

## **МАТЕРІАЛИ НАУКОВО- МЕТОДОЛОГІЧНИХ СЕМІНАРІВ З ПРАВОЗНАВСТВА**

---

---

Розділ містить текст доповіді М. А. Гори на англomовному науково-методологічному семінарі з правознавства, який відбувся на економіко-правovому факультеті Одеського національного університету імені І. І. Мечникова у березні 2015 р.

**UDC 341.231.14**

**M. A. Gora**

senior lecturer

Odessa I. I. Mechnikov National University,

The Department of Civil Law Disciplines

Frantsuzskiy boulevard, 24/26, Odessa, 65028, Ukraine

### **THE INTERNATIONAL MECHANISM OF PROTECTION OF HUMAN RIGHTS**

The Article researches the international mechanism of protection of human rights, including the classification of the international human rights organs and organizations, their legal status the advantages and flaws of the system of international human rights organs and organizations.

**Key words:** human rights, system of international human rights organs and organizations, international mechanism of protection of human rights.

The last decades can be characterized by the increased interest to the problem of implementation of human rights proclaimed in the international documents and treaties, growth of the political significance of international human rights laws, acceptance by more and more states of their human rights obligations. A lot of legal advances have taken place in the international human rights field in the last years. But, despite that, human rights organizations almost every day receive reports about massive violation of human rights in one part of the world or another and there is still a lot of work to do to stop or prevent these violations. The article is about international mechanism of protection of human rights — the activity of international human rights organs and organizations. The article offers the classification of international human rights institutions and investigates their competence and development.

The necessity of development of the science of human rights has been grounded in 1978 in the great collective treatise «The International Dimensions of Human Rights»: «the contemporary phenomenon of human rights demands that a genuine science of human rights be developed, the objectivity and rigor of which will vouch for the independence of human rights in respect of any particular school of thought or any particular interpretation of reality» [3]. But the problem of human rights has been subject to research studies in all times. Great work in this field has been conducted by such scientists as M. I. Abdullaev, A. K. Berger, H. J. Berman, A. G. Bereghnoe, V. Y. Bogdasarov, L. Bogoras, Teodor Van Boven, V. E. Chirkin, Menachem Elon, M. L. Entin, H. S. Homushev, B. Galy, M. D. Grubarg, K. Das, Rene David, V. A. Kartashkin, G. M. Kerimov, I. Y. Lischina, E. A. Lukashova, F. Lyusher, M. N. Marchenko, S. Marks, P. A. Мьллerson, B. Nazarov, B. C. Nersesyants, B. F. Newman, V. Novik, Karl Partch, Imre Sabo, L. R. Syukiyaynen, A. Tergel, L. N. Shestakov, T. A. Vasilieva, V. P. Vorobiev, I. A. Zevelev, and others.

The term «International mechanism of protection of human rights» means a system of international (inter-state) organs and organizations that act to implement the international standards of human rights and freedoms, or to restore human rights in case of their violation [8].

The system of International human rights institutions is variegated and complex. There are several grounds of classification: territorial basis (international or universal, the activity of which covers the whole world, and regional, which implement and protect HR in a certain region, there are European, African and American HR institutions); legal nature (there are judicial bodies and quasi-judicial bodies) [6]; legal basis of their establishment and activity (charters-based bodies, established on the basis of the UN Charter, and treaty-based bodies, established on the basis of the international HR treaties); scope of authority (organizations with unlimited authority that can consider any question in the HR fireld, and organizations with authority limited to a certain subject or region); kind of their activity (international HR bodies can conduct general monitoring, consider personal complaints, assess inter-State complaints, publish recommendations, do other kinds of activity); structure (collective or individual or, what is more important, do the members of the organization represent themselves or States they come from; there also combinatory institutions); terms of their activity (terminable and termless basis); status of their decisions (obligatory decisions or recommendatory decisions).

The basis of the universal mechanism of protection of human rights is the United Nations Organization (UN) founded in 1945. The UN Charter (26/06/1945) was the first in the history of international relations governmental multilateral treaty, which laid the foundation for a broad cooperation of States in the sphere of Human Rights. Item 3 of Article 1 of the Charter proclaims that the aim of the parties is to «achieve international co-operation 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»<sup>1</sup>. According to the UN Charter the international mechanism of protection of human rights includes the following institutions: the Office of the High Commissioner for Human Rights, the Human Rights Council, which replaced the Commission on Human Rights (its first meeting took place on 19 June 2006), the Universal Periodic Review, Special Procedures.

