

- FRA – NHRI for the EU
- NHRIs in the EU Member States
 - Comparison
 - Good examples
 - Critique
 - Threats
- Lessons learned



Sharing experiences – National Human Rights Institutions in the EU

Dr Jonas Grimheden
31 January 2019

- 歐盟基本權利署 (FRA) – 歐盟的國家人權機構
- 歐盟會員國的國家人權機構
 - 比較
 - 優良範例
 - 評論
 - 威脅
- 經驗學習



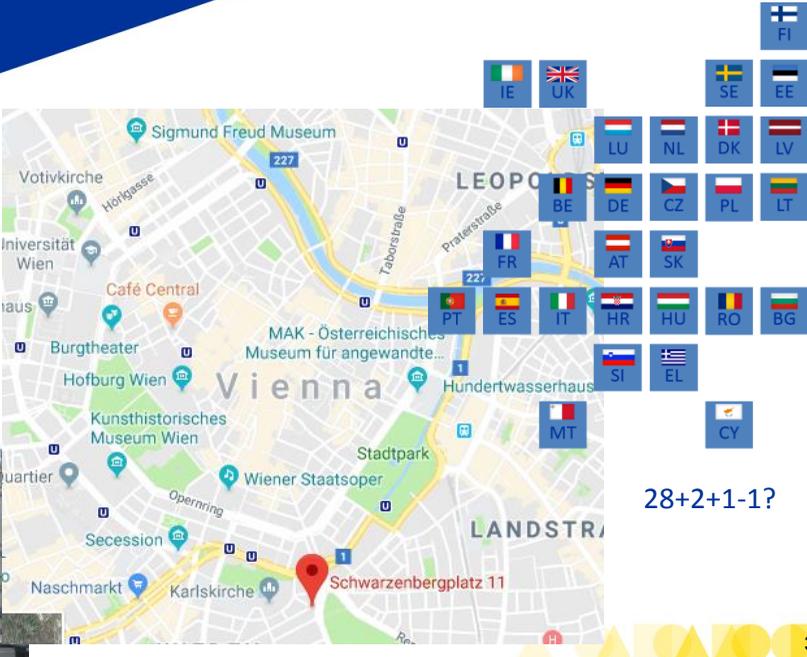
歐盟基本權利署

經驗分享 — 歐盟國家人權機構

Jonas Grimheden 博士
2019年1月31日



EU's human rights advisory body – an 'NHRI' for the European Union

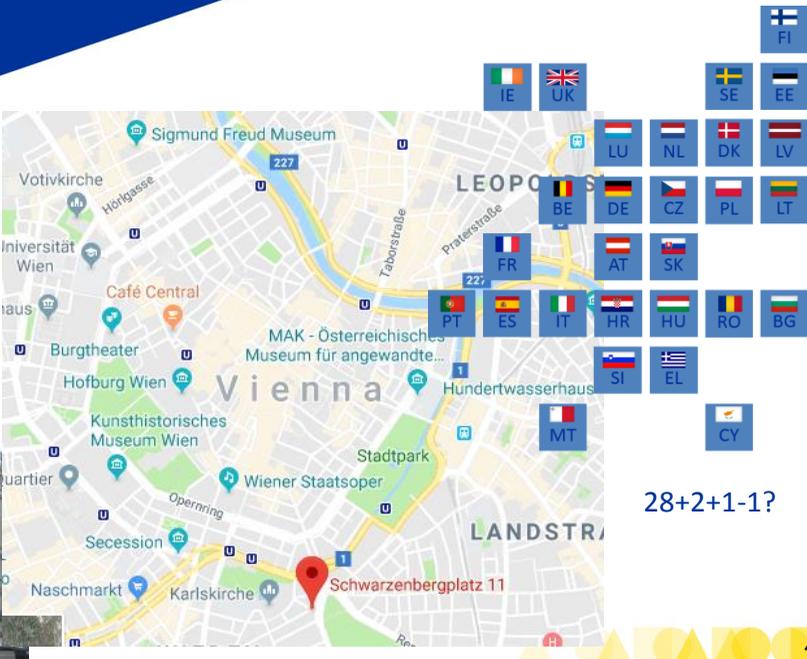



28+2+1-1?

3

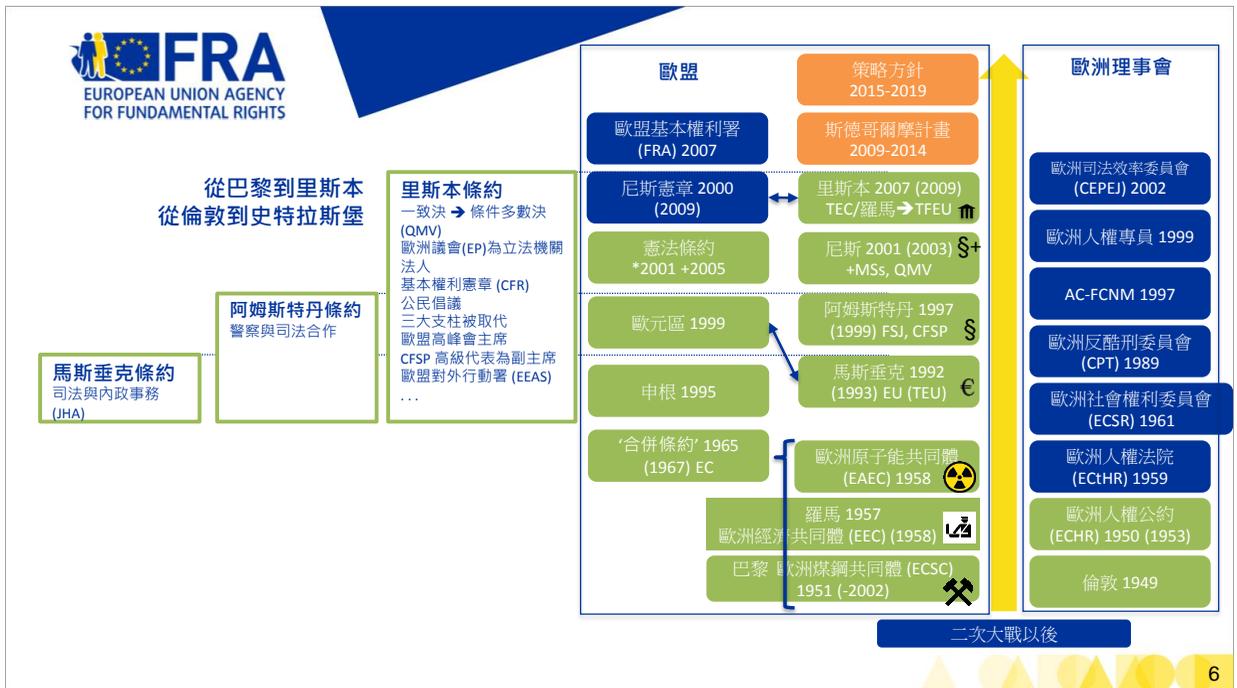
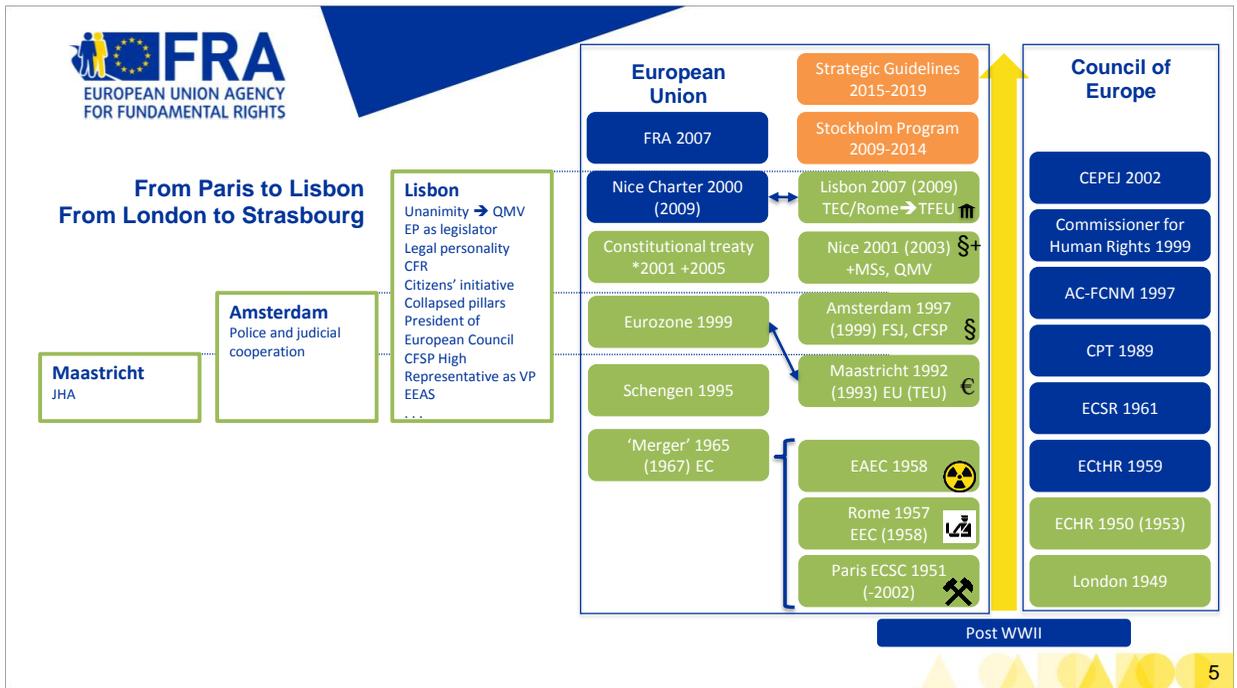


歐盟基本權利署 (FRA) 為歐盟之人權諮詢單位，即歐盟之「國家人權機構」(NHRI)

28+2+1-1?

