

Regional 2024

Executive Summary

This report, focusing on the state of the rule of law in Europe, has been published by the European Network of National Human Rights Institutions (ENNHRI) - a network connecting all National Human Rights Institutions (NHRIs) across the Council of Europe (CoE) region. Through this joint reporting, NHRIs continue their strategic engagement with regional rule of law mechanisms.

The report comprises an overview of trends and challenges in the rule of law identified by ENNHRI members across Europe and ENNHRI's key recommendations. It presents country-specific chapters zooming into the national rule of law situation, with a particular focus on the system of checks and balances and the impact of securitisation on the rule of law and human rights.

NHRIs are independent, state-mandated bodies with a broad human rights mandate, established in line with the [UN Paris Principles](#). The independent and effective NHRIs are regarded by international and regional actors as indicative of the state's respect for the rule of law and checks and balances.

In the report, ENNHRI's members underline **persisting challenges** affecting the rule of law and human rights environment:

- Inconsistent and insufficient follow-up by state authorities to the regional actors' rule of law recommendations, pointing to a **need to strengthen the effective implementation of recommendations and decisions issued by those actors**;
- **Numerous issues negatively impacting the enabling space for NHRIs**, including: an unsatisfactory level of consultations with NHRIs by national authorities in view of relevant legislative and policy-making processes and follow-up to NHRIs' recommendations; lack of adequate human and financial resources and financial autonomy to carry out NHRIs' mandates effectively; lack of transparent and objective criteria for the appointment and dismissal of heads of institutions; undue limitations in access to information; as well as, in some cases, harassment and attacks on NHRIs. On the other hand, there is some progress regarding the establishment of the NHRIs, in line with the UN Paris Principles, in countries without one.
- **Weakening of the system of checks and balances**, including by undermining the legitimacy and authority of judiciary; excessive use of accelerated legislative procedures; insufficient time for public consultations; lack of human rights impact assessment; obstacles in the

access to information; insufficient resources for all independent institutions and a low level of the implementation of their recommendations; as well as continued attempts to shrink civic space and restrict human rights defenders' activities.

- **The impact of securitisation on the rule of law and human rights**, namely restrictive measures introduced in numerous countries in response to securitisation of migration, threats of terrorism, as well as conflict in the regions; raising concerns over the lack of compliance of these measures with human rights principles, including proportionality, and their impact on, for example, freedom of peaceful assembly, freedom of association, freedom of expression and the right to privacy.
- **The unsatisfactory level of the effective and timely implementation of European Courts' judgments**, which is caused by the financial, legal, structural and organisational obstacles identified at national level.

Based on the findings of ENNHRI members, ENNHRI has formulated the following **key recommendations** to the relevant regional actors, such as the Council of Europe, the European Union, as well as state authorities:

1. Further advance the implementation of regional actors' recommendations and decisions on the rule of law by state authorities, in a timely manner and in cooperation with NHRIs;
2. Firmly support the establishment and enabling space for independent and effective NHRIs, which are a key element of healthy checks and balances;
3. Safeguard and strengthen other checks and balances across the region;
4. Ensure the effective implementation of European Courts' judgments, in consultation with NHRIs and civil society;
5. Ensure a human rights-based approach to securitisation;
6. Address other persisting challenges for the rule of law, including structural human rights issues, while acknowledging that the rule of law and fundamental rights are mutually reinforcing.

These key recommendations are explained in more details in the next section.

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ENNHRI's key recommendations

1. Further advance the implementation of regional actors' recommendations and decisions on the rule of law by state authorities, in a timely manner and in cooperation with NHRIs

To further advance the implementation of regional actors' recommendations on the rule of law by state authorities, ENNHRI suggests the **Council of Europe and the European Union** to:

- Refine their recommendations to provide concrete and actionable steps, along with an envisaged timeline for implementation by state authorities;
- Assist state authorities to establish and strengthen a dedicated mechanism to monitor and follow-up on state authorities' implementation of rule of law recommendations;
- Ensure that the implementation of recommendations is consistently addressed in dialogues and discussions held at national and regional level, including independent information provision by NHRIs;
- Consider, when available, initiating enforcement actions to support effective and timely follow-up to regional actors' recommendations and decisions and consider the lack of implementation of recommendations and decisions as evidence for triggering such enforcement actions.

ENNHRI also recommends that **relevant regional actors and national authorities**:

- Include NHRIs in country-specific rule of law dialogues at the national level (in particular in parliamentary debates), and consult NHRIs to determine the most relevant rule of law and structural human rights issues to be addressed in the current domestic context;
- Involve and consult with NHRIs throughout the implementation of regional actors' recommendations and decisions concerning the rule of law and human rights, including by providing timely information on the progress of the implementation.

2. Firmly support the establishment and enabling space for independent and effective NHRIs, which are a key element of healthy checks and balances

To support the establishment, independence and effectiveness of NHRIs in Europe, ENNHRI:

- Calls on European countries with no NHRI yet to establish NHRIs in full compliance with the UN Paris Principles, and to make use of ENNHRI's technical advice in doing so;
- Calls on European countries that have an NHRI to maintain and strengthen existing NHRIs in line with the UN Paris Principles, in consultation with their respective NHRI, including by effectively

following-up to recommendations issued by the Global Alliance of National Human Rights Institutions (GANHRI) Sub-Committee on Accreditation (SCA);

- Encourages all pertinent international and regional organisations, namely the United Nations, the Council of Europe and the European Union, to support the establishment and strengthening of NHRIs across Europe, in consultation with NHRIs and ENNHRI.

In line with Council of Europe Committee of Ministers Recommendation 2021/1 on NHRIs, ENNHRI also recommends that **national authorities** provide and **regional actors** support:

- Timely and reasoned response(s) to NHRI recommendations and processes to facilitate effective follow-up by state authorities of NHRI recommendations;
- Adequate financial and human resources, including for accessible premises, for NHRIs to carry out their mandate independently and effectively, and ensure independent budget allocation;
- NHRIs' timely and adequate access to information, and to policymakers and legislators, including timely and adequate consultations on the human rights implications of draft legislation and policies;
- Preventing and addressing without delay any undue challenges and threats to NHRIs while carrying out their mandate, including harassment, attacks, and attempts to undermine the institution;
- Raising awareness of the role of NHRIs, including among the public.

3. Safeguard and strengthen other checks and balances across Europe

ENNHRI recommends that **regional actors**:

- Ensure transparent, timely and meaningful public consultations within regional law- and policy-making processes;
- Conduct human rights impact assessments of regional legislation and policies, in consultation with relevant human rights actors, including NHRIs;
- Strengthen the support, protection and empowerment of human rights defenders (HRD) and civil society organisations (CSOs), including through effective regional HRD protection mechanisms to swiftly detect and respond to attacks against HRDs.

ENNHRI recommends **national authorities** to:

- Ensure transparent, timely, inclusive and meaningful consultations, including with NHRIs, in law- and policy-making processes, while avoiding the excessive use of expedited legislative processes;
- Ensure effective access to data and information for relevant stakeholders, including NHRIs, both online and offline, as well as by the

- wider public;
- Ensure timely and effective implementation of national and European courts' judgments by overcoming structural, financial and political obstacles;
- Foster an enabling environment of all independent public institutions playing a role in ensuring checks and balances in addition to NHRIs, such as supreme audit offices, data protection authorities, ombudsperson institutions and equality bodies;
- Ensure enabling space for civil society organisations and human rights defenders by:
 - establishing effective national HRD protection laws and mechanisms;
 - eliminating any undue restrictions on their functioning – in particular regarding access to funding, rules on registration and dissolution of civil society organisations, reporting & transparency obligations, criminalization of activities;
 - ensure meaningful and timely participation of civil society in the development, implementation, monitoring, reporting and review of legislation, policies and practices.

4. Ensure the effective implementation of European Courts' judgments, in consultation with NHRIs and civil society

ENNHRI recommends **regional actors** to:

- Strengthen follow-up mechanisms to monitor and counter the failure of state authorities to implement European Courts' judgments timely and effectively;
- Stress the importance of implementing the European Courts' judgments for a thriving society, and further increase awareness of the public, state authorities and other relevant actors on this issue.

ENNHRI recommends **national authorities** to:

- Implement the European Courts' judgments (in particular Grand Chamber/ leading judgments), by tackling financial, legal, structural and organizational obstacles which impact their effective and timely implementation;
- Ensure efficient institutional and procedural frameworks for the effective fulfilment of states' obligation to implement the judgments of the European Courts at national level, including the participation of different stakeholders such as NHRIs and civil society;
- Make available judgments and decisions issued by the European Courts as well as information about steps taken by the state to implement those judgments (such as national action plans), in an open and

accessible manner, including translation into national languages.

In light of the recognised **potential and roles of NHRIs to advance the implementation of European Courts' judgments**, ENNHRI recommends the **Council of Europe** and **the EU**, as well as **state authorities** to:

- support the development of procedures of the CJEU and the ECtHR to strengthen meaningful participation of NHRIs, to facilitate meaningful engagement and consultation with NHRIs to advance the implementation of European Courts' judgments;
- provide sufficient resources and capacity-building opportunities for NHRIs on the implementation of European Courts' judgments, including through ENNHRI.

5. Ensure a human rights-based approach to securitisation

Considering the impact of securitisation on human rights and the rule of law, ENNHRI recommends:

Regional actors to:

- Conduct human rights impact assessments of regional laws and policies which bear relevance for national security and law enforcement activities, including timely and meaningful consultations with NHRIs and other relevant stakeholders;
- Develop guidance and tools on how to assess and address the impact of securitisation on human rights and the rule of law at regional and national levels;

State authorities to:

- Implement a human-rights based approach to drafting of laws and policies in the area of security to identify risks of violation of human rights and mitigate them at an early stage, including with regards to migration and anti-terrorism;
- Conduct human rights impact assessments of national laws and policies concerning national security, including timely and meaningful consultations with NHRIs and other relevant stakeholders;
- Ensure that any restrictions on human rights, in particular freedom of peaceful assembly, freedom of expression, and the right to privacy, imposed to address security threats, comply with the principles of proportionality, legality, necessity, non-discrimination, transparency and accountability;
- Ensure legality and oversight of power, and implement a human rights-based approach when drafting and amending national laws aimed at strengthening and expanding powers of law enforcement authorities;
- Safeguard the right to privacy and data protection while using new

- technologies, including surveillance;
- Foster a conducive environment for NHRIs to carry out their mandate under all circumstances, including during armed conflicts and situations of emergency, to ensure their meaningful participation in consultations on national security-related legislation and policies, follow up on their advice on human rights compliance, as well as ensure NHRIs' access to information.

6. Address other persisting challenges for the rule of law, including structural human rights issues while acknowledging that the rule of law and human rights are mutually reinforcing

ENNHRI recommends the **relevant regional actors** to further identify and recognise the systematic nature of human rights violations across Europe and their interrelated character to the deterioration of the rule of law and tackle systemic human rights issues when safeguarding the rule of law.

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Introduction

About ENNHRI and NHRIs

The [European Network of National Human Rights Institutions \(ENNHRI\)](#) brings together 49 members. It provides support for the establishment and strengthening of [National Human Rights Institutions \(NHRIs\)](#) across the Council of Europe region, and is a platform for collaboration, solidarity, and a common voice for NHRIs at the European level to enhance the promotion and protection of human rights, democracy and the rule of law in the region.

NHRIs are state-mandated bodies, independent of government, with a broad constitutional or legal mandate to protect and promote fundamental rights at the national level. NHRIs are established and function with reference to the [UN Paris Principles](#) and act as bridge-builder between the state and civil society. NHRIs cooperate with a variety of civil society actors, and bring an accurate overview of the human rights situation, with recommendations to governments, parliaments and other state bodies. NHRIs' independence, pluralism, accountability and effectiveness are periodically assessed and subject to international accreditation, carried out by the UN Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI) with reference to the UN Paris Principles. This [accreditation](#) reinforces NHRIs as key interlocutors on the ground for rights holders, civil society organisations, state actors, and international bodies.

NHRIs as a rule of law indicator and indispensable part of checks and balances in each state

NHRIs are a key pillar for the respect of human rights, democracy and rule of law. Strong and independent NHRIs in compliance with the UN Paris Principles have become an indicator for a healthy rule of law in countries across the region. The vital role of NHRIs in upholding human rights and the rule of law has been recognised by a wide range of actors, including the United Nations, the Council of Europe, and the European Union. Such recognition is reflected in policy documents such as the [UN Human Rights Council's Resolution on NHRIs](#), the [Reykjavík Declaration](#) of the 4th Summit of Heads of State, as well as the Council of Europe's Committee of Ministers' [Recommendation on the development and strengthening of effective, pluralist and independent national human rights institutions](#). At the EU level, the crucial role of NHRIs is reaffirmed in the European Commission's [annual rule of law reports](#), [the EU Strategy to Strengthen the application of the Charter of Fundamental Rights in the EU](#), as well as in the field of external relations - within the [EU Action Plan on Human Rights and Democracy](#), the [EU Enlargement Package](#) and the revised [Eastern Partnership framework](#).

Rule of law reporting by NHRIs - methodology

Besides being themselves an indicator of the state of rule of law, independent and effective NHRIs are also reliable sources of information on the rule of law situation at the national level. Given the close interconnection and mutually reinforcing relationship between the rule of law, democracy and human rights, and NHRIs' broad mandate to promote and protect human rights, NHRIs are in a key position to report to and participate in rule of law monitoring initiatives in a consistent manner.

Building on their monitoring functions, cooperation with state and non-state actors and their role as a bridge between the state and the public, NHRIs have great potential in raising awareness, mobilising support and maximising impacts of international and regional actors' efforts to safeguard the rule of law at the national level. At the same time, NHRIs' engagement in rule of law monitoring mechanisms is seen by NHRIs themselves as an opportunity to further promote and enhance the impact of their work and recommendations, and helping policy makers, at national, regional and international level, to identify the most appropriate responses and interventions.

In view of this, ENNHRI has been supporting and advancing NHRIs' engagement in regional rule of law mechanisms based on a [common methodology](#) and coordinated approach. Since 2020 ENNHRI has been publishing annual reports

on the state of the rule of law in the [European Union](#) and [wider Europe](#), compiling European NHRIs' country submissions and an overview of trends reflecting NHRIs' insights on the state of the rule of law across the region.

ENNHRI's reporting has ensured its timely response to annual consultations by relevant counterparts (the [EU rule of law monitoring cycle](#), the [EU annual report on implementation of the Charter](#), the [Enlargement Package](#), the [UN Secretary-General report on NHRI reprisals](#)). It has also been a basis for submissions to some specific thematic initiatives when they emerged ([EU anti-SLAPP directive](#) (2023), [CoE Recommendation on countering SLAPPs](#) (2023), [EU Defence of Democracy Package](#) (2023)). At the national level, ENNHRI's reporting has been used by members for their follow-up with actors they deemed relevant.

Under the [ENNHRI Strategic Plan 2022-2025](#), more effective promotion and protection of human rights, the rule of law and democracy is prioritised. To increase the impact of ENNHRI's joint work on the rule of law, ENNHRI updated its methodology. It envisages an annual targeted rule of law reporting, focuses more on the implementation of recommendations derived from the reporting and only on certain rule of law areas, while further emphasising the interlinkage between human rights and rule of law. Also, a broader report looking at all aspects of the situation of the rule of law will be developed every 4 years in the beginning of the new ENNHRI's strategic plan. Therefore, ENNHRI's 2024 annual rule of law reporting covers more in-depth the following topics:

- NHRIs and their enabling space;
- implementation of last year's recommendations, in particular those issued by the European Commission and ENNHRI and its members in annual rule of law reporting as well as actions undertaken by NHRIs to facilitate the implementation at the national level;
- structural human rights issues affecting the rule of law through reporting on the implementation of European Courts' judgments;
- the impact of securitisation on human rights and the rule of law as ENNHRI's thematic priority for 2024;
- other rule of law issues of specific relevance in members' national context;
- in-depth analysis on one key priority area of rule of law, which in 2024 is the system of checks and balances.

More in-depth analysis on the system of checks and balances aims to feed into regional developments as means to advance progress on the ground. This includes contributing to analysis and recommendations concerning checks and balances carried out by the European Commission within its rule of law monitoring cycle in the EU and within the Enlargement Package, as well as by the European External Action Service in view of initiatives under the Eastern

Partnership. The findings will also support continuous advocacy towards the regional strategy in support of civil society, as indicated in the current [civil society](#) and [regional actors'](#) proposals, and calls for stronger HRD protection mechanisms in Europe.

More targeted ENNHRI annual rule of law reporting supports effective advocacy and meaningful engagement with regional stakeholders and other actors to achieve positive change for the rule of law, human rights and democracy across the region. Based on its rule of law reporting, ENNHRI continues to contribute to regional policy and standard-setting initiatives relevant to the rule of law, and to strengthening the capacities of NHRIs to uphold the rule of law and to protect human rights in Council of Europe countries.

In 2024, almost all ENNHRI members contributed again to the ENNHRI's joint reporting. For those countries where ENNHRI has no member, the ENNHRI Secretariat provided information on the progress concerning the establishment of an NHRI.

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Follow-up to last year's rule of law recommendations

State authorities' follow up to regional actors' recommendations on the rule of law

This is the second time that ENNHRI's report reflects on the follow-up given by national authorities to regional actors' recommendations. The effective and timely implementation of such recommendations constitutes a crucial step in advancing the rule of law compliance and human rights protection. This holds true not only in respect of recommendations that concern the setting up and functioning of NHRIs but also in respect of all other recommendations related to upholding and securing the rule of law compliance at domestic level.

Input from NHRIs based in the European Union (EU) and EU enlargement countries mostly concerns follow-up to recommendations made last year by the European Commission (EC) in its [annual rule of law reports](#) and the [EU Enlargement Package](#). Some NHRIs reported on the follow-up to the rule of law recommendations issued by other regional actors, such as the Council of Europe (CoE) and UN treaty bodies.

The recommendations mostly concern justice system, the anti-corruption framework, media pluralism and freedom, as well as checks and balances.

Some progress has been noted in connection with their implementation. However, what also clearly transpires from the national reports is **lack of consistency of state authorities' approach**. In respect of some issues, ENNHRI members considered that there has been **no follow-up at all**.

Authorities' reaction to recommendations concerning the **justice system** has been mixed. On the one hand, according to the Finnish NHRI, ambitious proposals for improvement in this area have been submitted, while the report of the Polish NHRI analysed at length the wide-ranging reforms introduced in this connection in its country. However, in other countries progress has been slow. The concerns expressed by different NHRIs about their countries' systems of justice vary considerably but there are several common themes: the staffing of the courts and the adequacy of resources put at their disposal, legal guarantees of independence, the reform of judicial councils, the length of the proceedings, as well as – in some states – the limited possibilities of reviewing their Attorney General's decisions. The Albanian and Ukrainian NHRIs raised concerns about delays in the appointment of judges in many courts, especially lower ones and courts of appeal.

The Croatian, Danish, German and Portuguese NHRIs reported an increase in resources for justice systems and so did the Spanish NHRI in respect of the Attorney General's Office. Similar changes have been noted in Finland and Belgium reports. One of Belgium's ENNHRI members (FIRM-IFDH) has criticised the conditionality attached to budget growth and the Danish NHRI has taken issue with some reforms introduced to promote efficiency in the administration of justice. As regards legal guarantees of independence, the Georgian, Slovak and Spanish NHRIs have drawn attention to a lack of sufficient safeguards or the stalling of the reform of their countries' judicial councils. In Ukraine, there has been progress with the appointment of members of the High Council of Justice, which has been able to resume the examination of disciplinary complaints, and the High Qualification Commission of Judges. While there have been positive developments in Finland in assessing the system of lay judges, Sweden is still grappling with this issue. The Greek NHRI reports no progress in ensuring the involvement of the judiciary in the appointment of President and Vice-President of the Council of State, the Supreme Court and the Court of Audit. The Georgian NHRI has long advocated for the implementation of a democratic process in appointing court presidents. Such a process would involve judges from each individual court electing their own president, rather than the High Council of Justice making the decision on their behalf. The Slovak NHRI continues to express concern about judges being open to prosecution for bending the law.