**The Office of the High Commissioner for Human Rights (OHCHR)** works to offer the best expertise and support to the different human rights monitoring mechanisms in the United Nations system : UN Charter-based bodies, including the Human Rights Council, and bodies created under the international human rights treaties. Most of these bodies receive secretariat support from the Human Rights Council and Treaties Division of the OHCHR. The Human Rights Council and OHCHR are separate entities, as they were given the separate mandates by the General Assembly. Nevertheless, OHCHR provides substantive support for the meetings of the Human Rights Council, and follow-up to the Council's deliberations <sup>2</sup>.

**The Human Rights Council** is an intergovernmental body, which meets in Geneva 10 weeks a year. It is a forum empowered to prevent abuses, inequity and discrimination, protect the most vulnerable, and expose perpetrators. It is composed of 47 elected United Nations Member States who serve for an initial period of 3 years, and cannot be elected for more than two consecutive terms. The Council's Membership is based on equitable geographical distribution. Seats are distributed as follows: African States: 13 seats, Asia-Pacific States: 13 seats, Latin American and Caribbean States: 8 seats, Western European and other States: 7 seats, Eastern European States: 6 seats. The current President of The Human Rights Council (10<sup>th</sup> Cycle) is Ambassador CHOI Kyong-lim<sup>3</sup>.

**The Universal Periodic Review (UPR)** is a unique process which involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed. The UPR was created through the UN General Assembly on 15 March 2006 by resolution 60/251, which established the Human Rights Council itself. It is a cooperative process which, by October 2011, has reviewed the human rights records of all 193 UN Member States. Currently, no other universal mechanism of this kind exists. The UPR is one of the key elements of the Council which reminds States of their responsibility

---

<sup>1</sup> Available from: [http://zakon2.rada.gov.ua/laws/show/995\\_010](http://zakon2.rada.gov.ua/laws/show/995_010)

<sup>2</sup> Available from the UN official website: <http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

<sup>3</sup> Available from the UN official website: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/Presidency.aspx>

to fully respect and implement all human rights and fundamental freedoms. The ultimate aim of this mechanism is to improve the human rights situation in all countries and address human rights violations wherever they occur<sup>1</sup>. According to the time-table of consideration of national reports, the Report from Ukraine has been considered on the 14<sup>th</sup> Session of the Human Rights Council (October 22 — November 5, 2012)<sup>2</sup>.

**Special Procedures** is the general name given to the mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. Special Procedures are either an individual or a working group. They are prominent, independent experts working on a voluntary basis, appointed by the Human Rights Council. Special Procedures' mandates usually call on mandate-holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as «country mandates», or on major phenomena of human rights violations worldwide, known as «thematic mandates». All report to the Human Rights Council on their findings and recommendations. They are sometimes the only mechanism that will alert the international community on certain human rights issues. The system of Special Procedures is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social. As of the 1<sup>st</sup> of November 2014 there are 39 thematic mandates (e.g. **Special Rapporteur on Adequate Housing, Working Group of Experts on People of African Descent, Working Group on Arbitrary Detention, Special Rapporteur on the sale of children, child prostitution and child pornography, Special Rapporteur in the field of cultural rights, Special Rapporteur on the right to education, so on**) and 14 country mandates (Belarus, Cambodia, Central African Republic, Côte d'Ivoire, Eritrea, Democratic People's Republic of Korea, Haiti, the Islamic Republic of Iran, Mali, Myanmar, the Palestinian territories, Somalia, the Sudan, the Syrian Arab Republic).

On 18 June 2007, the Human Rights Council adopted resolution 5/1 entitled «Institution-Building of the United Nations Human Rights Council» by which a new complaint procedure was established to address consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.

With the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), Special Procedures: undertake country visits; act on individual cases and concerns of a broader, structural nature by sending communications to States and others in which they bring alleged violations or abuses to their attention; conduct thematic studies and expert consultations, contribute to the development of international human rights

---

<sup>1</sup> Available from the UN official website: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

<sup>2</sup> The timetable available from the website:  
[www.ohchr.org/Documents/HRBodies/UPR/UPRFullCycleCalendar2nd.doc](http://www.ohchr.org/Documents/HRBodies/UPR/UPRFullCycleCalendar2nd.doc)

standards, engage in advocacy, raise public awareness, and provide advice for technical cooperation.

