

# PROTECTION OF ECONOMIC HUMAN RIGHTS BY REPRESENTATIVE BODIES: EUROPEAN STANDARDS

Zoia Ivantsova<sup>1</sup>, Vadym Hedulianov<sup>2</sup>, Nataliia Zadyraka<sup>3</sup>

**Abstract.** Economic human rights are essential components of democratic societies, enabling individuals to engage in economic activities, own property and exercise entrepreneurship without undue interference. This article examines the role of representative bodies in protecting these rights, with a particular focus on the European standards set by the Council of Europe and the principle of bona fide. The *purpose* is to offer a comprehensive understanding of how these rights are protected and promoted, especially in the context of ongoing legal and policy reforms in Ukraine. The methodology involves a detailed analysis of the relevant legal texts and standards, both Ukrainian legislation and the Council of Europe legal framework. This approach allows for a critical analysis of the principles underpinning the protection of economic human rights and provides insights into best practices that Ukraine can adopt. The study emphasises that the protection of economic rights is not only a matter of compliance with the law, but also a moral imperative that requires honesty, transparency and integrity in governance. Representative bodies, such as the Verkhovna Rada of Ukraine, play a crucial role in this process by adopting and enforcing laws that protect economic freedoms and guarantee fair practices. Particular emphasis is placed on the principle of good faith, which requires all actors, including the state, to act in good faith and honesty to foster an atmosphere of trust and accountability. This principle extends to the enforcement and remediation of economic rights violations, requiring a transparent and fair response to violations and adequate remedies for those affected. In *conclusion*, bringing Ukraine's practices in line with European standards strengthens the protection of economic rights and promotes deeper integration into the European context. By adhering to the principle of good faith, Ukraine can strengthen its legal and economic systems, thereby contributing to the welfare and development of its citizens and society as a whole. This commitment is not only in line with European norms, but also lays the foundation for sustainable and equitable economic growth.

**Keywords:** economic human rights, constitutional human rights, democracy, indirect democracy, Council of Europe standards, good faith (bona fide) principle, pre-trial proceedings, law and economics, financial relations.

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## 1. Introduction

The protection of economic human rights is a fundamental aspect of ensuring a decent standard of living and promoting personal development. These rights are an integral part of the broader system of constitutional rights and freedoms that encompass various aspects of life, such as property ownership and business activities. In the context of Ukraine, the protection of these rights is particularly important given the ongoing political, economic and social transformations in the country. As Ukraine

seeks European integration, it is essential to align its practices with European standards of human rights protection.

This article *aims* to explore the role of representative bodies in the protection of economic human rights, focusing on relevant European standards (Council of Europe law) and the principle of bona fide. By examining these elements, the article seeks to provide a comprehensive understanding of how economic rights are protected and promoted in democratic societies, with a particular focus on the Ukrainian context.

<sup>1</sup> National University "Odesa Law Academy", Ukraine (*corresponding author*)

E-mail: [ivantsova.a.zoe@gmail.com](mailto:ivantsova.a.zoe@gmail.com)

ORCID: <https://orcid.org/0000-0001-7110-5967>

<sup>2</sup> National Aviation University, Ukraine

E-mail: [hedulianov@gmail.com](mailto:hedulianov@gmail.com)

ORCID: <https://orcid.org/0000-0002-2746-0838>

<sup>3</sup> Taras Shevchenko National University of Kyiv, Ukraine

E-mail: [zadyraka@gmail.com](mailto:zadyraka@gmail.com)

ORCID: <https://orcid.org/0000-0002-5866-7612>



The *methodology* used in this article includes a thorough analysis of the relevant legal texts, both national and Council of Europe. This methodological framework allows for a detailed examination of the principles and standards that underpin the protection of economic human rights and provides insights into best practices that Ukraine can adopt.

Understanding the intersection of economic human rights, representative bodies and European standards is crucial for several reasons. Not only does it highlight the importance of economic rights and freedoms in promoting personal and national development, but it also underscores the need for a principled approach to governance. For Ukraine, the adoption of these standards and principles is a step towards strengthening its democratic institutions and bringing them more in line with European norms, which will ultimately contribute to the country's stability and growth – both now and in the post-war reconstruction period.