While the Greek NHRI noted some progress regarding the acceleration of the administration of justice linked to initiatives at the legislative level, the Albanian ENNHRI member has again raised length of proceedings issues. The NHRIs from Cyprus and Slovakia reported little headway in connection with

possibilities of review of their countries' Attorney General's decisions.

Other justice issues where individual NHRIs have reported some positive developments include enhancing the efficiency of the tax and administrative courts in Portugal, the amendment of the Crime Victims Compensation Act in Slovenia and the enactment of the law on the organisation of legal aid in Luxembourg.

As regards the **anti-corruption framework**, there have been positive developments in connection with asset disclosure in Cyprus and the competent authority has seen staff growth. Spain has enacted a law on whistleblowers' protection. Hungary has extended its whistleblower protection mandate in alignment with Directive (EU) 2019/1937, establishing protections for whistleblowers and tasking the Hungarian Ombudsman and other entities with overseeing a secure electronic reporting system for public interest disclosures and abuses. Croatia has enacted legislation on lobbying and Latvia has been in the process of doing so through the introduction of lobbying-related registers. In Liechtenstein, proposals for court reform have been submitted for public consultation but not yet presented to the Parliament. The Slovak NHRI has reported no progress or even regression in the fight against corruption. The NHRI from Bosnia and Herzegovina has stressed the need to adopt the Draft Act on the Prevention of Conflict of Interest in Public Institutions.

According to some NHRIs, there have also been positive developments in the field of **media pluralism and freedom**. This includes: the ongoing process of ratification by Belgium of the Tromsø Convention; Croatia's National Plan for the Development of Culture and the Media that contains provisions on strategic lawsuits against public participation (SLAPPs); Estonia's legal review procedure in connection with the effective implementation of the right to information; and Poland's efforts to redress the situation in the national television and radio. There has been no progress in connection with journalists' safety in Greece and Slovakia, the right to information in Germany, and the initiation of legislative process in Greece to counter SLAPPs in follow up to the EC's [recommendation](#).

When reporting on **other institutional issues related to checks and balances**, some ENNHRI members mentioned **civic space** issues. The German NHRI drew attention to lack of progress in connection with the tax-exemption system for non-profit organisations and the Swedish institution reported that civil society organisations (CSOs) increasingly experienced uncertainty in funding. The Greek NHRI highlighted the burdensome formal requirements affecting the functioning of CSOs, particularly those working on migration. The Slovak NHRI noted that despite the improvements promised by the government as regards the legislative process and public participation in the procedure for adopting statutory proposals, there have been no concrete steps to ensure it and the use of the accelerated legislative procedures without proper public participation persists. The Greek NHRI also reported the lack of sufficient time

ensured for public consultations of draft laws and the accelerated legislative procedure frequently being used without proper or any justification. The Danish NHRI discussed the current reform of the law governing access to public administration documents.

ENNHRI members also reported on progress in relation to the **regional actors' country-specific recommendations concerning NHRIs**, issued by the EC and the Sub-Committee on Accreditation (SCA). Those recommendations address the establishment of NHRIs in the countries where there is no accredited NHRI yet and aim to ensure the enabling space for NHRIs' functioning in several countries under this report.

On the one hand, the ENNHRI member from the Czech Republic – Public Defender of Rights – drew attention to the risk that the bill aiming to convert the institution into an accredited NHRI might not guarantee full respect for the Paris Principles. Accreditation issues were also raised by the NHRIs from Azerbaijan, Montenegro and Romania. The NHRIs from Kosovo and Poland stressed that their funding remains insufficient (although the Polish NHRI noted receiving an increase in its budget for 2023). The Polish NHRI continues to stress vague legal grounds for the dismissal of its head. The same NHRI and the NHRI from Serbia refer to regulatory gaps. The latter also referred to the inadequacy of its premises. The NHRI from Kosovo* complained about delays in parliamentary proceedings related to the institution (appointment of one of the deputy heads and approval of the annual report) and stressed the need for increased cooperation with the country's Assembly. The Croatian NHRI raised concerns over the functioning of mechanism for the implementation of the Ombudswoman's recommendations. The same NHRI and the one from Ukraine complained about continued obstacles in access to information.

On the other hand, the Lithuanian NHRI reported positive developments concerning its financial resources and so has the one from Serbia concerning the implementation of its recommendations. The ENNHRI member from Azerbaijan reported on the expansion of its mandate to include ensuring the right to equality and preventing discrimination. The NHRI from Hungary has also reported an expansion of its mandate, in 2023, for the protection of persons with disabilities in accordance with the UN Convention on the Rights of Persons with Disabilities.

Finally, some NHRIs reported – in connection with the implementation of regional actors' rule of law recommendations – on progress made in the fight against gender-based violence (Bosnia and Herzegovina, Kosovo* and Moldova) and the sexual exploitation of children (Moldova), property (Albania and Kosovo*) and minority (Albania, Bosnia and Herzegovina, and Norway) issues and the overall human rights strategic framework (Bosnia and Herzegovina, Moldova and Scotland).

In view of the above and to support the existence and functioning of NHRIs in the region, ENNHRI recommends the Council of Europe to monitor and encourage the full implementation of the Committee of Ministers Recommendation 2021/1 on NHRIs by the CoE member states. ENNHRI also urges the European Commission to adopt a dedicated recommendation on NHRIs as well as to further develop its country-specific rule of law recommendations to address the key issues faced by NHRIs.

NHRIs' follow-up actions supporting implementation of regional actors' recommendations

NHRIs play a key role in monitoring and supporting the implementation of regional actors' recommendations. It is in line with the UN Paris Principles which require NHRIs to engage with international actors and to report on the implementation of international obligations. It also enhances NHRI's recognition as an important actor to monitor, report on and issue recommendations on how to advance the rule of law compliance in both regional and domestic context. ENNHRI invites the relevant regional actors to further build upon the added value of NHRIs' engagement in the rule of law mechanisms, including by further engaging with them within relevant consultations at the national level.

Thanks to their broad mandates, ENNHRI members engaged in a range of activities to support the implementation of regional actors' rule of law recommendations to bring about change on the ground in this area.

In addition to **monitoring** how state authorities have reacted to regional actors' recommendations, NHRIs themselves take initiatives to promote their implementation. One way of achieving this is by integrating such recommendations in their everyday work, as pointed out by the NHRIs of Cyprus, Estonia, Greece, Lithuania and Romania.

The same objective can be achieved via **dialogue with the competent authorities**, as reported by the ENNHRI members of Croatia, Denmark, Greece, Luxembourg, Moldova, Norway, Poland, Romania and Serbia; by **disseminating recommendations** and **raising public awareness** through dedicated events or the media, as did the Albanian, Danish, French, Greek, Polish, Scottish and Slovak NHRIs; through **participation in relevant public consultations and bodies**, as did ENNHRI members from Albania, Croatia, Finland, Hungary, Ireland, Moldova, Northern Ireland, Poland and Sweden; by issuing **opinions** on the underlying issues, as did the ENNHRI members from Belgium, Finland, Georgia, Great Britain, Poland and Scotland; and by referring to the implementation of regional actors' rule of law recommendations in their annual reports, as did the NHRI from Kosovo*, Northern Ireland and Norway.

NHRIs should have the internal capacity to support the implementation. While

the NHRIs from Armenia, Azerbaijan, Ireland, Serbia and Türkiye have reported on their efforts to create this, the NHRI of Luxembourg has underlined insufficient resources to carry out such dedicated activities.

ENNHRI members pay particular attention to recommendations issued by regional actors about their own regulatory framework and functioning, as evidenced in particular by ENNHRI members from Bosnia and Herzegovina, Great Britain, Northern Ireland, Romania (in the context of seeking accreditation as an NHRI), Türkiye, and the Czech Republic, the latter referring to an expert roundtable organised to advance on the Public Defender's transition into an NHRI.

Finally, NHRIs can promote implementation of regional actors' recommendations by referring thereto in their **reports to various international monitoring mechanisms**. This is the practice of, for example, the NHRIs of Ireland, Luxembourg, Moldova and Slovakia. NHRIs have been raising rule of law issues in all relevant regional and international fora, which shows that European and UN roles can be mutually reinforcing. This was pointed out, among others, in the Austrian report, which raised concerns over the lack of implementation of UPR recommendations. Many NHRIs – including the Polish NHRI – stressed the need to comply with the findings of international human rights monitoring mechanisms, of which the NHRIs are the natural national institutional partners.

State authorities' follow up to NHRIs' recommendations regarding the rule of law

The state authorities' follow-up to NHRIs' own recommendations concerning the rule of law is crucial to ensure rule of law compliance on the ground. This also usefully complements state authorities' actions to implement regional actors' recommendations and decisions tackling rule of law challenges. NHRIs' rule of law recommendations are grounded in their unique knowledge of the national set-up and challenges in their domestic context. NHRIs can thus act as an additional lever for further progress towards rule of law compliance and human rights protection.

Many of the recommendations in this regard concern **the NHRIs' position within each country's institutional landscape**. Examples include recommendations issued by the ENNHRI member from Sweden asking for changes that would ensure compliance with the UN Paris Principles; those by the NHRIs of Estonia and Luxembourg concerning their involvement in the preparation of statutory proposals; and the recommendations by the German NHRI calling for a public dialogue on its report and its participation in parliamentary hearings. While the NHRI from Bosnia and Herzegovina has been positive about the authorities' response to several recommendations

concerning its regulatory framework, budget and cooperation with civil society, the Albanian NHRI raised concerns about its mandate and the resources put at its disposal. The NHRI of Hungary has reported on their engagement with NGOs, highlighting the contributions of two advisory bodies: the Civil Consultative Body and the Disability Advisory Board.

Some ENNHRI members, including from Cyprus, Hungary, Kosovo* and Ukraine, have been positive about the follow-up provided to their recommendations. Others – including ENNHRI members from Albania, Belgium, Estonia, Germany, Georgia, Moldova, Montenegro, Northern Ireland and Scotland – were rather critical because of **insufficient implementation of their recommendations**. This issue should be further addressed by state authorities and relevant regional actors.

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Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

Since ENNHRI's last regional rule of law report, nine ENNHRI member NHRIs have been reviewed by the SCA. This includes the institutions in Azerbaijan, Bosnia & Herzegovina, Great Britain, Germany, Lithuania, Moldova, Northern Ireland, Portugal and Spain. The Russian Federation also came under review, but it is no longer an ENNHRI member: in April 2023, at an Extraordinary General Assembly ENNHRI members voted to [exclude](#) the Russian NHRI from the Network.

In October 2023, the NHRIs in Germany, Moldova and Northern Ireland were re-accredited with A-status. Further, the SCA decided to initiate a special review of Great Britain's Equality and Human Rights Commission, which - following a review by the SCA in May 2024 - has retained its A-status.

In the same session, following the suspension of its accreditation status by the GANHRI Bureau and a subsequent special review, the SCA recommended that the accreditation status of the Russian Commissioner for Human Rights be removed. The institution will have another opportunity to provide evidence of its conformity with the UN Paris Principles at the SCA session in October 2024.

In May 2024, the NHRIs Bosnia & Herzegovina, Lithuania, Portugal, and Spain were reaccredited with A-status. The SCA recommended that the Azerbaijan

NHRI be reaccredited with B-status, noting with concern ongoing recommendations with regards to selection and appointment and addressing human rights violations. As prescribed under Article 12 of the [GANHRI Statute](#), the Azerbaijan NHRI has challenged the SCA recommendation. Pending the consideration and outcome of this challenge by GANHRI's Bureau, the SCA recommendation is not considered final and the NHRI retains its current status.

In October 2024, five ENNHRI members will be considered by the SCA. This includes the reaccreditation of the Georgian, Danish, Armenian and Greek NHRIs. The SCA will also consider, for the first time, the accreditation status of the Swedish Institute for Human Rights.

In the past year, there has been progress towards the establishment of an NHRI in compliance with Paris Principles in Iceland and the Czech Republic.

At present, there are 11 countries in the ENNHRI region without an accredited NHRI (Andorra, the Czech Republic, Iceland, Italy, Kosovo*, Liechtenstein, Malta, Monaco, Romania, San Marino, and Switzerland).

Seven of the 11 states have institutions that are members of ENNHRI and have committed to take steps towards accreditation (Andorra, the Czech Republic, Kosovo*, Liechtenstein, Malta, Romania and Switzerland). Since the last report, the Maltese Ombudsman Institution and Swiss Human Rights Institution have joined ENNHRI.

In the Czech Republic, there are concrete steps towards possible legislative amendments aimed at broadening and strengthening the mandate of the Czech Public Defender to that of a fully-fledged NHRI and to pave the way for its future accreditation. The ENNHRI member in Liechtenstein has expressed an intention to apply for accreditation in 2024. In Andorra, national authorities have expressed willingness to initiate amendments to strengthen the legislative basis of the institution.

In Romania, the Romanian Institute for Human Rights and the Romanian Ombudsman have both submitted request for accreditation. In May 2024, the SCA decided that the two institutions will not be invited to submit a full application for accreditation until all the requirements of Rule 6.3 of the [SCA Rules of Procedure](#) have been met. The SCA welcomed the conclusion of a memorandum of understanding between the two institutions, however, in line with the requirements of Rule 6.3, will wait to consider an application pending explicit written consent of the Government.

In the remaining four states where no ENNHRI member institution exists, there are varying levels of progress towards the establishment of an NHRI. In Iceland there is a concrete legislative proposal on the establishment of an NHRI. An existing institution in Monaco has been invited to join ENNHRI and take steps towards possible accreditation as an NHRI. In Italy, while ENNHRI has been

informed of several legislative proposals at the level of the Chamber of Deputies, there is no clear indication as to real prospects of these being close to adoption. In San Marino, there has been no legislative proposal to create an NHRI.

Follow-up to SCA recommendations and relevant developments

While the information varies from country to country, most ENNHRI members have taken concrete steps to implement the SCA recommendations, and some made proposals to further strengthen their institutional framework.

In general, NHRIs reported a need for support by national actors – mostly government and parliament – when following-up on some SCA recommendations. Many SCA recommendations require actions that are not within the powers of NHRIs, such as legislative amendments or a budgetary increase. However, NHRIs have the responsibility of advocating for such actions to take place.

ENNHRI has a key role to play in supporting NHRIs when following up on SCA recommendations. Other regional actors, such as the Council of Europe and the EU, can liaise with NHRIs to further understand their needs and consider possible technical support. They can also encourage national authorities to consult with the NHRIs and work towards implementing relevant recommendations.

A few NHRIs have reported recent or upcoming legislative amendments in response to recommendations of the SCA. For example, the Ukrainian NHRI has presented legislative amendments to the Parliament which aim to align with previous SCA recommendations. In North Macedonia, the NHRI sent a proposal for legislative amendments to the President of the Parliament, which could lead to stronger compliance with the UN Paris Principles. The NHRI in Luxembourg is working with the Parliament on possible institutional reforms in follow up to SCA recommendations.

Regulatory framework

NHRIs need a broad constitutional or legislative mandate which defines their functions, guarantees their independence and provides them with competences to promote and protect human rights. Several NHRIs have pointed to the need to have their regulatory framework strengthened. The ENNHRI member from Armenia considers that it could play a role in the ratification of human rights treaties. So does the member from Albania, which

also needs the power to defend human rights in the private sector. In the Czech Republic, the enactment of legislation ensuring that the regulatory framework of the NHRI is compliant with UN Paris Principles is still pending. Particular attention should be paid in this connection to the process of selection and appointment of the head of the NHRI. The NHRI of the Netherlands also needs a proper statutory basis for its recently acquired competence to act as a National Preventive Mechanism (NPM).

On the one hand, some NHRIs have seen their **competences expanded**, sometimes following the ratification/incorporation of human-rights treaties. This has been the case with the NHRIs of Hungary and Liechtenstein, in connection with the UN Convention on the Rights of Persons with Disabilities (UN CRPD), Scotland, in connection with the UN Convention on the Rights of the Child, and Azerbaijan, in connection with both these treaties. In addition, one of Belgium's NHRIs (FIRM-IFDH) has become the national focal point on SLAPPs, the federal level NPM and received a mandate to support whistleblowers. The mandate of whistleblower protection has also been expanded within the NHRI in Hungary. The NHRI of Cyprus monitors human rights compliance in the implementation of EU funding programmes; the NHRI of Denmark has started supporting the NPM in its monitoring visit to Greenland; the NHRI of Bosnia and Herzegovina has been given an NPM mandate; and the NHRI of Ukraine has been given supervisory powers over national minority and linguistic rights. All this has been reflected in the institutions' regulatory framework. On the other hand, the setting up of a Human Rights Institute in Flanders has resulted in the restriction of one of Belgium's NHRIs (Unia) competence.

As regards the expected changes in the scope of the NHRIs' mandates, the Irish NHRI expects to be assigned an NPM role by the Act that will ratify the Optional Protocol to the UN Convention against Torture. This will be an addition to its current competences, which include acting as the independent monitoring mechanism of the UN CRPD since 2024. The Scottish NHRI is also considering the implications of the Human Rights Bill for Scotland for its mandate. The Armenian NHRI was additionally mandated to receive complaints and applications from whistleblowers regarding violations of their rights by state bodies.

Several ENNHRI members reported on **developments leading to strengthening NHRIs' regulatory frameworks**. For instance, legislation has been introduced in Greece and Slovenia to ensure the **financial independence** of their NHRIs. There have been developments in the same direction in Slovakia, which formally confirmed the independence of NHRI's reports and recommendations on discrimination. Changes in the Danish NHRI's regulatory framework strengthened the independence of the institution by introducing the obligatory resignation of a board member in case of election to the parliament. There have been amendments to the rules governing the

Lithuanian NHRI's appointment and those concerning the investigative powers of the NHRI of Azerbaijan when acting as an NPM.

Significant changes have also been introduced to the regulatory framework of the Moldovan NHRI. Although most of them are positive (e.g. having a whistleblower protection role and defending the rights of legal persons), the one concerning its immunity risks compromising the NHRI's independence. Other NHRIs that have raised concerns about negative developments in their regulatory framework include Kosovo's*, which has complained about the application to its staff of rules on public-sector salaries that amounted to interference in its internal organisation and the tendency of vesting it with additional tasks that are frequently not in compliance with its constitutional powers. The Georgian NHRI has stressed the possible negative implications of the law on data protection, which may render its monitoring role more complicated in practice.

