Report February 2026 (tentative)	No National Report has been presented yet
Hungary	1st National Report	11th May 2011	No reference has been made to the implementation of UDHR
	2nd National Report	4th May 2016	No reference has been made to the implementation of UDHR
	3rd National Report	2nd November 2021	No reference has been made to the implementation of UDHR
	4th National Report	Deadline for National Report July 2026 (tentative)	No National Report has been presented yet
Latvia	1st National Report	5th May 2011	No reference has been made to the implementation of UDHR
	2nd National Report	26th January 2016	No reference has been made to the implementation of UDHR
	3rd National Report	11 May 2021	No reference has been made to the implementation of UDHR
	4th National Report	Deadline for National Report February 2026 (tentative)	No National Report has been presented yet
Lithuania	1st National Report	11th October 2011	No direct reference has been made to the implementation of the UDHR, just the general reference that the Lithuanian Constitution of 1992 was drafted taking into account the fundamental UN and Council of Europe human rights instruments.
	2nd National Report	2nd November 2016	No reference has been made to the implementation of UDHR
	3rd National Report	26th January 2022	No reference has been made to the implementation of UDHR
	4th National Report	Deadline for National Report October 2026 (tentative)	No National Report has been presented yet

Country	Date of Consideration of		Compliance with UDHR
Republic of North Macedonia	1st National Report	3rd December 2008	No reference has been made to the implementation of UDHR
	2nd National Report	28th January 2013	No reference has been made to the implementation of UDHR
	3rd National Report	22nd January 2018	No reference has been made to the implementation of UDHR
	4th National Report	8th May 2023	No reference has been made to the implementation of UDHR
Montenegro	1st National Report	12th May 2009	Right to education Para 76. A Comprehensive reform of the Montenegrin education system started in 2000, when the “Book of Change” was adopted. This Book contains the basic goals and principles of the reform, harmonised with the Constitution and international documents such as: the Universal Declaration of Human Rights, The United Nations Convention on the Rights of the Child, The Convention against Discrimination in Education, The Resolution on European Dimension in Education.
	2nd National Report	30th January 2014	Para 92. The progress presented herein and the clearly recognised challenges and obligations undertaken to further strengthen the system of the protection and exercising of human rights and freedoms confirm the unambiguous commitment of Montenegro to the highest values of democracy and principles proclaimed in the UN Charter, the Universal Declaration and international human rights law documents.
	3rd National Report	24th January 2019	Priorities, initiatives and commitments in addressing challenges in the implementation of recommendations and strengthening of human rights protection – Part VI, Paras 134–137 – The progress presented herein and the clearly recognised challenges and obligations undertaken to further enhance the system of human rights protection and promotion confirm the unequivocal commitment of Montenegro to the values of democracy and principles enshrined in the UN Charter, the Universal Declaration and international human rights instruments.
	4th National Report	2nd May 2024	Para 185. The progress presented in the National Report clearly showed challenges and obligations that must be fulfilled to strengthen the system of protection and enjoyment of human rights and freedoms, in line with the highest values of democracy and the principles proclaimed in the UN Charter, the Universal Declaration of Human Rights and international legal documents in these fields.
Poland	1st National Report	14th April 2008	No reference has been made to the implementation of UDHR
	2nd National Report	30th May 2012	No reference has been made to the implementation of UDHR
	3rd National Report	9th May 2017	Para 147. According to the requirements of the Act on the Educational System, which provides that education in Poland follows the principles enshrined in the Constitution and the guidance of the Universal Declaration of Human Rights, the ICCPR, and the Convention on the Rights of the Child, human rights and the rights of the child have been and will remain a part of the school curricula.
	4th National Report	15th November 2022	No reference has been made to the implementation of UDHR

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Country	Date of Consideration of		Compliance with UDHR
Romania	1st National Report	15th May 2008	Para 14. Article 20 of the Constitution stipulates that constitutional provisions concerning citizens' rights and freedoms shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the covenants and other treaties Romania is party to. In case of inconsistencies between these covenants and treaties and national laws, international regulations shall take precedence, unless domestic legislation comprises more favourable provisions. Para 64. The Government has approved the National Strategy for the protection, integration and social inclusion of persons with disabilities – 'Equal chances for the persons with disabilities – towards a society without discrimination' – for the period 2006–2013. (...) The main principles of the Strategy are based on the respect of rights and the dignity of the persons with disabilities according to the Universal Declaration of Human Rights, (...)
	2nd National Report	22nd January 2013	9. As concerns recommendation 2 ¹³⁰ , in Romania the legal provisions on citizens' rights and freedoms are interpreted and enforced in accordance with the Universal Declaration of Human Rights, the covenants and other treaties to which Romania is a party.
	3rd National Report	16th January 2018	No reference has been made to the implementation of UDHR
	4th National Report	2nd May 2023	No reference has been made to the implementation of UDHR
Serbia	1st National Report	5th December 2008	The criminal-law protection of minors in the Republic of Serbia is primarily realised in accordance with a special law – the Law on Juvenile Offenders and Criminal Protection of Juveniles – which has been in force since January 1 st 2006. This is a modern law which respects human rights standards proclaimed in the international documents such as the Universal Declaration of Human Rights, the Convention on the Right of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms. ¹³¹
	2nd National Report	30th January 2013	No reference has been made to the implementation of UDHR
	3rd National Report	24th January 2018	No reference has been made to the implementation of UDHR
	4th National Report	10th May 2023	No direct reference has been made to the implementation of UDHR

130 'To take all necessary steps to ensure that relevant Romanian legislation is in conformity with its international undertakings (United Kingdom)' – Universal Periodic Review National Report of the Working Group on the Universal Periodic Review Romania. Human Rights Council, 2008b.