Special Procedures report annually to the Human Rights Council; the majority of the mandates also report to the General Assembly. Their tasks are defined in the resolutions creating or extending their mandates.

Besides the named charter-based organizations, the international mechanism of protection of human rights includes a system of so-called treaty-based organs.

There are nine core international human rights treaties, the most recent one — On Enforced Disappearance — entered into force on 23 December 2010. Since the adoption of the Universal Declaration of Human Rights in 1948, all UN Member States have ratified at least one core international human rights treaty, and 80 percent have ratified four or more.

Currently there are ten international human rights treaty bodies, nine of them monitor implementation of the core international human rights treaties while the tenth treaty body, the Subcommittee on Prevention of Torture, established under the Optional Protocol to the Convention against Torture, monitors places of detention in States parties to the Optional Protocol [2]:

1. Human Rights Committee (CCPR) monitors implementation of the International Covenant on Civil and Political Rights (1966) and its optional protocols;

2. Committee on Economic, Social and Cultural Rights (CESCR) monitors implementation of the International Covenant on Economic, Social and Cultural Rights (1966);

3. Committee on the Elimination of Racial Discrimination (CERD) monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (1965);

4. Committee on the Elimination of Discrimination against Women (CEDAW) monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women (1979) and its optional protocol (1999);

5. Committee against Torture (CAT) monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (1984); there 's also the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment established by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987<sup>1</sup>.

6. Committee on the Rights of the Child (CRC) monitors implementation of the Convention on the Rights of the Child (1989) and its optional protocols (2000);

7. Committee on Migrant Workers (CMW) monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990);

---

<sup>1</sup> Available from the website: <http://www.cpt.coe.int/en/about.htm>

8. Committee on the Rights of Persons with Disabilities (CRPD) monitors implementation of the International Convention on the Rights of Persons with Disabilities (2006);

9. Committee on Enforced Disappearances (CED) monitors implementation of the International Convention for the Protection of All Persons from Enforced Disappearance (2006);

10. The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) established pursuant to the Optional Protocol of the Convention against Torture (OPCAT) (2002) visits places of detention in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

When we speak about the International Human Rights Law, we speak, first of all, about the Universal Declaration of Human Rights (UDHR) adopted on 10 December 1948 which for the first time in human history spell out basic civil, political, economic, social and cultural rights that all human beings should enjoy, the International Covenant on Civil and Political Rights (1966) and its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights (1966) and its Optional Protocol. These three international core human rights documents form the so-called International Bill On Human Rights. So, in this Article, we will consider the activity of the main, from our point of view, international human rights treaty bodies: The Human Rights Committee, founded upon the International Covenant on Civil and Political Rights, and the Committee on Economic, Social and Cultural Rights, founded upon the International Covenant on Economic, Social and Cultural Rights.

**The Human Rights Committee** is the body of independent experts that monitors implementation of the International Covenant on Civil and Political Rights by its State parties.

All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Covenant and then whenever the Committee requests (usually every four years). The Committee examines each report and addresses its concerns and recommendations to the State party in the form of «concluding observations».

In addition to the reporting procedure, article 41 of the Covenant provides for the Committee to consider inter-state complaints. Furthermore, the First Optional Protocol to the Covenant gives the Committee competence to examine individual complaints with regard to alleged violations of the Covenant by States parties to the Protocol<sup>1</sup>.

The full competence of the Committee extends to the Second Optional Protocol to the Covenant on the abolition of the death penalty with regard to States who have accepted the Protocol.

The Committee meets in Geneva or New York and normally holds three sessions per year. The Committee also publishes its interpretation of the content

---

<sup>1</sup> Available from: [http://zakon2.rada.gov.ua/laws/show/995\\_043](http://zakon2.rada.gov.ua/laws/show/995_043)

of human rights provisions, known as General Comments (Recommendations) on thematic issues or its methods of work. For example, there are General comments No. 19: Article 23 (The Family) «Protection of the Family, the Right to Marriage and Equality of the Spouses» of 27 May 2008, General comments No. 32: Article 14: «Right to Equality before Courts and Tribunals and to Fair Trial» of 23 Aug 2007; General comment No. 34 — Article 19: «Freedoms of opinion and expression» of 12 Sep 2011. The latest Comment is Draft General comment No. 35, Article 9: «Liberty and security of person» of 15 Dec 2014. (Totally there are 35 General comments/recommendations)<sup>1</sup>.

