

Shaping the Italian National Human Rights Institution: Legislative Initiatives and Institutional Architecture *

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TABLE OF CONTENTS: 1. Introduction. – 2. Italy’s bills for the establishment of a NHRI. – 3. Institutional architecture: ad hoc institution or multi-mandate institution. – 4 The Personal Data Protection Authority. – 5. Equality Bodies and the new Standards Directives. – 6. Conclusion.

1. Introduction

Despite European and international recommendations¹ and the submission of several bills², Italy is one of the few Member States of the European Union that has not yet established a National Human Rights Institution (NHRI) on the basis of the “Principles relating to the Status of National Institutions” (Paris Principles)³, which establish minimum standards for the international accreditation of NHRIs by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI). The Paris Principles cover competence and responsibilities, composition and guarantees of independence and pluralism, methods of operations, and the additional principles concerning the status of commissions with quasi-

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¹ See, for instance, Commissioner for Human Rights of the Council of Europe Dunja Mijatović, *Report following her visit to Italy from 19 to 23 June 2023*, Strasbourg, 21 November 2023, section 3.2.1. “National Human Rights Institution (NHRI)”; Committee on the Elimination of Discrimination against Women, *Concluding observations on the eighth periodic report of Italy*, 27 February 2024, para. 21-22; European Commission, *2025 Rule of Law Report: Country Chapter on the rule of law situation in Italy*, p. 2.

² For more information concerning previous bills on the establishment of an NHRI in Italy, see Commissione straordinaria per la tutela e la promozione dei diritti umani del Senato della Repubblica, *Autorità nazionale indipendente per i diritti umani: il lavoro svolto dalla Commissione diritti umani del Senato (XIV-XVIII legislatura)*, ottobre 2023.

³ Principles relating to the Status of National Institutions (The Paris Principles) adopted on 19 December 1993 by General Assembly resolution 48/134.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

jurisdictional competence. The SCA developed General Observations that are authoritative interpretative statements of the Paris Principles⁴.

With regard to institutional architecture, States have a wide margin of appreciation that allows them to adapt the structure of an NHRI to their national context. In this regard, the General Assembly Resolution that adopted the Paris Principles “Encourages the establishment and strengthening of national institutions having regard to those principles and recognizing that it is the right of each State to choose the framework that is best suited to its particular needs at the national level”⁵.

This margin of appreciation has led to the development of different models, which include commissions, ombudsman institutes, hybrid institutions, consultative and advisory bodies, research institutes and centres, civil rights protectors, public defenders, and parliamentary advocates⁶. Given the existence of different types of NHRIs, it has been observed that it is necessarily a generalisation to consider NHRIs as a homogeneous group, although this is justified on the fact that they are based on common international principles, they are members of a global network, they are reviewed by the GANHRI SCA on the basis of common standards, they have common modes of interaction at the international level, and (especially for those accredited on the basis of the Paris Principles) they undertake similar activities⁷. In general, NHRIs may be classified in four main types:

- Human Rights Commissions (diffused globally) are multi-mandate boards with a broad mandate covering protection, promotion, and monitoring, and are commonly tasked with reports and inquiries, legislative reviews, awareness, and education.
- Ombuds Institutions/*Defensores del Pueblo* (common in South America and in Poland, Portugal, and Spain) are led by single ombudspersons and traditionally handle individual complaints.
- Human Rights Institutes’ main tasks are research, education, and advisory functions which are often combined with a limited protection mandate (for example, the NHRIs in Denmark, Germany, and the Netherlands).
- Advisory/Consultative Committees (such as in France, Greece, Luxembourg, and Morocco) commonly envisage many commissioners or board members and an advisory council, and have advisory functions⁸.

⁴ General Observations of the Sub-Committee on Accreditation, adopted on 21 February 2018 by the Global Alliance of National Human Rights Institutions.

⁵ UN General Assembly, Resolution A/RES/48/134, 20 December 1993, para. 12. See also Vienna Declaration and Programme of Action adopted on 25 June 1993 by the World Conference on Human Rights in Vienna, I 36.

⁶ List contained in the General Observations of the Sub-Committee on Accreditation, para. 7.

⁷ D. Langtry - K. Roberts Lyer, *National Human Rights Institutions: Rules, Requirements, and Practice*, Oxford, 2021, p. 22.

⁸ *Ibid.*, p. 24. For more information about models of NHRIs, see United Nations Office of the High Commissioner for Human Rights, *National Human Rights Institutions: History, Principles, Roles and Responsibilities*, Professional Training Series No. 4, New York and Geneva, 2010, p. 15-19.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

In Italy five bills concerning the establishment of an NHRI are pending in Parliament. Two of these bills propose to assign the human rights mandate to the Personal Data Protection Authority (Bills S. 303 and S. 505). Three bills contemplate the establishment of an *ad hoc* institution: a Commission (Bill S. 424 and Bill C. 426) or an Advisory body (Bill C. 580).

This article focuses on Italy's current situation by first describing the legislative bills. After exploring current potential advantages and potential disadvantages of *ad hoc* institutions or multi-mandate institutions, specific sections concern the Personal Data Protection Authority and the opportunities offered by the implementation of the EU Directives on Standards for Equality Bodies, due by June 2026. The conclusion highlights that, irrespective of the institutional structure, it is crucial that clear legislation, full independence, appropriate resources, and systemic cooperation and coordination are guaranteed.