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FRA in comparison

Comparative analysis

Multidisciplinary – socio-legal, fieldwork, data

Rights holders, not only duty bearers

EU-specific – EU ‘National’ Human Rights Institution

Country-by-country monitoring

Council of Europe 47
United Nations 193

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FRA 比較

比較分析

多重學科 – 社會-法律、田野工作、資料

不僅包含義務承擔者
亦含權利擁有者

歐盟特定情況 –
歐盟「國家」人權機構

監督個別國家

歐洲理事會 (Council of Europe) 47
聯合國 (United Nations) 193

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FRA
EUROPEAN UNION AGENCY
FOR FUNDAMENTAL RIGHTS

Decentralised 33

- Medicines EMA
- Disease prevention ECDC
- Chemicals ECHA
- Living and working conditions Eurofound
- Banking Authority EBA
- Environment EEA
- Large-scale IT systems Eu-LISA
- Plant Variety CPVO
- Judicial cooperation Eurojust
- Insurance and Occupational Pensions EIOPA
- Translations CdT
- GNSS (Navigation Satellite System) GSA
- Electronic comms. regulators BEREC Office
- Securities and markets ESMA
- Police Europol
- Aviation Safety EASA
- Border and Coast Guard Frontex
- Gender equality EIGE
- Railways ERA
- Single Resolution Board (Banking) SRB
- Food Safety EFSA
- Fundamental Rights FRA
- Intellectual property EUIPO
- Drugs and drug addiction EMCDDA
- Safety and Health at Work EU-OSHA
- Training Foundation ETF
- Law enforcement training CEPOL
- Network and information safety ENISA
- Vocational training Cedefop
- Maritime Safety EMSA
- Fisheries control EFCA
- Asylum Support EASO
- Energy regulators ACER

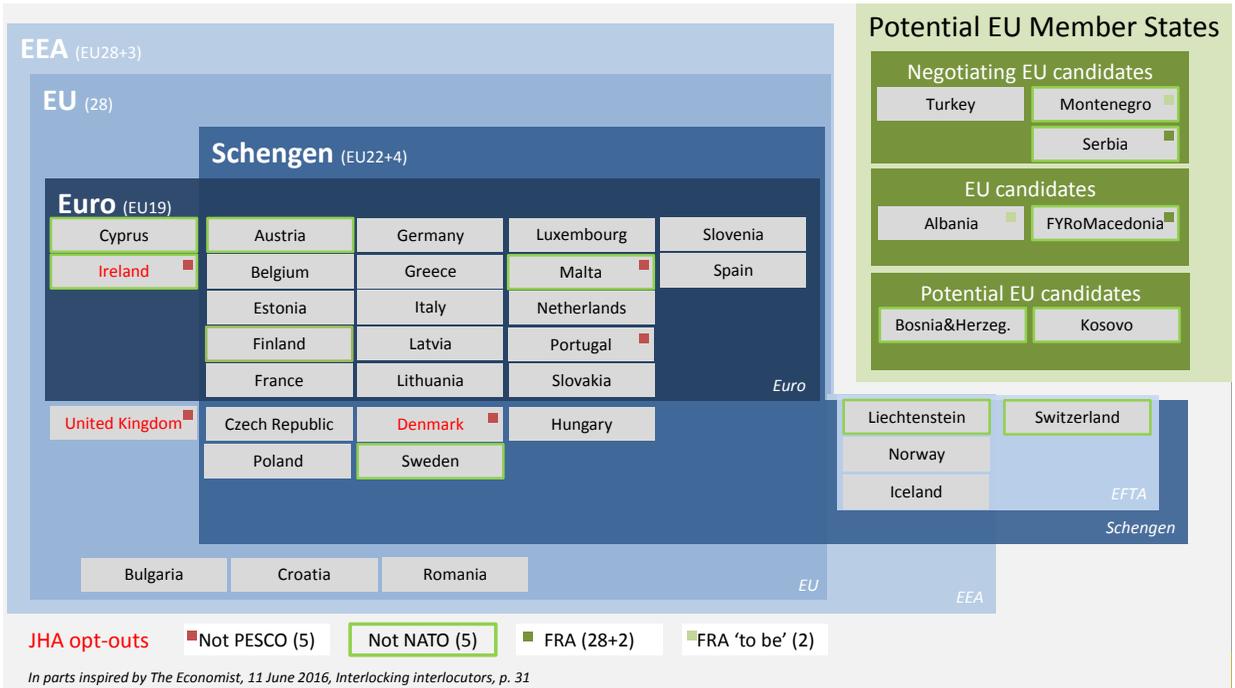
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FRA
EUROPEAN UNION AGENCY
FOR FUNDAMENTAL RIGHTS

33 個單位分散於各國

- 藥品 EMA
- 疾病預防 ECDC
- 化學品 ECHA
- 生活與工作品質 Eurofound
- 銀行主管機關 EBA
- 環境 EEA
- 大型 IT 系統 Eu-LISA
- 植物品種 CPVO
- 司法合作 Eurojust
- 保險和退休金 EIOPA
- 翻譯 CdT
- GNSS全球導航衛星系統 GSA
- 電子通傳主管機關 BEREC 辦公室
- 證券與市場 ESMA
- 警政 Europol
- 航空安全 EASA
- 邊境與海岸防衛 Frontex
- 性別平等 EIGE
- 鐵路 ERA
- 單一清算委員會 (銀行業) SRB
- 食品安全 EFSA
- 基本權利 FRA
- 智慧財產權 EUIPO
- 藥物與上癮 EMCDDA
- 工作安全與健康 EU-OSHA
- 訓練基金會 ETF
- 執法訓練 CEPOL
- 網路與資訊安全 ENISA
- 職業訓練 Cedefop
- 海事安全 EMSA
- 漁業管控 EFCA
- 難民庇護 EASO
- 能源管制機關 ACER

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Competence

European Union

Exclusive

Art. 3 TFEU

- Customs union
- Competition rules
- Monetary policy
- Marine biological resources
- Common commercial policy
- Concluding international agreements

CFSP

Shared

Art. 4 TFEU

- Internal market
- Social policy
- Economic and social cohesion
- Ag & fisheries
- Environment
- Consumer protection
- Transport
- Energy
- JHA

Support & coordinate

Art 6 TFEU

- Human health
- Industry
- Culture
- Tourism
- Education
- Civil protection

Policy coordination

Art. 5 TFEU

- Economic policy
- Employment
- Social policies

Member States

National

National

Member States



職權

歐盟

專屬職權

TFEU 第 3 條

- 關稅同盟
- 競爭規範
- 貨幣政策
- 海洋生物資源
- 共同商業政策
- 締結國際協議

分享職權

TFEU 第 4 條

- 內部市場
- 社會政策
- 經濟與社會整合
- 農漁業
- 環境
- 消費者保護
- 運輸
- 能源
- 司法與內政 (JHA)

支援 & 協調

TFEU 第 6 條

- 人體健康
- 產業
- 文化
- 觀光
- 教育
- 公民保護

政策協調

TFEU 第 5 條

- 經濟政策
- 就業
- 社會政策

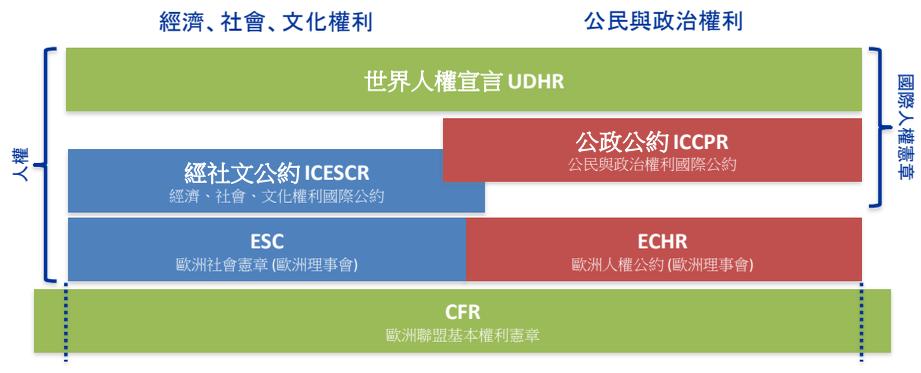
會員國

國家職權

國家

會員國

共同外交暨安全政策 (CFSP)



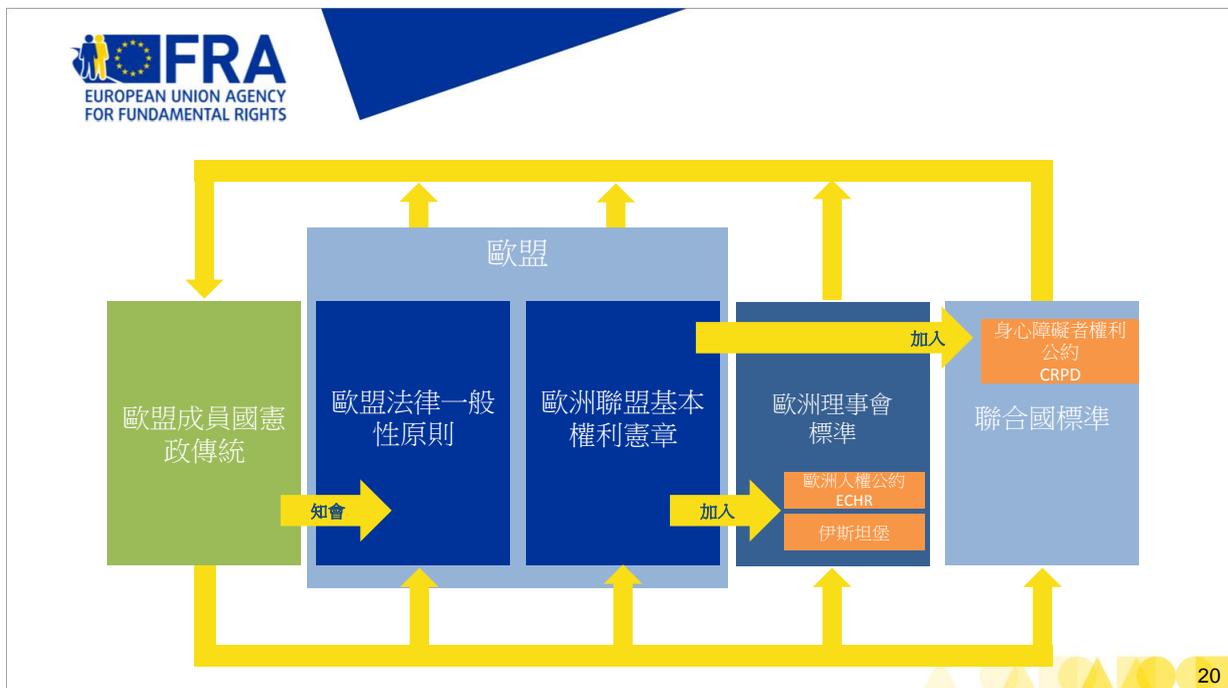
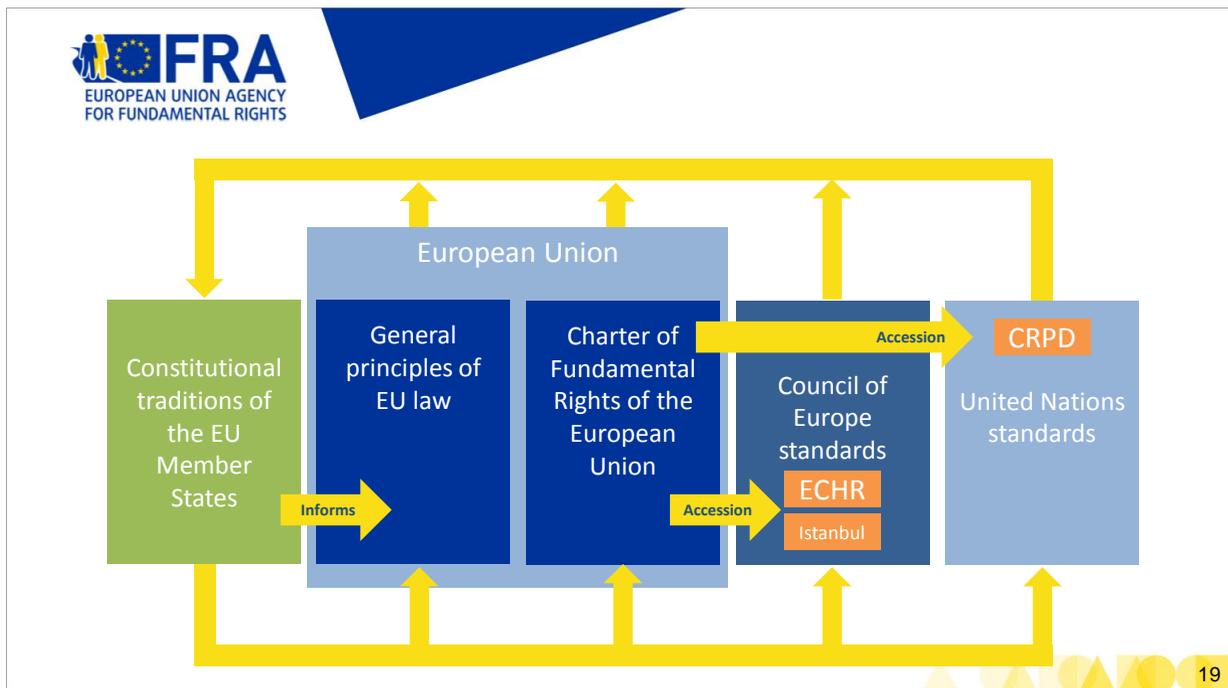