Most ENNHRI members have not reported any changes to their regulatory frameworks. Some have, nevertheless, **called on relevant state authorities to introduce necessary changes** to strengthen them. The Scottish NHRI has, for example, submitted a detailed list of proposed changes. The Swedish ENNHRI member has also called on state authorities to further enhance its regulatory framework in line with UN Paris Principles. The Slovenian NHRI has called for more clarity concerning its mandate to protect some vulnerable groups. The Finnish NHRI has called for an amendment specifying that it has three components, the Human Rights Centre, its Human Rights Delegation and the Parliamentary Ombudsman. The NHRIs from Albania and Liechtenstein have thought that their immunity needed strengthening. The NHRI from Armenia has pointed out the need to clarify the rules concerning the timeframe for the election of its head. The NHRI from Great Britain has pointed out a certain asymmetry in its powers. NHRIs also need proper investigative powers, as recalled by ENNHRI members from Belgium (Unia), Northern Ireland (where the NHRI is still unable to visit places of detention without advance notice) and Scotland. The Georgian NHRI noted its limited access to case files of ongoing investigations carried out in cases of deprivation of life and ill-treatment. The NHRIs from Bosnia and Herzegovina, Great Britain and Montenegro stressed the need to ensure the **financial autonomy of the NHRIs** in terms of independent budget allocation.

Some ENNHRI members pointed out the **need to introduce necessary safeguards concerning the selection and appointment of heads of NHRIs and their dismissal procedures**. The Lithuanian NHRI advocated for additional safeguards against abusive dismissal of its head, and the ENNHRI member from Sweden underlined the need to clarify the rules for appointment and dismissal of its board members. The NHRI from Poland continued to raise concerns over vaguely specified legal grounds for the dismissal of the head of the institution. The NHRI also pointed out that it is unclear who heads the NHRI

after the end of the term of the head of institution when the successor is not yet appointed. The NHRI from Armenia pointed out to inconsistencies in the rules concerning the timeframe for the election of its head, while the NHRI from Georgia underlined the need to increase transparency of the appointment of the NHRI head.

NHRI enabling and safe environment

To be able to function properly in practice, NHRIs need a safe and enabling environment, as pointed out by the NHRIs of Austria, Cyprus, Germany, Hungary, Ireland, the Netherlands, Portugal, Switzerland, and Türkiye.

Some ENNHRI members – for example from Armenia, Belgium, Cyprus, Estonia, Latvia, Moldova, and Slovakia – have been subject to **attacks, hate speech, or intimidation**, a phenomenon that is amplified by social media. These attacks give rise to legitimate concerns, especially when they have been orchestrated by influential politicians, as in Estonia and Sweden – the latter concerning questioning of the ENNHRI member existence, or when they amounted to breaches of their staff's human rights, as was the case in Latvia. In Armenia, there is an orchestrated campaign against the head of the NHRI. In Cyprus, the Auditor General of the Republic attempted (unsuccessfully) to influence the parliamentary procedure for the NHRI's head's reappointment. In Moldova, the Police General Inspectorate attempted to interfere with the NHRI's work.

To operate in a safe and enabling environment, NHRIs need **adequate financial and human resources**. This aspect has been stressed in most national reports. On a positive note, the NHRIs of Albania, Liechtenstein, Moldova, Scotland and Serbia have reported an increase in resources. The NHRI of Hungary has also set up a Disability Advisory Board, composed of experts – including CSOs and professional bodies – working along its office's General Directorate of Disability and the Commissioner for Fundamental Rights of Hungary. NHRIs also need proper **premises**, as noted by those from Armenia, Moldova, Montenegro and Serbia. The NHRIs from Albania and Montenegro have also stressed the need for more flexibility in staff recruitment.

Many NHRIs have expressed dissatisfaction about the extent of their **access to law- and policy-making processes with human rights implications**. This includes a lack of invitation for NHRIs to provide feedback as well as short deadlines set by authorities to submit an input. Some positive developments have been reported by the NHRIs from Armenia, Azerbaijan, Liechtenstein and Ukraine who have a close collaborative relationship with both the executive and parliament.

Numerous ENNHRI members, including from Albania, Bosnia and Herzegovina, Croatia, the Czech Republic, Georgia, Luxembourg, Poland, Slovakia, Slovenia and Spain, considered that the effectiveness of their work is challenged by the **lack of sufficient follow-up to their recommendations**. The Spanish Ombudsman/NHRI publishes in its annual report the list of non-cooperative administrative bodies and maps them in the institutional website. The Spanish Criminal Code envisages penalties for those authorities or officers who hinder an investigation by the Ombudsman. But similar provisions are lacking in Serbian legislation, as pointed out by this country's NHRI. Concerns have also been expressed by the ENNHRI member from Sweden that it is determined by the government how many and which legislative proposals the NHRI is required to provide feedback on. On the other hand, the NHRI from Georgia noted that the Parliament adopted resolutions based on the NHRI recommendations, assigning state agencies to fulfil them; however, the NHRI reported that the level of their implementation remains low. The NHRI from Moldova noted the collaboration with the state authority to jointly develop a mechanism to monitor the implementation of the NHRI recommendations.

While the French NHRI has complained about its limited impact on the formulation of human rights policies and legislation, it considered that the feedback it receives on its opinions shows willingness for dialogue. The Norwegian NHRI also reports that it can carry its work in good conditions. The Spanish NHRI and one of the Belgian NHRIs (FIRM-IFDH) have reported that they have conducted further actions (for example the power to request explanations, instigate criminal proceedings) in case of non-cooperation from state authorities. The Cypriot NHRI was generally satisfied with the response to its requests for information, even if state authorities' responses were sometimes delayed.

Some ENNHRI members pointed to obstacles in NHRIs' **access to information**. In Armenia, Moldova and Ukraine, these obstacles are linked to the NHRI's access to conflict zones; for instance, the NHRI from Moldova reported that sometimes state authorities' responses did not provide requested information. The Croatian NHRI has also raised concerns about its access to data on irregular migrants in the Ministry of Interior's information system. The Luxembourgish NHRI reported the lack of access to disaggregated data which hindered carrying out the mandate of the NHRI in an effective way. Finally, the reports of the NHRIs of Croatia and Kosovo* underlined the importance of **timely discussions on their annual reports**.

Regional 2024

Checks and balances

Independent and effective NHRIs are a crucial part of the overall system of healthy checks and balances. The importance of establishing and ensuring enabling environment for NHRIs was particularly stressed by the regional actors. For instance, the European Commission recognised NHRIs as a key and indispensable element of the system of checks and balances in democratic countries and underlined that a threat to NHRIs is a threat to the rule of law.

NHRIs also play an important role in monitoring and responding to any challenges affecting the healthy functioning of the overall system of checks and balances. In this year's report, ENNHRI members paid particular attention to the problems that should be addressed by national authorities and regional actors to ensure effective system of checks and balances and therefore safeguard the rule of law in the region.

Separation of powers

The concept of the rule of law is interlinked with those of democracy and human rights. Respect for all three presupposes a system of checks and balances. A foundation of checks and balances is the principle of separation of powers.

Any discussion of a state's compliance with this principle should start from the **independence of the judiciary**. This has been imperilled in some countries. In Poland, for example, the legality of the appointment of some 2030 judges has been under serious questioning. An appointment procedure is needed that would ensure the courts' independence from executive and legislative branches of government. This is an issue not only in Poland but also in other countries. The Scottish NHRI has raised concerns about proposals to involve the Scottish Government in the regulation of legal professional bodies and the Swedish NHRI about the appointment of lay judges. The Scottish NHRI has also expressed concerns about proposals to create a special sexual offences court that would, inter alia, increase the discretionary power of the head of the judiciary to dismiss judges from cases. In Moldova, there have been issues with the elections to the judges' and prosecutors' self-governing bodies. The Turkish NHRI has referred in general to ongoing reforms that are needed to ensure judicial independence.

Abiding by court decisions, essential for the rule of law, has been challenged in several countries, including Belgium, Bosnia and Herzegovina, Great Britain, Luxembourg, Poland, Serbia, Switzerland, and Ukraine. For instance, in Great Britain, the executive tried to bypass a Supreme Court ruling by introducing legislation declaring Rwanda to be a safe country. The Serbian NHRI also reported an issue with the implementation of administrative-court decisions. In Luxembourg, a decision banning begging was issued in

circumstances that showed a lack of respect for judicial precedent. In Switzerland, the Senate's commission called on the government to declare as non-binding the groundbreaking judgment of the European Court of Human Rights in the climate case. The Polish and Belgian authorities failed to abide by immigration-related court rulings. In Brussels region (Belgium), an adoption of an ordinance created practical difficulties for disabled persons, despite a court ruling issued beforehand finding that imposing such additional burdens amounted to discrimination.

In other countries, some politicians **questioned the legitimacy of the courts** in general (as in the Netherlands) or commented in a negative way on court rulings (as in Sweden and Switzerland).

The above do not constitute, however, the only attempts to rein in judicial power. **The right to an effective remedy can be cancelled out**, either by restrictively interpreting locus standi, as signalled by the NHRI of Luxembourg, by delaying tactics, as it happened in France when decisions banning pension-reform demonstrations were issued at a time when it was practically impossible to challenge them, or by violations of the right to proceedings of a reasonable length, as pointed out by the NHRIs from Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, Serbia and Ukraine.

In this connection, the Scottish NHRI has also raised the issue of the fair trial implications of legislative proposals related to sexual offences. The changes would do away with important safeguards for the rights of the accused.

The position of the judiciary may, conversely, be enhanced by broadening the possibilities of constitutional review, as suggested by the NHRIs of Finland and the Netherlands, or by empowering national courts to make preliminary references to the Court of Justice of the European Union (CJEU), as suggested by the one of Luxembourg. In any event, the infrastructure (e.g. buildings), tools and resources put at the disposal of the judges need improving, as signalled by ENNHRI members from Belgium, Cyprus, Slovenia and Luxembourg. Judges' salaries should also be preserved, and court proceedings were instituted to this effect in Kosovo* and Slovenia. In Slovenia, the competent authorities refused to comply with a Constitutional Court judgment concerning judges' salaries.

Undermining the authority of the judiciary is not the only threat to the principle of separation of powers. The tendency to bolster the powers of the executive represents another such threat. In several countries, the executive has been trying to bypass the Parliament. This has happened in the United Kingdom with regulations and guidance issued in the area of public order as well as in Luxembourg with the begging ban. The NHRI of Great Britain also considered that ministers had been recently given the power to amend definition by regulation, without the full parliamentary scrutiny. Furthermore, the NHRIs of

Liechtenstein and Scotland have raised the issue of the continuous use of emergency powers introduced during the Covid-19 crisis.

The **legitimacy of the legislative power** can be undermined by the **failure to address some election-related issues**. This risked happening in Germany where voting had to be repeated in some polling stations during federal and state parliamentary elections. The NHRI of Estonia has called for enhanced regulation of electronic voting. The Albanian, Armenian and Polish a NHRIs have complained about the electoral rights of prisoners, immigrants, earthquake victims and persons with disabilities. The Armenian NHRI has also complained about the misuse of school premises during the election campaign. The application of martial law raises election issues in Ukraine. Several NHRIs have also raised the issue of hate speech in politics, including during election campaigns.

The Croatian NHRI emphasized that it would be beneficial to have a wider discussion and agreement on the reform of electoral districts. Electoral reform may be needed but, in some countries, this would make it more difficult for small or regional parties to get their candidates elected, as signalled by the Slovak and German NHRIs, risking weakening of the overall party system. The failure to set the financing of political parties on a transparent basis and create appropriate supervisory mechanisms represented another such risk, according to the Estonian NHRI. And the Moldovan NHRI complained about the misuse of administrative resources during local elections.

Other threats to the parliamentary system came from voting tactics within the Parliament itself (such as voting only in line with the agreed parties' position), as stressed by the NHRIs of Luxembourg and France – the latter referring to the recent experience of the immigration bill. The NHRI of Liechtenstein reported that the Constitutional Court dealt with the issue of MPs who change political affiliation.

Attempts to weaken special investigation authorities and exert political influence over the civil service and the police constitute another inroad into the system of separation of powers, as shown, for instance, in Ireland. The Georgian NHRI has drawn attention to shortcomings in the mandate of the special investigation authorities. The Swedish NHRI has also drawn attention to the creation of an inquiry function within the Prime Minister's Office, which risks competing, in practice, with the independent inquiry function that has always existed. The Slovak government has become responsible for the appointment of the chairpersons of the statistical office and the healthcare surveillance authority, who may now also be removed more easily than in the past. In the same state, several institutions have become part of the central government. The Belgian report referred to problems of compliance with the decisions of independent bodies processing prisoners' complaints. The Danish NHRI drew attention to the absence of supervision over

the collection and transmission of bulk data. Finally, the Polish NHRI has expressed reservations as to the way the management and supervisory boards of the three main state media have been replaced.

The process for preparing and enacting laws

The principle of the rule of law requires quality, transparency and inclusiveness of the process to prepare and adopt laws. Achieving this also lies in the focus of the NHRIs which, in their work and reports, pay particular attention to law-making processes.

Only few ENNHRI members reported positive developments or no concerns in this respect. Among the exceptions one finds the NHRIs of Albania, Azerbaijan, Cyprus and Spain, the latter having stressed the benefits of e-consultation on bills, which has been introduced in its country.

The ENNHRI members from Bosnia and Herzegovina, Finland, Germany, Georgia, Great Britain, Moldova, Portugal, Scotland, Slovenia and Sweden have stressed the **insufficient time for public consultation**. The Moldovan NHRI complained about the adequacy of explanatory reports that accompany legislative proposals. Similar concerns were expressed by the NHRI from Northern Ireland. The ENNHRI members from France, Great Britain, Latvia and Sweden have drawn attention to the **lack of proper human rights or equality impact assessments**. This was shared by the ENNHRI member from Romania who also pointed to the problem of transparency – it distinguished different phases of the consultation process, feeling excluded from the later, more important ones. In Croatia, the NHRI has noted the fact that, in its country, the composition of the working groups that prepare the bills to be submitted to Parliament is sometimes unknown. The NHRI of Great Britain has also raised concerns that significant amendments are often introduced late in the legislative process and recalled that there was no public consultation at all on the Illegal Migration Act 2023. The NHRI from Armenia reported on attempts to not consider comments that had been submitted by the CSOs in time. The NHRI from Azerbaijan also considered that there was room for improvement in respect of adequate CSO participation in the consultation process. Keeping the NHRI involved in the process of preparing bills can be salutary as, on occasion, the public may have superficial reactions to some of them, as shown again by the Romanian experience with the cybersecurity bill.

The Croatian and Slovenian NHRIs have stressed the need to consult separately independent institutions on bills affecting them. Several ENNHRI members – such as those from the Czech Republic, Ireland and Romania – have called for more effective participation of people with disabilities in the preparation of legislative initiatives concerning their rights and protection. The ENNHRI member from Sweden has drawn attention to the risks associated with

neglecting, in the legislative process, views of the Council on Legislation.

The pace of the legislative initiatives has proven, in general, difficult to follow for the Scottish and Swedish NHRIs, while ENNHRI members from France, Kosovo*, Poland, Slovakia, Slovenia and Sweden have complained about **too frequent use of the accelerated procedures**. In the case of Kosovo*, this has resulted in the enactment of legislation that raises gender equality concerns and which the NHRI has challenged before the Constitutional Court. In the Czech Republic, actions have been taken to cut consultation time short in relation to the private members' bills, while the Estonian NHRI has drawn attention to the negative effects of linking the passing of bills to a vote of confidence. The Georgian NHRI expressed concerns about the use of accelerated procedure in one case: the draft amendments to the law regarding freedom of peaceful assembly.

Problems of public participation in the law-making process may also arise **at the local level**. This issue has been taken up in the reports of the Estonian, Romanian and Spanish ENNHRI members, which have stressed the positive role that CSOs may play in the adoption of local government regulations. Similarly, CSOs should also be able to raise urban planning concerns, as pointed out in the Irish and Romanian contexts.

Access to information

Being able to defend the rule of law, as well as human rights and democracy, presupposes access to all relevant public information. The situation in many countries under this review is overall satisfactory. In Kosovo*, for instance, there have been noticeable improvements since the appointment of a specialised Commissioner.

However, in some countries the obstacles in access to public information persist. For instance, the NHRIs of Cyprus and the Netherlands have drawn attention to **delays in the provision of information**. In other countries, including Albania, Azerbaijan, Estonia and Montenegro, **access to information was frequently denied**, while in Armenia access to information was denied in certain cases. In Spain this has given rise to intense litigation. The Romanian ENNHRI member has stressed the problem of excessive length of such litigation. Its report and the Belgian one provided insights into the reasons given by the authorities for denying access to information. State secrets and the General Data Protection Regulation (GDPR) were, quite often, too readily invoked. On other occasions, the Romanian authorities have refused access because the wording of certain regulations does not expressly authorise it. In Moldova and Ukraine, the right of access to information is restricted on national security grounds.

The Armenian and Moldovan NHRIs consider that there is discrimination in access to information against some social groups, including persons with disabilities and the families of missing persons. In Serbia, those living abroad cannot access, for technical reasons, land registry data. Furthermore, the Albanian NHRI has complained about a lack of transparency in the State Advocate's Office and the Scottish NHRI about changes in working practices in the civil service resulting from the pandemic.

The NHRIs of Denmark and Norway have drawn attention to proposals that would unduly restrict access to information by trying to overprotect civil servants, also against what was defined vaguely as harassment, or by creating exceptions for internal documents. The NHRI of Azerbaijan has been trying to create awareness among state authorities of the relevant obligations and has taken issue with their refusal to communicate information. The Polish NHRI intervened in numerous court proceedings challenging **unjustified restrictions on access to public information**.

In addition to the above, some NHRIs have also stressed the need to **place the right to access to information on a firm legal footing**. While such a regulatory framework exists in most countries, it remains insufficient in Belgium, Georgia, Latvia and Luxembourg and this is what the NHRIs of these states are working to challenge.

Independence and effectiveness of independent institutions (other than NHRIs)

NHRIs are usually a part of a system of independent institutions, the proper functioning of which provides yet another effective defence for a healthy system of checks and balances, and therefore for the rule of law. Attempts to undermine the independence of other institutions may thus become an indirect threat to the NHRIs themselves. This is why this issue features prominently in many reports from ENNHRI members.

Some NHRIs have been able to successfully advocate, through their recommendations, in favour of strengthening other independent institutions. This has been the case with the Estonian NHRI and the Data Protection Inspectorate as well as the Gender Equality and Equal Treatment Commissioner of its country. It has also been the case with the Intelligence Ombudsmen in Lithuania and the Audiovisual Media Authority in Albania.

Multiple other NHRIs have reported challenges. The NHRI of Georgia has raised concerns about the effectiveness of the special investigation service and the independence and impartiality of the High Council of Justice. The NHRI from Kosovo* has had reservations regarding the draft law on the Independent Media Commission. The NHRI of Great Britain has expressed concerns about

changes to the Data Protection Regulations. In Spain, Parliament has not yet examined the bills on the Independent Authority for Equal Treatment and Non-Discrimination and the Independent Authority for the Protection of Whistleblowers. The reform of the Parliamentary Ombudsmen of Sweden resulted in proposals for constitutional changes that would strengthen the protection of the Ombudsmen. However, other proposed changes, including on terms of office and procedures for removal, do not fully live up to the Principles on the Protection and Promotion of the Ombudsman Institution (the [Venice Principles](#)). Finally, the ENNHRI member from Romania noted that certain civil society organisations expressed concerns about changes to the internal procedures of the National Council for Combatting Discrimination.

Some independent institutions have faced problems with **insufficient resources** to carry out their mandate. This is, for instance, the case with the Slovak National Preventive Mechanism (NPM), the Ombudsman and equality body of Luxembourg and the Freedom of Information Commissioners in Germany, at both federal and state levels. In Kosovo*, all independent institutions were affected by the Law on Salaries in the Public Sector.