2. Italy's bills for the establishment of an NHRI

In order to address the need to establish an NHRI, five legislative initiatives are pending in Italy. Three bills (S. 303⁹, S. 424¹⁰, S. 505¹¹) are currently jointly examined by the Parliamentary Committee on Constitutional Affairs of the Senate of the Republic.

Bills S. 303 and S. 505 foresee to assign the human rights mandate to the Personal Data Protection Authority (*Garante per la protezione dei dati personali*), which will be renamed "Personal Data and Human Rights Protection Authority" (*Garante per la protezione dei dati personali e dei diritti umani*). In particular, Article 1 of the two bills, changes Article 153, para. 1 of the Personal Data Protection Code¹² so that two out of the four members of the collegial body have proven competence and experience in the field of the protection and promotion of human rights. While, however, Bill S. 303 formulates this requirement by stating that candidates are required to ensure

⁹ Senato della Repubblica, disegno di legge S. 303 d'iniziativa della senatrice Pucciarelli, *Istituzione del Garante per la protezione dei dati personali e dei diritti umani attraverso l'assegnazione al Garante per la protezione dei dati personali dei compiti di istituzione nazionale indipendente per la protezione e promozione dei diritti umani*, XIX legislatura, comunicato alla Presidenza il 9 novembre 2022.

¹⁰ Senato della Repubblica, disegno di legge S. 424 d'iniziativa dei senatori Valente, Giorgis, Parrini e Zampa, *Istituzione della Commissione nazionale per la promozione e la protezione dei diritti umani fondamentali*, XIX legislatura, comunicato alla Presidenza il 21 dicembre 2022.

¹¹ Senato della Repubblica, disegno di legge S. 505 d'iniziativa delle senatrici Bevilacqua, Maiorino e Barbara Floridia, *Disposizioni per l'assegnazione al Garante per la protezione dei dati personali dei compiti di istituzione nazionale indipendente per la protezione e promozione dei diritti umani*, XIX legislatura, comunicato alla Presidenza il 26 gennaio 2023.

¹² Legislative decree No. 196 of 30 June 2003.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

independence and experience in the area of data protection “or” of promotion and protection of human rights, Bill S. 505 substitutes “or” with “and”, therefore better ensuring that expertise in human rights is represented. Bill S. 505 further requires that among the four members of the College, “at least two shall possess the necessary human rights expertise, and in making appointments the following shall be considered: gender balance; ethnic diversity of society; range of vulnerable groups; respect for diversity; pluralistic representation of the social forces involved in the promotion and protection of human rights”¹³.

The appointment procedure is a public procedure which consists in a public call, the publication of candidates’ *curricula vitae*, and the election of two members by the Chamber of Deputies and two members by the Senate of the Republic for a non-renewable term of seven years.

The Personal Data Protection Authority will have new staff for the new mandate: 30 additional units for Bill S. 303 (current 200 units would be reduced to 192); 80 additional units for Bill S. 505 (for a total of 280 units).

The reasons justifying the proposal to assign the human rights mandate to the Personal Data Protection Authority are based on the fact that the authority operates in many areas and in different contexts and is fully independent¹⁴. Moreover, a multi-mandate body would require the use of less financial resources¹⁵.

In contrast, Bill S. 424 envisages the establishment of an *ad hoc* institutions, the “National Commission for the promotion and protection of fundamental human rights” (*Commissione nazionale per la promozione e la protezione dei diritti umani fondamentali*). The Commission would be a collegial body composed of a president and four members, chosen from among persons of the highest moral standing, recognised independence, integrity and high professionalism, as well as having proven competence and experience in the field of human rights, rights of the child and human sciences in general, with many years of experience in the promotion and protection of human rights and in the management of complex organisational structures in the public or private sectors. The four members of the Commission are elected by the Senate of the Republic (two) and by the Chamber of Deputies (two) by a two-thirds majority vote of their members following an examination procedure of the candidates based on the principles of merit and transparency. The procedure requires the assessment of candidates’ *curricula vitae* and public hearings by competent parliamentary

¹³ My translation.

¹⁴ Bill S. 303, p. 1.

¹⁵ *Ibid.*

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

committees of the two Houses of Parliament. The president of the Commission is appointed by means of a decision taken in agreement between the Presidents of the two Houses of Parliament after a public hearing. The term is non-renewable and lasts five years.

The comparison of the three bills between them and in light of the Paris Principles shows that, for some aspects, the three bills are similar¹⁶. For instance, the three bills envisage:

- parliamentary appointment;
- similar powers for accessing documents, data, archives, minutes (public administration);
- the power to receive reports of violations; and
- the duty of cooperation at the international and European levels that includes the United Nations, the European Union, the Council of Europe, and bodies from other States that are competent for the promotion and protection of Human Rights (Bill S. 505 also mentions the Organisation for Security and Co-operation in Europe, OSCE).

Other provisions are similar but there are relevant differences. For instance, the NHRI may submit opinions and recommendations to the Houses of Parliament and to the Government but, according to Bills S. 424 and S. 505, this power also applies to laws and regulations. In addition, Bill S. 424 foresees the possibility to also formulate proposals and, according to Bill S. 505, recommendations may also be directed to public administrations. Bill S. 424 specifies that the Commission formulates opinions, recommendations, and initiatives on its own initiative.

In some parts of their texts, focus is on different issues. For instance, with regard to monitoring activities, Bill S. 303 pays particular attention to the rights of women and minors in the digital society and on revenge porn, Bill S. 424 expressly mention the rights of persons deprived of their liberty and asylum seekers, and Bill S. 505 specifies that monitoring activities are conducted also in light of EU law (besides national and international law).