In its general comments submitted in accordance with paragraph 4 of Art. 40 of the Covenant, the Human Rights Committee gives interpretation of the separate articles of the Covenant, and proposes measures to be taken by States to implement them. However, the Committee does not address recommendations to the states. For example, at one of its sessions, the Committee has interpreted the principle of equality and non-discrimination (Articles 2 and 3 of the Covenant), the right of the family to protection by society and the State (Article 23), and demanded that the States Parties take legislative and other measures to implement these positions. Only in recent years, the Committee, began to address certain comments to states.

So, the Committee is authorized to:

1. Examine the obligatory reports of the States Parties on the situation in the Human Rights field in these countries;
2. Publish General Comments on Articles of the Covenant;
3. Assess Inter-State Complaints<sup>2</sup>;
4. Consider Individual Complaints Under the Optional Protocol.

The development of the international mechanisms of protection of human rights takes place in a large part due to the constant increase of authority of the international Committees. All of the treaty-based bodies from the date of their establishment were authorized to conduct general monitoring and assess inter-state complains. But gradually all of them start to consider individual complaints. And if before the year of 2000, only three of the nine treaty bodies were able to consider individual complaints, currently all the Committees have the authority to do this [7, c. 68]. For example, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, according to which the Committee on Economic, Social and Cultural Rights was authorized to consider individual complaints, came into force only on 5 May, 2013.

Though the creation of the mechanism of international monitoring for the implementation of the legal obligations that States have accepted in the field of human rights is considered to be one of the most significant achievements

---

<sup>1</sup> Available from the UN official website:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11)

<sup>2</sup> For more information about the work of the Human Rights Committee, read the Civil and Political Rights: The Human Rights Committee fact sheet Printed at United Nations, Geneva 11.05.2005 (PDF) // Available from: <http://www.ohchr.org/Documents/Publications/FactSheet15rev.1en.pdf>

in the sphere of international regulation of human rights [9, с. 495], the monitoring activity of international institutions is not very effective in practice. The scope of activity of treaty based bodies is constantly expanding, the number of reports discussed and the amount of information received is growing. Thus many treaty based bodies duplicate the work of each other. For example, the Human Rights Committee considers such issues as the prohibition of discrimination and equality before the law, which are also discussed in almost all the other treaty based organs. It also considers matters that are observed by the different UN institutions. At the same time, States are obliged to submit reports not only to treaty based bodies, but also to the UN main and specialized institutions.

Another important reason for the low efficiency of treaty based international human rights bodies is insufficiency of their competence. None of the UN bodies can make decisions that would be binding for the states, because the nature their decisions is advisory [7, с. 67]. Difficulties also take place because many formulations of human rights norms are very general and do not have specific legal boundaries.

There is also a subjective reason: States do not submit their reports in time, do not respond to requests for additional information, falsify the statistics. Hundreds of different decisions, recommendations, observations adopted by both UN Charter and treaty based institutions are not fulfilled by States and there's no control over that, while different additional bodies are founded within the UN structure, new international treaties and optional protocols are concluded.

In this regard, it seems appropriate to make amendments to the existing international treaties, expand the sources of information and combine a number of treaty based bodies. As professor Kartashkin emphasizes, it's time to elaborate the Charter of Human Rights for the XXI century, that has already been proposed by him and the American professor Bertrand Gross [9, с. 508]. It is expected that The Charter of Human Rights for the XXI century must integrate all existing international UN treaties in this area, as well as introduce new norms and principles developed over the past years. Professor states that the development and adoption of this Charter is the only workable way to prevent creation of new international treaties-based bodies and duplication in their work, waste of the UN funds, various interpretation of the existing rules and principles of human rights. The adoption of a new Charter and the establishment of one and single human rights institution that would work on permanent bases but not from session to session, and providing it with the authority to take specific and binding for States solutions, would significantly improve the efficiency of the created system and provide better protection of human rights in the world [9, с. 509].

Besides the listed international or universal Human Rights organs and organizations, there are also regional mechanisms of protection of human rights.