In addition to being given adequate resources, some independent institutions **require further strengthening of their regulatory framework**. Thus, the German Freedom of Information Commissioners should have their legal powers enhanced. Similarly, the equality body's scope of competence needs to be widened in Luxembourg and the monitoring function of the Parliamentary Ombudsman in Sweden needs further review in relation to monitoring of private actors. Finally, in Croatia the rules on specialised Ombudsmen need to be changed so that Parliament's failure to adopt their annual reports should not automatically result in their dismissal.

In Belgium, three independent institutions – the Central Monitoring Council for Prisons, the Data Protection Authority and the Institute for the Equality between Women and Men – have recently come **under pressure**. There have been proposals making it more difficult to examine prisoners' complaints, issue timely opinions on data protection issues and cooperate with prosecutors in discrimination cases. In Greece, members and staff of the Hellenic Authority for Communication Security and Privacy (ADAE) reported facing **harassment and intimidation** from governmental and judicial authorities.

Other issues of concern are the **low level of implementation of the independent authorities' recommendations**. This is the case in Slovenia. There is also an attempt to undermine the independence of the Antimonopoly Office in Slovakia.

As regards forward-looking proposals, the NHRI of Luxembourg considered that widening the scope of competences of the equality body and granting it the power to go to courts would improve the level of implementation of its

recommendations; and the NHRI of the Netherlands calls for support for the work of the independent state commission on the rule of law.

Strong and healthy checks and balances require also **cooperation between independent institutions, including NHRIs**. For example, the NHRI of the Netherlands referred to the regular contacts it maintains with all new actors, including the National Coordinator against Discrimination and Racism as well as the State Commission on Discrimination. Among the remaining issues, one should mention the complexity of the institutional environment within which Belgium's and Finland's ENNHRI members operate and the supervision that the Chancellor of Justice continues to have *via-à-vis* the ENNHRI member from Sweden.

Enabling environment for civil society and human rights defenders

The rule of law compliance in Europe requires healthy checks and balances in which civil society space and human rights defenders (HRDs) can thrive and are protected. While NHRIs are human rights defenders themselves, they also have a mandate and role in promoting and protecting other human rights defenders. The below findings from NHRIs regarding challenges in the area of civic space confirm the need for further actions by regional actors to support human rights defenders and civil society space in countries covered by this report.

ENNHRI members report on numerous **attempts to undermine civic space and human rights defenders' activities**, taking various forms. This includes intense criticism of HRDs which has a chilling effect and often leads to self-restraint. The French NHRI has referred, in this connection, to the **stigmatisation and demonisation of human rights defenders**, even by high-ranking politicians. Similar concerns have been voiced by the Georgian NHRI. The Greek NHRI also noted that the situation of HRDs, especially those active in the field of migration, has deteriorated, including due to **harassment** and even criminal persecution they faced for actions that were part of their job. **Hate speech** has also been resorted to against HRDs in Armenia and during the electoral campaign in Slovakia. The NHRI of the Netherlands has drawn attention to a trend of political parties questioning the legitimacy of independent civil society actors, while the NHRI of Luxembourg has commented on the exaggerated way state authorities reacted to criticism.

There have also been instances of the authorities' trying to impose **administrative burdens** on CSOs or reducing their financial support. The Romanian ENNHRI member, for example, drew attention to overly bureaucratic procedures and restrictions on donations. The Greek and Slovak NHRIs have also referred to administrative and bureaucratic burdens. The Polish NHRI has

taken issue with the imprecise nature of the rules on tax liability of NGO board members. The Belgian report referred to strict policies in terms of budget allocation. Similar policies have affected CSOs advocating for women's rights in Ireland. Finally, Georgia has enacted legislation on foreign influence, which is expected to severely limit NGO and media activity, submitting them to undue stringent audits. On a positive note, the Constitutional Court of Albania has struck down some provisions of the law on the registration of non-profit organisations that imposed burdens in the process of registration of NGOs.

Strict measures against environmental defenders engaging in peaceful civil disobedience were adopted in several countries, including Armenia, France, Germany, and Sweden. This trend has also been highlighted in the recent [outcomes report](#) concerning the protection of environmental defenders and their freedoms of expression, peaceful assembly and association across Europe, issued by ENNHRI, the French National Consultative Commission on Human Rights (CNCDH) and the UN Special Rapporteur on Environmental Defenders under the [Aarhus Convention](#). The French NHRI has also complained of judicial harassment of HRDs working on migration issues.

Numerous ENNHRI members have raised concerns over **violations of freedom of peaceful assembly**. Demonstrations and counterdemonstrations are too easily banned, stressed the NHRIs from Albania, France, Germany, Great Britain and Poland. In Georgia, the authorities often intervene illegally by relying on the administrative offences code. The ground for this has also been prepared in Germany by legislation allowing for restrictions on assemblies to be imposed by the states, as well as by the federal authorities. Ukraine's and the United Kingdom's legislation have also been amended to allow for additional restrictions to freedom of peaceful assembly. Proposals to the same effect are pending in Armenia, while the authorities of Georgia use outdated administrative offences provisions to curb the freedom of peaceful assembly. Armenia's, France's and Germany's NHRIs have also complained about the excessive use of force to disperse demonstrators. This is compounded by a lack of requirement for law-enforcement officers to bear clear and visible identification during policing of demonstrations and by the political stigmatisation of HRDs, according to the Polish and French NHRIs. There is also increased security rhetoric around demonstrations, with the Croatian NHRI working on a complaint regarding making demonstrations more difficult because of security concerns in a square where the Government and Parliament are located, while the Polish NHRI has expressed concerns about unwarranted identity checks during public assemblies. The NHRIs of Georgia and Lithuania have complained about the police allowing protesters to disrupt LGBTQI-friendly events. The NHRI from Albania has invested considerable efforts in ensuring free press coverage of demonstrations. Finally, the NHRIs of Germany and the Netherlands have drawn attention to content-based restrictions on freedom of peaceful assembly (for example pro-Palestinian ones in the case of Germany). The limitations on freedom of peaceful assembly

arising from securitisation narrative are also reported on later in this report's chapter on the impact of securitisation on the rule of law and human rights.

Attacks on journalists appear geographically widespread, as they are mentioned in the reports from Albania, Belgium, Finland, Georgia, Greece, Kosovo*, the Netherlands and Romania. Belgium's NHRIs point out, in this connection, the vulnerability of female journalists. The Belgian report also notes that harsher penalties against the perpetrators of attacks on journalists could help curtail the phenomenon. The law should better protect journalistic sources, according to the ENNHRI member from Romania. According to the Finnish NHRI, journalists facing legal proceedings should not be penalised financially by having to pay tax on support they have received from their employer, which can impact on freedom of expression. SLAPPs have also been reported in Armenia, Estonia, France and Poland. In a parallel development, Belgium has been trying to criminalise malicious attacks on government authority, which cover incitement not to comply with the law.

The Belgian national report also referred to unilateral court applications to restrict the right to strike, while the Polish and the Finnish NHRIs, respectively, stress the need to protect freedom within associations and foreign human rights defenders. The NHRIs of France and Luxembourg considered that civil society should be better involved in the formulation of human rights-related public policies and national action plans.

In light of the above, the twin issues of civil society space and human rights defenders receive increasing attention in the work of most NHRIs. The Belgian and Slovak ENNHRI members have commissioned dedicated studies in this respect, while the Polish NHRI has joined court proceedings concerning peaceful protests, abortion-related banners and deforestation, in favour of several NGOs. The Polish NHRI has also appealed for funding for HRDs catering for the needs of the most vulnerable groups. Other ENNHRI members, including from Belgium and Romania, have started acting as focal points on SLAPPs – for which additional resources are needed. The Scottish NHRI has stressed, in this connection, the need for information on how frequently legal processes are used to prevent exercise of freedom of expression, media reporting and public participation rights. And the Croatian NHRI has been calling for a National Plan for the Creation of an Enabling Environment for Civil Society. Lastly, the ENNHRI member from Switzerland considers engaging in raising awareness on the situation of human rights defenders.

Cooperation with civil society and HRDs is a key aspect of the NHRIs' compliance with the Paris Principles. NHRIs play a key role in fostering dialogue with civil society even in countries where CSOs and HRDs do not experience problems. Good practices of civil society involvement in NHRI work include the Public Councils on Women's and Children's Rights of the Armenian NHRI, the numerous committees set up by the Irish NHRI, the Forum of the ENNHRI

member from Kosovo* and the Cypriot NHRI's efforts to facilitate the interface with organisations of persons with disability.

Regional 2024

Securitisation's impact on the rule of law and human rights

Securitisation is a process happening across states covered in this report, as state authorities increasingly present certain national or regional developments as security issues. Often this leads to states introducing martial law or emergency legislation for unduly long periods of time, or other special measures aimed at addressing real or perceived security threats. The states' responses to threats and security risks might be lacking transparency and accountability and may have a long-term impact leading to restrictions of fundamental rights and freedoms and to violations of the rule of law principle.

Numerous ENNHRI members, including from Belgium, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Latvia, Lithuania, Luxembourg, Poland, Romania, Slovakia, Slovenia, Spain and Sweden reported that securitisation affected the rule of law and human rights in their respective countries as well as their own work in these fields. In case of Armenia, Azerbaijan, Georgia, Moldova and Ukraine, this included the context of **conflicts**.

The securitisation narrative has resulted in the instrumentalisation of a wide variety of issues, including terrorism, organised crime, migration and the Russian war against Ukraine, as it has been pointed out, inter alia, by ENNHRI members from Estonia, Germany, Moldova, Poland and Sweden. The NHRI from Slovakia reported that all these topics are described as threats and have resulted in **anti-HRDs discourse**, calling for limiting their work and posing it as negatively affecting the security of the population. There were similar developments in Georgia, with the foreign-influence law. On the other hand, the Finnish NHRI noted that in Finland, it is the instrumentalisation of migration by Russia that has strengthened the securitisation narrative, as migration has been perceived as a threat that needs urgent responses.

Numerous ENNHRI members reported on challenges in their countries in the area of national security and **migration**. NHRIs from Finland, Slovakia and Spain reported an increase in public statements on the negative effects of irregular or instrumentalised migration. Further, the French NHRI has stressed the resultant risk of stigmatisation of the entire migrant population.

Some countries have implemented strict measures. Finland has effectively closed parts of its borders, therefore significantly limiting the right to seek international protection. Latvia has triggered the border guards' legislation with the aim of strengthening national border security and curbing irregular migration, but, as a result, also limiting access to the asylum procedure. Greece, Lithuania and Poland have resorted to pushbacks of migrants, the former with express statutory authorisation. In the United Kingdom, migration legislation has been enacted, which expressly allows for measures that may breach the country's international human rights obligations.

The number of people in immigration detention has increased and the conditions of migrant accommodation have worsened, as stressed in the Belgian and Slovenian reports. The Norwegian report refers to proposals allowing for migrant detention in the national interest. One of Belgium's ENNHRI members (Myria) has drawn attention to the fact that foreign detainees without residence rights do not enjoy equal access to measures of conditional release. The Portuguese NHRI has also signalled changes in the institutional migration management set-up and in the system of residence permits. The Danish NHRI has complained about general and indiscriminate data retention. Finally, the NHRIs of Germany and the Netherlands have drawn attention to the risk of discrimination creeping into the application, respectively, of the legislation on clan crime and removal of citizenship.

ENNHRI members pointed to the impact of **anti-terrorism laws and policies** on the rule of law and fundamental rights. New legislation introduced in Germany against clan crime and in Sweden against terrorism includes broad and vague terms which might lead to disproportionate impact on fundamental rights. Changes to the criminal code in Belgium, and prospective changes to the criminal procedure in Luxembourg pursue the same securitisation logic. In Sweden, an inquiry was carried out to assess the circumstances and procedures in which it should be possible for a witness to testify anonymously. In Switzerland, the new counter-terrorism legislation also raises serious concerns over its human rights compliance.

The securitisation logic has also crept into the **regulations affecting freedom of peaceful assembly**. This is evident in the case of Armenia where martial law may provide an excuse for drastic restrictions on its exercise and in Georgia where information provided by the secret service about plans to destabilise the country was relied on to support an attempt to amend the Law on Assemblies and Demonstrations. In Ukraine, martial law also allows for limitations on the right to assembly. Statutory changes introduced in Germany to facilitate the banning of protests, especially those concerning environmental issues, were quoted by the German NHRI as a concern. In Romania, human rights violations could occur given that the draft law on public assemblies was not discussed further and it does not integrate international and regional standards in terms of public assemblies. Similar concerns led to amendments

to the Georgian law on assemblies and demonstrations being vetoed by the President.

The amendments to the policing legislation, which have **strengthened and expanded police powers**, were introduced in many states, including Armenia, Bosnia and Herzegovina, Latvia, Germany, Ireland, Luxembourg, and Sweden. These concern the power to ban demonstrations and establish ad hoc stop and search zones as well as the use of new technology (including digital recording, automated recognition systems, drones and anti-drone equipment) and explosives in various police operations. In the case of Armenia, this was in the context of the restriction of freedom of peaceful assembly. In Ireland, traditional police powers to arrest, search premises and detain have been expanded.

Additional concerns affecting the **right to privacy** have been expressed in the Belgian report about the creation of a common database related to terrorism, extremism and radicalisation, the Georgian report about uncompleted investigations into allegations of illegal covert surveillance, the report from Great Britain about the increased use of facial recognition technology, the Polish report about the use of spyware Pegasus and the Cypriot NHRI report on the EU media services proposal and its provisions on monitoring software use. The Greek NHRI raised concerns over the use of technologies by intelligence services which may limit fundamental rights.

The Russian invasion of Ukraine and the means used in it, one of which is propaganda, resulted in restrictions on freedom of expression in many countries. One example is the suspension of TV channels and websites in Moldova.

Finally, the Scottish NHRI refers to an ongoing inquiry into whether the measures introduced in response to the pandemic were strictly lawful, necessary, proportionate and time limited.

The securitisation logic favours, among many things, **measures of a non-criminal law nature to secure the public order**, such as preventive surveillance and stay bans (in Sweden), orders prohibiting individuals from taking part in demonstrations (in Belgium), preventive action against road blockers (Germany), certain sports fans (in Poland) and even internment (in Belgium). In the United Kingdom, it has been proposed to transfer the power to make parole decisions for the most dangerous prisoners from the Parole Board to the Secretary of State. ENNHRI members – including those from Armenia, Belgium, Germany, Greece, Poland and Romania – reported that the securitisation context had resulted in **excessive or even abusive use of powers by police forces**.

NHRIs' actions to promote and protect fundamental rights and the rule of law in the context of national security and securitisation

Numerous ENNHRI members have addressed the above-mentioned challenges of securitisation's impact on the rule of law and fundamental rights in their work.

For instance, NHRIs increased **monitoring** of places of detention, borders and forced returns in Armenia, Portugal, Serbia and Spain. The Azerbaijani NHRI as NPM conducted visits to the detainees of Armenian origin in the context of conflict. Actions have also been taken in individual cases related to court proceedings in the context of migration, police abuse, secret surveillance and the practical difficulties related to the functioning of associations during the COVID-19 pandemic by the Polish NHRI. The Greek NHRI has a '[Recording Mechanism of Incidents of Informal Forced Returns](#)' in place and issues reports based on data collected through interviews with victims. The NHRI from Northern Ireland regularly engages with independent monitoring mechanisms whose remit includes counter-terrorism powers. The ENNHRI members from Armenia and Scotland have intervened, on several occasions, to preserve the right to protest.

ENNHRI members have also analysed the impact of securitisation on the rule of law and human rights in their reports, **opinions** and recommendations. The NHRI from Great Britain has provided parliamentary briefings on various bills with securitisation implications. ENNHRI's members from Armenia, Georgia and Romania have adopted/commissioned opinions on the assembly laws. The Lithuanian NHRI has adopted an opinion on the protection-of-the-borders law; the French NHRI on relations between the police and the population; the Latvian NHRI an opinion on freedom of expression; the ENNHRI's member from Sweden - opinions on numerous proposed laws such as on surveillance, stay-bans, anonymous witnesses and stop-and-search zones and Belgium's NHRIs (FIRM-IFDH and Unia) - three opinions on the criminal-law changes and the common database mentioned above.

NHRIs' **recommendations** – those concerning responses to attacks on HRDs, pointing out a lack of the proportionality of measures taken, and the restructuring of the National Immigration and Borders Service - have been issued, respectively, by the Slovak and Portuguese NHRIs. The Greek NHRI addressed state authorities in relation to the informal forced returns of migrants. The German NHRI has made proposals on the federal police legislation. The Irish one has reacted to legislative proposals to reform the internal and external oversight of the Irish police force. The Norwegian has reacted to legislative proposals concerning migration detention. The NHRI of Denmark has published a brief on data retention, raising concerns over a serious interference in the right to respect for private life and the protection of

personal data. The Dutch NHRI has made public statements on illegitimate protest bans and the law on removing Dutch citizenship, while the Luxembourgish NHRI has criticised the disproportionate begging ban.

NHRIs from Germany, Portugal and Slovakia have prepared **studies and reports** on the response of the police to climate protests, migration management and hate speech, respectively. The French NHRI has set up a working group on proliferation of cameras and drones for the surveillance of public spaces and the growing use of AI for image analysis. Finally, the Portuguese NHRI has organised training for prison guards on the topic of human rights of persons deprived of liberty.

By providing human rights advice, in the form of opinion, recommendations, statement or report, to those actions taken by the state authorities, ENNHRI's members aimed at emphasising the need for their compliance with human rights principles.

In general, NHRIs have stressed the importance of independent inquiries as an essential safeguard against law enforcement violence and abusive behaviour and of proper data collection as a necessary means of measuring the impact of securitisation.

The variety of responses to securitisation reflects not only differences in the challenges faced in different states but also certain divergences in the NHRIs' institutional set-up and organisational arrangements. For example, some NHRIs place emphasis on individual cases and even engage in litigation where this is allowed by their mandates. The focus of the work of others lies in monitoring activities (such as visits to places of detention or the borders); at the same time many concentrate their efforts on general recommendations, studies and awareness raising. The variety of responses can become a source of mutual learning and the exchange of good practices may lead to enhanced NHRIs' capacity to respond to the impact of securitisation on the rule of law and human rights.

Regional 2024

Implementation of European Courts' judgments

The track record of the implementation of European Courts' judgments is an important indicator for the proper functioning of the rule of law in a country. The timely and effective implementation of judgments is also a crucial element

of healthy checks and balances in the country. Judgments in their subject matter may tackle specific rule of law issues, such as concerning independence and impartiality of judiciary, the right to a fair trial as well as structural fundamental rights issues affecting healthy rule of law national frameworks.

This year again, ENNHRI's report ensures a dedicated focus on the topic of the implementation of judgments issued by European Courts: the European Court of Human Rights (ECtHR) and the Court of the Justice of the European Union (CJEU). ENNHRI members followed up on the information they had already provided in last year [report](#) and reflected on national developments concerning the implementation of European Courts' judgments by state authorities.

The full implementation of the European Courts' judgments often raises complex issues. This is because states are not only required to eliminate the effects of the human rights violation in the individual case that has led to their conviction. They also must take general measures preventing similar violations from occurring in the future.

Only few ENNHRI members have been able to report substantial (in the case Spain) or some (in the case of Finland, Greece, Sweden and Ukraine) progress towards compliance with judgments of the European Court of Human Rights (ECtHR). Overall, there are **serious implementation gaps**, as particularly stressed by the NHRIs from Albania, Armenia, Georgia, the Netherlands, Portugal and Slovakia.

ENNHRI members have not reported on challenges in relation to the payments of compensation awarded by the ECtHR. However, similarly as [reported](#) last year, difficulties in complying with the ECtHR's judgments arise when their full implementation involves the introduction of new regulations or administrative practices, large financial burdens and investments or substantial reforms. For example, this has been observed by the Estonian and the Ukrainian NHRIs.