The comparison of the bills in the Senate seems to suggest four potential points that could be further considered. First, the role of research and cooperation with universities could be made more explicit. Second, the “regular and constructive engagement” with civil society could be guided by an interpretation that (besides

¹⁶ For a more detailed analysis of the three bills in light of the Paris Principles, see V. Tudisco, *La creazione di un'istituzione nazionale per i diritti umani in Italia*, in G. Repetto (ed.), *Una National Human Rights Institution per l'Italia: problemi e prospettive*, Torino, 2025, p. 47-69.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

NGOs, associations, and foundations) encompasses all the stakeholders mentioned by the Paris Principles such as trade unions, concerned professional organisations, trends in philosophical and religious thought, universities and qualified experts. Third, the interaction between the NHRI and courts (for instance, the NHRI could act as an *amicus curiae*) and mediators could be made clearer and more proactive. Fourth, local or regional sections of the National Human Rights Institution could be established.

The bills of the Chamber of Deputies (Bills C. 426¹⁷ and C. 580¹⁸) have been assigned, but the examination has not yet begun. Bill C. 426 proposes the establishment of the “National Commission for the Promotion and Protection of Fundamental Human Rights” (*Commissione nazionale per la promozione e la protezione dei diritti umani fondamentali*). Under Article 1, the Commission is a collegial body composed of a president and six members of the highest moral standing, recognised independence, integrity, courage, and high professionalism ensuring adequate gender representation. The members are required to possess proven competence and experience in the area of human rights, rights of the child, and human sciences as well as many years of experience in the promotion and protection of human rights and in the management of complex organisational structures in the public or private sectors. Three members are elected by each House of Parliament, having each senator or deputy the possibility to express only two names. The elected candidates are appointed by a decree of the President of the Republic. The president of the Commission is also appointed by a decree of the President of the Republic on the proposal of the President of the Council of Ministers, after deliberation by the Council of Ministers, having obtained the opinion of the competent parliamentary committees. In contrast to the bills examined in the Senate, one member of the Commission would therefore be chosen by the executive branch. The term of the members of the Commission is non-renewable and lasts five years. The four points identified from the comparison of the bills of the Senate also apply to Bill C. 426 and, therefore, the bill could add:

- a role for research and cooperation with universities;
- a reference to a regular and constructive engagement with civil society that also includes trade unions, concerned professional organisations, trends in philosophical and religious thought, universities and qualified experts;

¹⁷ Camera dei deputati, proposta di legge C. 426 d’iniziativa dei deputati Quartapelle Procopio, Della Vedova, Boldrini, Istituzione della Commissione nazionale per la promozione e la protezione dei diritti umani fondamentali, XIX legislatura, presentata il 21 ottobre 2022.

¹⁸ Camera dei deputati, proposta di legge costituzionale C. 580 d’iniziativa del deputato Laus, Istituzione dell’Autorità nazionale per i diritti umani, XIX legislatura, presentata il 15 novembre 2022.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

- an interaction between the NHRI and courts (for instance, as *amicus curiae*) and mediators; and
- the establishment of local or regional sections of the National Human Rights Institution.

Another bill, Bill C. 580, foresees a constitutional amendment that adds to the Constitution a new article, Article 100 bis, about the “National Authority for Human Rights” (*Autorità nazionale per i diritti umani*). The Authority is designed as an advisory body of the Houses of Parliament and of the Government and is composed of seven members, chosen in accordance with gender equality for a non-renewable mandate of seven years. Two members are appointed by the President of the Republic from among national and regional authorities for the rights of persons deprived of their liberty with at least four years of experience. Three members are elected by Parliament in joint session from among members of human rights associations operating at the national level. Two members are elected by the supreme ordinary and administrative courts from among magistrates, including retired magistrates, of the higher ordinary and administrative courts, full professors in law at universities, and lawyers with at least twenty years of experience. The proposed constitutional reform envisages a power of legislative initiative in the area of human rights for the NHRI, regional sections, and the possibility for the President of the Republic to send a reasoned message to the Houses of Parliament (in the case of statutes) or to the Government (in the case of legislative decrees) when the opinions of the NHRI have been disregarded. In addition, the National Authority for Human Rights would have the power to file constitutional complaints¹⁹. A constitutional law would regulate the internal organisation of the NHRI, the grounds for ineligibility and incompatibility of its members, and the election system, so that pluralism is ensured.

It is worth mentioning that, concerning the legal foundation of the NHRI, the Paris Principles require that the NHRI must be “clearly set forth in a constitutional or legislative text”²⁰. The Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions further specifies that the legal text must be sufficiently detailed for ensuring that the NHRI has a clear mandate and independence, and should cover “NHRI’s role, functions, powers, funding and lines of accountability, as well as the appointment mechanism for, and terms of office of, its members”²¹.

¹⁹ For the functioning of this power in Spain, see A. Schillaci, *Diritti fondamentali e stato costituzionale di diritto: l’esperienza del Defensor del pueblo in Spagna*, in *Diritti comparati*, 2021, p. 27 ss.

²⁰ Paris Principles, Competence and responsibilities, 2.

²¹ G.O. 1.1, General Observations of the Sub-Committee on Accreditation, adopted on 21 February 2018 by the Global Alliance of National Human Rights Institutions.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

However, generally, a constitutional basis is deemed to be the best guarantee for the independence of an NHRI. According to the European Union Agency for Fundamental Rights (FRA), the legal foundation would be “ideally secured with a constitutional provision”²². Referring to independent Equality Bodies, the European Commission against Racism and Intolerance (ECRI) of the Council of Europe considered that constitutional provisions offer “strong and additional guarantees” for independent bodies given that it is more difficult to abolish or to weaken them and, therefore, ECRI expresses a preference for the use of constitutional provisions²³. ECRI GPR No. 2 further clarifies that if the legal basis is not constitutional, States should adopt an organic or ordinary law passed by Parliament and establish comprehensive and clear legislation²⁴.