Currently, 3 regional mechanisms of protection of human rights exist: European (based on the Documents of the European Council and European

treaties on human rights, the most significant of which is the European Convention on Human Rights and Fundamental Freedoms); American (based on the Inter-American Convention on Human Rights adopted at the Inter-American diplomatic conference in Costa Rica on November 20, 1969), and African (based on the African Charter on Human and Peoples' Rights, signed in 1981, that takes into account the specific problems of the continent and aims of the member States).

Here the European mechanism of protection of human rights will be considered, as the oldest and the most successful one, and also as the most interesting for us being the citizens of the European continent.

In Europe there are the following main institutions on human rights: The Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR), The European Council Commissioner for Human Rights. The Organization for Security and Co-operation in Europe (OSCE), The Committee of Ministers of the European Council, The European Court of Human Rights, The European Commission of Human Rights, The European Committee of Social Rights, The European Commission for Democracy Through Law and some other commissions and sub-commissions.

The ODIHR is based in Warsaw, Poland. It is active throughout the OSCE area in the fields of election observation, democratic development, human rights, tolerance and non-discrimination, and rule of law. In April 2013, the Minister of Justice of Ukraine requested the Venice Commission (European Commission for Democracy Through Law) and the OSCE/ODIHR to comment on the text of the draft laws regulating parliamentary elections, including a draft law for holding repeat elections for the constituencies where results had not been established in the 2012 parliamentary elections. In July 2013, the Ministry of Justice provided additional amendments that include amendments to the following laws: (1) the Code of Ukraine on Administrative Offences; (2) the Law on Political Parties; (3) the Code on Administrative Proceedings, (4) the Law on the Information Agencies; (5) the Law on the Central Electoral Commission, (6) the Law on the Election of People's Deputies of Ukraine and (7) the Law on the Principles of State Language Policy. The Commission has considered the submitted documents and on its 96th Plenary Session adopted the «Joint opinion on the Draft Amendments to the Legislation on the Election of People's Deputies of Ukraine». The Venice Commission and the OSCE/ODIHR stated that they are ready to assist the authorities of Ukraine in their efforts to create a legal framework for democratic elections in conformity with OSCE commitments, Council of Europe and other international standards for democratic elections [4]. Among the latest documents of the OSCE Office for Democratic Institutions and Human Rights there is also the Interim Report of 14 October regarding the Presidential elections in Georgia that took place on 27 October, 2013.

On 21 March 2014, the Permanent Council of OSCE decided to deploy the Special monitoring mission of unarmed civilian observers to Ukraine. The Mission is being deployed following a request to the OSCE by Ukraine's government and was agreed by all 57 OSCE's participating States. The SMM

aims to gather information and report on the security situation, establish and report the facts, especially on specific incidents on the ground. The Mission monitors talk to various community groups — authorities at all levels, civil society, ethnic and religious groups and local communities. The monitors report their daily observations to the OSCE and its participating States [5].

**The European Council Commissioner for Human Rights** is an independent, non-judicial institution of the Council of Europe, mandated to promote awareness of, and respect for, human rights in the 47 member States. The present European Council Commissioner for Human Rights is Nils Muïhnieks (Latvia). He was elected by the Parliamentary Assembly on 24 January 2012 and took up his position on 1 April 2012. He is the third Commissioner, succeeding Thomas Hammarberg (2006–2012) and Alvaro Gil-Robles (1999–2006).

The most effective organ of protection of human rights is such regional judicial organ as the European Court of Human Rights.

On November 14, 1950, in Rome, members of the oldest regional organization on the European continent — the Council of Europe — adopted the European Convention on Human Rights and Fundamental Freedoms<sup>1</sup>. The Convention contains only a part of human rights fixed in the Universal Declaration and the Covenants on Human Rights. However, the value of the European Convention is not only in stated human rights, but also in the mechanism of their implementation. This mechanism is unique, vital and developing [9, p. 514]. As the result of the development the Convention has been amended with Additional protocols and now covers almost all civil and political rights.

On the basis of that Convention two European human rights bodies were established — the European Commission of Human Rights (the Commission) and the European Court of Human Rights (the Court), which are empowered to consider complaints of both States and individuals. Any State Party may, complaint to the Commission that the other party violates a provision of the Convention (Article 24). The Commission is also authorized to consider complaints from individuals, non-governmental organizations and groups about the violations of their rights by other members of the Convention, if the unscrupulous State recognizes the competence of the Commission (Article 25). Gradually, all members of the Council of Europe have recognized the competence of the Commission and of the Court.