## 2. Economic Human Rights (Based on the Ukrainian Legal Materials) and the Relevant European Standards

Economic rights are fundamental to the functioning of a democratic society and are closely linked to the broader system of constitutional rights and freedoms. These rights ensure that individuals can participate fully in the economic life of their country (see, for example, Suri et al., 2011), thereby contributing to personal development and social progress.

The economic sphere of public life includes the following rights guaranteed by the 1996 Constitution of Ukraine: "the right to own, use and dispose of one's property, the results of one's intellectual and creative activity" and "the right to use objects of state and communal property in accordance with the law" (both in Article 41); "the right to engage in entrepreneurial activity not prohibited by law" (Article 42). These provisions emphasise the importance of protecting individual autonomy in economic matters. Ensuring that these rights are respected and upheld is crucial to maintaining a fair and just society in which individuals can thrive and contribute to the overall economic health of the nation.

Frequently, not only Ukrainian but also foreign scholars do not distinguish economic rights, speaking of "socio-economic rights" or simply "social rights" (which in research include economic, social and cultural rights (Constitutional Law, 2021; Petel & Putten, 2021)). Speaking about the difference between economic rights and other individual rights, it is worth noting that the exercise of economic rights can be carried out without state intervention (except in cases of their violation), while the exercise of social rights (often compared to economic rights),

in particular, rights in the field of social protection, today directly depends on the state.

L. Amelicheva et al. (2021) emphasise that this distinction is crucial for understanding how different categories of rights operate in the legal environment. Economic rights, such as property rights and freedom of enterprise, often function autonomously, allowing people to engage in economic activities with minimal state interference. In contrast, social rights, such as the right to social security and healthcare, require active state intervention to ensure their realisation. This reliance on state mechanisms makes social rights more vulnerable to changes in government policies and economic conditions. Thus, while both economic and social rights are important for individual well-being and social stability, their realisation and protection require different approaches and levels of state involvement. Understanding these differences is vital to developing effective legal and policy responses that protect all aspects of human rights.

Economic human rights, along with other fundamental rights that contribute to ensuring a decent, adequate standard of living and personal development (e.g., social and cultural rights), and thus complement virtually all other rights, occupy an important place in the system of constitutional human rights. These rights are essential for creating an environment in which people can thrive and realise their full potential. Economic rights provide access to the opportunities, resources and protections necessary for people to engage in productive activities, secure their livelihoods and contribute to the economy (for more on this, see Gerasymenko et al., 2022 – based on Ukrainian experience).

At the same time, the successful functional aspect of economic rights is ensured by the possibility of their best possible effective exercise, which is a direct consequence of protection by representative bodies. Representative bodies, such as parliaments and other legislative institutions, play a crucial role in protecting these rights. They adopt laws and policies that create the framework within which economic rights can be exercised and protected. This includes property rights laws, business regulations, labour laws and social security systems that facilitate the effective enjoyment of economic rights.

The protection of economic rights by representative bodies is based on relevant European standards, which provide a comprehensive framework for the protection and promotion of these rights. European standards emphasise the importance of non-discrimination, equal access to opportunities and the protection of individual freedoms in economic activity. They also emphasise the need for states to create favourable conditions for participation in economic activity, including ensuring access to education, training and resources necessary for economic activity.

These standards are enshrined in various European treaties and documents, such as the European Convention on Human Rights (ECHR) and the European Social Charter (ESC). These documents set out the obligations of states to protect economic rights and ensure their effective implementation. For example, the ECHR, through its protocols, includes provisions on the protection of property rights (in particular, the protection of property rights under Protocol No. 1), while the ESC develops provisions on the right to work, fair working conditions and social security (e.g., the 1988 Additional Protocol extending the social and economic rights of the 1961 Charter, the 1991 Protocol amending the supervisory mechanism, the 1995 Additional Protocol providing for a collective complaints system), the European Social Security Code, etc.

Another important tool is the Committee of Ministers' resolutions on supervision and individual recommendations to Member States. For example, on January 27, 2023, the European Committee of Social Rights concluded that the situation in Ukraine is not in line with Article 16 (the right of the family to social, legal and economic protection) of the European Social Charter.