131 Para. 109 of the National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1 for Serbia. Human Rights Council, 2008c.

Country	Date of Consideration of		Compliance with UDHR
Slovakia	1st National Report	13th May 2009	Para 41. The Charter of Fundamental Human Rights and Freedoms is part of the Slovak legal system; this Charter is based on international documents, in particular on the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as other international human rights instruments. ¹³²
	2nd National Report	3rd February 2014	No reference has been made to the implementation of UDHR
	3rd National Report	28th January 2019	No reference has been made to the implementation of UDHR
	4th National Report	6th May 2024	No reference has been made to the implementation of UDHR
Slovenia	1st National Report	16th February 2010	No reference has been made to the implementation of UDHR
	2nd National Report	4th November 2014	No reference has been made to the implementation of UDHR
	3rd National Report	12th November 2019	No reference has been made to the implementation of UDHR
	4th National Report	28th January 2025	Para 25. The active implementation of the UDHR continues through cultural and arts education, where children and young people learn about the different art forms and the social impact of cultural arts (cultural diversity, intercultural awareness and dialogue, social and civic competences).

Although the UPR, along with other international human rights instruments, is also based on the UDHR, the above table clearly shows that in most cases, States not even do not focus on the specific norms of the UDHR in their national reports, but do not mention it at all. Similarly, there is no direct reference to the Declaration in the preliminary questions and recommendations of other States either.

The only State among the 16 in this study that has mentioned the UDHR in all four reports is Montenegro, although even in this case, the UDHR is listed as one of the main sources of the country's international obligations in the field of human rights, and only in the first report is there a direct reference to the Declaration in the context of the right to education.

It is noteworthy that the right to education is also mentioned in other national reports in the context of the UDHR. In particular, the third National Report of Estonia refers to the UDHR as one of the main sources of the basic school curriculum, and also highlights the actions taken by the country in context of studying the UDHR for the students. The third National Report of Poland notes that in accordance with the Act on the Education System of Poland, the principles of the UDHR are reflected in the school curriculum. The Fourth National Report of Slovenia also notes that implementation of the UDHR by the country is ensured, *inter alia*, through educational mechanisms.

132 Pursuant to Article 7(5) of the Constitution of Slovakia, international treaties on human rights and fundamental freedoms, international treaties for whose exercise a law is not necessary, and international treaties which directly confer rights or impose duties on natural persons or legal persons and which were ratified and promulgated in a manner laid down by the law, shall prevail over laws see Para. 41 of the National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1 for Slovakia. Human Rights Council, 2009.

The first national reports of Bulgaria and Slovakia contain statements which claim that the legal systems of the countries are based, among others, on the UDHR; while in the case of Lithuania, it is indicated that the Constitution was written on the basis of, among others things, the fundamental instruments of the UN Human Rights. Most probably this is referring directly to the UDHR. The first report of Romania states that according to Article 20 of the country's Constitution, human rights and fundamental freedoms must be interpreted and implemented in accordance with the UDHR. And that in the event of inconsistency between national legislation and international norms, the latter shall prevail, unless the national legislation establishes a more favourable regime. This in turn, is another guarantee of the state's implementation of the UDHR. It is noteworthy that Romania's second national report responds to the recommendation (#2) made by the United Kingdom during the first cycle and notes that in Romania, citizens' rights and fundamental freedoms are interpreted and implemented in accordance with the UDHR.

Romania's first report also notes that the country's National Strategy for the protection, integration and social inclusion of persons with disabilities (described as 'Equal chances for the persons with disabilities – towards a society without discrimination') for the period 2006–2013 is based, among other things, on the UDHR.

Finally, in Serbia, the juvenile justice system, namely the Law on Juvenile Offenders and Criminal Protection of Juveniles, is based, among other things, on the UDHR, as mentioned in the first National Report.

5. Conclusion

Nearly eight decades have passed since its adoption, yet the UDHR remains a dynamic instrument that continues to inform contemporary human rights debates and innovations. Emerging challenges, such as digital rights and privacy, environmental protection, corporate responsibility, and the ethical use of artificial intelligence, are increasingly framed within the UDHR's principles of dignity, equality, and freedom. The UDHR's core message that human rights are universal and must be upheld for all people resonates today amid complex global transformations and crises. The UDHR has had a profound and lasting impact on the development of international and regional human rights law. It established the normative and legal basis for an extensive and evolving human rights system that continues to adapt to new circumstances. Although the world has changed significantly since 1948, the UDHR's emphasis on human dignity, equality, and freedom remains central to efforts to promote justice, peace, and shared humanity in the 21st century.

The UDHR, originally intended to be of "soft" character, not only became the precursor for many universal and regional human rights treaties, but thanks to general State practice accompanied by *opinio juris*, transformed into one of the most significant tools of international customary law, and became an encouraging model to adopt.

Judging from both the HRC reports, as well as the preliminary questions and recommendations of the states, and also from the concerns of other stakeholders, in the case of these specific 16 countries, as a rule, no separate reference, comment or request for clarification is made in terms of compliance with the UDHR, which, first of all, should be conditioned by the membership of each of these countries, not only in the Covenants, but also in the European Convention for the Protection of Human Rights and Fundamental Freedoms, which among other things covers the obligations undertaken in the UDHR, the fulfilment of which is ensured by other mechanisms, including the European Court of Human Rights.

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