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## **THE GERMAN INSTITUTE FOR HUMAN RIGHTS**

### **Institutional character**

#### *History*

The German Institute for Human Rights (GIHR) was founded on 7 March 2001 as the result of a ten year process. As early as 1991, a group of German NGOs “Forum Menschenrechte” (at the time a loose association of German human rights NGOs) developed the concept of a human rights institute with a focus on human rights education and strategic human rights work. Later, they joined forces with some members of the Federal Parliament to achieve the establishment of a German NHRI according to the Paris Principles. Supported by human rights experts in several federal ministries, the advocates of the foundation of the Institute patiently worked to convince all political parties that the foundation of a National Human Rights Institution was a necessity. Eventually, they did not achieve foundation by law, but by a unanimous decision of the Federal

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Parliament. Upon re-accreditation in November 2008, the Sub-Committee on Accreditation of the International Coordinating Committee reiterated the need for an NHRI to be established in a constitutional or legal text and therefore recommended the adoption of a stronger legal basis for the GIHR.

### ***Legal Form***

The GIHR is a Registered Association (in German: Verein), a predominant legal form for civil society and non-profit organisations. Registered Associations are largely autonomous, issue their own statute, and are regulated by law. GIHR's purpose, mandate, composition of bodies, competences and obligations were laid down in the Statutes of the GIHR Association (henceforth: GIHR Statutes), adopted on 8 March 2001 by the Founding Assembly. Later, the Statutes were amended several times, mainly due to inner-organisational needs; the last amendment was made in 2009.

### ***Jurisdiction***

GIHR's jurisdiction covers the whole territory of Germany. It includes foreign residents, as well as irregular residents. The Institute also works on issues related to extraterritorial obligations, e.g. foreign policy, defence policy, development policy, EU refugee directives, etc. It has an explicit mandate for all categories of human rights.

### ***Organisational Structure***

The unanimous decision of the German Federal Parliament on the basis of which the GIHR was founded emphasizes the Institute's independence. The Institute receives non-earmarked funding from three federal ministries, the Ministry of Justice, the Foreign Office and the Ministry for Economic Cooperation and Development. Since 2008, the Ministry for Labour and Social Affairs funds the National monitoring body for the UN Convention on the Rights of Persons with Disabilities at the Institute.

The GIHR's organs are the General Assembly, the Board of Trustees (four year turn), the Board of Directors (five year turn), and advisory boards that may be appointed as required for a specific subject or project.

### ***Membership of the Board of Trustees***

The Board of Trustees comprises 13 members with voting rights: Three representatives of the Forum Menschenrechte, two members of the German Federal Parliament's Committee on Human Rights and Humanitarian Aid, one representative appointed by the Office of the Federal Government Commissioner for Migration, Refugees and Integration, one representative

delegated by the German Disability Council, six representatives elected by the General Assembly, of which at least one must be a representative of academia. In addition, the Board of Trustees has five members without voting rights, comprising one representative each of the funding ministries as well as a representative nominated by the Second Chamber of the German parliament that represents the federal states. The exclusion from voting rights of the five government representatives is a means to safeguard the Institute's independence.

The most important duties of the Board of Trustees are:

- (a) To decide on the admission and expulsion of members,
- (b) To appoint and dismiss the Board of Directors and to supervise their work,
- (c) To represent the Association to the Board of Directors judicially and extra-judicially,
- (d) To adopt guidelines for the Institute's work,
- (e) To adopt medium- and long-term plans drawn up by the Board of Directors,
- (f) To adopt business, financial, staffing and investment plans drafted by the Board of Directors,
- (g) To approve the financial statements and the annual report of the Board of Directors and make recommendations to the General Assembly concerning the discharge of the Board of Directors,
- (h) To approve decisions of the Board of Directors and actions of fundamental significance before they are carried out,
- (i) To issue Standing Orders for the Board of Trustees and the Board of Directors,
- (j) To appoint and recall members of advisory boards set up for specific subjects or projects.