Preamble	Peace – common values	Universal values	Diversity, etc	Rights more visible	Reaffirms const. and int'l rights	Rights, duties, responsibilities	Rights, freedoms and principles
I Dignity (Articles 1–5)	1 Human dignity	2 Life	3 Integrity of the person	4 Torture; inhuman, degrading treatment	5 Slavery and forced labour		
II Freedoms (Articles 6–19)	6 Liberty and security	7 Private and family life	8 Personal data	9 Marry and found family	10 Thought conscience and religion		
	11 Expression and information	12 Assembly and association	13 Arts and sciences	14 Education	15 Choose occupation and engage in work		
	16 Conduct a business	17 Property	18 Asylum	19 Removal, expulsion or extradition			
III Equality (Articles 20–26)	20 Equality before the law	21 Non-discrimination	22 Cultural, religious and linguistic diversity	23 Equality: men and women	24 The child	25 Elderly	26 Integration of persons with disabilities
IV Solidarity (Articles 27–38)	27 Workers right to info. and consultation	28 collective bargaining and action	29 Access to placement services	30 Unjustified dismissal	31 Fair and just working conditions		
	32 Prohibition of child labour; prot. at work	33 Family and professional life	34 Social security and assistance	35 Health care	36 Access to services of economic interest	37 Environmental protection	38 Consumer protection
V Citizens' rights (Articles 39–46)	39 Vote and stand as candidate to EP	40 Vote and candidate at municipal elections	41 Good administration	42 Access to documents	43 European ombudsman	44 Petition (EP)	45 Movement and residence
	46 Diplomatic and consular protection						
VI Justice (Articles 47–50)	47 Effective remedy and fair trial	48 Presump. innocence; right of defence	49 Legality and prop. of offences and penalties	50 Ne bis in idem			
VII General provisions (Articles 51–54)	51 Application	52 Scope and interpretation	53 Level of protection	54 Prohibition of abuse of rights			



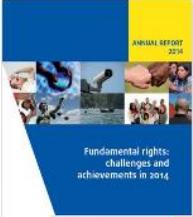
歐洲聯盟基本權利憲章

前言	和平 – 共同價值	普世價值	多元性...等	明示權利	再次確認憲政與國際權利	權利、義務、責任	權利、自由、原則
I 尊嚴 (第 1–5 條)	1 人性尊嚴	2 生命	3 人身自主	4 酷刑; 非人道、濫辱之待遇	5 奴隸與強制勞動		
II 自由權 (第 6–19 條)	6 自由與安全	7 個人與家庭生活	8 個人資料	9 結婚與組織家庭	10 思想良心與宗教		
	11 表意與資訊	12 集會與結社	13 藝術與科學	14 教育	15 選擇職業與工作		
	16 營業	17 財產	18 庇護	19 移居、驅逐、引渡			
III 平等 (第 20–26 條)	20 法律上平等	21 不受歧視	22 文化、宗教與語言多元性	23 男女平等	24 兒童權利	25 老人權利	26 身心障礙者之融入
IV 團結 (第 27–38 條)	27 勞工獲得資訊與諮商之權利	28 團體協商與行動	29 獲得職業介紹之權利	30 不當解僱	31 公平合理之勞動條件		
	32 禁止童工、保護在職青少年	33 家庭與職業生活	34 社會福利與救助	35 健康照護	36 經濟利益服務之獲得	37 環境保護	38 消費者保護
V 公民權 (第 39–46 條)	39 歐洲議院 (EP) 選舉權與被選舉權	40 地區選舉之選舉與被選舉權	41 享受良好行政之權利	42 取得文件之自由	43 歐洲監察使	44 請願權 (歐洲議院 EP)	45 遷徙與居住自由
	46 外交領事保護						
VI 司法 (第 47–50 條)	47 有效救濟與公平審判	48 無罪推定與辯護權	49 罪刑法定與比例原則	50 一罪不二罰 (Ne bis in idem)			
VII 通則 (第 51–54 條)	51 適用	52 範圍與詮釋	53 保護之層次	54 禁止權利濫用			





Activities




Research: Comparative studies (including surveys)

Policy cycle input: legal opinions and inputs into resolutions, conclusions, UPR, and informally to EC etc

Implementation: Dos and don'ts, victim support, ScheVal, NHRI-advice; body scanners; thematic situation reports (Ponticelli, Greek/Turkish border, HU/EL); HBs; ...

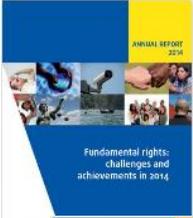




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活動




研究：比較研究 (包含調查)

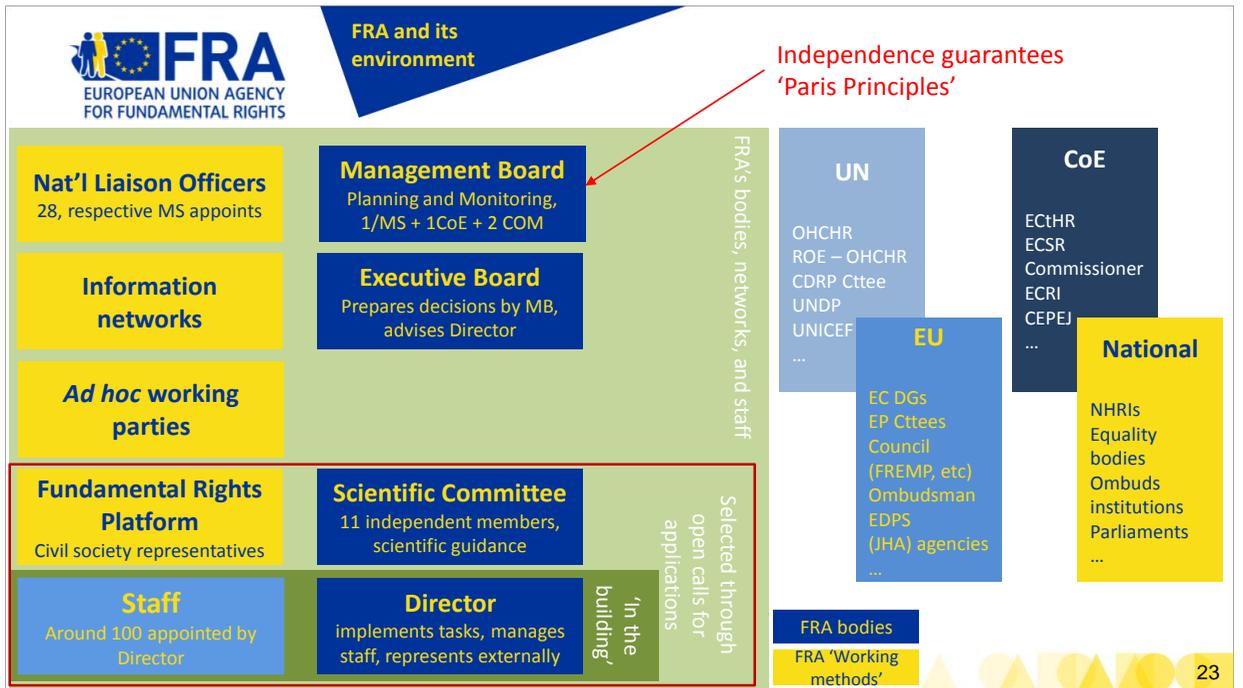
政策循環投入：對決議提出法律意見與其它投入、結論、UPR、對 EC 提供非正式投入

實施：準則、ScheVal、NHRI-建議；人體掃描儀；主題性狀況報告 (Ponticelli、希臘/土耳其邊境、HU/EL)；HBs；...