3. *Institutional architecture: ad hoc institution or multi-mandate institution*

As it emerges from the description of the five bills, the institutional structure for Italy’s NHRI represents one of the most pressing issues especially with regard to the choice between establishing an *ad hoc* institution or assigning the human rights mandate to a multi-mandate institution. This is even more relevant taking into account the number of institutions/bodies that exists in Italy for the promotion and protection of human rights²⁵. In fact, some bodies are responsible for the promotion of equal treatment and for countering discrimination²⁶. The National Office Against Racial Discrimination (*Ufficio per la promozione della parità di trattamento e la rimozione delle discriminazioni fondate sulla razza o sull’origine etnica*, UNAR)²⁷ is formally responsible for

²² FRA, *Strong and Effective National Human Rights Institutions: Challenges, Promising Practices And Opportunities*, Luxembourg, 2020, FRA Opinion 8, p. 17.

²³ ECRI General Policy Recommendation No. 2 (revised) on Equality Bodies to combat racism and intolerance at national level - adopted on 13 June 1997 and revised on 7 December 2017, Explanatory Memorandum, para. 9-10.

²⁴ *Ibid.*

²⁵ For human rights compliance in Italy, see G. Repetto, *Changing Me Softly? Actors, Tools and Techniques of International Human Rights Compliance in Italy*, in R. Grote - M. Morales Antoniazzi - D. Paris (eds.), *Research Handbook on Compliance in International Human Rights Law*, Cheltenham, 2021, p. 121-135.

²⁶ For more information, see A. Guariso - M. Militello, *La tutela giurisdizionale*, in M. Barbera - A. Guariso (eds.), *La tutela antidiscriminatoria: fonti, strumenti, interpreti*, Torino, 2019, p. 445-500.

²⁷ UNAR is regulated by Legislative decree 9 July 2003 No. 215, which implements Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and by decree of the President of the Council of Ministers, 11 December 2003 on the institution and organisation of the National Office Against Racial Discrimination.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

the promotion of equal treatment and the contrast to discrimination based on race and ethnic origins although, *de facto*, the Equality Body also works on discrimination based on religion and belief, age, disability, sexual orientation, and gender identity²⁸. More recently, UNAR was given the task of promoting equal treatment and of removing forms of discrimination against workers who exercise free movement in the European Union²⁹. The National Equality Adviser (*Consigliera Nazionale di parità*) is regulated by the Code of Equal Opportunities between Men and Women³⁰ and is competent for the promotion and control of the implementation of the principles of equal opportunities and non-discrimination between women and men in the field of employment. In addition, the National Authority of the Rights of Persons with Disabilities (*Autorità Garante nazionale dei diritti delle persone con disabilità*)³¹ is responsible for the promotion and protection of the rights of persons with disabilities and for monitoring the implementation of the UN Convention of the Rights of Persons with Disabilities (CRPD)³². There are also the Authority for Children and Adolescents (*Autorità garante per l'infanzia e l'adolescenza*)³³ and the National Authority for the Rights of Persons Deprived of their Liberty (*Garante nazionale dei diritti delle persone private della libertà personale*)³⁴, Italy's National Preventive Mechanism (NPM) of the Optional Protocol to the Convention Against Torture (OPCAT)³⁵.

In this fragmented system, assessing the arguments for and against an *ad hoc* or a multi-mandate institution is useful for the establishment of an NHRI.

The possibility that NHRIs are part of National Preventive and National Monitoring Mechanisms is considered under General Observation 2.8 of the Subcommittee on Accreditation. In the review of an institution, the SCA assesses, among others,

“- whether the staff of the NHRI possess the appropriate skills and expertise;

²⁸ See UNAR's 2024 Annual Report, “*Relazione al Parlamento sull'attività svolta e sull'effettiva applicazione del principio di parità di trattamento sull'efficacia dei meccanismi di tutela*” (anno 2024)”.

²⁹ Legislative decree 9 July 2003, No. 216, as modified by Law 23 December 2021, No. 238.

³⁰ Legislative decree 11 April 2006, No. 198.

³¹ Legislative decree 5 February 2024, No. 20.

³² United Nations Convention on the Rights of Persons with Disabilities, adopted on 12 December 2006, G. A. Res. A/RES/61/106. The National Authority of the Rights of Persons with Disabilities is designated as an independent mechanism envisaged under Article 33, para. 2 of the CRPD.

³³ Law 12 July 2011, No. 112.

³⁴ The Authority was established by Article 7 of Decree law 23 December 2013, No. 146, transposed with changes by Law 21 February 2014, No. 10. Article 7 of the said decree law has been later amended in 2015 (Law 28 December 2015, No. 208) and in 2017 (Law 27 December 2017, No. 205).

³⁵ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002, G. A. Res. A/RES/57/199.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

- whether the NHRI has been provided with additional and adequate resources;
- whether there is evidence that the NHRI is effectively undertaking all relevant roles and functions as may be provided in the relevant international instrument.”

While the SCA’s role is to review NHRIs in accordance with the Paris Principles, some suggestions may be drawn with regard to multi-mandate institutions: first, staff must collectively possess appropriate skills and expertise in each of the mandates of the institutions; second, if a new mandate is assigned, additional and adequate resources must be provided; third, it must be assessed whether the institution is effectively able to exercise all the roles and functions resulting from the mandates.