The Court is a unique phenomenon in international relations. The fact that the decisions of the Court are made by independent and impartial judges guarantees a fair hearing of the case. Such objectivity is not always inherent to other treaty based bodies, members of which are elected from among diplomats and government officials and often represent the interests of certain governmental political forces. Court's decisions are binding for member States, and their implementation is monitored by the Committee of Ministers of the Council of Europe.

---

<sup>1</sup> Available from: [http://zakon2.rada.gov.ua/laws/show/995\\_004](http://zakon2.rada.gov.ua/laws/show/995_004)

Thus, the European mechanism of protection of human rights established in accordance with the European Convention on Human Rights and 11<sup>th</sup> Additional Protocol is, indeed, a supranational authority. Since it has been established, members of the Council of Europe had to review their stereotypes regarding the absolute state governmental sovereignty. The decisions of the Court that are widely used by judicial bodies in member States have a significant influence on the formation and the development of the doctrine of European law.

So, the European Court of Human Rights is a unique and the first in the history of mankind institution for the real judicial protection of human rights upon the complaint of individuals. But we must remember that its competence is limited to rights fixed in the European Convention on Human Rights, that is civil and political rights of people. At the same time, this mechanism is dynamically developing through the practice of the European Court of Human Rights. The Court «through a dynamic interpretation of the different Articles of the Convention, has gradually recognized substantive rights which may fall under the notion of «cultural rights» in a broad sense» [1], namely: Right to Artistic Expression, Access to Culture, Right to cultural identification, Linguistic Rights, Right to Education, Right to the Protection to Cultural and Natural Heritage, Right to Seek Historical Truth, Right to Academic Freedom [1].

The natural development of the European mechanism of protection of human rights is also the European Social Charter (opened for signing in October 1961 and revised in 1996) that guarantees people social and economic rights: rights to work, housing, health, education, employment, freedom of movement, non-discrimination and affirmative action and others. It also provides a system of monitoring over the implementation of these rights by member States. 42 of the 47 Council of Europe member States have ratified one of the two variants of the European Social Charter. In 1995, the Charter was amended with the Protocol on collective complaints, according to which the monitoring over the implementation of social rights is carried out by the European Committee of Social Rights. This Committee determines whether or not national law and practice in the States Parties are in conformity with the Charter (Article 24 of the Charter, as amended by the 1991 Turin Protocol. The Committee examines the reports and decides whether or not the situations in the countries concerned are in conformity with the Charter. Its decisions, known as «conclusions», are published every year. If a state takes no action on a Committee decision to the effect that it does not comply with the Charter, the Committee of Ministers addresses a recommendation to that state, asking it to change the situation in law and/or in practice. Under a protocol opened for signature in 1995, which came into force in 1998, complaints of violations of the Charter may be lodged with the European Committee of Social Rights which performs a monitoring function and has a competence to concern collective complaints (complaints can be lodged by organizations against states that violate rights).

Human rights are also defended by other international and regional judicial organs. Most of them were established on the basis of international trea-

ties<sup>1</sup>. There is also a great number of other Human Rights organizations like Amnesty International, Human Rights Watch, Freedom House and others, that also contribute to the common protection of human rights.

**Conclusion.** The International mechanism of protection of human rights is variegated and complex. It is the result of a non-systematic law-making activity of international organizations which tried to bring the world in order after the World War II and to prevent grave and massive violations of human rights, rather than the result of a planned and premeditated development.

This mechanism includes a system of universal and regional human rights institutions. There are UN or CE charter-based bodies and international or regional treaty based bodies.

Most of the international human rights institutions perform a monitoring function over the state of implementation of numerous human rights laws regulations and over the general respect for human rights in States Parties to international treaties. Such monitoring is limited to observing member States reports and rare local checks. Some of such institutions consider individual complaints only for the purpose of getting knowledge about the general situation in the field of human rights protection in member States.

Some of the international human rights institutions have the authority to consider individual complaints about the violation of human rights and make decisions on them. But their decisions are not obligatory for member States.

The most effective mechanism of protection of human rights for the citizens of the European continent is the European Court of Human Rights. This mechanism is constantly developing through the practice of the Court which interprets the Convention and its Protocols considering the circumstances of a particular case and the demands of the present day.