In addition, the European Court of Human Rights (ECtHR) and the European Committee of Social Rights (ECSR) provide mechanisms for citizens to seek redress in the event of a violation of their economic rights. These institutions ensure that Member States comply with their obligations under European standards, thereby strengthening the protection of economic rights.

To conclude this sub-section, it should be stressed that the protection of economic rights by representative bodies, guided by European standards, is essential for the effective realisation of these rights. By creating and enforcing laws and policies that promote economic participation and protect individual freedoms, representative bodies play a key role in ensuring that individuals can fully exercise their economic rights. This in turn contributes to the overall goal of a decent standard of living and personal development for all.

### **3. The Role of Ukrainian Representative Bodies in the Protection of Economic Human Rights and Relevant European Standards**

Representative bodies, such as parliaments and other legislative institutions, play a crucial role in the protection of economic human rights. These bodies are responsible for establishing and maintaining a legal and policy framework that is conducive to the effective realisation of economic rights. They are guided by the principles of democracy, the rule of law and respect for human rights, which

are fundamental elements of modern systems of governance.

One of the main functions of representative bodies is to pass laws that protect and promote economic rights. This includes laws governing property rights, business, labour relations and social security systems. By establishing clear legal standards and enforcement mechanisms, these bodies ensure that citizens can exercise their economic rights without undue interference or discrimination. For example, property laws guarantee citizens the right to own, use and transfer property, while business regulations provide a framework for fair and competitive economic activity.

In addition to creating laws, representative bodies are also responsible for overseeing their implementation and enforcement. This oversight function involves monitoring the actions of the executive, the judiciary and private actors to ensure that they comply with established legal standards. Representative bodies can conduct hearings, investigations and audits to hold these actors accountable and remedy any violations of economic rights. Such oversight ensures that the legal protection of economic rights is not merely theoretical but is effectively implemented in practice.

The Parliamentary Assembly, the representative body of the Council of Europe, has also repeatedly drawn attention to the quality of the implementation of the European Social Charter. Thus, according to recommendation 2210 (2021), it was noted that there is a "gap between the rights protected by the Charter and the socio-economic policies implemented at the national level". Another example of the protection of economic rights of individuals by a representative body of the Council of Europe is Recommendation 2089 (2016) of the Parliamentary Assembly on intellectual property rights in the digital age. This recommendation raises the issue of practical cooperation in combating infringement of intellectual property rights, proposes to develop guidelines on legal and practical measures to combat infringement of copyright and related rights, recommends to study the effectiveness of national legislation and practice, etc.

In Resolution (preliminary version) 2265 (2024) on safeguarding human rights for future generations, the Parliamentary Assembly invited Council of Europe Member States, inter alia, to promote, protect and develop economic rights.

Thus, by adopting resolutions and recommendations, the Parliamentary Assembly of the Council of Europe actually calls on Member States to implement the relevant standards, including those related to economic rights.

One of the mechanisms for the protection of economic rights in Europe is the European Court of

Human Rights, which provides appropriate protection by issuing judgments that are legally binding on the Member States of the Council of Europe.

As noted by A. Eisen and F. J. Veiga, socio-economic rights can only become truly effective when they are covered by the institution of judicial protection and strict enforcement of court decisions. Without this, any socio-economic right will remain a declaration or, at best, a manifestation of state paternalism and will depend on those in power. To do this, socio-economic rights must be brought to a level of specificity that would allow a person (individual) to go to court in case of violation of the right. "Not only Europe, in particular the European Court of Human Rights, but also other non-European countries have experience in judicial protection of socio-economic rights." (Aisen & Veiga, 2013)

Despite the fact that there is a wide range of European standards for the protection of socio-economic rights, there is a need for further development, as often socio-economic rights (second generation rights) are protected by means of first generation rights, giving them (economic rights) secondary importance. For example, the human right to remuneration for work (salary) and pension is usually protected by the ECtHR through the application of Article 1 of Protocol 1 of the Convention for the Protection of Property Rights, the right to medical care – through the application of Article 3 of the Convention – prohibition of inhuman or degrading treatment. The ECtHR's case law on this right is still limited, but it confirms the general trend towards expanding judicial protection of socio-economic rights, as evidenced by the ECtHR's case law on Ukraine.