It is also interesting to read the explanatory memorandum of General Policy Recommendation (GPR) No. 2 of the European Commission against Racism and Intolerance (ECRI)³⁶ on independent Equality Bodies to combat racism and intolerance. The Recommendations contain observations concerning stand-alone bodies or multi-mandate bodies, which consist in some States in the combination of an equality mandate with a human rights mandate (NHRI) and/or an Ombudsperson mandate (Ombudsperson Institution). The Recommendations especially provide guidance on multi-mandate bodies, highlighting that legislation should explicitly envisage the mandate(s); appropriate human and financial resources should be allocated to each mandate; governing, advisory, and management structures should provide clear leadership, promotion, and visibility of the mandate; reporting arrangements should give adequate prominence to the concerns and the work under the mandate³⁷. GPR No. 2 adds that competences and powers of all mandates should be, as far as possible, harmonised and levelled up in order to ensure that each mandate has the broadest competences and powers that are enjoyed by the other mandates³⁸. In addition to levelling up, coordination should be guaranteed so as to address overlaps, to favour joint action, and to make the use of resources more efficient³⁹.

Potential advantages and requirements for an effective functioning of the body are further clarified in the explanatory memorandum of ECRI GPR No. 2. Stand-alone bodies have the advantage of focusing on their specific mandate, have a dedicated budget for issues they are competent in, and develop specific expertise and visibility in

³⁶ ECRI General Policy Recommendation No. 2 (revised) on Equality Bodies to combat racism and intolerance at national level - adopted on 13 June 1997 and revised on 7 December 2017.

³⁷ Para. 7.

³⁸ Para. 8.

³⁹ Para. 9.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

the field⁴⁰. In contrast, multi-mandate bodies could potentially address issues more comprehensively and effectively thanks to the use of all their mandates, provided that “strong and innovative leadership in achieving efficient co-ordination and integration between the different mandates” is exercised⁴¹. The explanatory memorandum warns that “Within such multi-mandate institutions there can be tensions, particularly in the aftermath of a merger. Each mandate comes with its own tradition, approach and objectives. It is important to simultaneously respect and sustain this diversity and to progress integration of the merged mandates, in order to improve the impact of the body”⁴².

In order to pursue focus on a specific mandate, it would be necessary to establish a leadership structure that guarantees ownership for each mandate, to develop a strategic plan for the mandate, and to guarantee visibility for the mandate during the implementation of the activities⁴³. ECRI further recommends that merging mandates in a multi-mandate body should ensure that mandates are not weakened, and that appropriate focus and resources are ensured, concluding that, if this is not possible, “it is preferable to establish or retain a stand-alone body”⁴⁴.

The issue of establishing *ad hoc* institutions or multi-mandate institutions has been analysed by scholars who have clarified the advantages and disadvantages of each choice. Richard Carver raises the question as to whether it is preferable to establish one NHRI with a broad mandate or multiple specialized institutions. The arguments in favour of separate and multiple institutions are three:

- “that a single institution may not provide sufficiently for the specific needs of different vulnerable groups;
- that competing priorities in a single institution will result in competition for resources and attention to different vulnerable groups;
- that separate institutions provide a valuable focal point for vulnerable groups”⁴⁵.

The author identifies an additional argument related to poor leadership: in fact, if this were the case for a single institution, this would affect human rights protection as a whole. Thus, fragmented systems with multiple leaders would prevent this risk.

⁴⁰ ECRI GPR No. 2, Explanatory Memorandum, para. 31.

⁴¹ *Ibid.*, para. 33.

⁴² *Ibid.*, para. 34.

⁴³ *Ibid.*, para. 35.

⁴⁴ *Ibid.*, para. 36.

⁴⁵ R. Carver, *One NHRI or Many? How Many Institutions Does It Take to Protect Human Rights? – Lessons from the European Experience*, in *Journal of Human Rights Practice*, 3, 2011, p. 9 ss.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

The arguments for single institutions are placed by Carver in five areas: legal framework, institutional effectiveness, relationship with vulnerable groups, relationship with the authorities, and public profile⁴⁶. In fact, a single founding law would provide a consistent protection to the rights of groups and individuals. In the area of institutional effectiveness, a single institution may contribute to productive cross-fertilisation between individuals, teams, and departments within the same institution. In addition, a single institution can offer consistence of service and be more cost-effective. With regard to vulnerable groups, a single institution is easier to identify, it offers a better service (for instance, it reduces the number of misdirected complaints), and it equally covers all vulnerable groups (therefore avoiding the risk that, in a context of multiples institutions, some vulnerable groups do not have their own NHRI). A single institution is more likely to easily and authoritatively relate with government and with other authorities. Finally, in the area of public profile, a single NHRI could be more effective in raising awareness of the institution itself and of human rights in general.

Carver concludes that, provided that the national and institutional contexts must be considered for each State, although there is “a strong presumption in favour of a single institution, there may on occasions be an equally strong desire not to disrupt functioning and effective multiple institutions by merging them”⁴⁷.

Scholarly literature has confirmed the advantages and disadvantages for single or for multiple/thematic NHRIs. With regard to advantages, multi-mandate bodies are more authoritative and influential⁴⁸ and offer more comprehensive overview of human rights especially if established in constitutional law⁴⁹. Fragmented systems with multiple institutions bring expertise, visibility, and focused advocacy⁵⁰, and all their resources are devoted to specific vulnerable groups⁵¹.