## References

1. Cultural Rights in the case-law of the European Court of Human Rights: Report of the Research Division of the European Court of Human Rights, Published in January, 2011 [Electronic resource]. — Access mode: [http://www.echr.coe.int/Documents/Research\\_report\\_cultural\\_rights\\_ENG.pdf](http://www.echr.coe.int/Documents/Research_report_cultural_rights_ENG.pdf). — Title from the screen.
2. Handbook for Human Rights Treaty Body Members // United Nations Press. — New York and Geneva, 2015. — 90 p. [Electronic resource]. — Access mode: [http://www.ohchr.org/Documents/Publications/HR\\_PUB\\_15\\_2\\_TB%20Handbook\\_EN.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_15_2_TB%20Handbook_EN.pdf). — Title from the screen.
3. International Dimensions of Human Rights. Gen. Editor Karel Vasak. — Greenwood Press (Unesco), 1982. — 774 p. [Electronic resource]. — Access mode: <http://unesdoc.unesco.org/images/0005/000562/056230eo.pdf>. — Title from the screen.
4. Joint opinion on the Draft Amendments to the Legislation on the Election of People's Deputies of Ukraine» adopted on its 96th Plenary Session of the European Commission for Democracy Through Law [Electronic resource]. — Access mode: <http://www.osce.org/odihr/elections/107085>. — Title from the screen.
5. OSCE Special Monitoring Mission to Ukraine — The Facts [Electronic resource]. — Access mode: <http://www.osce.org/ukraine-smm>. — Title from the screen.

---

<sup>1</sup> More about the international judicial organs, their legal basis and competence read at: Смбатян А. С. Органы международного правосудия: классификация в рамках общей системы / А. С. Смбатян // Право и политика. — 2013. — № 4. — С. 541–547.

6. Абашидзе А. Х., Гольтяев А. О. Универсальные механизмы защиты прав человека. — М : ЮНИТИ-ДАНА, 2013. — 135 с.
7. Карташкин В. А. Международная защита прав человека и внутренняя юрисдикция государств / В. А. Карташкин // Обозреватель. — М : РАУ–Университет, 2013. — № 2. — С. 66–75.
8. Лищина И. Ю. Международные механизмы защиты прав человека [Текст] / Харьков. правозащит. группа. — Харьков : Фолио, 2001. — 110 с.
9. Права человека [Текст] : Уч. для ВУЗов / (кол. авторов: Васильева Т. А., Карташкин В. А., Колесова Н. С. и др.) Под общ. ред. Лукашовой Е. А. — М. : НОРМА–ИНФРА • М, 2001. — 573 с.
10. Смбалян А. С. Органы международного правосудия: классификация в рамках общей системы / А. С. Смбалян // Право и политика. — 2013. — № 4. — С. 541–547.

### **М. А. Гора**

Одеський національний університет імені І. І. Мечникова,  
кафедра цивільно-правових дисциплін  
Французький бульвар, 24/26, Одеса, 65028, Україна

## **МІЖНАРОДНИЙ МЕХАНІЗМ ЗАХИСТУ ПРАВ ЛЮДИНИ**

### **Резюме**

У статті досліджується міжнародний механізм захисту прав людини, в тому числі: здійснена класифікація міжнародних органів та організацій із захисту прав людини, розкрито правовий статус окремих організацій, виявлені переваги та недоліки системи міжнародних органів та організацій із захисту прав людини.

**Ключові слова:** права людини, система міжнародних органів із захисту прав людини, міжнародний механізм захисту прав людини.

### **М. А. Гора**

Одесский национальный университет имени И. И. Мечникова,  
кафедра общеправовых дисциплин и международного права  
Французский бульвар, 24/26, Одесса, 65058, Украина

## **МЕЖДУНАРОДНЫЙ МЕХАНИЗМ ЗАЩИТЫ ПРАВ ЧЕЛОВЕКА**

### **Резюме**

В статье исследуется международный механизм защиты прав человека, в том числе: проведена классификация международных органов и организаций по защите прав человека, раскрыт правовой статус отдельных организаций, выявлены достоинства и недостатки системы международных органов и организаций по защите прав человека.

**Ключевые слова:** права человека, система международных органов по защите прав человека, международный механизм защиты прав человека.