The ECtHR explains the above as follows: "The Court recalls, firstly, that the Convention does not guarantee, as such, socio-economic rights, including the right to free housing, the right to work, the right to free medical care or the right to claim financial assistance from the State to maintain a certain standard of living. Insofar as this part of the application relates to Article 3 of the Convention, which prohibits torture and inhuman or degrading treatment, the Court notes, on the basis of the applicant's allegations, that her present living conditions do not reach the minimum level of cruelty to constitute treatment contrary to the above provision of the Convention" (Pancenکو v. Latvia). The ECtHR provides a nuanced view of socio-economic rights, emphasising that the ECHR does not inherently guarantee rights such as free housing or medical care. However, the protection of economic rights by representative bodies is consistent with the relevant European standards, which provide a comprehensive framework for the protection and promotion of these rights. This alignment ensures that even in the absence of direct socio-

economic guarantees under the Convention, national authorities can uphold and promote these rights in line with broader European norms and principles.

To sum up this sub-section, it should be emphasised that the protection of economic rights by representative bodies is in line with the relevant European standards, which provide a comprehensive framework for the protection and promotion of these rights. European standards place significant emphasis on the importance of non-discrimination, equal access to opportunities and the protection of individual freedoms in economic activity. Furthermore, these standards emphasise the responsibility of states to create favourable conditions for participation in economic activity, including access to education, training and the resources necessary for economic activity. One of the most crucial tasks for Ukraine is to give due consideration to the further implementation of the bona fide principle.

#### **4. The Principle of Good Faith (Bona Fide) in the Protection of the Economical Human Rights and the Relevant European Standards: The Ukrainian Context**

The principle of bona fide, or good faith, is a fundamental principle of both national and European law that plays a crucial role in the protection of economic human rights. This principle obliges all parties to act honestly, fairly and sincerely in their dealings, ensuring that economic rights are respected and upheld without deception or manipulation. In the context of economic human rights, good faith ensures that individuals and institutions adopt fair practices that promote the equal and fair enjoyment of these rights.

As emphasised by A. Alesina et al. (1996), the principle of good faith is based on the expectation that states and other actors will honour their obligations and duties with respect to economic rights. This principle is particularly important in the legislative process, where laws and regulations should be drafted and applied with a genuine intention to protect and promote economic rights. Therefore, representative bodies have an obligation to make laws in good faith, ensuring that the laws they pass are not only clear and enforceable, but also that they actually benefit the people they are meant to protect (Barvinenko et al., 2023).

P. Patskurkivskyi (2022), discussing the Ukrainian context of this principle, notes that "current events and European integration processes necessitate the search for conceptually new approaches to understanding this and related categories for their proper implementation in practice, in particular in the field of contractual relations". This highlights the dynamic nature of legal systems and the need

for Ukraine to adapt its legal framework to broader European standards, especially in light of the ongoing integration process. P. Patskurkivskyi (2022) further notes: "Thus, it is worth noting that good faith and its manifestations are the face of modern private law". This statement underlines the centrality of good faith as a fundamental principle of modern private law, reflecting a shift towards more ethical and cooperative practices in legal and contractual relations.

He also emphasises that "the main difference between the Ukrainian and European approaches is that the latter is based on the existence of good faith of the parties and the duty to cooperate as elements of good faith, which is a kind of tribute to Roman law". This comparison points to a difference in legal cultures and traditions, where European systems emphasise mutual obligations of good faith and cooperation, deeply rooted in the historical influence of Roman law. This difference suggests that Ukraine may need to further develop its legal principles to incorporate these elements, which would enhance the fairness and integrity of its judicial processes.

In the field of European standards, the principle of good faith is deeply rooted in various legal frameworks and instruments. The ECHR and the European Social Charter implicitly support this principle by requiring Member States to act in good faith in fulfilling their obligations under these treaties. This includes the implementation of laws and policies that are genuinely aimed at protecting economic rights and effectively combating any violations.