Concerning disadvantages, concentrating mandates in a single NHRI could bring risks for the protection of human rights not only in case of poor leadership but also in the case of a flawed legal framework⁵². Multiple NHRIs may be more easily

⁴⁶ *Ibid.*, p. 12 ss.

⁴⁷ *Ibid.*, p. 22.

⁴⁸ L. C. Reif, *The Future of Thematic Children's Rights Institutions in a National Human Rights Institution World: The Paris Principles and the UN Committee on the Rights of the Child*, in *Houston Journal of International Law*, 37, 2015, p. 459.

⁴⁹ A. Petričušić - L. Vidović, *Human Rights and Equality Institutions in Europe: Increasing Efficacy by Finding a Balance between Centralisation and Fragmentation*, in *Croatian and Comparative Public Administration*, 24, 1, 2024, p. 140.

⁵⁰ *Ibid.*, p. 139.

⁵¹ L. C. Reif, *op. cit.*, p. 459.

⁵² *Ibid.*, p. 460.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

marginalised (through underfunding and physical location of their premises)⁵³ and be subjected to political influence⁵⁴. In addition, gaps and overlaps in the protection may exist⁵⁵.

What emerges from the literature is that it is unclear as to whether a single *ad hoc* institution or a multi-mandate institution is preferable. The disadvantages listed above are therefore potential issues and food for thought when adapting the institutional architecture to a specific national context. Irrespective of the choice to adopt an *ad hoc* institution or a multi-mandate institution, a particular recommendation consists in adopting clear legislative texts, ensuring full independence and sufficient resources, facilitating systemic cooperation, and prioritising issues faced by vulnerable groups⁵⁶.

These observations concerning *ad hoc* institutions and multi-mandate institutions are interesting for the Italian case because three bills establish an *ad hoc* institution (a Commission or an Advisory body) and two bills assign the human rights mandate to the Personal Data Protection Authority. In addition, these observations are useful in view of the opportunities that may come from Italy's implementation of the 2024 EU Directives on standards for Equality Bodies.

4. *The Personal Data Protection Authority*

Data protection supervisory authorities⁵⁷, such as Italy's Personal Data Protection Authority, are established for the enforcement of the General Data Protection Regulation (GDPR), which, under Article 57, lists their tasks including monitoring and enforcement, public awareness, advice to national institutions, providing information to data subjects, cooperation with other supervisory authorities, complaints-handling, investigative powers, the adoption of standard contractual clauses, the establishment and maintenance of a list in relation to the requirement of data protection impact assessment, and tasks related to codes of conduct⁵⁸. Data

⁵³ *Ibid.*, p. 459.

⁵⁴ Petričušić - Vidović, *op. cit.*, p. 139.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*, 140.

⁵⁷ For a comparison between Equality Bodies, data protection supervisory authorities, and consumer protection competent authorities, see V. Tudisco - E. Lantschner, *Preventing and Reacting to Discrimination through Sanctions and Remedies*, An Equinet Report, 2022.

⁵⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

protection supervisory authorities have investigative powers (such as audits), corrective powers (such as warnings and orders), and authorisation and advisory powers (such as opinion and approval of draft codes of conduct)⁵⁹.

If the decision will be to embed the Personal Data Protection Authority⁶⁰ with the human rights mandate, it is undoubtful that interesting powers could be available for the protection of human rights (and possibly prevention). According to Bill S. 303 and to Bill S. 505, the Personal Data and Human Rights Protection Authority would have powers of investigation, control, and reporting. Particularly interesting is data protection supervisory authorities' power to impose administrative fines. Under Article 83 of the GDPR, administrative fines may be up to 10,000,000 euro or, in the case of an undertaking, up to 2 % of the total worldwide annual turnover of the preceding financial year. Sanctions may be up to 20,000,000 euro, or in the case of an undertaking, up to 4 % of the annual turnover in the case of non-compliance with an order by the supervisory authority. Bill S. 505 envisages that the power to issue administrative fines will be applicable also for the human rights mandate in addition to injunctions and prescriptive orders.

Data protection is a fundamental right⁶¹ but a potential issue could consist in the fact that embedding the Personal Data Protection Authority with the human rights mandate would be a novelty in the European context, as there is no precedent, and this could raise technical questions also concerning the extent to which the GDPR allows Member States to assign the human rights mandate to data protection supervisory authorities. Before the GDPR was adopted FRA had expressed the opinion that a Data Protection Authority (as well as an Equality Body) could “effectively” become “a specialised section of their national human rights institution”⁶². The Italian case would be different because the contrary is foreseen. In the “Handbook on the establishment and accreditation of National Human Rights Institutions in the European Union”, FRA later added that where “no NHRI exists, the EU and its Member States should jointly support all national monitoring bodies, including equality bodies and data protection authorities, to explicitly comply with the relevant Paris Principles and their authoritative

⁵⁹ Article 58 GDPR.

⁶⁰ See also G. Cerrina Feroni, *I tentativi di istituire una NHRI nel contesto istituzionale italiano: quale ruolo per il Garante per la protezione dei dati personali?*, in G. Repetto (ed.), *Una National Human Rights Institution per l'Italia: problemi e prospettive*, Torino, 2025, p. 19-30.

⁶¹ See, for instance, Article 8 of the Charter of Fundamental Rights of the European Union.