The membership of the GIHR Association forms the **General Assembly**. The General Assembly i.a. takes decisions on amendments to the statutes, accepts the financial statements and annual report, and elects the six additional members of the Board of Trustees who are not otherwise specified in the statutes. Currently, the GIHR Association has 22 members, of whom 20 are natural and 2 are legal persons. Members include civil society representatives, retired civil servants who had a key responsibility for human rights within a ministry, and representatives of academia, political parties or the legal profession. The legal persons are NGOs active in the field of human rights. Members do not receive any remuneration or reimbursement of travel and accommodation expenses when attending the General Assembly or any other GIHR event.

The **Board of Directors** (Director and Deputy) represents the Association judicially and extrajudicially and conducts the Institute's business. The Directors are free to hire and dismiss the institute's staff.

The General Assembly meets – as a rule – once a year, the Board of Trustees twice a year and the Board of Directors (constituted collectively by the Director and the Deputy Director) assume full-time positions in the institute and run the daily business.

### *Funding and staff*

The core funding provided by the federal Ministries in 2010 was € 1.6 million. This is only a modest increase from the initial core funding of € 1.1 million in 2002, and the increase was due to the establishment of the CRPD Monitoring body. In addition the GIHR receives third party money which is project based and earmarked. In 2010, the turnover of the institute amounted to € 2.8 million.

Within the framework of public budget regulations, the Institute is free to decide how to allocate funds. The staff of the GIHR covers a range of academic and professional fields. Staff members hold academic degrees in law, philosophy, political science, history, pedagogy, economy, or Islamic sciences, and represent professions such as university teachers, lawyers, librarians, managers, economists, secretaries or journalists. 16 of the positions are established on a permanent basis, all other contracts are time limited, most of them renewable, though. Directors and staff members receive adequate remuneration, in accordance with the tariffs regulation of the public service or the civil service pay (in the case of the Director only). The two Directors and the vast majority of the staff work full time. But there is a number of part time staff and interns.

### *Human Rights Mandate*

The GIHR has a broad mandate that covers civil and political as well as economic, social and cultural rights. In its Decision of 7 December 2000, the Federal Parliament states, "The Human Rights Institute shall work with an emphasis on application and complement existing state and non-state institutions, working in a supporting role and in close connection with them. It shall inform about the domestic and foreign human rights situation and contribute to the prevention of human rights abuses, as well as to the promotion and protection of human rights. In doing this, it shall act on its own initiative and independent of any guidelines and instructions of the Federal Government and other public and private actors." The Federal Parliament decision subsequently lists six basic tasks which form the core of the Statute:

- Information and documentation,
- Research,
- Policy advice,
- Human rights education,
- International cooperation,
- Supporting dialogue and cooperation of stakeholders in Germany.

The institute does not have a mandate to investigate individual complaints nor does it have other quasi-judicial competencies. However, the Institute increasingly makes use of strategic litigation tools (e.g. *amicus curiae*) to further its protection mandate.

### ***Organisational Structure of the Institute***

With the relative growth of the institute from 10 persons in the early 2000s to 40 + staff by 2012, seven departments were created (library, communication, administration, international department, human rights education, CRPD monitoring body, and, as the largest department, the one on domestic and European issues). Each department is composed of 3 to 9 team members supervised by a head of department. Some departments comprise smaller units, headed by mid-management. The two directors divide the supervision of the departments among themselves. The institute is based in a central location in the German capital, Berlin, and is open to the public. It hosts a specialized library open to the public five days a week and has become easily accessible for persons with disabilities.

### ***Programs***

GIHR exercises its mandate

- by holding conferences, expert meetings, and workshops of different formats, including press conferences;
- by issuing publications, ranging in size from short policy papers to comprehensive studies, and training material ;
- by giving political advice and opinions (orally and in writing) to parliamentary committees, ministries, or political bodies etc;
- by organizing seminars, trainings and human rights education for the police, teachers, social workers, NGOs, members of parliament, civil servants and others;
- by offering a public library and a range of (also electronic) library services;
- by hosting a large and informative website, with a number of interactive sub-sites, like an online-handbook on inclusion as a human right.