These two documents also emphasise the importance of good faith in their jurisprudence and monitoring activities. For example, the ECtHR has ruled in numerous cases that states must not only respect economic rights, but also take measures in good faith to prevent violations and provide remedies in the event of violations. Among the well-known cases are *James and Others v. the United Kingdom* (1986), where the Court emphasised the need to strike a fair balance between the public interest and the rights of individuals in cases concerning property rights, and *Lithgow and Others v. the United Kingdom* (1986), which emphasised the state's obligation to ensure compensation in cases of expropriation. This practice implies a commitment to transparency, accountability and the fair enforcement of economic rights, as in the case of *Stran Greek Refineries and Stratis Andreadis v. Greece* (1994), where the Court emphasised the importance of protecting people's legitimate expectations.

These cases, although dating back several decades, remain highly relevant to Ukraine today. The principles established in these judgments, such as the need for

fair compensation and the protection of legitimate expectations, continue to be crucial in the context of Ukraine's ongoing efforts to fight corruption. The high level of corruption in Ukraine not only undermines economic stability, but also violates fundamental human rights, including economic rights. This is particularly evident in situations where corruption leads to unfair expropriation of property, unequal access to resources or unfair business practices. These problems underscore the need for a robust legal framework that upholds the principles of good faith and ensures that economic rights are respected and protected. The continuing applicability of these ECtHR decisions serves as a reminder that good faith in governance and the fair observance of economic rights are essential to the promotion of fairness and justice in any society.

The principle of good faith is crucial in contractual relationships and business practices. It ensures that economic transactions are conducted fairly, with each party performing its part of the bargain honestly and without intent to defraud or deceive. This principle supports a stable and reliable economic environment, which is essential for the protection of economic rights, such as property and business.

In terms of practical application, representative bodies should ensure that all economic legislation and policies are developed and implemented in good faith. This involves conducting thorough consultations with stakeholders, assessing impacts, and ensuring that laws are not biased or discriminatory (see, for example, Mishina, 2024). In this way, they uphold the principle of fairness and contribute to the creation of a fair and just economic system.

Furthermore, the principle of good faith is crucial in addressing and remedying violations of economic rights. In the event of a violation, the state and relevant institutions must investigate it in good faith, bring the perpetrators to justice and provide adequate compensation or restitution to the victims. This builds trust in the legal and political system and guarantees effective protection of economic rights.

In summary, the principle of good faith is an integral part of the protection of economic human rights. It requires states, representative bodies and other actors to act honestly, fairly and with integrity in all matters related to economic rights. Adherence to this principle, supported by European standards and institutions, ensures that economic rights are not only formally recognised, but also practically implemented and protected in a manner that promotes trust, equality and justice. Thus, the principle of good faith is essential to create an environment in which economic rights can flourish, contributing to the overall well-being and development of individuals and society.

## 5. Conclusions

The protection of economic human rights is a cornerstone of democratic societies, ensuring that people are able to engage in economic activity, own property and conduct business without undue interference. The role of representative bodies in protecting these rights is key, as they are responsible for enacting and enforcing laws that uphold economic freedoms and ensure fair practices.

European standards, based on the principles set out in the European Convention on Human Rights and the European Social Charter, provide a solid framework for the protection of economic rights. These standards emphasise the need for bona fide action by states and other actors, stressing the importance of honesty, transparency and integrity in all economic relations.

The principle of good faith is crucial to ensuring not only the recognition but also the effective realisation of economic rights. It requires that all stakeholders act in good faith and fairness, promoting a climate of trust and accountability. Representative bodies must legislate and govern with a genuine intention to protect economic rights, engage in

meaningful consultation with stakeholders, and implement laws that are fair and equitable.

In addition, the principle of good faith extends to the enforcement and remediation of economic rights violations. States and institutions should respond to violations in a transparent and fair manner, providing appropriate remedies and holding violators accountable. This approach builds trust in the legal and political systems and ensures the practical protection of economic rights.

Finally, for Ukraine, the intersection of economic human rights, representative bodies and European standards underscores the importance of a principled approach to governance. By adhering to the principle of good faith, the Verkhovna Rada of Ukraine, as a representative body, can create a legal and economic environment that respects and promotes economic rights, thereby contributing to the general welfare and development of individuals and society. Such compliance with the European standards set by the Council of Europe not only strengthens the protection of economic rights, but also paves the way for greater integration and cooperation in the wider European context.

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