The failure to implement ECtHR judgments that concern the functioning of national **justice systems** is particularly important as regards the rule of law principle. Some ENNHRI members have drawn attention, in this connection, to lack of compliance with judgments that concern the length of proceedings in Belgium and investigations into deaths in Northern Ireland, the absence of a redress system for victims of abuse in Ireland, and the number of violations of the right to fair trial in Croatia. A country's failure to abide by ECtHR's judgments that finds a violation in respect of its authorities' failure to abide by national courts' judgments is a concern stressed in the Belgian report. ENNHRI members from Belgium have also reported problems of compliance with CJEU judgments dealing with justice issues (a judgment regarding the legal professional privilege).

Other European Courts' judgments awaiting full implementation concern **migration issues** (in Belgium, Denmark, Germany and Spain), deprivation of

liberty (Georgia) or detention (in Belgium, Croatia, Greece and Ukraine), freedom of religion (in Lithuania), the rights of psychiatric patients (in Denmark), housing legislation (in Croatia), freedom from torture (in Serbia) and LGBTQI issues (in Georgia and Lithuania).

While the Georgian NHRI has pointed out problems in the functioning of its Parliament-based national implementation mechanism, the ENNHRI members from Northern Ireland and Scotland have called for the involvement of the Northern Ireland Assembly and the Scottish Parliament respectively in the process.

Finding the right strategies for ensuring implementation is of crucial importance. NHRIs report that some supreme courts' judgments have acted as a leverage for compliance, as in Estonia and Germany. The question of European Courts' judgments' implementation has also been included in NHRIs' reporting under various human rights mechanisms, as pointed out by the Estonian NHRI.

NHRIs' actions to support the implementation of European Courts' judgments

NHRIs are recognised stakeholders for ensuring the effective implementation of the ECHR and the EU acquis (including the EU Charter of Fundamental Rights), and in this context they engage in the implementation of European Courts' judgments. While European Courts' judgments' implementation is the responsibility of state authorities, NHRIs have an important role to play in this process thanks to their independence, broad mandate and unique human rights expertise.

NHRIs engage in the implementation process at the European level, for example by submitting so-called **rule 9 submissions** to the Council of Europe Committee of Ministers to evidence, in an independent and objective way, the state of play regarding the execution of concrete judgments issued by the ECtHR. ENNHRI [reiterates](#), however, that further efforts should be undertaken by the Council of Europe to strengthen meaningful participation of NHRIs in the context of the implementation of ECtHR judgments and thereby building on their potential to advance the implementation.

NHRIs also dedicate their efforts to support the effective and timely implementation of European Courts' judgments at the domestic level, by **engaging with state authorities** responsible for this process, including governments and parliaments. NHRIs' recommendations on this matter should be duly taken into account and followed up by state authorities to enhance the implementation. NHRIs also **raise awareness** of this rule of law issue among other stakeholders such as civil society and the wider public.

NHRIs should have the capacity to follow the issue properly. There exist some promising schemes in this respect, such as the objective indicators in the form of the [rule of law conceptual framework](#) and the [rule of law tracker](#) put in place by the Slovak NHRI. But some ENNHRI members, including in Luxembourg, lack sufficient capacity to undertake action in connection with the implementation of European Courts' judgments. This calls for the need to ensure adequate NHRIs' budgets according to each country's domestic arrangements.

Regional 2024

Other challenges to the rule of law and human rights

This year's ENNHRI report dedicates more in-depth focus on specific rule of law areas: NHRIs independence and effectiveness, checks and balances, securitisation and its impact on the rule of law and human rights, implementation of regional actors' recommendations and European Courts' judgments. However, ENNHRI members also reported on other structural rule of law and fundamental rights issues as relevant for their national context. The challenges discussed therein do not exhaust all the problems arising in the rule of law; however, from the point of view of NHRIs, those matters should also be addressed urgently and thoroughly by relevant stakeholders.

First, serious concerns have been expressed by several NHRIs, including those from Armenia, Azerbaijan, Cyprus, Georgia, Kosovo*, Moldova and Ukraine, about the human rights implications of armed conflicts (related, for example, to the right to life, property, freedom of movement, education, health and an adequate standard of living).

Justice system is another area of additional rule of law concerns, as evidenced by the report of the NHRIs from Albania, Bosnia and Herzegovina, Cyprus, Germany, Kosovo*, Luxembourg, Montenegro, Scotland, Serbia, Slovakia, Ukraine and the United Kingdom. Several NHRI, including those from Albania, Cyprus, Kosovo* and the United Kingdom, noted delays in the administration of justice. The Slovak NHRI has drawn attention to attempts to weaken whistleblower protection and the need to curb some of the Attorney General's powers. NHRIs from Luxembourg, Germany and Scotland advocated for improvements in the collection of data concerning the criminal justice system and in databases containing case-law and legislation. The NHRI from Northern Ireland considers that the Troubles (Legacy and Reconciliation) Bill does not comply with the United Kingdom's international obligations. Other NHRI reports deal with migration-related problems such as the Irish state's

failure to provide for the basic needs of recently arrived asylum seekers, in respect of which the NHRI of Ireland has brought court proceedings.

Freedom of speech is also a concern. Many NHRIs, including those of Bosnia and Herzegovina, Poland, Romania, Slovakia, Slovenia and the United Kingdom, have stressed the need to defend media pluralism, including the local press. The channelling of public funding can play a huge role in this respect. So does the fight against misinformation, as highlighted by a study commissioned by the NHRI from Northern Ireland. Journalists' employment needs to be protected and so does freedom of expression of civil servants. The Albanian NHRI is especially concerned about restrictions on the press coverage of public events and proceedings instituted against journalists. The Georgian NHRI raised concerns not only about attacks on journalists, as mentioned above, but also about the suspension of accreditation for representatives of critical media. The NHRI from Bosnia and Herzegovina reported on the lack of adequacy of the relevant rules, especially regarding media entities.

Hate speech, as underlined by ENNHRI members, represents a major threat in most countries covered by this report, including Kosovo*, the NHRI of which published a report on the language used in public discourse. The adequacy of criminal law responses continues to be widely discussed across the region. Denmark has tightened its legislation on Qur'an burning, an issue on which the Danish NHRI took a public stance on several occasions. ENNHRI members from Belgium considered that their country's criminal legislation does not provide an adequate response to some forms of hate speech, while the Finnish report referred to the debate concerning the need to criminalise 'targeting'. The latter report also discussed the new linguistic strategies of the populist right. On this topic, the German NHRI considered that the rise of the far right represents the single most important challenge for the rule of law and human rights in its country.

The problem of **racism** and **discrimination** has also received considerable attention in the reports of many NHRIs. The Austrian NHRI recalled that a national action plan against racism is still missing. The ENNHRI member from Switzerland pointed out the lack of comprehensive national anti-discrimination law. Several NHRIs, including those from Bosnia and Herzegovina and Spain, have referred to violence against women and a Belgian ENNHRI member (FIRM-IFDH) noted that violence against journalists has a heavy gender component in Belgium. The Lithuanian NHRI drew attention to the fact that the Istanbul Convention has not been ratified and to the absence of legislation on same-sex partnerships. Finally, the NHRIs from Ireland and Liechtenstein raised concerns about a lack of equality data.

Finally, the impact of **digitalisation and AI** on the rule of law and human rights is another issue of common concern, as stressed by ENNHRI members from Albania, Azerbaijan, Belgium, Denmark, Romania and Spain. The Albanian

NHRI is especially concerned about citizens not having access to public services online. The Belgian and Danish ENNHRI members have advocated in favour of a public registry on artificial intelligence uses by public authorities and impact assessments in this area. The ENNHRI member from Romania focused on the risks associated with deepfakes. Finally, the Danish NHRI raised concerns over the mass collection of open-source data.

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Albania 2024

Information from: People's Advocate of Albania

Follow-up to last year's rule of law recommendations

State authorities' follow-up to regional actors' recommendations on rule of law

The People's Advocate of Albania (PA) institution has continuously followed the measures taken in Albania following the recommendations regarding rule of law. An advancement has been observed in the [approval of certain strategies](#) or developments such as the approval of a wage reform in May 2023; in ensuring equal access to services for citizens with disabilities in digital use, or with limited access to IT devices. Within the partnership for open government, the Council of Ministers has approved the strategic document, "[National Plan 2023 - 2025](#)"; Council of Ministers approved the [National Strategy for European Development and Integration 2022-2030](#), that addresses the right to good governance as well as the approval by the Council of Ministers of the [National Strategy for Food Safety, 2023-2027](#). Furthermore, the Council of Ministers approved the Intersectoral Strategy for Decentralization and Local Governance 2023-2030, and its action plan 2023-2025, and the [National Integration Plan 2024-2026](#). The Albanian NHRI also points out as the milestone the approval by the Council of Ministers of the [Intersectoral Strategy for the Prevention of Violent Extremism and the Fight against Terrorism](#).

Functioning of the justice system

Maintaining a functional justice system remains a recommendation that must be consistently upheld, as numerous issues have been observed in this area. As of December 2022, after 7 years since the initiation of justice reform, the Constitutional Court has been served with a complete number of judges. The Court, and its judges, carry out constitutional control, which promotes the consolidation of the rule of law in three directions: the separation and check and balance; the principle of legal certainty; the protection and respect of basic human rights.

There is a high number of cases in process (backlog) in the courts in the country. The complete number of judges at the Supreme Court, facilitates the work on reviewing the court's accumulated cases but it is not sufficient regarding the backlog of this court. Through the judicial system the number of cases pending trial remains significantly high, particularly in civil cases, highlighting the urgent need to increase the number of judges in both the

courts of first instance and the courts of appeal. It is also necessary to increase the number of judges at the Supreme Court due to the backlog and the high number of cases awaiting trial presented to this court. It is also necessary to increase the number of support staff in these courts, in order to reduce the backlog of cases in these courts.

Property issues

For the advancement of the initial property registration process and other transitory processes with full transparency, including the addressing of corruption, the PA [asserts](#) that this is a matter of good administration and the effectiveness of public bodies responsible for these tasks under the law.

The PA maintains that the process of legalization of illegal constructions, especially with the transfer of ownership of the construction plot to the owners of constructions is a legal transitional process in respect of the property right. This process interferes and affects other important transitional legal processes, such as the division of agricultural land, or even the process of return (physical compensation) and compensation of property to former old owners. However, there are evidence of unjustified delays in the handling of individual requests within these processes. Also, there are lack of transparency issues.

These legal processes, all concerning property rights but handled separately and in parallel, have demonstrated a lack of harmonization and often create conflicts, a fact that has affected their progress and led to their incomplete resolution. The regulatory legislation governing these legal processes (such as the division of agricultural land, the physical return/compensation of property to former owners, and the legalization process) has failed to maintain a consistent approach to the right to property across to different processes. Such inconsistency has resulted in a lack of legal stability for this fundamental right.

Within the responsibilities of public bodies mandated by law to oversee territorial development and the legality of constructions—a domain closely linked to property rights—the PA has observed instances of one-sided attitudes among the Territory Protection Inspectorates in local government units, where legal powers are not consistently enforced.

NHRI's follow-up actions supporting implementation of regional actors' recommendations

The recommendations for the rule of law issued by regional actors have served as a primary guideline in the work of the PA due to the significance they carry in Albania's journey towards EU membership, as well as amidst global crises. The PA assesses that crises occurring anywhere have a regional or even global impact on the deterioration of the human rights situation. Therefore, the NHRIs

must act as "Guardians" in preventing violations, protecting and promoting these rights.

Recommendations addressed to public bodies

The main focus of the PA's efforts in this regard lies in the numerous recommendations addressed to public bodies. Through its representatives' public statements in the media and various activities, the PA aims to convey clear messages regarding the identification of rule-of-law recommendations issued by regional actors, along with the necessary steps for their effective implementation.

Annual national conference

The annual national [conference](#) with theme "75th Anniversary of the Universal Declaration of Human Rights and 25th Anniversary of the Constitution of Albania: Evolution of Human Rights in Albania" was held in December 2023 aimed to facilitate discussions among various government actors, independent institutions and civil society representatives, and other stakeholders.

Aligning legislation with European "acquis"

The PA has made efforts to further align national legislation, particularly [Law No. 8454](#), dated 02.04.1999 "On the People's Advocate", as amended with the "acquis" of the European Union in the field of human rights.

Concrete recommendations for the revision of the organic law in accordance with international standards will be presented to the Parliament of Albania. In this regard, the extension of the mandate of the PA remains essential, while some necessary improvements are related to the selection procedures of the PA and Commissioners, to ensure further impartiality, integrity, transparency and fairness. The PA has given its contribution within the process of drafting the National Program for Accession to the European Union 2024-2030, the National Plan for European Integration 2024-2026, as well as in the drafting of the Albanian Government's Contribution to the European Commission's Report on Albania for 2023.

Role in European integration process

The PA has continued to actively participate in meetings conducted by the National Council of European Integration, the highest national advisory structure for European integration functioning within the Parliament, with the aim of promoting and guaranteeing comprehensive cooperation between political forces, public institutions and civil society, as well as increasing transparency in decision-making on integration issues. The PA continues to contribute to this process through direct participation in Interinstitutional Working Groups established in line with the acquis chapters, notably

mentioning the engagement and contribution provided within Chapter 23, which covers several areas falling under the general umbrella of Judiciary and Fundamental Rights. It's a fundamental chapter for pre-accession efforts and holds particular importance during membership negotiations, where strict conditions and specific stages are set along with monitoring by the European Union. Concrete participation and contributions have been offered for Chapter 19 - Social and Employment Policies, as well. (Refer to the [Annual Report of PA](#), p. 170).

During 2023, the PA has participated in and contributed to joint EU-Albania meetings, where we can highlight the contribution made during the 14th meeting of the EU-Albania Subcommittee "Justice, Freedom, and Security" held on June 14-15, 2023, via the Webex platform, mainly addressing issues related to: the right to life, prevention of torture and ill-treatment, and the prison system; protection of minorities; children's rights; rights of LGBTI community members; inclusion of the Roma/Egyptian community. The PA has also contributed to the drafting process of the National Program for European Union Accession 2024 - 2030, the National Plan for European Integration 2024-2026, the Rule of Law Roadmap, as well as in preparing the Albanian Government's Contribution to the European Commission's Report on Albania for the year 2023.

In line with its constitutional and legal authority, the PA has paid increased attention to the implementation of justice reform and the establishment of justice system bodies. This process is undoubtedly related to the reformation and strengthening of the judicial authority, aiming to rebuild public trust in the justice system.

Digitization of public services

In relation to the digitization of public services, the PA, with the support of ENNHRI, initiated the implementation of a [project](#) aimed at assessing the impact of the digitization of public services. The first draft of this report has been completed, it has been subject to the consultation process with interest groups and partner organizations and will be published in the coming months. This special report, along with the relevant recommendations, will be conveyed to state bodies, as well as the Parliament of Albania.

Protection of national minorities

Regarding the protection of national minorities, the PA has placed specific emphasis on enhancing living standards for individuals from the Egyptian and Roma national minorities. These communities encounter more frequent and widespread challenges compared to other national minorities in the country. The problems and challenges experienced by national minorities may vary but are basically related to: (i) the necessity for fundamental and comprehensive improvement of living conditions; (ii) improving the level of education and

skills; (iii) other rights such as ethnic, linguistic, cultural and religious identity.

Actually, there are not issued all the necessary by-laws foreseen by the Law no. 96/2017 "On the protection of national minorities in the Republic of Albania".

In relation to gender equality, various forms of violence against women and girls persisted throughout the reporting period.

In the recommendations issued by the PA in 2023, special emphasis is placed on the necessity for additional legislative amendments to address the problem of sexism in the media. The PA with the support of UN WOMEN, has established a mechanism called "[Observatory on Femicide](#)", presented on March 8, 2024. The Observatory on Femicide is a monitoring mechanism concerning the phenomenon of killings of women/girls, aimed at preventing it and strengthening the mechanism for protection and supporting female victims of violence.

Through the Observatory on Femicide, national-level data will be collected and subjected to in-depth analysis, serving to identify gaps in the protective mechanism for victims of violence, as well as providing recommendations for improving the situation of violence against women and girls in Albania, through the preparation and publication of annual reports.

Environment and climate

Regarding the environment and climate, the PA observed that the principle of sustainable development has not been adequately implemented throughout 2023. This is attributed to the perception in Albania that environmental protection is considered secondary and not as crucial as social and economic development. This approach is also due to the fact that Albania is not considered a polluting country, but rather faces challenges in waste management and overconstruction. Responsible institutions often show a lack of cooperation and coordination in fulfilling their legal responsibilities and taking immediate measures to address environmental protection concerns. In regard to the cases handled in 2023, the following issues persisted: (i) air and water pollution, (ii) noise pollution, (iii) environmental pollution from waste, (iv) environmental pollution near rivers as well as the discharge of raw waste into them.

The PA finds that the central and local institutions responsible for the environment consistently fail to meet their legal obligations, which stem from the right to a clean and healthy environment. As previously mentioned, the PA highlights that one of the ongoing challenges in the environmental sector is waste management. This includes the lack of infrastructure for integrated urban waste management, the lack of "landfills" for hazardous and inert waste. Furthermore, in terms of the noise pollution level, it has been assessed that responsible institutions have not succeeded in protecting and ensuring a

peaceful life free from noise disturbances. Although new legislative changes, such as [Law no.50/2023](#) "On the Assessment and Management of Noise in the Environment" was approved in June 2023, the PA has received complaints throughout the reporting year related to noise disturbances.

State authorities' follow-up to NHRI's recommendations regarding rule of law

The recommendations of the PA, as one of the main tools provided by law to exercise its constitutional [mandate](#), take on a special importance when they address issues of the rule of law. It is expected that, the responsible state authorities should not only provide a formal reply to such recommendations but also indicate concrete measures to fully implement them.

The level of implementation of these recommendations by public bodies is one of the ongoing concerns of PA.

During 2023 the PA has addressed a number of 266 recommendations as below:

- Accepted recommendations and fully implemented: 46 recommendations or 17%
- Accepted recommendations partially implemented: 120 recommendations or 45%
- Recommendations accepted but not implemented: 30 recommendations or 11%
- Rejected: 27 recommendations or 10%
- Non-response: 32 recommendations or 12%
- Recommendations in the process of implementation: 11 recommendations or 4%

First set of recommendations

1. Increasing funding for the NHRIs and the PA.
2. Strengthening the legal framework and accountability mechanisms (...with the aim to support the work of the NHRIs and the PA).
3. Fostering cooperation and partnerships (NHRIs, PA, civil society organizations and other actors in the field of human rights). Policymakers can promote and facilitate these collaborations by

creating opportunities for dialogue, fostering joint initiatives, and supporting networks that brings together various actors working in this field.

1. Increased funding

The budget allocated to the PA has been increasing in recent years, including in 2023, despite the ongoing institutional need for even greater financial support. The budget dedicated for salaries is 84.75% of the whole budget, therefore there are limited possibilities for other activities like events and publications.

2. Strengthening of legal framework and accountability mechanisms

Throughout 2023, the PA has prioritized the strengthening of the legal framework and accountability mechanisms as an institutional goal. The PA has prepared necessary changes to be included in the amended law "On the People's Advocate," which will be submitted to the Parliament of Albania as a legislative proposal to amend the organic law of the PA.

3. Inter-institutional joint mechanism for the systematic monitoring of recommendations

The Parliament of Albania has [established](#) an inter-institutional joint mechanism for the systematic monitoring of recommendations made by independent institutions. This mechanism aims to monitor implementation of recommendations issued by independent institutions.