⁶² FRA, *Data Protection in the European Union: the role of National Data Protection Authorities: Strengthening the fundamental rights architecture in the EU II*, Luxembourg, 2010, p. 8.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

interpretation”⁶³. Compliance with the Paris Principles is not mentioned as full but only with the “relevant” parts. Given this potential issue, it could be important to consult with the European Data Protection Supervisor⁶⁴ and with FRA in order to assess to what extent and under what conditions merging human rights and data protection mandates is in line with EU law and to further assess whether this would ensure that the NHRI mandate is as broad as possible, as required by the Paris Principles. In addition, it should be considered to what extent combining the mandates is beneficial both for data protection and for the promotion and protection of human rights. For instance, this could be useful when thinking (as there is no previous case to learn from) on how synergy would be pursued between the two mandates, taking into account the different expertise required in data protection and in human rights and their coexistence in the collegial body.

One of the reasons justifying the decision to assign the human rights mandate to the Personal Data Protection Authority is that, by doing so, less financial resources would be required⁶⁵. In this regard, it is interesting to compare the budgets of the bills⁶⁶. The two bills for the Personal Data and Human Rights Protection Authority (Bills S. 303 and Bill S. 505) envisage a budget of 3.5 million euro (Bill 505 increases the budget to 8 million euro in later years). The budget of the two bills for the Commission is 1,735,150 euro (Bill S. 424) and 3.5 million euro (Bill C. 426). As a result, either the amount for a new institution is underestimated or costs would not be reduced in the multi-mandate institution.

⁶³ FRA, *Handbook on the establishment and accreditation of National Human Rights Institutions in the European Union*, Luxembourg, 2012, p. 76.

⁶⁴ As suggested in K. Meuwissen, *Un’istituzione nazionale per i diritti umani per l’Italia: prospettive dall’ENNHRI*, in G. Repetto (ed.), *Una National Human Rights Institution per l’Italia: problemi e prospettive*, Torino, 2025, p. 85-92, p. 91.

⁶⁵ Bill S. 303, p. 2.

⁶⁶ Constitutional Bill C. 580 does not specify the budget.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*5. *Equality Bodies and the new Standards Directives*

An opportunity of reflection is offered by the new 2024 EU Directives on standards for Equality Bodies⁶⁷ (Standards Directives)⁶⁸. The Standards Directives, to be implemented by June 2026, provide minimum standards on independence, (human, technical, and financial) resources, awareness raising, prevention and promotion, assistance to victims, alternative dispute resolution, inquiries, opinions and decisions, litigation, procedural safeguards, equal access, accessibility and reasonable accommodation for persons with disabilities, cooperation, consultation, data collection and access to equality data, reports and strategic planning. The two Standards Directives are almost identical and differ for the personal and material scope of their application and for the procedure for their adoption⁶⁹.

Reform in Italy is necessary also given that Italy's Equality Bodies (UNAR and the National Equality Adviser) are not generally deemed to be independent⁷⁰. In February 2026, the Italian Government began discussions concerning the implementation of the Standards Directives. The preliminary document⁷¹ envisages the

⁶⁷ Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC; Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU.

⁶⁸ For UNAR's perspective, see M. Peradotto, *Il ruolo dell'UNAR nel contesto del rafforzamento degli organismi per la parità alla luce delle nuove direttive europee*, in G. Repetto (ed.), *Una National Human Rights Institution per l'Italia: problemi e prospettive*, Torino, 2025, p. 73-77.

⁶⁹ Directive 2024/1499 is based on Article 19, para. 1, TFUE; Directive 2024/1500 is based on Article 157, para. 3, TFUE. For more information, see J. Elizondo-Urrestarazu, *Equality bodies: New standards, new challenges*, in *IgualdadES*, 9, 2023, p. 256-260.

⁷⁰ See, for instance, ECRI Report on Italy (sixth monitoring cycle), 2024, p. 7-8. See also M. Barbera - A. Guariso, *Italy*, in M. Mercat-Bruns - D. B. Oppenheimer - C. Sartorius (eds.), *Comparative Perspectives on the Enforcement and Effectiveness of Antidiscrimination Law: Challenges and Innovative Tools*, Cham, 2018, p. 335-352, at p. 340.

⁷¹ *Schema di decreto legislativo recante attuazione della direttiva (UE) 2024/1499, sulle norme riguardanti gli organismi per la parità in materia di parità di trattamento tra le persone indipendentemente dalla razza o dall'origine etnica, tra le persone in materia di occupazione e impiego indipendentemente dalla religione o dalle convinzioni personali, dalla disabilità, dall'età o dall'orientamento sessuale e tra le donne e gli uomini in materia di sicurezza sociale e per quanto riguarda l'accesso a beni e servizi e la loro fornitura, e che modifica le direttive 2000/43/CE e 2004/113/CE, nonché attuazione della direttiva (UE) 2024/1500, sulle norme riguardanti gli organismi per la parità nel settore della parità di trattamento e delle pari opportunità tra donne e uomini in materia di occupazione e impiego, e che modifica le direttive*

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

establishment of a new independent Equality Body (*Organismo per la parità*) composed of five members of proven experience in non-discrimination, appointed with a transparent procedure by the Presidents of the Houses of Parliament for a non-renewable term of seven years. Specific provisions cover incompatibility, status, and removal of the members of the Equality Body as well as functions, the Office of the Equality Body, and budget. The (mere) possibility to establish local sections is contemplated. The new Equality Body would replace the two existing Equality Bodies: UNAR and the National Equality Adviser.