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FRA's 2010 and 2020 studies

- Comparative overview
- Advantages of FRA's assessment
- Opinions and recommendations
 - Leading by example
 - Visibility
 - European cooperation
 - Coherent approach at national level
- Shrinking space
- Interaction with the EU – 'values-funds'



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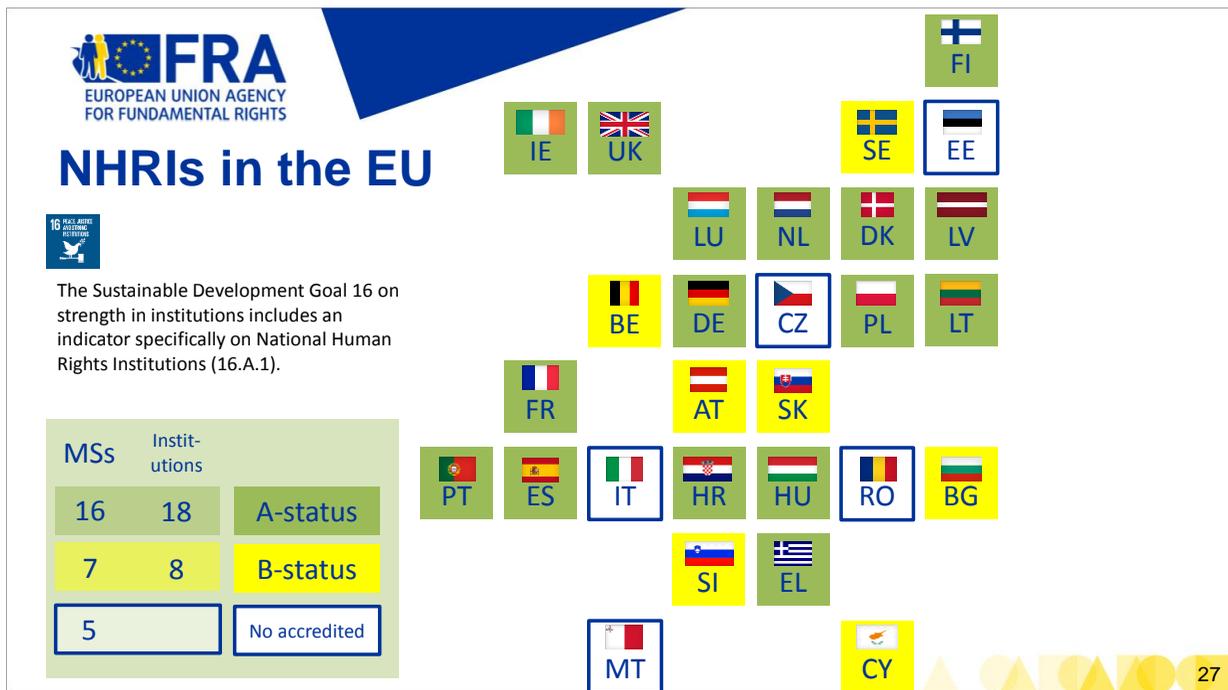


FRA 2010 年與 2020 年之研究

- 比較性綜覽
- FRA 評估的優點
- 意見與建議
 - 以身作則
 - 能見度
 - 歐洲合作
 - 國家層級採用一致作法
- 空間縮小
- 與歐盟之互動 – '價值觀-經費'



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Some developments in the EU – new and upgraded NHRIs

- Sweden
- Romania
- Italy
- Malta



- Austria
- Belgium
- Cyprus



- SCA 2015
- Appointment
- Mandate – promotion?
- Funding – amount and independence
- Staffing – not own recruit
- Pluralism



歐盟的進展 – 嶄新與升級過後的國家人權機構

- 瑞典
- 羅馬尼亞
- 義大利
- 馬爾他



- 奧地利
- 比利時
- 賽普勒斯



- 2015 年評鑑委員會 (SCA)
- 指派
- 職權 – 促進?
- 經費 – 金額與獨立性
- 人員 – 非由自身招募
- 多元



Links between NHRIs and international/EU instruments

- CRPD (Art. 33 (2))
- OPCAT (NPM)
- Equality body
- (IOI)
- Future business and human rights?

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國家人權機構 (NHRI) 與國際/歐盟機制的連結

- 身心障礙者權利公約 CRPD (第 33 條 (2))
- 禁止酷刑公約任擇議定書 OPCAT (國家防範機制 NPM)
- 平等機構 (Equality Body)
- 國際監察組織 (IOI)
- 企業與人權 (未來式)?

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Overlapping mandates of A-status NHRIs in the EU

	National Preventive Mechanism (NPM) – under UN OPCAT	National Monitoring Mechanism (NMM) – under UN CRPD	EU Equality Body – under EU legislation	International Ombudsman Institution (IOI) member
Croatia				
Denmark				
Finland				
France				
Germany				
Greece				
Hungary				
Ireland				
Latvia				
Lithuania				
Luxembourg				
Netherlands				
Poland				
Portugal				
Spain				
United Kingdom – Great Britain				
United Kingdom – Northern Ireland				
United Kingdom – Scotland				
	9	14	8	7



歐盟 A 等 NHRI 共通的職權

	國家防範機制 (NPM) – 根據聯合國禁止酷刑公約任擇議定書 (UN OPCAT)	國家監督機制 (NMM) – 根據聯合國身心障礙者權利公約 (UN CRPD)	EU 平等機構 (EB) – 根據歐盟法令	國際監察組織會員 (IOI)
克羅埃西亞				
丹麥				
芬蘭				
法國				
德國				
希臘				
匈牙利				
愛爾蘭				
拉脫維亞				
立陶宛				
盧森堡				
荷蘭				
波蘭				
葡萄牙				
西班牙				
英國 – 大不列顛				
英國 – 北愛爾蘭				
英國 – 蘇格蘭				
	9	14	8	7



Types (A-status)

- Commissions
 - Promotion (advisory)
 - Promotion and protection
- Ombud institutions
 - Traditional
 - 'Plus'
- Institutes

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類型 (A等)

- 委員會
 - 促進 (諮詢性質)
 - 促進與保護
- 監察使機構
 - 傳統
 - '升級 (Plus)'
- (現代) 機構

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Discuss – person(s) next to you

- How to 'label' Taiwan's planned NHRI?

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討論 – 請與旁邊的同仁討論

- 台灣規劃中的 NHRI 為何種類型？

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Types of institutions

	Type	Legal interventions	Individual cases	Advice	Research	Education
Croatia	Ombud					
Denmark	Institute					
Finland	Ombud +					
France	Commission					
Germany	Institute					
Greece	Commission					
Hungary	Ombud (Commissioner)					
Ireland	Commission					
Latvia	Ombud					
Lithuania	Ombud					
Luxembourg	Commission					
Netherlands	Institute		Equality			
Poland	Ombud Commissioner)					
Portugal	Ombud					
Spain	Ombud					
United Kingdom – NI	Commission					
United Kingdom – Scotland	Commission					
United Kingdom – GB	Commission					

MSs	Institutions	
8	8	Ombud
3	3	Institute
5	7	Commission

Finland Ombud +



機構類型

	類型	介入法律程序	受理個別案件	建議	研究	教育
克羅埃西亞	監察使					
丹麥	機構					
芬蘭	監察使+					
法國	委員會					
德國	機構					
希臘	委員會					
匈牙利	監察使(委員)					
愛爾蘭	委員會					
拉脫維亞	監察使					
立陶宛	監察使					
盧森堡	委員會					
荷蘭	機構		平等			
波蘭	監察使(委員)					
葡萄牙	監察使					
西班牙	監察使					
英國 – 北愛爾蘭	委員會					
英國 – 蘇格蘭	委員會					
英國 – 大不列顛	委員會					

會員國	機構	
8	8	監察使
3	3	機構
5	7	委員會

芬蘭監察使 +



Founding year and year of A-status

	Type	Year of establishment	Year of A-status	'History'
Croatia	Ombud	1990	2008	
Denmark	Institute	1987	1999	
Finland	Ombud +	1920 / 2012	2014	
France	Commission	1947	1999	
Germany	Institute	2001	2003	
Greece	Commission	2000	2001	
Hungary	Ombud	2012	2014	Civil rights 1993, fundamental rights 2012
Ireland	Commission	2014	2004	Merged NHRI and EB
Latvia	Ombud	2007	2015	
Lithuania	Ombud	1994	2017	
Luxembourg	Commission	1993 (2008)	2002	UDHR 1947
Netherlands	Institute	2015	2014	Upgrade from EB
Poland	Ombud	1987	1999	
Portugal	Ombud	1976	1999	
Spain	Ombud	1981	2000	
United Kingdom – NI	Commission	1999	2006	Good Friday Agreement
United Kingdom – Scotland	Commission	2006	2010	
United Kingdom – GB	Commission	2006	2008	Merger of 3 equality organisations

- Established in 1947 to 2014
- A-status in 1999 to 2017



成立時間與獲頒 A 等時間

	類型	成立時間	獲頒 A 等時間	歷史
克羅埃西亞	監察使	1990	2008	
丹麥	機構	1987	1999	
芬蘭	監察使+	1920 / 2012	2014	
法國	委員會	1947	1999	
德國	機構	2001	2003	
希臘	委員會	2000	2001	
匈牙利	監察使	2012	2014	公民權利 1993 年, 基本權利 2012 年
愛爾蘭	委員會	2014	2004	NHRI 與 EB 合併
拉脫維亞	監察使	2007	2015	
立陶宛	監察使	1994	2017	
盧森堡	委員會	1993 (2008)	2002	世界人權宣言 UDHR 1947 年
荷蘭	機構	2015	2014	自 EB 升級
波蘭	監察使	1987	1999	
葡萄牙	監察使	1976	1999	
西班牙	監察使	1981	2000	
英國 – 北愛爾蘭	委員會	1999	2006	受難日協議 (Good Friday Agreement)
英國 – 蘇格蘭	委員會	2006	2010	
英國 – 大不列顛	委員會	2006	2008	3 個平等組織合併

- 成立時間介於 1947 年至 2014 年
- 獲頒 A 等時間介於 1999 年至 2017 年

Regional offices and 'specific portfolios'

	Type	Regional offices	Specific portfolios
Croatia	Ombud	3	
Denmark	Institute		Greenland-selected board member
Finland	Ombud +		
France	Commission		
Germany	Institute		
Greece	Commission		
Hungary	Ombud		Future generations; national minorities
Ireland	Commission		Equality
Latvia	Ombud		Rights of the child; good governance
Lithuania	Ombud		
Luxembourg	Commission		Equality, children, Data protection (part of the +5)
Netherlands	Institute		Equality
Poland	Ombud	3 + 11	
Portugal	Ombud	2	Children, elderly, disability
Spain	Ombud		Children
United Kingdom – NI	Commission		
United Kingdom – Scotland	Commission		
United Kingdom – GB	Commission		1 Commissioner for Wales; 1 for Scotland; Disability advisory Cttee

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區域辦公室與特別領域

	類型	區域辦公室	特別領域
克羅埃西亞	監察使	3	
丹麥	機構		合格陵蘭選擇之成員
芬蘭	監察使+		
法國	委員會		
德國	機構		
希臘	委員會		
匈牙利	監察使		未來世代；國家監督
愛爾蘭	委員會		平等
拉脫維亞	監察使		兒童權利；良好治理
立陶宛	監察使		
盧森堡	委員會		平等、兒童、資料保護 (為+5的一部分)
荷蘭	機構		平等
波蘭	監察使	3 + 11	
葡萄牙	監察使	2	兒童、老人、身心障礙者
西班牙	監察使		兒童
英國 – 北愛爾蘭	委員會		
英國 – 蘇格蘭	委員會		
英國 – 大不列顛	委員會		威爾斯 1 委員、蘇格蘭 1 委員；身心障礙者諮詢委員會