So far, there has not been a comprehensive assessment of the effectiveness or efficiency of this mechanism and its actual impact on increasing the level of implementation of the PA's recommendations. In this regard, the PA has assessed that further improvements are necessary to make the mechanism more functional, ensuring the effective implementation of existing legislation and its improvement in areas related to human rights. Consequently, PA has supported the initiative to establish a working group for the revision of the Decision of the Parliament of Albania no. 49/2017 "On Mechanization for monitoring their follow-up and advisory systems independent constitutional and those created by law". The [Progress Report](#) addresses the improvement of the implementation of recommendations.

The implementation of recommendations of independent institutions from public administration institutions is an important indicator of rule of law.

Second set of recommendations

1. The need to undertake legislative initiatives to have a broader mandate that includes the ability to address all human rights violations resulting

from the acts and omissions of private entities. This initiative should be accompanied by an increase in human and financial capacities to effectively exercise this broad mandate.

2. The potential for the PA to have a well-defined mandate to encourage the ratification or membership in regional and international human rights instruments. In practice, the PA has embraced this opportunity extensively through concrete initiatives for the ratification of international acts.
3. The need for sufficient financial resources to fully exercise the mandate, including the increase of number of experts.

1. Strengthening of the legal framework and broadening of the mandate

There is a need for legislative changes in the organic law of PA, to strengthen its legal mandate. The legislative changes should include broadening the mandate, including the ability to address all violations of human rights resulting from acts and omissions of private entities, and include a legal obligation to public authorities which are issued recommendations, to provide a reasoned reply within an appropriate time frame to PA institution.

2. The proposed legislative changes to the organic law of the PA

These changes have also aimed to clarify the PA mandate to promote Albania's ratification or accession to regional and international human rights instruments.

3. Need for financial resources

Despite the progressive increase in budgets allocated to the PA institution, addressing the necessary financial resources remains a challenging aspect. In 2024, there has been a positive advancement in human resources, with representatives from the regional offices of the PA institution now integrated into the institutional structure, thereby fulfilling one of the SCA's recommendations.

Third set of recommendations

1. Strengthening the legal framework for the protection of the rights of civil society actors and human rights defenders, including legislation that recognizes and protects the work of human rights defenders and civil society organizations, as well as providing assurance that laws and regulations related to civil society are in line with international human rights standards.

2. Creating an enabling environment for civil society actors and human rights defenders to operate freely and safely, including protecting their right to freedom of expression, association, and peaceful assembly. This includes ensuring their access to financial and other resources and addressing any threats or attacks they may face.
3. Ensuring the protection of freedom of expression and organization involves creating an environment where journalists, activists, and civil society organizations can operate without the threat of reprisals, harassment, or violence. This encompasses the right to engage in peaceful assembly and protest, with a focus on ensuring that laws concerning defamation and national security are not misused to suppress opposing viewpoints.
4. Providing support and assistance to civil society actors and human rights defenders, including providing access to information, legal assistance and other resources, to help them carry out their work safely and effectively, as well as establishing effective complaints mechanisms to ensure that their rights are respected and protected.

The PA has examined several cases when media personnel, while monitoring gatherings or attending various events, have been hindered in the exercise of their duties by State Police employees, such as through their escorting, confiscation of filming and photographic equipment or their removal. In relation to the identified violations, PA has issued the [recommendation](#) to the State Police structures. These measures include investigating and preventing future cases of police escorting journalists, safeguarding the right of media personnel to report events at gatherings or similar activities, sanctioning police officers who commit violations against journalists and media personnel, and providing continuous training to police officers in order to allow journalists to carry out their profession and mission.

Following such recommendations, the General Directorate of State Police approved a standard procedure "On planning police services during gatherings". Such standards procedures referred to the standards of the Council of Europe on journalist protection and safety, as well as recommendations of the PA. PA held that violence against journalists, being physical or psychological, endangers the rights to personal integrity, life and freedom of thought and expression. Attacks against journalists and other media actors constitute a serious violation of human rights, impacting not only individuals but also the right to access information. Such violations limit civic space and democracy.

PA has consistently emphasized the rights of journalists and has fostered a strong collaboration with the media within the "alliance against hate speech"

initiative. Institutions must prioritize respecting the journalistic mission and cease the culture of intimidating or attacking journalists. Additionally, it's vital for the media community to recognize the significance of its mission and safeguard it against any form of abuse or exploitation.

Albanian authorities must ensure protective measures to create safe working environments for media workers and journalists. This responsibility extends beyond police authorities to other law enforcement agencies, including local government institutions, to uphold safety and security for the whole media community.

Fourth set of recommendations

1. Ensuring digital inclusion for all, including providing alternative procedures for areas or citizens who do not have access to online services, is vital to prevent anyone from being left behind.
2. The development of a clear and comprehensive legal framework regarding the relationship between citizens and the public administration, requiring different methods of accessing public services, to ensure that administrative procedures are not solely reliant on electronic means.
3. Awareness and investment in education: investment in education and awareness-raising initiatives to ensure that citizens and stakeholders are aware of the potential benefits and risks of AI technology. Incorporating initiatives to increase public understanding of technology and its potential impact on human rights, democracy and the rule of law.

Providing alternative procedures for remote areas or citizens without online access is still a pressing issue. Some public administration bodies exclusively offer services online, leaving certain segments of the population without meaningful access. Despite the commendable aim corruption, exclusively providing public services online poses significant challenges. The reality is that some areas or citizens lack online access or the knowledge to navigate online systems, leading to serious issues in service provision.

During 2023 PA, with the support of ENNHRI, initiated the implementation of a project aimed at assessing the impact of the digitization of public services. The aim of this project is related to the fact that the process of digitalizing public services as part of the national e-governance strategy, with the goal of improving the delivery of public services, increasing efficiency, reducing bureaucracy, and enhancing transparency, undoubtedly has significant implications for human rights.

While digitalization can improve access to public services and reduce

corruption, it can also create new forms of exclusion and discrimination, especially for vulnerable groups lacking access to technology or digital skills. That said, PA plays an important role in ensuring that the digitalization of public services in Albania is developed in accordance with human rights standards, including conducting research, providing advice and recommendations, monitoring and reporting, and engaging with stakeholders to protect human rights standards in this context.

In this regard, it is important for the Albanian state to ensure that the digitalization of public services is developed in line with human rights standards, including privacy, non-discrimination, transparency, and accountability.

Through this project and its main activities, the PA aimed to conduct an in-depth analysis of the impact of digitalizing public services in Albania, culminating in the drafting of a special report that will be shared with the Parliament, central government institutions, and all other interested parties.

Fifth set of recommendations

1. Strengthening the independence and effectiveness of the judiciary
2. Strengthening the fight against corruption
3. Protection of freedom of expression and organization.

PA has given a primary focus to the implementation of justice reform and to the establishment of new organs of the justice system. The progress pertains to the reform and reinforcement of the judiciary, which plays a vital role in rebuilding citizens' trust in the justice system. The PA acknowledges the establishment of new judicial bodies and emphasizes that ensuring a high-quality and effective judicial system is a fundamental obligation to Albanian citizens. This effort aims to maintain a checked and balanced and reinforce the rule of law system.

Before the approval of the new judicial map (Decision of the High Judicial Council No. 211, dated 10/06/2022 "On the approval of the evaluative report and the proposal of the inter-institutional working group on the reorganization of judicial districts and territorial jurisdictions of courts"), there were 22 courts of first instance, 6 appellate courts, and 1 supreme court (a total of 29 courts). After the approval of the new judicial map in 2023 by the High Judicial Council, there are 13 courts of first instance of general jurisdiction, 2 administrative courts of first instance, 1 appellate court, and 1 supreme court (a total of 17 courts).

The General Appeal Court has approved a structure of 78 judges. As of December 2023, they were only 25 effective judges in this court. The backlog in the General Appeal Court by the end of 2023 is 37.662 cases. This backlog includes not only the cases accumulated from the five appellate courts

currently closed but also from the new cases concluded at the first instance and appealed by the parties to the appellate court.

During 2023, PA identified significant delays with regard to court cases related to:

- marriage dissolutions and the regulation of their consequences, such as determining custody and obligations for children alimony;
- issues concerning employment relations, recognition of seniority in employment, and pension entitlement matters etc.
- issues related to the provision of security measures, etc.

PA has consistently expressed concern about citizens' access to justice following the implementation of the new judicial map. In this context, the PA has issued a series of recommendations urging competent institutions to take action, implement necessary measures, and adhere to reasonable trial timelines as per international norms and domestic laws (see [here](#), [here](#), [here](#) and [here](#)).

Albania 2024

Information from: People's Advocate of Albania

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

The PA was last [re-accredited with A-status in December 2020](#).

The SCA recognised that the PA interprets its human rights mandate broadly. At the same time, it encouraged the NHRI to advocate for a broader mandate that includes the ability to address all human rights violations resulting from the acts and omissions of private entities.

At that time, the PA reported that its level of funding was insufficient to meet its human resources needs, including retaining staff in its regional office. The SCA encouraged the NHRI to persist in advocating for sufficient funding, including the provision of full-time staff in its regional offices.

Finally, the SCA noted that the enabling law of the PA does not explicitly mandate the PA to encourage ratification or accession to international human

rights instruments. The SCA recognized the NHRI's broad interpretation of its mandate and encouraged the PA to address the necessary amendments to its enabling law in this respect.

Follow-up to SCA Recommendations and relevant developments

The PA was last [re-accredited with A-status in December 2020](#).

Pursuant to the recommendations of the SCA, PA has made continuous efforts to comply with such recommendations to ensure full compliance with Paris Principles.

In this context, PA, in the framework of the twinning [project](#) "Support of the Albanian Ombudsman institution and promotion of human rights in Albania", has drawn up draft amendments necessary to its organic law. Part of the proposed amendments are related to the inclusion of complaints handlings for private sector in PA's mandate. Amendments are proposed to specifically include the ability to propose to the Parliament adoption of international acts.

In recent years, the budget of the PA institution has increased, which is seen as a positive development. However, there is still a need for greater financial support to fully meet its broad exercise.

SCA's recommendation to PA for the regional offices staff as full-time employees, has been implemented.

Regulatory framework

There have not been any changes in the national regulatory framework applicable to the institution of the PA in 2023.

NHRI enabling and safe environment

Access to legislative processes

PA in Albania is an institution which has faced risks for the effectiveness of institutional performance and reputation. The primary cause of this situation is the longstanding culture of limited transparency and accountability, which has been ingrained within both public administration and Albanian society. Access to legislative processes is an issue which has mostly turned into an exercise of discretion and initiative by the PA to be involved in these processes, rather than a necessary collaborative experience of the state authorities responsible

with it.

Formal access to legislative processes is a well-known component, but the required institutional cooperation with the PA in this context also works in a fragmentary and non-continuous manner. The same can be said in the framework of drafting and approving policies. The level of implementation of the PA recommendations during 2023 generally still remains problematic.

Human and financial resources

As mentioned above, Human Resources and administrative management represent an important aspect of the operation, performance, and progress of a national human rights institution. In order to guarantee that public institutions act in accordance with national and international standards and acts in the field of human rights, it is necessary to continuously support these institutions with human and financial resources. In this regard, the [Progress Report](#) of the European Commission for Albania for 2023, among other things, again emphasized the need for further strengthening of the human and administrative capacities of the PA institution.

The continuous strengthening of these capacities has been and remains one of the challenges of the NHRI, also appreciating the support that has been given so far in this direction. As of 2024 the total number of full-time employees is increased from 59 to 66. In addition, the NHRI continues to have approved 3 employees on 6h/day basis as well as three full time experts on project basis. However, referring to TAIEX Peer Review Mission on Independent and Regulatory Bodies in Albania on 25-28 October 2022 stating that “the constitutional and legal framework in Albania guarantees the PA’s necessary autonomy in the elaboration and execution of his/her budget. Since 2021, there has also been a tendency to increase the funds allocated. However, it is still necessary to assign more funds to the institution in order to be able to fully fulfil its tasks and better develop its broad mandate. Likewise, there is still a need for more staff to ensure fulltime presence in the regional offices, as detailed in the next section.”

Referring to human and financial resources, the Council of Ministers, as of 31.05.2023 approved a significant increase in the salaries of the administration (including civil servants and support staff). More specifically, for the PA institution, this increase goes up to 40% of the salary for civil servants. Meanwhile, the salary of the PA and the Commissioners of the PA has remained unchanged.

Most staff of the PA are part of the civil service. According to [law no. 152/2013](#) "On civil servants", the entire recruitment process begins and must conclude only within the civil service system and grades in the Republic of Albania.

The structure and organization of the institution are determined by the PA

institution, which allows for the necessary functional operations. However, the process of recruitment of civil servants gives a very limited space to recruit candidates outside civil servant system. This has led to difficulties for the appointment of certain specialists. (for example, in NPM).

Legal immunity of the PA

The immunity of the PA and the exercise of its mandate are defined in the organic Law of the PA. However, this legal definition is insufficient, if we refer to the international standards of the field, which speak of functional immunity of the leadership and staff of the PA institution (Venice Principles - "Principles for the protection and promotion of the ombudsman institution", Venice Commission, 3 May 2019).

Election and the Mandate of the Ombudsman

The election of PA is regulated by a legal basis, with provisions provided for both the Constitution of the Republic of Albania and Law no. 8454 dated 4.02.1999 "On the People's Advocate", as amended.

The broad consensus for the selection of the PA is in principle related to the need to have a political agreement between the representative political forces in the Parliament of Albania. The PA is elected by 3/5 of all the members of the Parliament and this necessary voting quorum requires a broad consensus among the political forces represented in the Parliament. Although exceeding the mandate, no underestimation regarding the work of the institution of the PA and/or decrease in the level of implementation of its recommendations has been noticed. The PA remains determined in the position that the fundamental legitimacy to make decisions in the position of the PA is very important to maintain and increase citizens' trust in the institution.

The level of cooperation with other actors/agencies in the field of human rights remains an important priority for the PA. During 2023, the PA did not encounter situations perceived as threats.

Justice reform

The PA has a mandate to conduct the preselection of the candidates respectively of High Judicial Council and High Prosecutorial Council. Based on Law No. 115/2016 "On the governing bodies of the justice system", as amended, following the publication by the Parliament of the Republic of Albania, of the vacant positions and the call for expression of interest for members of the High Judicial Council and members of the High Prosecutorial Council from among lawyers and civil society. The PA immediately started the necessary administrative procedures for the preselection of the candidates. The process was concluded in December 2023.

Non-response of public institutions to the requests of the PA

Throughout 2023, the PA faced an unsatisfactory level of cooperation by public authorities in responding to the investigative activities of PA.

In this context, the failure to promptly and timely provide information and documentation, as well as the provision of partial answers or responses beyond the established and legal deadlines, leads to delays in the investigative process. This situation results in the impair of the citizens' rights to effectively remedies against maladministration.

NHRI's recommendations to national and regional authorities

- Further strengthening of the human capacities of the institution of the PA, as well as the strengthening of the administrative capacities within the framework of the necessary, sufficient financial funds for the exercise of the constitutional mandate of this institution.
- Submission of the new draft law to the Parliament of the organic law of PA (the project "Support to the office to the PA and promotion of human rights in Albania"), which will provide a full compliance of Paris Principles and Venice Principles.
- State bodies must have the obligation to continuously inform PA, regarding the follow-up and implementation of the annual report on the rule of law.
- Guaranteeing the implementation of the recommendations of the PA. The legal obligation for public institutions to respond to the PA's recommendations with reasoned explanations should be reinforced.

Albania 2024

Information from: People's Advocate of Albania

Checks and balances

Separation of powers

Functioning and effectiveness of the judicial power

The PA has maintained an active and proactive approach regarding the issue of the separation of powers. Specifically, PA has raised [issues](#) related to the

functioning and effectiveness of the judicial power in the country. During 2023, an urgent need was identified to take measures for the vacancies in the judiciary in civil, administrative, and criminal courts at all levels. Issuing judgments within a reasonable time, a vital element of the right to an effective remedy and fair trial, was another aspect highlighted in the [recommendations](#) sent by the PA to the relevant competent courts and the High Judicial Council.

Interventions and amendments in the legislation for the prevention and reduction of the unreasonable duration of the judicial process, which is a violation of Article 6/1 of the European Convention of Human Rights, are [not](#) proven to have produced effects, and this is because the civil, administrative or criminal courts, operate with a much-reduced capacity of the judiciary.

According to the official data of the High Judicial Council (Annual Report 2023), the total number of actual judges in the judicial system is 329 judges. Meanwhile, according to the organizational structure, there should be 408 judges. Of these, 247 judges are effectively in office. This shows that during the year 2023 the judicial system has operated with almost 60% of capacity. However, this number should be taken with caution, as it includes judges who might be suspended due to disciplinary actions and are under review by the High Judicial Council (HJC), or those who have been dismissed by the Independent Qualification Commission and have appealed this decision to the Special Appeal Chamber.

Immigrants' constitutional right to vote

Another issue, which has also influenced the development of a fair electoral process is the violation of the constitutional right to vote of immigrants in the elections held for local self-government bodies in May 2023. This is due to the legal gap in the Electoral Code, as this fact was ascertained in [decision no. 38](#) dated 9.12.2022, of the Constitutional Court of the Republic of Albania.

Constitutional Court assesses that the issues related to voting rights for citizens abroad or foreigners in Albania are a consequence of the legal gap. The Electoral Code authorizes the Central Election Commission to issue by-laws concerning the rules for registering voters from abroad, the voting procedures for these voters, the administration and counting of votes cast from abroad, and their inclusion in the overall election results for the Assembly. This includes the appointment of the competent body, the principles on which these acts are based, and the deadlines within which they must be issued.

This is a factual situation that occurred during the 2021 parliamentary elections in Albania and was repeated in the local self-government elections held in May 2023. In decision no. 38 dated 9.12.2022, the Constitutional Court mandated the filling of the legal gap within one year. However, this was not achieved by the end of 2023, highlighting the omission of the state bodies responsible for this duty, which stems from the mandatory enforcement of the Constitutional

Court's decisions, as guaranteed by the Constitution in Articles 132 and 145.

Voting rights of persons with disabilities

Based on Article 16 of Law no. [93/2014](#) " On the social inclusion and accessibility of persons with disabilities ", the PA is a monitoring institution for the implementation of this law in accordance with the UN Convention, "On the rights of persons with disabilities".

In the framework of the 2023 Local Elections, PA has identified potential problems and took the necessary measures, with the aim of creating appropriate conditions for disabled persons to freely exercise their right to vote. There were monitored 421 public spaces, where 940 Voting Centres were located. It was found that 59% of these institutions, mainly educational in nature, did not have adequate access for people with mobility disabilities. In the voting centres situated on the second floor, accessibility for people with disabilities was lacking, as there were no elevators or internal ramps, except for in two or three schools.

Additionally, PA addressed the Regulatory Commission within the Central Election Commission (CEC), [recommending](#) the improvement, before the elections for local government bodies, of the [Guidelines](#) for determining the rules for the establishment, appointment and notification of the location of the voting centres and the preparation of the map of the local self-government units for the elections.

Although there was no official response from the CEC for the position taken on this recommendation, from the verification on the official website of this institution it was found that, with the decision [No. 11](#) dated 20.03.2023 of the Regulatory Commission at the CEC, several amendments were approved, which addressed the above-mentioned recommendation.

Also, in the context of local elections in 2023, PA has addressed a recommendation to all Mayors to take measures to create suitable conditions in the voting centres for persons with disabilities, in order to guarantee the free exercise of their constitutional right to vote.