The beginning of the debate concerning the implementation of the Standards Directives offers food for thought for the establishment of an NHRI. There is a close link between the Standards Directives, NHRIs, and the Paris Principles. The recitals of the Standards Directives expressly contain that, among others, they were inspired by the Paris Principles⁷² and, therefore, some of their rules might inform the debate about the establishment of an NHRI in Italy. In addition, the work for the implementation of the Standards Directives could offer the possibility to strengthen both equality and human rights promotion and protection. According to the European Network of Equality Bodies (Equinet), establishing a link between Equality Bodies and NHRIs may lead to the reduction of costs, increase effectiveness for their impact, and contribute to efficiency by reducing overlaps and duplication⁷³. The link may take shape as mutual exchange, joint action, joint planning, and merger⁷⁴. As a matter of fact, many institutions in EU Member States are both Equality Bodies and NHRIs. This is the case, for instance, in Belgium, Bulgaria, Croatia, Cyprus, Denmark, Ireland, Latvia, the Netherlands, Poland, Slovakia, and Hungary. Merger has the advantage of potentially strengthening both mandates, enhancing their standing, strengthening the legal interventions on both equality and human rights, broadening the scope of intervention, and contributing to greater accessibility for victims and vulnerable groups⁷⁵. However, especially in the case that the only reason justifying the merger is costs reduction, the risks of a merger include having an impact on the emphasis on equality (expressed by the existence of an Equality Body) and on the more specific and

2006/54/CE e 2010/41/UE. The act (No. 382) was submitted to the Houses of Parliament on 19 February 2026.

⁷² Recital 13 of Directive 2024/1499 and Recital 10 of Directive 2024/1500.

⁷³ Equinet, *Equality Bodies and National Human Rights Institutions: Making the Link to Maximise Impact*, 2011, p. 7-8.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*, p. 8.

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

accurate focus that an NHRI and an Equality Body may provide in their respective areas⁷⁶.

6. Conclusion

One of the most pressing issues emerging from the bills for the establishment of an NHRI in Italy is institutional architecture and, in particular, whether to establish an *ad hoc* institution or to assign the human rights mandate to an existing institution or body. As the analysis has shown, there are good arguments and critical points for both options.

Ad hoc institutions focus on their mandate with a dedicated budget and with specific expertise, advocacy, and visibility. Nevertheless, it should be considered that, in fragmented system, gaps and overlaps could exist and that an *ad hoc* institution could be more easily marginalised and be subjected to political influence.

Multi-mandate institutions have the potential to address issues more comprehensively and effectively, to be founded on a single law that could ensure equal protection for all vulnerable groups and individuals, to facilitate exchange of good practices, to offer consistency of service, to be potentially more cost-effective, to be more easily identifiable, to be more authoritative *vis-à-vis* authorities, and to be more effective in raising awareness of their role and of human rights in general. Potential risks include tensions between the mandates and different powers for different mandates. In addition, if there is poor leadership or a flawed legal framework, this would have deleterious effects on the protection of human rights in general.

As a result, it is unclear as to whether an *ad hoc* institution or a multi-mandate institution is preferable. The decision to adopt an *ad hoc* institution or a multi-mandate institution should take into account the potentially critical points of both options while ensuring clear legislation, full independence, and appropriate human, financial, and technical resources. Given Italy's fragmented system, systemic cooperation and coordination between institutions and bodies is necessary in order to exchange good practices, to favour synergy, and to work for, as far as possible, homogenous protection of vulnerable groups and individuals. If the mandate is assigned to an existing institution, additional financial resources, skills, and expertise should be appropriate for ensuring that the institution effectively exercises all its mandates. As recommended by ECRI GPR No. 2, each mandate should have a leadership structure, adopt a strategic plan, and pursue visibility in the implementation of its activities.

⁷⁶ *Ibid.*

Vincenzo Tudisco

*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

In addition to these considerations, in the case of the Personal Data and Human Rights Protection Authority, technical issues may exist and it should be assessed to what extent a broad human rights mandate can be ensured and to what extent combining the mandates could be beneficial both for data protection and for the promotion and protection of human rights (even because there is no data protection authority that is also an NHRI). The comparison of the budgets contained in the bills pending in Parliament does not show a reduction of financial costs.

The implementation of the Directives on minimum standards for Equality Bodies offers food for thought for the establishment of an NHRI and opportunities for creating a link between an NHRI and an Equality Body/Equality Bodies.

Abstract: Despite European and international recommendations and several legislative initiatives, Italy is one of the few Member States of the European Union that has not yet established a National Human Rights Institution (NHRI) on the basis of the Paris Principles. After a description of the bills currently submitted and/or examined in the Senate of the Republic and in the Chamber of Deputies, this article focuses on the institutional architecture for the Italian NHRI, identifying arguments for and against the establishment of a new *ad hoc* institution or the conferral of the human rights mandate to an existing institution or body, therefore to a multi-mandate institution (as provided for by two bills pending in the Senate with reference to the Personal Data Protection Authority). After a section on the Personal Data Protection Authority, the article explores the opportunities that could arise from the implementation in Italy of the new EU Directives on Standards for Equality Bodies. The conclusion underlines that there are good arguments for both the establishment of a new NHRI and the assignment of the human rights mandate to an existing institution or body. The potential challenges that each of these options entails should however be considered and, regardless of the institutional architecture of the NHRI, clear legislation, full independence, appropriate resources, and mechanisms for cooperation and for coordination with other institutions and bodies should be ensured.

Keywords: National Human Rights Institutions – Italy – Institutional Architecture – Personal Data Protection Authority – Equality Bodies.

Vincenzo Tudisco
*Shaping the Italian National Human Rights Institution:
Legislative Initiatives and Institutional Architecture*

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