44

Outreach – Poland

- Monthly visits to regions
- 60 towns visited in 1 year
- 3 regional offices
- 11 ‘info points’

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外展活動 – 波蘭

- 每月訪視不同區域
- 1 年內拜訪 60 市鎮
- 3 個區域辦公室
- 11 個資訊點 (info points)

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Size of governing body

	Type	Governing body size	Part-time (all or most)	Board meets yearly
Croatia	Ombud	Ombud + at least 3 deputies		2
Denmark	Institute	16 (academia, Council, etc)	16	
Finland	Ombud +	JO + 3 deputies		
France	Commission	64 (civil society organisations)		
Germany	Institute	Board of trustees 27 (9 non-voting)		
Greece	Commission	35 (27+8 non-voting)		Monthly
Hungary	Ombud	1+2		
Ireland	Commission	15	15	7 + 9
Latvia	Ombud	1+1		
Lithuania	Ombud	2		
Luxembourg	Commission	19+5 non-voting	19+5	8
Netherlands	Institute	9+3 deputies	9+3	
Poland	Ombud	1+3 deputies		
Portugal	Ombud	1		
Spain	Ombud	1+1		
United Kingdom – NI	Commission	7	6	
United Kingdom – Scotland	Commission	4	3	
United Kingdom – GB	Commission	12		6

- From 1 to 64
- Voting and non-voting
- Full-time and not
- Frequent meetings and not



管理階層的規模 (governing body)

	類型	管理階層的規模	兼職(全部或多數)	每年開會次數
克羅埃西亞	監察使	監察使 + 至少 3 位副主管		2
丹麥	機構	16名(學界、理事會等)	16	
芬蘭	監察使+	JO + 3 位副主管		
法國	委員會	64名(公民社會組織)		
德國	機構	受託管理董事會 27名 (9名無投票權)		
希臘	委員會	35名(27+8名無投票權)		每月
匈牙利	監察使	1+2名		
愛爾蘭	委員會	15名	15	7 + 9
拉脫維亞	監察使	1+1名		
立陶宛	監察使	2名		
盧森堡	委員會	19+5名無投票權	19+5	8
荷蘭	機構	9+3名主管	9+3	
波蘭	監察使	1+3名主管		
葡萄牙	監察使	1名		
西班牙	監察使	1+1名		
英國 – 北愛爾蘭	委員會	7名	6	
英國 – 蘇格蘭	委員會	4名	3	
英國 – 大不列顛	委員會	12名		6

- 1到64名
- 有/無投票權之成員
- 全職與非全職
- 經常/不常開會



Staff size and budget

	Type	Staff size	Annual budget
Croatia	Ombud		
Denmark	Institute	169	19,000,000
Finland	Ombud +	5+60	6,200,000
France	Commission		1,000,000
Germany	Institute	65	
Greece	Commission	4	
Hungary	Ombud	41	4,000,000
Ireland	Commission	41	6,300,000
Latvia	Ombud	46	1,345,000
Lithuania	Ombud	41	
Luxembourg	Commission	4	266,000
Netherlands	Institute	50	6,743,000
Poland	Ombud	300	10,000,000
Portugal	Ombud	100	5,300,000
Spain	Ombud	172	
Sweden	Ombud	100	1,420,000
United Kingdom – NI	Commission		
United Kingdom – Scotland	Commission	10	1,100,000
United Kingdom – GB	Commission	186	21,000,000

- From 4 to 300 staff
- From 0,04/100,000 population (Greece) to 2,92 (Denmark) – EU average 0,84 (90)
- From 266,000 (Luxembourg) to 21 million (UK) – EU average 0,65 (6,3 million)

Sweden added (B-Status)

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人員數量與預算

	類型	人員數量	年度預算
克羅埃西亞	監察使		
丹麥	機構	169	19,000,000
芬蘭	監察使+	5+60	6,200,000
法國	委員會		1,000,000
德國	機構	65	
希臘	委員會	4	
匈牙利	監察使	41	4,000,000
愛爾蘭	委員會	41	6,300,000
拉脫維亞	監察使	46	1,345,000
立陶宛	監察使	41	
盧森堡	委員會	4	266,000
荷蘭	機構	50	6,743,000
波蘭	監察使	300	10,000,000
葡萄牙	監察使	100	5,300,000
西班牙	監察使	172	
瑞典	監察使	100	1,420,000
英國 – 北愛爾蘭	委員會		
英國 – 蘇格蘭	委員會	10	1,100,000
英國 – 大不列顛	委員會	186	21,000,000

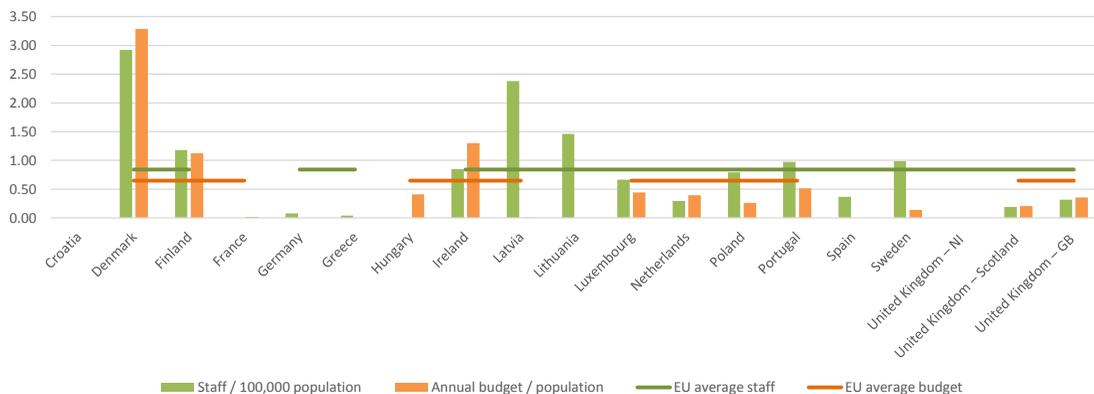
- 人員從 4 名到 300 名
- 人口佔比從 0.04/100,000 (希臘) 到 2.92 (丹麥) – 歐盟平均為 0.84 (90)
- 預算從 266,000 (盧森堡) 到 2,100 萬 (英國) – 歐盟平均 0.65 (630 萬)

本表計入瑞典 (B 等)

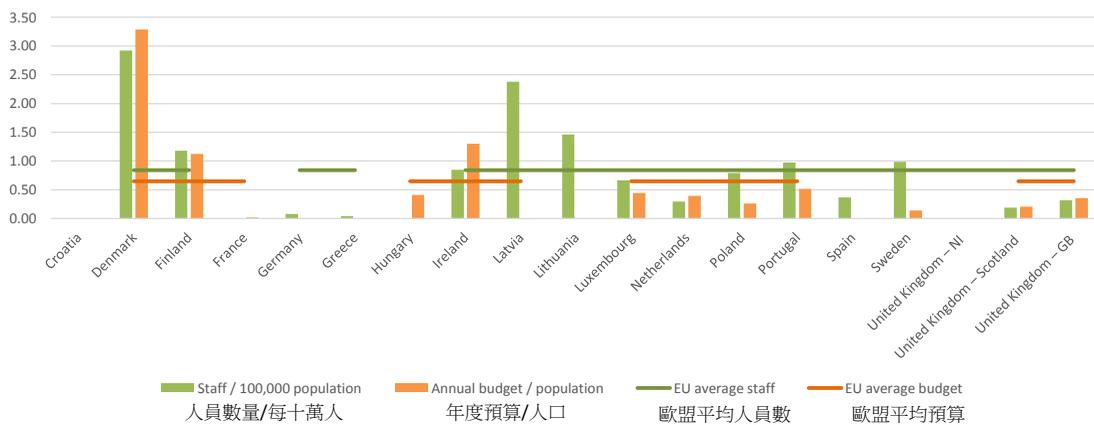
50



Staff and budget per capita, with EU average



人均人員與預算，含歐盟平均





Ensuring 'diversity'

	Type	'Diversity'
Croatia	Ombud	Human rights council 8 (2 CSOs; 2 minorities; 2 academic; 2 media)
Denmark	Institute	Council for human rights, 52 reps from CSOs and state authorities
Finland	Ombud +	Delegation 20-40 (38) members (specialised ombuds,
France	Commission	
Germany	Institute	Board of trustees + 84 individuals and organisations as members
Greece	Commission	Great range – see separate slide
Hungary	Ombud	
Ireland	Commission	
Latvia	Ombud	
Lithuania	Ombud	
Luxembourg	Commission	Commission
Netherlands	Institute	Advisory council with all other bodies represented, 15 in all, meets once per year, + CRPD sounding board
Poland	Ombud	Social Council 24 + 4 expert cttees (migration, homelessness, disabilities, elderly)
Portugal	Ombud	
Spain	Ombud	
United Kingdom – NI	Commission	
United Kingdom – Scotland	Commission	
United Kingdom – GB	Commission	



確保多元性

	類型	多元
克羅埃西亞	監察使	人權理事會 8 名 (2 名來自公民社會組織; 2 名少數族群; 2 名來自學界; 2 名來自媒體)
丹麥	機構	人權理事會, 52 名代表來自公民社會組織與政府單位
芬蘭	監察使+	20-40 (38) 名代表 (專門監察使)
法國	委員會	
德國	機構	受託管理董事會 + 84 名個人或組織
希臘	委員會	範圍很廣, 請見後續投影片
匈牙利	監察使	
愛爾蘭	委員會	
拉脫維亞	監察使	
立陶宛	監察使	
盧森堡	委員會	委員會
荷蘭	機構	諮詢理事會與所有其他單位皆有代表, 共 15 名, 每年開會 1 次, + CRPD 宣導媒介
波蘭	監察使	社會理事會 24 名 + 4 個專家委員會 (移民、無家可歸、身心障礙、老人)
葡萄牙	監察使	
西班牙	監察使	
英國 – 北愛爾蘭	委員會	
英國 – 蘇格蘭	委員會	
英國 – 大不列顛	委員會	

Greece – diverse composition

- 1 Labour confederation
- 4 NGOs
- 1 by each political party
- 1 from each of ombuds etc
- 1 national media council
- 1 nat'l bioethics cssn
- 2 human rights experts appointed by PM
- 1 from each of a number of ministries
- 3 academicians
- 1 bar-association

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希臘 – 多元背景

- 1 名來自勞工聯合會
- 4 名來自非政府組織 (NGO)
- 1 名來自各政黨 (即每政黨各有 1 名)
- 1 名來自各監察單位等
- 1 名來自國家媒體理事會
- 1 名來自國家生物倫理委員會
- 2 名為人權專家，由總理指派
- 1 名來自各部會 (即數個部會各有1名)
- 3 名學者
- 1 名來自律師公會