High level of political conflict

Throughout year 2023, there has been a very high level of political conflict in Albania, a fact that has affected several important aspects of the country's life and, especially, the normality of the functioning of the representative body of the legislative power in the Albanian Parliament. The situation of high political conflict has been a direct cause for the dysfunction of parliamentary life in the country.

The process for preparing and enacting laws

The PA during the exercise of its mandate, has emphasized the importance of conducting public consultation processes on draft legislations. The opinion of the PA institution on draft laws with impact of human rights is outmost important.

There has been an improvement in the public consultation process regarding the participation of interest groups in such processes. The Ministry of Justice has improved the level of consultation with the PA by seeking their opinion on draft laws, strategies, and draft decisions before submitting them for approval to the Council of Ministers. It has also reflected the suggestions given by the PA. There has also been cooperation with other institutions, such as the Ministry of Health and Social Protection. In 2023, the Ministry of Interior presented in public consultations, the draft decision "On the approval of the national strategy for migration 2024-2030 and its action plan, 2024-2026", which aims to promote regular migration through increased cooperation with international institutions. PA is involved in this process by giving his opinions and suggestions for this important strategic document.

Access to information

The right to information is a fundamental right of individuals, which, based on the current legislation in force in Albania, is directly monitored and enforced by the [Commissioner](#) for the Right to Information and Protection of Personal Data. Based on specific provisions given in Law No. [no. 119/2014](#) "On the right to information," PA and Commissioner for the Right to Information and Protection of Personal Data has signed a memorandum of cooperation between the two institutions in order to fully comply their competences on respecting and protecting the right to information. In this context, the PA, playing an active role, in all its recommendations during 2023 where violations of the right to information were identified in the practices of state authorities, has highlighted this fact and addressed it. On the other hand, issues that have been primarily related to complaints about the right to information have been timely transmitted for further review to the Commissioner for the Right to Information and Protection of Personal Data.

Recommendations to public bodies

The authorities must take measures to complete the administrative procedures within the deadlines provided by the law in carrying out of the legalization's process of illegal constructions, registration process of real estate as well as the compensation process in cases of public expropriations. These processes should have full transparency for the public.

Independence and effectiveness of independent institutions (other than NHRIs)

The institution's human rights monitoring and reporting has not found any evidence of laws, processes and practices that negatively impact the independence and/or effectiveness of independent institutions other than NHRIs.

There have been positive developments in the adoption and entry into force of national legislation, as in the case of the changes made to [Law No. 119/2014](#) "On the Right to Information", or the adoption of a new Code, of Broadcasting for Audiovisual Media, by the Audiovisual Media Authority (AMA). A special chapter has been added, which has related to caution provisions against sexism and the portrayal of gender stereotypes in audiovisual media content, including also recommendatory measures given by the PA.

Enabling environment for civil society and human rights defenders

Role of CSOs in the protection of human rights

PA closely [cooperates](#) with non-profit organizations, periodically receiving their opinions on the state of human rights and freedoms.

The PA, in order to have a more comprehensive overview of the real situation in the analysis of progress and identification of pressing issues, relies on reports from civil society organizations, international organizations monitoring the status of human's rights in Albania, progress reports for Albania, reports from the U.S. Department of State on the human rights situation in Albania, the Universal Periodic Review (UPR) report, as well as reports from the Commissioner for Human Rights. The collaboration of the PA with CSOs in the process of selecting commissioners; - Collaboration of the PA in organizing the 2023 annual conference, with the UN Resident Coordinator's Office in Albania, the PA organized the 2023 Annual Conference with theme "75th Anniversary of the Universal Declaration of Human Rights and 25th Anniversary of the Constitution of Albania: Evolution of Human Rights in Albania," where one panel consisted solely of representatives from CSOs.

Referring to TAIEX Peer Review Mission on Independent and Regulatory Bodies in Albania on 25-28 October 2022 stating that "the meetings held with the International Donors and NGOs resulted in a good perception of the PA Institution. It can thus be said that civil society relies on the PA and sees him/her as a proactive institution".

PA's collaboration with civil society extends beyond handling and referring

cases to organizing active awareness-raising activities such as workshops, national conferences, and PA-specific reports. For example, the Alternative [Report](#) on the Implementation of the CEDAW Convention in Albania 2016-2020, prepared by the PA institution, aimed to present findings before the United Nations Committee on the Elimination of Discrimination against Women (CEDAW).

Protests by opposition political party

P.A has closely monitored a [protest](#) taking place on 11 February 2023, held by the opposition political party. Observers from the PA institution were present on the ground throughout the protest, closely monitoring the behaviour of both the protesters and the representatives of the law enforcement institutions. Considering that one of the fundamental human rights in democracy is the peaceful protest, PA has found no extensive exercise of force by the police officers.

Legislation covering the freedom of peaceful assembly

PA assesses that the legislation covering the freedom of peaceful assembly should be clear and in full compliance with international standards for human rights. A prior authorisation for each gathering is not [necessary](#) nor should it be required under domestic legislation but the notification enables state authorities to facilitate the gathering of protesters, as well as ensure public order and protect the rights of others.

The PA as an interested entity, in the position held in the case judged by the Constitutional Court regarding the incompatibility with the Constitution of the provision made in the first paragraph of Article 262 of the [Penal Code](#) of the Republic of Albania, where it is stated that "without prior permission by the competent authority according to the specific provisions", it was stated that this legal provision contradicts Article 47 of the Constitution, as well as Articles 11 and 18 of the ECHR. Said that, since this legal provision limits the exercise of the right to assembly by obtaining a permit, while the permit is not provided for either in the Constitution or in Law no. 8773/2001 on assemblies.

The fact that law no. 8773/2001 "On Assemblies" uses the term "notification" and not "request" addressed to police bodies is important, as it guarantees the exercise of the right of assembly by the citizens. So, the decision to exercise the right of assembly is taken by the notifying entity itself and the approval/permission of the police body is not required. As mentioned, the phrase contained in Article 262, first paragraph, of the Criminal Procedure Code is incompatible with Article 47 of the Constitution, as well as with Articles 11 and 18 of the ECHR, as it limits the exercise of the right to assembly by obtaining permit, while the permit is not provided for either in the Constitution or in the law no. 8773/2001 "On Assemblies ". The punishment of organizers and/or participants in a peaceful assembly with a fine or imprisonment of up to

one year is therefore disproportionate and contrary to article 17, point 1, of the Constitution and law no. 8773/2001.

The Constitutional Court assesses that the referring court's claim that the phrase "without first obtaining permission from the competent body according to special provisions", in the first paragraph of Article 262 of the Criminal Code, is incompatible with Article 47 of the Constitution, is well-founded and has decided to accept the request, determining the obligation of the Assembly to fulfil the legal norm from the date of announcement of the [decision](#) of the CC until its entry into force.

Attacks on journalists and media institutions

PA considers journalists a mechanism of public interest to be informed, so any attack on journalists is seen as an attack on this interest. The PA has expressed concern the violent action against journalist E.Q and called on the law enforcement authorities to take energetic and effective measures.

Furthermore, PA has concerned on the attack on the night of March 27, 2023, on the building of the national television Top Channel, in which a security worker of such media outlet lost his life. PA has requested the law enforcement authorities to immediately, and with priority, shed light on this case and bring the perpetrators to justice. An attack on any individual or a legal entity is a reprehensible and unacceptable act, but an armed attack on a media institution is an unacceptable crime with serious consequences as it directly affects a means of mass communication, i.e. the societal information infrastructure. PA has encouraged individual journalists not to be afraid, but to continue working safely for the support and solidarity of the whole society.

CSO impact and challenges

The challenge for an NHRI is to have a strategic level approach and at the same time have the space and capabilities to conduct and handle issues/cases that require urgent action and investigation. Partnership with civil society is the key point of NHRI's activity, working collegially with NGOs on specific issues. This cooperation through a public platform (with NGOs or other national institutions for human rights) in addition to being useful, serves to increase visibility in handling of specific human rights issues at the national level, and as a convenient way to strengthen links between organizations having focus on similar human rights issues.

Some legal provisions in the law "On the registration of non-profit organizations" that hindered the freedom of organization and transferred the powers of the court to the chancellor regarding their registration have been found unconstitutional and have been declared null and void after the request submitted by some non-profit organizations.

The Constitutional Court has pronounced its decision on the matter initiated by some non-profit organizations which claimed that the content of some provisions of this law violated the constitutional right to assembly guaranteed by Article 46 of the Constitution and Article 11 of the European Convention on Human Rights ; that they are contrary to the provisions of Article 17 of the Constitution and international standards, which require that the limitation of this right, including sanctions, be provided by law, have a legitimate purpose and be proportional to the purpose that is intended to be achieved .

The Constitutional Court has partially accepted the request, declaring null and void the provision that determines the obligation for initial registration within a 30-day period. This provision imposes a disproportionate burden, especially on organizations that intend to be newly created, thus constituting an obstacle in terms of freedom of organization", [assessed](#) the Constitutional Court.

NHRI's recommendations to national and regional authorities

- Guaranteeing the right to a trial within a reasonable time, as a constitutional standard, enshrined in the acts that define basic human rights and freedoms, both at the international level and in domestic law, should be a priority for the authorities.
- Prioritizing the follow-up, fulfillment and implementation of obligations by responsible state authorities within the framework of ratified international conventions and agreements.

For the freedom of assembly and organization

- Implementation of Decision No. 24, dated May 4, 2021, of the Constitutional Court "On the annulment of the expression 'without prior authorization from the competent authority according to specific provisions' in the first paragraph of Article 262 of the Penal Code." The obligation of the Parliament to amend the legal norm from the date of the Constitutional Court's decision until its entry into force. This decision is not implemented.
- Taking measures to review Law No. 8773, dated April 23, 2001, "On Assemblies," as amended, in accordance with European standards.

For the deprivation of liberty

- Full implementation the existing legislative acts by the State Police structures to respect the legally guaranteed rights of detained/arrested/escorted individuals.

Albania 2024

Information from: People's Advocate of Albania

Securitisation's impact on the rule of law and human rights

Using SKY-ECC (a subscription-based end-to-end encrypted messaging application). PA has taken the initiative to register the case published in media in December 2023, which refers to an order issued by the Minister of Interior for the approval of the self-declaration form by all employees of the State Police, the Agency for Police Supervision and the Guard of the Republic of Albania, if they used the SKY ECC or ENCROCHAT applications. Meanwhile, the order with no. 196, dated 04.12.2023 "On the approval of the self-declaration form "On the use of SKY ECC and ENCROCHAT applications" was published in the media, as well as the self-declaration form.

According to the media, the form was to be completed by all employees mentioned above within 30 days from its entry into force and if any employee would be found to have used these applications will immediately be dismissed.

PA has requested from the Minister of the Interior detailed information on the legal basis and purpose for a such order. The case is in the process of review and investigation by the PA.

With its initiative PA as the National Mechanism for the Prevention of Torture is dealing ex-officio with the news [published](#) in the electronic media, according to which the General Director of the State Police has requested cooperation with the Director of Prisons for obtaining biological DNA samples for each convict who benefits from the amnesty. PA considers collecting of DNA samples a violation of prisoners' rights. The investigation of this case is in process.

NHRI's recommendations to national and regional authorities

- The law no. 8773, dated 23.4.2001 "On Assemblies" should be reviewed in order to provide the right of the instant protest and its technicalities.
- Continuous training for border police officers to familiarize them with international acts and legislation in the field of migration, in order to protect and promote the rights of migrants who enter the territory of

Republic of Albania.

- Establishment of a dedicated National Reception Center for unaccompanied foreign children.

Deprivation of liberty

- Full implementation of the normative acts in force by the State Police structures to respect the rights guaranteed by law of escorted/detained/arrested persons

Albania 2024

Information from: People's Advocate of Albania

Implementation of European Courts' judgments

Some ECtHR decisions have fined the State Advocate's Office due to the problems that Albanian citizens have encountered during the execution process of final court decisions issued by the domestic judicial system. In the decisions of the ECtHR, emphasis has been placed on the state's obligation to execute judicial decisions, as non-enforcement undermines the essence of the right itself and denies the principle of a due process of law.

It is clearly emphasized in the jurisprudence of the ECtHR (and Constitutional Court) that the execution of judicial decisions should be seen as an integral part of the judicial process as the judicial decision would otherwise have no value for as long as the right is not enforced.

PA has found a lack of transparency on the part of the State Advocate's Office in its activity, in relation to the role it must play for the execution of ECtHR decisions against Albania.

Even on the website of the State Advocate's Office of the Republic of Albania, it has been found that the information on ECHR decisions is completely missing. PA has taken the position that, [law no. 10018](#), dated 13.11.2008, "On the State Advocate's Office", as amended, should be improved to counter the deficiencies observed in the provision of the obligations that the State Advocate's Office must have in informing the public without prior request and within the transparency of its activity, regarding the legal powers for the execution of ECHR decisions against Albania.

More specifically, the improvement should consist of adding or amending

provisions of law no. 10018, dated 13.11.2008, "On the State Advocate's Office as amended, regarding: a) Provision of the legal obligation of the Advocate's Office to publish its reports that presents to the Permanent Committee for Legal Affairs, Public Administration and Human Rights of the Parliament of the Republic of Albania, on the execution of ECHR decisions and the measures taken in this direction b) The provision of other legal obligations that increase transparency and the obligation to make public the necessary information related to the process of execution of ECHR decisions against Albania. The Council of Ministers, in accordance with Article 81, point 1, of the Constitution of the Republic of Albania, decided at the meeting on July 5, 2023, the proposal of the draft law "On some additions and changes to the law no. 10018 dated 13.11.2008, "On State Advocate", as amended".

Effectiveness of execution of ECtHR judgements

Despite the relevant legal changes, which have undergone law no. 10018, dated 13.11.2008, "On the State Advocate's Office ", the effectiveness of the execution of ECtHR decisions, given against Albania, has not increased.

The legal procedures outlined in Law no. 86/2018 "On the State Advocate" have not increased the effectiveness of executing ECtHR decisions against Albania. The state of execution of decisions before and after the amendments to Law no. 10018/2008 does not appear to have changed and continues to be problematic.

The main reasons are as follows: - The right to public information regarding the progress and course of the execution process of ECtHR decisions against Albania is not clearly defined. The access of each individual to information related to this process remains unclear, as well as the possibility of being informed about the execution status of ECtHR decisions against the Albanian State. In the content of Law no. 10018, in Chapter V/I, "Execution of European Court of Human Rights Judgments," part of the consultation process between the Consultative Council on ECtHR Matters and the State Advocate includes consultation related to the State Advocate's communications for informing the public and the media regarding the execution of the decision (Letter "d", point 2, article 19/8, of law no.10018, dated 13.11.2008, On the State Advocate", as amended).

There are no other legal provisions found in this chapter regarding the realization of the right to public information during the process of execution of ECtHR decisions against Albania at the national level. Therefore, the State Advocate's Office decides what should be made public in the public communications it decides to broadcast on issues related to the execution of ECtHR decisions against Albania.

The possible public requests for information related to this execution process is regulated according to [Law no. 119/2014](#) "On the Right to Information". Based

on this current regulatory framework, the impression is created that the legislator has left the legal burden to the public body itself, in this case, the State Advocate, to establish a good administrative practice to achieve maximum transparency of institutional activities for the execution of ECHR decisions against Albania at the national level.

The legislation in force does not provide sufficient guarantees for a transparent and accountable process for the execution of ECHR decisions against Albania, and on the other hand, the periodic reports of the State Advocate's Office presented to the Parliament of Albania identify in their content a lack of transparency as it belongs to the progress of the execution of ECHR decisions against Albania, year after year and in their overall framework.

Lack of transparency of State Advocate's Office

Although Article 19/9 of Law no. 10018, provides that the State Advocate's Office submits a report at least once a year to the Permanent Commission on Legal Issues, Public Administration, and Human Rights of the Parliament of the Republic of Albania, on the execution of ECtHR decisions and the measures taken in this regard, the access that the public may and should have to this type of public information is not expressly regulated in this law. Therefore, there is a need to include this obligation in the relevant regulatory legislation.

Insufficient level of engagement of Albanian state

Interventions and changes in legislation to prevent and reduce unreasonable delays in the judicial process, defined as violations under Article 6/1 of the ECHR, are not proven to have had effects, mainly due to the fact that civil, administrative, or criminal courts operate with significantly reduced judicial capacity.

Regarding the responsible structures for executing decisions, there is no evidence of disciplinary action being initiated in cases of failure to implement decisions issued by the ECtHR against Albania in recent years.

NHRI's actions to support the implementation of European Courts' judgments

Even though only one case related to non-execution of ECtHR decisions has been submitted for consideration to the PA Institution, the situation regarding the execution of the decisions of the ECHR against the Albanian State carries numerous issues concerning in the effective implementation. In the information provided by the State Advocate, it is confirmed that there are 67 decisions under ongoing monitoring by the Committee of Ministers of the Council of Europe for which the State Advocate has submitted information, action plans or

action reports.

NHRI's recommendations to national and regional authorities

- Strengthening the legal framework, establishing clear procedures with deadlines and sanctions and providing assurance that the state authorities have the institutional capacity to effectively implement the decisions of the European Court of Human Rights, since the current legislation does not provide the measures/actions for the mandatory execution of the decisions, or imposing sanctions against entities obstructing the execution process.
- Ensuring that the processes for implementing the decisions of the European Court of Human Rights are transparent and accountable to the public, including issuing regular reports on their progress and engaging with civil society organizations to monitor and evaluate their efforts.

Monitoring

The PA recommends that the responsibility of initiating, coordinating and monitoring of the execution process of ECtHR's decisions against Albania should be assigned to a structure or another state institution. A reliable actor at the national level for the execution of ECtHR decisions could be an independent institution, with its institutional activity focused on the framework of the protection and respect of human rights.

Awareness raising

- The organization of awareness sessions with key officials of institutions responsible for the execution of court decisions, in order to facilitate the adoption of a culture of zero tolerance towards the deliberate non-execution of court decisions.

Training

- The organization of training sessions for selected officials, depending on the specific problems for each country, including but not limited to judges, prosecutors, bailiffs, social workers and representatives of various ministries, on the requirements of the ECHR in the field of execution of judicial decisions, as well as the importance and consequences of non-execution.

Albania 2024

Information from: People's Advocate of Albania

Other challenges to the rule of law and human rights

Media freedom

PA emphasizes that violent or even obstructing actions against journalists, physical or psychological, endanger the rights to personal integrity, life and freedom of thought and expression. The cases that occurred were recorded by PA during the year 2023.

PA is handling the case of E.Q, a journalist of Ora News, who claims that the Special Prosecution against Corruption and Organized Crime and the Special Court of First Instance against Corruption and Crime Organized have violated his rights as a professional journalist. He has been subjected to unlawful personal, residential, vehicle and workplace controls, seizing work equipment and electronic data (phones, computers, USB, etc.) PA in May 2024 issued a special report on this matter.

The United Nations Human Rights Committee in Geneva, established under the Optional Protocol to the International Covenant on Civil and Political Rights, in the letter dated January 17, 2024 has imposed a suspensive measure, sent to the Albanian state under Article 94 of the Committee's procedural rules, to prohibit any inspection, distribution or judicial processing of the material seized from the complainant while the matter is under review by the Committee.

The PA has previously reviewed several cases where State Police officers hindered media workers to perform their duties during the monitoring of gatherings or presence at various events. In few cases they were escorted in police stations and in one case their photographic equipment well as data were sequestered or deleted among other actions.