The average annual output of the institute, always produced according

to the priorities set in the strategic plan, is about 90 seminars, conferences or workshops, 15 publications, 20 press releases and 30 mid- or high-ranking political interventions. Activities, success stories and the financial statement are reported to the public in a German-English annual report.

Over the last years, GIHR has developed its work around nine thematic lines:

- Human Rights Education,
- Strengthening Human Rights Institutions in Europe and Internationally,
  - Protection from Discrimination,
  - Economic, Social and Cultural Human Rights,
  - Human Rights in Security Policy,
  - Contemporary Forms of Slavery,
  - Human Rights of Refugees and Migrants,
  - Human Rights and Development Cooperation,
  - National Monitoring according to the CRPD.

The Institute sees itself responsible for commenting on national legislation (and more and more also EU legislation) from a human rights perspective. It issues statements and recommendations addressed both to the general public as well as specific stakeholders. The Institute repeatedly participated in public or non-public hearings of the Federal parliament (or State parliaments) on issues, such as anti-discrimination legislation, asylum regulations, guaranteeing de facto access to health care institutions for irregular migrants, national plans of action concerning human rights, evaluation of human rights infringements following from security legislations, appropriate ways of combating forced marriages, legislation on religious symbols, etc. Given the increasing impact that EU norms have on the national level, GIHR took the initiative to establish a working group of European NHRIs with the purpose of influencing EU legislation.

The research activities of the institute are manifold. Research is the main source of for the positions that the institute takes on regarding various human rights topics. Studies take any time between three months up to a year of in-depth research, but even policy papers are based on a profound analysis of the matter at hand. However, contrary to university based research, the GIHR does not have the resources to do quantitative research generating primary data, e.g. for statistical purposes. Where good quantitative data are available from reliable sources, the GIHR uses those and combines it with innovative human rights analysis.

To sum up, the strength of the GIHR lies in its think-tank like nature; the GIHR is an important agenda setter for human rights. It has inspired and

accompanied public debates on a number of key human rights issues, e.g. with respect to freedom of religion, non-discrimination, and the rights of the elderly, and successfully advised some ministries and parliamentarians with respect to policy development on human rights. However, this strength as a think-tank has to be balanced with the general promotion mandate, which requires reaching the larger public. It also needs to be balanced with the protection mandate, which requires concentrating on vulnerable groups and their access to remedies and redress. These requirements produce a constructive tension for the future development of the GIHR.

## Abstract

This paper is a short overview of the German Institute for Human Rights (GIHR), which strength lies in its think-tank like nature; the GIHR is an important agenda setter for human rights. It has inspired and accompanied public debates on a number of key human rights issues, e.g. with respect to freedom of religion, non-discrimination, and the rights of the elderly, and successfully advised some ministries and parliamentarians with respect to policy development on human rights. However, this strength as a think-tank has to be balanced with the general promotion mandate, which requires reaching the larger public. It also needs to be balanced with the protection mandate, which requires concentrating on vulnerable groups and their access to remedies and redress. These requirements produce a constructive tension for the future development of the GIHR.

## Резиме

Овој труд претставува осврт на работата на Германскиот Институт за човекови права, чија сила лежи во неговата природа како тинк-тенк и кој претставува важен креатор на агендите за човекови права. Тој ги има инспирирно и придружувано јавните дебати за голем број клучни прашања за човекови права, на пр. во однос на слободата на религија, недискриминација и правата на постарите, и успешно има советувано некои министерства и парламентарци во однос на развојната политика на човекови права. Сепак, оваа сила како тинк-тенк треба да се балансира со општиот мандат за промоција, кој бара соработка со пошироката јавност. Исто треба да се балансира со мандатот за заштита, кој бара концентрирање на ранливи групи и нивниот пристап до правни лекови и обештетувања. Овие барања произведуваат конструктивна тензија за идниот развој на Германскиот институт за човекови права.