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Good annual reports

- Lithuania
 - Quality and detail of cases and inspections
 - NPM-visits, cases, resolved, types of issues, types of authorities with problems, etc http://www.lrski.lt/images/dokumentai/Seimo_kontrolieriai_ataskaita_2017_EN_leidiny.pdf
- Netherlands <https://mensenrechten.nl/nl/publicatie/38213>
- Portugal http://www.provedor-jus.pt/site/public/archive/doc/Report_to_the_parliament_2016_EN_0.pdf
- Spain https://www.defensordelpueblo.es/en/wp-content/uploads/sites/2/2017/11/Summary_annual_report_2016.pdf



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優良年報

- 立陶宛
 - 案件與檢查相關資訊品質佳、細節足
 - NPM-訪視、案件、解決、議題類型、出現問題的機關類型等 http://www.lrski.lt/images/dokumentai/Seimo_kontrolieriai_ataskaita_2017_EN_leidiny.pdf
- 荷蘭 <https://mensenrechten.nl/nl/publicatie/38213>
- 葡萄牙 http://www.provedor-jus.pt/site/public/archive/doc/Report_to_the_parliament_2016_EN_0.pdf
- 西班牙 https://www.defensordelpueblo.es/en/wp-content/uploads/sites/2/2017/11/Summary_annual_report_2016.pdf



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FRA
EUROPEAN UNION AGENCY
FOR FUNDAMENTAL RIGHTS

United Kingdom Netherlands

Attractive websites – Netherlands and Scotland

COLLEGE VOOR DE RECHTEN VAN DE MENS

Mensenrechten voor jou Samenwerken aan mensenrechten

SHRC Scottish Human Rights Commission

Rights In Practice Policy & Publications Help & Advice News About Contact

Economic, Social & Cultural Rights Health & Social Care Justice Internal

Toolbox
Mensenrechten op School
Kant en klare werkvormen voor peuters tot en met 18-jarigen én tools over hoe mensen- en kinderrechten in de hele school vorm kunnen krijgen.
Download nu gratis de Toolbox →

Meld discriminatie → Stel een vraag → Same

Protecting human rights for everyone in Scotland
The Scottish Human Rights Commission works on legal, policy and practical issues that affect people's human rights in Scotland.

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FRA
EUROPEAN UNION AGENCY
FOR FUNDAMENTAL RIGHTS

United Kingdom Netherlands

引人入胜的網站 – 荷蘭與蘇格蘭

COLLEGE VOOR DE RECHTEN VAN DE MENS

Mensenrechten voor jou Samenwerken aan mensenrechten

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Meld discriminatie → Stel een vraag → Same

Protecting human rights for everyone in Scotland
The Scottish Human Rights Commission works on legal, policy and practical issues that affect people's human rights in Scotland.

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Credibility and persuasive power

- Name – name recognition v. clarity on mandate
 - Ombud v national human rights institution
- Inquiries and ‘national conversation’ (2019) – Australia
- Merged mandates
 - Ireland
 - Netherlands
 - Sweden
 - ...

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可信度與說服力

- 名稱 – 名稱辨識度 v. 清楚的職權
 - 監察使 v 國家人權機構
- 主動詢問與「國家巡迴對話」(2019年) – 澳洲
- 合併職權
 - 愛爾蘭
 - 荷蘭
 - 瑞典
 - ...

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Strong mandates

- Access to documents / files
- Speaking in parliament when presenting annual report
- Strategic litigation (e.g. Poland)
- Other mechanisms (NPM, NMM, Equality Body, etc)
- ...

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具備強大職權

- 可調閱文件/檔案
- 可於議會發言、陳述年度報告
- 策略性訴訟 (如波蘭)
- 其他機制 (國家防範機制 NPM、國家監督機制 NMM、平等, 平等機構 Equality Body...等)
- ...

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Interaction with regional mechanisms and the UN

- Shadow-reporting (e.g. Netherlands to several treaty bodies)
- Amicus curiae to ECtHR
- EU Agency for Fundamental Rights
 - Submissions to and interaction with UN and Council of Europe
- Regional cooperation
 - APF
 - ENNHRI

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與區域機制和聯合國的互動

- 影子報告 (如荷蘭對數個條約機構提出報告)
- 致歐洲人權法庭 (ECtHR) 的法律之友意見書 (Amicus curiae)
- 歐盟基本權利署
 - 向聯合國與歐洲理事會提交意見並互動
- 區域合作
 - 亞太地區國家人權機構論壇 (APF)
 - 歐洲國家人權機構網絡 (ENNHRI)

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CRPD indicators – Netherlands NHRI

- Indicators for three articles from the CRPD
 - Independent living
 - Forming part of society
 - Education and work.
 - Only 45% of persons with a disability have a paid job (general population 66%)

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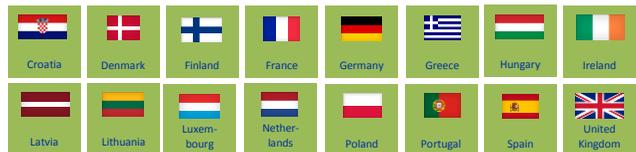
身心障礙者權利公約 (CRPD) 指標 – 荷蘭 NHRI

- 針對 CRPD 其中三條的指標
 - 獨立生活
 - 成為社會一份子
 - 教育與工作
 - 身心障礙者僅 45% 擁有有薪工作 (總人口中則 66%擁有有薪工作)

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GANHRI SCA accreditation assessments

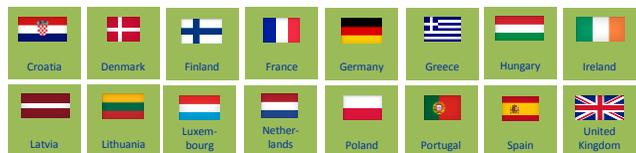
- Competence and responsibilities
 - Establishment
 - Human rights mandate
 - Encouraging ratification of treaties
 - Interaction with the int'l human rights system
 - Cooperation with other NHRIs
- Composition and guarantees of independence and pluralism
 - Ensuring pluralism
 - Selection and appointment of the governing body
 - Government representatives
 - Immunity
 - Adequate funding
 - Staff
 - Full-time members
 - Guarantee of tenure for members of governing bodies
 - Annual reports
- 2 sessions yearly
- EU 18 (16 Member States) reviews
 - United Kingdom – 3
 - Great Britain – England and Wales
 - Northern Ireland
 - Scotland
- 2013–2018



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國家人權機構全球聯盟 (GANHRI) 評鑑委員會 (SCA) 之評估

- 職權與責任
 - 成立
 - 人權職權
 - 鼓勵批准條約
 - 與國際人權制度互動
 - 與其他 NHRIs 合作
- 組成與對獨立和多元的保障
 - 確保多元性
 - 遴選與指派管理階層
 - 政府代表
 - 豁免權
 - 適足經費
 - 人員
 - 全職成員
 - 保障管理階層成員任期
 - 年度報告
- 每年 2 會期
- 歐盟境內 18 次評估 (16 個會員國)
 - 英國 – 3 次
 - 大不列顛 – 英格蘭與威爾斯
 - 北愛爾蘭
 - 蘇格蘭
- 2013–2018 年



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GANHRI SCA assessment of EU NHRIs (A-status) – 2013–2018

	Croatia (2013)	Denmark (2018)	Finland (2014)	France (2013)	Germany (2015)	Greece (2017)	Hungary (2014)	Ireland (2015)	Latvia (2015)	Lithuania (2017)	Luxembourg (2015)	Netherlands (2014)	Poland (2017)	Portugal (2017)	Spain (2018)	United Kingdom – NI (2016)	United Kingdom – GB (2015)	United Kingdom – Scotland (2015)
Competence and responsibilities																		
Establishment																		
Human rights mandate (explicit)																		
Encouraging ratification of treaties (explicitly)																		
Interaction with the int'l human rights system																		
Cooperation with other NHRIs (formalised)																		
Composition and guarantees of independence and pluralism																		
Ensuring pluralism																		
Selection and appointment of the governing body																		
Government representatives (political rep's)																		
Immunity (functional – explicitly)																		
Adequate funding (and financial autonomy)																		
Staff (security of tenure)																		
Full-time members (adequate remuneration)																		
Guarantee of tenure for members of governing bodies																		
Outreach and regional presence etc																		
Annual report – effective discussion in legislature																		
	2	3	4	4	7	3	5	2	1	3	6	3	4	3	4	8	7	6



國家人權機構全球聯盟 (GANHRI) 評鑑委員會 (SCA) 對歐盟 NHRIs 之評估 (A等) – 2013–2018年

	克羅埃西亞 (2013)	丹麥 (2018)	芬蘭 (2014)	法國 (2013)	德國 (2015)	希臘 (2017)	匈牙利 (2014)	愛爾蘭 (2015)	拉脫維亞 (2015)	立陶宛 (2017)	盧森堡 (2015)	荷蘭 (2014)	波蘭 (2017)	葡萄牙 (2017)	西班牙 (2018)	英國 – 北愛爾蘭 (2016)	英國 – 大不列顛 (2015)	英國 – 蘇格蘭 (2015)
職能與責任																		
成立																		
人權職權 (明確)																		
鼓勵批准條約 (明確)																		
與國際人權制度互動																		
與其他 NHRIs 合作 (正式)																		
組成與獨立和多元的保障																		
確保多元性																		
遴選與指派管理階層																		
政府代表 (政治代表)																		
豁免權 (功能性 – 明確)																		
適足經費 (與財務自治)																		
人員 (保障任期)																		
全職成員 (適足薪酬)																		
保障管理階層成員任期																		
外展與區域活動等																		
年度報告 – 於立法機關有效討論																		
	2	3	4	4	7	3	5	2	1	3	6	3	4	3	4	8	7	6



Discuss – person(s) next to you

- How would Taiwan's planned NHRI do in a GANHRI SCA-assessment?

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討論 – 請與旁邊的同仁討論

- 在國家人權機構全球聯盟 (GANHRI) 評鑑委員會 (SCA) 的評估下，台灣規劃中的 NHRI 會有如何的表現？

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GANHRI SCA on EU A-status NHRIs

- May 2013
 - Croatia (Adequate funding; explicit ratification)
 - France (mandate – promote and protect; selection and appointment – transparent and participatory; Full-time members (64) – at least some and remunerated properly; cooperation with other human rights bodies – domestically formalised)
- March 2014
 - Netherlands (Formalised selection and appointment criteria; functional immunity; accessibility – regional presence)
- October 2014
 - Finland (Functional immunity and independence; tenure – independent and objective dismissal criteria; adequate funding; annual report – should also be discussed in parliament in the presence of the ombudsman)
 - Hungary (selection and appointment – wide advertisement and broad consultations; interaction with international cooperation; availability – webpage in English only!; int'l treaties – monitoring)
- March 2015
 - Latvia (Administrative sanctions by legislature can be achieved with very low number of MPs; tenure – dismissal criteria need to be clearer funding)
 - Scotland (Mandate – human rights limited to ratified instruments; selection and appointment – broader and more transparent; tenure – independent and objective criteria; annual report – directions can be determined by parliament; adequate funding)



GANHRI SCA 對歐盟 A 等 NHRI 的評估

- 2013 年 5 月
 - 克羅埃西亞 (適足經費; 明確鼓勵批准)
 - 法國 (職權 – 促進與保護; 遴選與指派 – 透明而採參與式; 全職成員 (64) – 至少有全職成員; 且有適當薪酬; 與其他人權機構合作 – 國內正式合作)
- 2014 年 3 月
 - 荷蘭 (正式的遴選及指派條件; 功能性豁免權; 可近性 – 區域活動)
- 2014 年 10 月
 - 芬蘭 (功能性豁免權, 獨立; 任期 – 獨立與客觀的解任條件; 適足經費; 年報 – 也應在監察使出席的狀況下在議院討論年報)
 - 匈牙利 (遴選與指派 – 廣招人才並進行廣泛諮商; 與國際合作; 可用性 – 網頁僅有英文! ; 國際條約 – 監督)
- 2015 年 3 月
 - 拉脫維亞 (立法機關僅需少數議員即可進行行政制裁; 任期 – 需要更清楚的解任條件, 經費)
 - 蘇格蘭 (職權 – 人權限於批准過的條約; 遴選與指派 – 更廣泛、更透明 – 獨立客觀的條件; 年報 – 方向可由議院決定; 適足經費)



GANHRI SCA on EU A-status NHRIs

- November 2015
 - Ireland (Ratification explicitly; adequate funding and financial autonomy)
 - Germany (Members of general assembly – transparent and clear process including advertisement; political representatives – should be excluded from parts of meetings where final deliberations and strategic decisions are made and no vote; limited protection mandate; funding; guarantee of tenure – clear dismissal procedures; functional immunity)
 - Great Britain (Appointment of members need to be broader and more transparent; no only part-time members and not as short as 2 years; clearly defined grounds of dismissal; annual report should be widely circulated, discussed and considered by legislature; funding and financial autonomy; explicit ratification)
 - Luxembourg (more diverse selection process; members should serve full time and be remunerated; functional immunity; annual report should be widely circulated, discussed and considered by legislature; adequate funding and financial autonomy; not systematically consulted on draft legislation)



GANHRI SCA 對歐盟 A 等 NHRI 的評估

- 2015 年 11 月
 - 愛爾蘭 (明確鼓勵批准條約; 適足經費與財務自治)
 - 德國 (大會成員 – 過程清楚透明, 包括招才廣告; 政治代表 – 會議中最後決議與策略決策階段應排除政治代表, 且不具投票權; 保護的職權有限; 經費; 保障任期 – 清楚的解任程序; 功能性豁免權)
 - 大不列顛 (成員之指派需更廣泛、更透明; 不該僅有兼職人員, 以及任期 2 年過短; 解任原因有清楚的定義; 年度報告應於立法機關廣泛流通, 並受討論及考量; 經費與財務自治; 明確鼓勵批准條約)
 - 盧森堡 (更多元的遴選過程; 成員應為全職人員並領薪酬; 功能性豁免權; 年度報告應於立法機關廣泛流通, 並受討論及考量; 適足經費與財務自治; 立法草案未有系統地諮詢 NHRI)





GANHRI SCA on EU A-status NHRIs

- May 2016
 - Northern Ireland (clear and transparent appointment; broad consultation; clarity on full or part time conditions for commissioners at least some should be full-time; minimum time of tenure – at least three and up to seven, with renewal once; annual report should be widely circulated, discussed and considered by legislature; funding and financial independence; ratification explicitly; functional immunity; unannounced visits to places of detention; national security excluded from mandate as well as matters prior to 1 August 2007)
- March 2017
 - Lithuania (Explicit promotion mandate; formalised interaction with other national bodies and CSOs; explicit functional immunity)
 - Greece (Broad and transparent selection; funding; independent and objective dismissal process for member)
- November 2017
 - Poland (promotional mandate strengthened and explicit; pluralistic composition explicitly required; functional immunity also of deputy and staff; funding)
 - Portugal (appointment more transparent and broad in consultation; clear dismissal criteria for deputies)
- May 2018
 - Spain (transparency in and broad consultations for appointment; security of tenure for staff; re-election should be limited to one additional term; pluralism and diversity more explicit; sufficient resources to be able to interact internationally; lack of funding)
- October 2018
 - Denmark (ratification explicitly; clarity on dismissal criteria for board of directors)



GANHRI SCA 對歐盟 A 等 NHRI 的評估

- 2016 年 5 月
 - 北愛爾蘭 (清楚透明的指派; 廣泛諮詢; 對於全職/兼職委員的條件敘述清楚, 至少部分委員應為全職; 任期最低限制 – 至少三年, 多可達七年, 可連任一次; 年度報告應於立法機關廣泛流通, 並受討論及考量; 經費與財務獨立; 明確鼓勵批准條約; 功能性豁免權; 對拘留場所進行非事先通知查訪; 國家安全及 2007 年 8/1 前之事務排除在職權之外)
- 2017 年 3 月
 - 立陶宛 (明確的促進職權; 與其他國家單位與公民社會組織有正式互動; 明確的功能性豁免權)
 - 希臘 (廣泛且透明的遴選; 經費; 獨立客觀的解任過程)
- 2017 年 11 月
 - 波蘭 (強化而明確的促進職權; 明確要求組成多元; 副主管與人員也有功能性豁免權)
 - 葡萄牙 (透明指派、廣泛諮詢; 副主管解任條件清楚)
- 2018 年 5 月
 - 西班牙 (透明指派、廣泛諮詢; 保障員工任期; 連任限一次; 更明確要求多元性; 充足資源以與國際互動; 缺乏經費)
- 2018 年 10 月
 - 丹麥 (明確鼓勵批准條約; 董事會解任條件清楚)

A-Status NHRIs still needs to improve

- “The SCA [stresses] expectation that [A-status] NHRIs [...] take the necessary steps to pursue continuous efforts at improvement and to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.”
- Spain – must continuously improve (2018)
 - Selection process; tenure; term of office 5+5+5+?; plurality; funding; international interaction
- Greece – risking down-grading to B (2016)
 - SCA recommended B-status! Selection; dismissal; political representatives; no full-time members; funding cuts; immunity; annual report should also be tabled in parliament

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A等 NHRI 仍有改善空間

- 「評鑑委員會 (SCA) [強調] 預期 [A等] NHRIs [...] 採取必要步驟，持續努力改善並加強其效能與獨立性，同時符合巴黎原則及評鑑委員會於本次評估期間所提出之建議」
- 西班牙 – 必須持續改善 (2018)
 - 遴選過程; 任期; 任職期間 5+5+5+?; 多元性; 經費; 國際互動
- 希臘 – 可能降為 B 等 (2016)
 - 評鑑委員會建議將希臘評為 B 等! 遴選; 解任; 政治代表; 無全職成員; 經費削減; 豁免權; 年度報告應於議院討論

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Funding – SCA to Germany

“Provision of adequate funding by the State should, at a minimum, include the following:

- a) the allocation of **funds for premises** that is **accessible** to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this **may require that offices are not co-located with other government agencies**. Where possible, accessibility should be further enhanced by establishing a **permanent regional presence**;
- b) **salaries and benefits** awarded to its staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) **remuneration of members of its decision-making body** (where appropriate);
- d) the establishment of **well-functioning communications** systems including telephone and internet; and
- e) the allocation of a **sufficient amount of resources for mandated activities**. Where the NHRI has been designated with **additional responsibilities by the State**, **additional financial** resources should be provided to enable it to assume the responsibilities of discharging these functions.

Such funding should be **regularly released** and in a manner that does not impact adversely on its functions, day-to-day management and retention of staff. ”

Emphasis added

<https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20FINAL%20REPORT%20-%20NOVEMBER%202015-English.pdf>

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資金 – 評鑑委員會 (SCA) 對德國的建議

「國家應提供適足經費，需符合下列最低要求：

- a) 提撥經費供場地之用，此空間應適合社會中更多人士使用，包括身心障礙者。在某些狀況下，為了促進此機構之獨立與可近性，其辦公室可能不該與其他政府單位同處一地。若可行，應成立永久性區域辦公室強化可近性；
- b) 人員之薪水與福利應與國家其他獨立機構內執行類似業務之公務人員相似；
- c) 決策單位成員之薪酬 (適當時)；
- d) 建立功能完善之通訊系統，包含電話與網路；
- e) 提撥充足資源支持職權相關活動。若國家賦予 NHRI 額外的責任，也應提供額外的資源供機構履行責任。

此經費應定期發放，且方式不可對機構功能、日常管理與員工留任造成負面影響」

<https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20FINAL%20REPORT%20-%20NOVEMBER%202015-English.pdf>

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GANHRI SCA on EU A-status NHRIs – 2013–2018 (I)

- Human rights mandate
 - Promotion and protection
 - Not too limited protection mandate (other activities if not traditional cases (enquiries etc))
 - Not too limited promotion mandate (Poland 2017)
 - Explicit mentioning in legislation
 - Systematically consulted on draft legislation (Luxembourg, 2015)
 - Also unannounced visits to places of detention (United Kingdom – Northern Ireland 2016)
 - National security not excluded from mandate as well as matters prior to a certain date (United Kingdom – Northern Ireland 2016)
- Treaties – recommend becoming party to
 - Not only ratified treaties
 - Explicit mentioning in legislation
 - Monitoring of compliance with treaties (Hungary 2014)

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GANHRI SCA 對歐盟 A 等 NHRI 的評估 – 2013–2018年 (I)

- 人權職權
 - 促進與保護
 - 保護之職權沒有太受限制 (若非傳統案件的其他活動 (詢問...等))
 - 促進之職權沒有太受限制 (波蘭 2017)
 - 法律中明示
 - 法律草案進行系統式諮詢 (盧森堡 2015)
 - 對拘留場所進行非事先通知查訪 (英國 – 北愛爾蘭 2016)
 - 國家安全與某日期前之事務未自職權中排除 (英國 – 北愛爾蘭 2016)
- 條約 – 建議加入
 - 不僅是已批准之條約
 - 法律中明確提及
 - 監督是否遵循條約 (匈牙利 2014)

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GANHRI SCA on EU A-status NHRIs – 2013–2018 (II)

- International interaction
 - Sufficient resources
 - Dedication of resources
- Cooperation with other bodies
 - Formalised and effective
- Pluralism
 - Pluralism and diversity more explicit (Spain 2018, Poland 2017)
 - Broad selection process
- Selection and appointment
 - Transparent, formalised and clear process
 - Participatory and broad consultations
 - Public advertisement of post

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GANHRI SCA 對歐盟 A 等 NHRI 的評估 – 2013–2018年 (II)

- 國際互動
 - 充足資源
 - 專用資源
- 與其他單位合作
 - 正式、有效
- 多元
 - 更明確要求多元 (西班牙 2018, 波蘭 2017)
 - 廣泛的遴選過程
- 遴選與指派
 - 透明、正式、清楚的過程
 - 參與式、廣泛諮詢
 - 公開招募

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GANHRI SCA on EU A-status NHRIs – 2013–2018 (III)

- Human rights mandate
 - Promotion and protection
 - Not too limited protection mandate (other activities if not traditional cases (enquiries etc))
 - Not too limited promotion mandate (Poland 2017)
 - Explicit mentioning in legislation
 - Systematically consulted on draft legislation (Luxembourg, 2015)
 - Also unannounced visits to places of detention (United Kingdom – Northern Ireland 2016)
 - National security not excluded from mandate as well as matters prior to a certain date (United Kingdom – Northern Ireland 2016)
- Treaties – recommend becoming party to
 - Not only ratified treaties
 - Explicit mentioning in legislation
 - Monitoring of compliance with treaties (Hungary 2014)

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GANHRI SCA 對歐盟 A 等 NHRI 的評估 – 2013–2018年 (III)

- 人權職權
 - 促進與保護
 - 保護之職權沒有太受限制 (若非傳統案件的其他活動 (詢問...等))
 - 促進之職權沒有太受限制 (波蘭 2017)
 - 法律中明示
 - 法律草案進行系統式諮詢 (盧森堡 2015)
 - 對拘留場所進行非事先通知查訪 (英國 – 北愛爾蘭 2016)
 - 國家安全與某日期前之事務未自職權中排除 (英國 – 北愛爾蘭 2016)
- 條約 – 建議加入
 - 不僅是已批准之條約
 - 法律中明確提及
 - 監督是否遵循條約 (匈牙利 2014)

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GANHRI SCA on EU A-status NHRIs – 2013–2018 (IV)

- International interaction
 - Sufficient resources
 - Dedication of resources
- Cooperation with other bodies
 - Formalised and effective
- Pluralism
 - Pluralism and diversity more explicit (Spain 2018, Poland 2017)
 - Broad selection process
- Selection and appointment
 - Transparent, formalised and clear process
 - Participatory and broad consultations
 - Public advertisement of post

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GANHRI SCA 對歐盟 A 等 NHRI 的評估 – 2013–2018年 (IV)

- 國際互動
 - 充足資源
 - 專用資源
- 與其他單位合作
 - 正式、有效
- 多元
 - 更明確要求多元 (西班牙 2018, 波蘭 2017)
 - 廣泛的遴選過程
- 遴選與指派
 - 透明、正式、清楚的過程
 - 參與式、廣泛諮詢
 - 公開招募

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GANHRI SCA on EU A-status NHRIs – 2013–2018 (V)

- Political representatives
 - Political representatives – should be excluded from parts of meetings where final deliberations and strategic decisions are made and no vote
- Immunity
 - Explicit functional immunity to ensure independence – head, deputy, and relevant staff
- Funding
 - Adequate for purposes – see separate ‘case study’
 - Financial autonomy
 - Sufficient resources to enable international interaction (Spain 2018)
- Staff
 - Clarity on tenure
 - Selection within control of the NHRI
- Full-time
 - Clarity on if full or part-time (United Kingdom – Northern Ireland 2016)
 - Not all on part time
 - Remunerated

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GANHRI SCA 對歐盟 A 等 NHRI 的評估 – 2013–2018年 (V)

- 政治代表
 - 會議中最後決議與策略決策階段應排除政治代表，且不具投票權
- 豁免權
 - 明確的功能性豁免權以確保獨立，含主管、副主管、人員
- 經費
 - 針對目的提供適足經費 – 見「案例研究」
 - 財務自治
 - 以充足的資源支持國際互動 (西班牙 2018)
- 人員
 - 任期清楚
 - 遴選歸 NHRI 掌控
- 全職
 - 清楚的全職或兼職職位 (英國 – 北愛爾蘭 2016)
 - 非所有人員皆兼職
 - 薪酬

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GANHRI SCA on EU A-status NHRIs – 2013–2018 (VI)

- Tenure (governing body)
 - Clear tenure rules
 - 3-7 years periods, renewable once (not explicit cap on number of renewals also not good, Spain 2018) (2 years too short, UK – Great Britain 2015)
 - Formalised and objective dismissal criteria
 - Sufficiently narrow criteria for dismissal
 - Administrative sanctions by legislature could be agreed with very low numbers voting (Latvia 2015)
- Outreach and regional presence etc
 - Vulnerable groups
 - Regional visits or offices
 - Legislation and other documents online in English only
- Annual report
 - Effective control of content
 - Effective presentation and exchange in legislature (with NHRI present and allowed to interact)
 - Widely circulated, discussed and considered by legislature (United Kingdom)

GANHRI SCA 對歐盟 A 等 NHRI 的評估 – 2013–2018年 (VI)

- 任期 (管理階層)
 - 清楚的任期規則
 - 3-7 年，可連任一次 (連任次數上限不清楚則不佳，西班牙 2018) (2 年太短，英國 – 大不列顛 2015)
 - 正式且客觀的解任條件
 - 解任條件要夠窄
 - 立法機關僅需少數議員投票即可進行行政制裁 (拉脫維亞 2015)
- 外展與區域活動等
 - 弱勢族群
 - 區域訪視或區域辦公室
 - 法律或其他線上文件僅有英文
- 年度報告
 - 有效控制內容
 - 立法機關具備有效代表性並交流 (NHRI 出席且可進行互動)
 - 年度報告應於立法機關廣泛流通，並受討論及考量 (英國)

Threats – Council of Europe Commissioner

- Downsizing of budgets
- New functions without additional resources
- Increasing case load but significantly reduced budget (Poland)
- Access to files denied (Croatia)

Council of European Commissioner for Human Rights, December 2018,
<https://www.coe.int/en/web/commissioner/-/paris-principles-at-25-strong-national-human-rights-institutions-needed-more-than-ever>

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威脅 – 歐洲理事會人權專員觀察到的問題

- 預算受到削減
- 新增功能但未新增資源
- 案件量增加但預算大幅縮減 (波蘭)
- 調閱檔案遭拒 (克羅埃西亞)

歐洲理事會人權專員，2018年12月 <https://www.coe.int/en/web/commissioner/-/paris-principles-at-25-strong-national-human-rights-institutions-needed-more-than-ever>

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Lessons learned at FRA

- Independent within (in addition to external)
- Objectivity needed for policy choices ‘above’ political short-term gains
- Increasing credibility over time
- Boosts effectiveness of measures
- Joins up levels of governance
- ...

FRA 的經驗學習

- 內部獨立性 (除了外部獨立性之外)
- 政策選擇需要客觀性，超越短期政治利益
- 隨時間增加可信度
- 提升措施效能
- 各層管理團結合作
- ...

A checklist for a good NHRI

1. Participation – establishment and work
2. Transparent and open process
3. Legal basis
4. Guarantees of independence – genuine and enshrined in law
5. Pluralism and diversity
6. Human rights expertise in appointment criteria
7. Complaints – ‘not only’, also promotion
8. Promotion mandate in addition to protection
9. Mandate and powers – effective and ‘persuasive’
 - Paris Principles-powers
10. Size – sufficient resources
11. Outreach – ‘hard to reach groups’ etc
12. Accessibility
13. Cooperation with civil society
14. Regional and global cooperation (ENNHRI, GANHRI)

優良 NHRI 檢核表

1. 參與 – 成立與工作
2. 透明開放的過程
3. 法源
4. 保障獨立 – 真正的獨立，並於法律規定
5. 多元性
6. 指派標準包含人權專業
7. 申訴 – 不僅接受申訴，亦著重人權之促進
8. 除保護外也有促進職權
9. 職權與權力 – 有效、具「說服力」
 - 巴黎原則-權力
10. 規模 – 充足的資源
11. 外展 – 難以觸及的族群...等
12. 可近性
13. 與公民社會合作
14. 區域與全球合作
(歐洲國家人權機構網絡 ENNHRI、
國家人權機構全球聯盟 GANHRI)

A modern construction – Finland

- Patchwork v. all components in place?
- Drawing on tradition but modern features – ombudsman and NHRI
 - Name
- Separate case handling and monitoring from promotion
 - Promotion
- ...

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現代化建構 – 芬蘭

- 修修補補 v. 一步到位?
- 汲取傳統作法但加入現代特色 – 監察使與 NHRI
 - 名稱
- 「案件處理和監督」與「權利促進」分別進行
 - 促進
- ...

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Discuss – person(s) next to you

- How could Taiwan's planned NHRI be further strengthened?

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討論 – 請與旁邊的同仁討論

- 台灣規劃中的 NHRI 可以如何再強化？

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Why an NHRI?

- Ensure human rights to all
- Paris Principles (1991, 1993)
- Vienna Declaration (1993)
- Treaties
- CERD
- CRPD
- OPCAT
- Future business and human rights treaty?
- Standing in UN
- EU – role for NHRIs? Competence? Equality bodies
- ...

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為何要成立 NHRI?

- 確保所有人享有人權
- 巴黎原則 (1991, 1993)
- 維也納宣言 (1993)
- 條約
- 消除一切形式種族歧視公約 (CERD)
- 身心障礙者權利公約 (CRPD)
- 禁止酷刑公約任擇議定書 (OPCAT)
- 未來會有企業與人權條約?
- 可於聯合國大會發言
- 歐盟 –NHRI 的角色? 職權? 平等機構
- ...

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- FRA – NHRI for the EU
- NHRIs in the EU Member States
 - Comparison
 - Good examples
 - Critique
 - Threats
- Lessons learned



謝謝

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- 歐盟基本權利署 (FRA) – 歐盟的國家人權機構
- 歐盟會員國的國家人權機構
 - 比較
 - 優良範例
 - 評論
 - 威脅
- 經驗學習



謝謝

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Notes SCA

- Croatia <https://nhri.ohchr.org/EN/AboutUs/GANHRIAcreditiation/Documents/Report%20May%202013-Consolidated-English.pdf>
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