Regarding the latter, the PA has specifically recommended that the State Police structure take several concrete measures for the investigation and prevention of cases involving the accompanying of journalists in the future; guaranteeing the right to exercise the profession and report events by media workers present at gatherings or other activities of this nature; initiate administrative procedures for police officers who commit violations against journalists and media workers; ongoing training of police officers in order to allow journalists to carry out their profession and mission. (See [here](#), [here](#) and [here](#)).

PA has continuously given special importance to the rights of journalists and has built a close cooperation with the media. The challenge lies in the institutions respecting the informative mission of journalists and, of course, putting an end to the culture of intimidation or attacks on journalists. On the other hand, it is necessary for the media community to understand the importance of its mission and protect it from abuse.

The commitment of the Albanian authorities must also guarantee protective measures so that media workers and journalists work in safe environments. These authorities include not only police authorities, but also other authorities and agencies that exercise law enforcement activities such as local government institutions. Attacks against journalists and other media actors constitute serious human rights violations because they target not only individuals, but also deprive others of their right to receive information, thus limiting public debate, which is at the heart of pluralistic democracy.

Justice system

The PA institution counts the establishment of new judicial bodies and considers that the establishment of a qualitative and functional judicial power is an obligation to Albanian citizens to create a balance of powers and to strengthen the rule of law. Subsequently, the PA has followed all developments related to the drafting and approval of the new judicial map as well as its implementation throughout the year 2023.

PA has presented amicus curiae at the request of the Constitutional Court for the case presented by the petitioner 'National Bar Association, with the object: "Repeal as incompatible with the Constitution of the Republic of Albania, Decision no. 495, dated 21.07.2022 of Council of Ministers "On the reorganization of the judicial districts and the powers of courts". In its opinion sent to the Constitutional Court, PA pointed out that the approved judicial map violates access to justice in the interpretation of Article 42 of the Constitution, and therefore, it should be revised, being evaluated from the perspective of guaranteeing citizens' access to justice, as in courts of first instance (of general jurisdiction and administrative ones) and in appeal courts.

PA assessed that the implementation of the new map does not improve access to justice at all; on the contrary, it undermines this principle, resulting in increased costs for citizens and a decrease in the quality of services provided.

The Constitutional Court on 27.12.2023, decided with a majority vote the dismissal of the request, regarding the claim of violation of the individual's right of access to the court. The Court found that there is a limitation, but this intervention does not violate the principle of proportionality. In balancing the public interest in relation to the individual's right of access, the Court did not find such consequences that would make the exercise of this right impossible.

During 2023, with regard to implementation of the new judicial map, the PA concluded that:

- the number of judges has been significantly lower in comparison to the number that should be effectively present in some courts of the country (of first instance and of appeal);
- significant [delays](#) in adjudicating cases
- delays in the reasoning of judicial decisions, whether civil or criminal, leading to delays in notifying the parties and exercising the right of appeal or recourse to the Supreme Court. These delays [have had a significant impact](#) on the category of pre-trial detainees (infringing several rights enjoyed by convicted citizens and, on the other hand, contributing to overcrowding of these institutions).

On February 1, 2023, the Court of Appeal of General Jurisdiction began its operation, while the activity of the other 5 appeal courts was discontinued on January 31, 2023. This court has 78 approved judges, but at the end of December 2023, it had only 25 judges, as well as a backlog of cases accumulated from the closed courts awaiting adjudication.

PA believes that the access to justice has been worsened in the last year and the active measures by the competent authorities have not been successful.

Treatment of persons with mandatory medical measures accommodated in penitentiary institutions

Over the years, the PA has given special importance to the supervision of the respect for the rights and freedoms of persons suffering from illnesses and mental health disorders with medical measures, who have been detained in the Institution of Execution of Criminal Decisions as well as in a Special Institution of Health Care in Prisons (Prison Hospital), Tirana, or in specialized care sectors within institutions for the execution of criminal sentences, as well as in hospitals/psychiatric wards with beds.

[Law](#) no. 44/2012 "On Mental Health" has clearly defined that the health treatment for persons with mental health disorders, regardless of the criminal offense they have committed and for whom the competent court has imposed the measure of "compulsory treatment" or "compulsory hospitalization", must be carried out in a Special Medical Institution, part of the integrated health system, and not in the institutions of the penitentiary system.

The PA has recommended during 2023 the adoption of necessary measures by the Ministry of Justice and the Ministry of Health and Social Protection, to promptly address the situation of persons with mental health problems, who are treated in Special Institution of Health Care in Prisons in Tirana in violation of the law, in psychiatric wards that are administered by the Ministry of Health and Social Protection, until the establishment of special medical institutions as

defined by law no. 44/2012 "On Mental Health", as amended.

Pre-trial detention

Albania has a very high number of detainees. About 60% of the population in prisons are pre-detained, while compared to other countries of the Council of Europe, this percentage varies on average up to 25%. There are a number of reasons for this high number of detainees. Courts, although it is a serious measure, widely use the measure of detention. Likewise, the long time of trial against pre-detained individuals affects their stay in these conditions, thus influencing the increase of the total number of pre-detained individuals. They should take meaningful actions to reduce the number of pre-detentions. The presumption of innocence is a fundamental right.

The problem of overcrowding in prisons has also been brought to attention in the findings of the CPT Report made public on 12.01.2024, after the visits made to several institutions of deprivation of liberty in Albania, from May 4 to May 15, 2023.

According to the CPT, Albanian authorities should prioritize measures aimed at fundamentally addressing the problem of prison overcrowding to definitively put an end to this phenomenon. In particular, significant efforts should be made to limit the use of pre-trial detention measures (pre-trial detention as a security measure with imprisonment) and to reduce the time spent by prisoners in pre-trial detention facilities, aiming to halt the continued increase in the pre-trial detainee population and reverse the trend. The CPT recommends that the Albanian authorities double their efforts to combat overcrowding in prisons, taking into account the relevant recommendations of the Committee of Ministers of the Council of Europe.

Rights of vulnerable communities

One of the priorities of PA has been and remains the monitoring of the living conditions of vulnerable groups, specifically the Roma and Egyptian communities located in all local self-government units, as well as the measures taken to meet their basic needs and improve their livelihoods.

PA has recommended to the Municipalities on a district basis, the drafting and approval of strategic documents at the local level (local development plans), in order to define objectives and predict the taking of concrete measures, in accordance with the existing legal basis in force, in the spirit of the fight against "anti-gypsyism" and for the realization of the real integration process of the Roma and Egyptian communities, who live in the administrative territory administered by these Municipalities.

NHRI's recommendations to national and regional authorities

- Necessary amendments should be made in the PA organic law in order to be in full compliance with international standards, Paris' Principles and Venice's, Principles.
- National policies should have an effective approach to guarantee full respect of human rights and strengthening the PA's role in following up their implementation.
- Public administration bodies' obligation to implement the PA's recommendations should be enforced.

Montenegro 2024

Information from: Protector of Human Rights and Freedoms of Montenegro

Follow-up to last year's rule of law recommendations

State authorities' follow-up to regional actors' recommendations on rule of law

During the fourth Universal Periodic Review (UPR), several UN member countries called on Montenegro to take actions for the Ombudsman to achieve A status - which Montenegro accepted. Moreover, during the Sustainable Development Summit of September 2023 the President of the Republic submitted a [document](#) outlining commitments towards sustainable development goals that Montenegro accepted, including the Ombudsman becoming an A status institution. This would also support Montenegro's path towards the European Union as one of the criteria includes the obligation to strengthen the independence, professionalism, and institutional capacities of the Ombudsman. In the latest progress [report](#), the European Commission urges Montenegro to "take measures to better align this framework with the Paris Principles to advance the institution's status to A."

NHRI's follow-up actions supporting the implementation of regional actors'

recommendations

In the 2023, the Protector commemorated twenty years of work. The institution enjoys significant, if not the greatest, trust among all institutions in Montenegro, as evidenced by recent years' perception studies such as the [Balkan Barometer](#). The success and quality of work of the Ombudsman for Human Rights and Freedoms of Montenegro is confirmed by a high level of trust from citizens, as well as assessments from credible international institutions, and support for obtaining A status will contribute to the implementation of all human rights and strengthening of Montenegro's democratic and civil society.

We expect that in the first half of 2024, the first concrete steps towards achieving status A will be taken, with the formation of a working group that will work on amending legislation to create the conditions for alignment with the Paris Principles. This implies amendments to the regulations with the aim of improving the status, and in the part related to the mandate of the Protector, selection and appointment, provision of adequate means for work and financial autonomy, a clear position and autonomy in the employment of staff, as well as stronger interaction with international human rights system.

State authorities' follow-up to NHRI's recommendations regarding rule of law

The Parliament of Montenegro, through the competent Committee for Human Rights and Freedoms, within its monitoring and oversight role, monitors the implementation of recommendations of the Ombudsman for Human Rights and Freedoms of Montenegro addressed to relevant state authorities, as contained in the [Annual Report](#), and adopts conclusions to follow up on their implementation.

The legislative framework at the national level, in accordance with the Paris Principles, must provide and guarantee a system that is independent, efficient, and meets all requirements for the establishment, functioning, and mandate of national institutions for the protection of human rights and freedoms.

Although the recommendations of ombudsman institutions and equality bodies are not an effective legal tool *de jure*, *de facto* they have an irreplaceable role in the field of protection and prevention of human rights violations. When public authorities act in accordance with given recommendations, the state shows a responsible attitude towards the citizen and the authority of the institution is strengthened. Through the dialogue of decision-makers, it is necessary to continuously point out the importance of given recommendations and thereby encourage their implementation in practice.

The previous practice has shown that timely implementation of recommendations prevents the repetition of the same mistakes in the future. Therefore, we will continue to insist on monitoring the implementation of recommendations, some of which do not represent major challenges, such as those addressing problems that are not systemic in nature, or those that do not require major investments or changes in regulations and solve a specific problem of vital importance for individuals.

Montenegro 2024

Information from: Protector of Human Rights and Freedoms of Montenegro

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

The Protector of Human Rights and Freedoms of Montenegro was [accredited with B status in May 2016](#).

While noting that, in practice, the Ombudsman undertakes some promotional activities despite the financial constraints it faces, the SCA encouraged the Ombudsman to advocate for appropriate amendments to its enabling law to make its promotional mandate explicit.

Further, the SCA encouraged the Ombudsman to advocate for the formalisation and application of a selection and appointment process that includes requirements to publicize vacancies broadly; maximise the number of potential candidates from a wide range of society groups; promote broad consultation and participation in the process; 5 assess applicants on the basis of pre-determined objective criteria; and select members to serve in their individual capacity.

Additionally, the SCA was concerned that the budgetary resources allocated to the Ombudsman are insufficient for it to effectively carry out its mandate.

Finally, during the review, the Ombudsman reported that it may only recruit staff after obtaining a certificate from the Ministry of Finance that funds are available for salaries, even if necessary funds have been approved in the budget. The SCA noted that NHRIs should be legislatively empowered to

determine its staffing structure, the skills required to fulfil the Ombudsman's mandate, set other appropriate criteria (such as diversity), and select their staff in accordance with national law.

Follow-up to SCA Recommendations and relevant developments

The President of Montenegro at the conference on the occasion of 20 years of work of the institution of the Ombudsman, [stated](#) that the scope of competence of the Ombudsman should be expanded in order to affirm the value of the rule of law, and the Secretary General of ENNHRI Debbie Kohner believes that the Protector could achieve A status accreditation with relatively small changes to its founding legislation - to codify its promotion mandate; ensure an open and transparent selection process; introduce financial autonomy; give it freedom to recruit its own staff; and ensure adequate funding to fulfil its mandates.

As mentioned in the previous chapter, also, during the fourth Universal Periodic Review (UPR), several UN member states called on Montenegro to undertake activities in order for the Protector to receive A status - and Montenegro accepted those recommendations. Another example of the same obligation is the Sustainable Development Summit in September 2023, when the President underlined the obligation of Montenegro to ensure that the Protector to become an institution with A status.

After 20 years of work, we consider that the role of the institution of the Ombudsman is well established in the state-legal system of Montenegro. Its results are recognized and valued, especially by the international community, as evidenced by initiatives and support for the institution to change its accreditation status before the Global Alliance of National Human Rights Institutions (GANHRI) as soon as possible.

Regulatory framework

There have been no changes to the applicable national regulatory framework introduced in 2023.

NHRI enabling and safe environment

The institution has successfully cooperated and continues to cooperate with all relevant domestic stakeholders. This particularly applies to certain judicial bodies, as well as collaboration with public bodies of legislative and executive powers, emphasizing the constructive and continuous support provided by

parliamentary working bodies: the Committee on Human Rights and Freedoms and the Committee on Gender Equality.

The academic sector and educational institutions are also significant partners in joint efforts to develop a human rights protection system, as are trade unions, and the civil sector has long been recognized as a strategic partner and a source of numerous pieces of information that serve the timely and efficient protection of human rights and freedoms in Montenegro. The Montenegrin media also play such a role.

Moreover, the Protector notes that it is necessary to have a more systematic and better organized public authorities in order to monitor and implement the recommendations of the Ombudsman.

The institution does not have its own space (venue), which is rare when talking about ombudsman institutions, and contradicts the standards for the operation of such an institution, as highlighted by EU partners in their reports. Investing in personnel infrastructure and strengthening it is also important, as it can significantly impact the quality of work. The institution must be able to meet its new responsibilities in the right conditions. Ensuring that is usually a long-term process; it is not just about filling vacant positions.

The recruitment process takes place through the responsible state authority (Human Resources Administration), in accordance with the law governing the rights, duties and responsibilities of civil servants and state employees.

The Protector is not completely independent in the selection of staff, given that the procedure is carried out before the Government's Human Resources Agency. This is contrary to the recommendations of international partners (CoE, TAIEX mission) which calls for complete independence in staff recruitment, as it is the case with the Assembly. Also, during the election campaigns, as a form of preventive measure for all institutions due to possible political corruption, the Protector (as many others) is prevented from hiring personnel, which further burdens the personnel selection process.

The Protector is not completely financially independent because the dynamics of spending his budget is approved by the Ministry of Finance, unlike the Assembly which does so independently. In addition, spending is limited during election campaigns, which further complicates the work of the institution.

The competences of the Protector are too broad and the existing budget does not provide all the financial resources for the full implementation of the mandate. Part of the funds have been provided through donor support. However, due to the constant lack of funds and due to the extension of the mandate a fair balance must be found between these two requirements (administrative and financial). This includes the analysis of the personnel structure. This is especially so if it is well known that according to the available

information the work in a near future will be done on the new Law on the Protector (by the end of 2024).

NHRI's recommendations to national and regional authorities

Reports from ombudsman institutions and equality bodies that highlight certain systemic anomalies, especially in situations where a certain issue is continuously raised, are strategic documents that public authorities should take into consideration in their work.

Crisis times at the national level must be accompanied by increased budget allocations for ombudsman institutions and equality bodies, thereby increasing the efficiency of these institutions in responding to the needs of citizens.

We have indicated and continue to indicate that human rights cannot wait for more stable and better times and that, regardless of economic, political and other processes and reforms that will inevitably take place, efforts must be made to ensure continuity in the effective application of laws and other regulations, institutional stability, and professional and efficient behaviour by all parts of public administration. All in all, the preconditions for the implementation and development of the human rights system in Montenegro must be provided, in order to avoid legal uncertainty and distrust of citizens in the institutions of the system.

Montenegro 2024

Information from: Protector of Human Rights and Freedoms of Montenegro

Checks and balances

Separation of powers

In 2023, the Protector dealt with 1,107 complaints, of which: 977 complaints received in 2023 and 130 complaints transferred from 2022. The procedure was completed in 958 cases (86.54%)

The complaints received by the Protector indicate, among others, that laws and policies are still not sufficiently aligned with the UN Convention on the Rights of

Persons with Disabilities, and there is a lack of effective implementation of the existing normative framework, which makes it difficult or impossible for persons with disabilities to exercise their guaranteed rights.

The Protector notes that there have been relatively few legislative interventions that would be significant in terms of improving the regulatory framework in the field of anti-discrimination, which may be a consequence of the lack of parliamentary sessions during this period. The trend in favour of using the procedures of the Ombudsman continues. This mostly due to the fact that the procedures in question are flexible, simple, and free. This trend has been present for a longer period of time, as evidenced by the frequent direct communication of officials of the institution with citizens. When it comes to subjects in the field of administration and justice, which are generally the most numerous in the statistics of the Ombudsman, it is evident that the same problems in realizing human rights and freedoms still exist.

Judicial cases are still tied to the slowness of court proceedings, as well as the prosecutorial investigations that precede them. Additionally, there is a noticeable trend of prolonged investigations in particularly sensitive cases, where victims are individuals from vulnerable groups, which goes against the positive obligation of the state based on multiple rights contained in the European Convention on Human Rights (right to life, prohibition of torture, right to privacy). In the field of children's rights, progress has been made in certain areas, but there is still inequality in the realization of rights. The issue of child poverty remains very pronounced, so it is necessary to create policies that will contribute to its reduction.

There is a noticeable increase in violence among children, and a particular problem is the misuse of social media and the internet in general. The focus is particularly on the Anti-Discrimination Ombudsman, considering current social and political trends, ongoing crises, and the lack of constructive dialogue in the country's political and public life. In addition to the evident lack of tolerance and understanding, the widespread polarization in the public often affects vulnerable groups and individuals who are least protected and are marginalized in society by all indicators. In this regard, we particularly emphasize the establishment and operation of an [Independent Monitoring Mechanism](#) for the promotion, protection, and monitoring of the implementation of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) in Montenegro, as well as the publication of the [report](#) "The Situation of Roma and Egyptians in Montenegro".

The process for preparing and enacting laws

The Ombudsman expects the adoption of a new Equality and Non-Discrimination Act, which is currently in the draft stage. The Protector has

previously pointed out the need for amendments to the Criminal Code of Montenegro in terms of anti-discrimination legislation in order to align with the conventions of the Council of Europe and the United Nations, legal standards of the European Court of Human Rights, and other international documents. Therefore, the new amendments prescribe 17 new criminal offenses. It is emphasized that a specific form of the criminal offense of femicide has not been introduced, which the institution of the Ombudsman advocated for, especially considering the increasing number of women being killed by their spouses/partners in recent years.

Access to information

In 2023, 22 (twenty-two) requests for Free Access to Information were submitted to the Ombudsman, and all requests were processed as follows: 13 requests were accepted; 2 requests were partially accepted; 3 requesters were informed in writing; and 4 requests were rejected as unfounded. Requests for access to information were submitted by non-governmental organizations and citizens who had cases with the Ombudsman. The requests mainly related to providing information on the Ombudsman's work in specific areas of human rights protection, providing statistical data on work, and providing copies of documentation from specific cases.

Five complaints related to the free access to information have been submitted to the Ombudsman. In this regard, the Ombudsman has noticed that state authorities' responses to individual requests were not provided in accordance with relevant legal provisions, and has found a violation of this right, and has therefore made recommendations for the timely response to the submitted requests.

Enabling environment for civil society and human rights defenders

We express our satisfaction due to the fact that the importance and contribution of the Institution is recognized, so we continuously receive a large number of invitations for cooperation and participation of our representatives at gatherings organized by the civil sector.

A [meeting](#) with representatives of the civil sector was held at the institution of the Protector, on the occasion of the preparation of the Tour Plan for 2023, which will be implemented by the National Mechanism for the Prevention of Torture.

We are pleased that our Institution is recognized as a credible partner in many

areas of our work, and especially that we have the opportunity to continue activities in cooperation with the civil sector on the protection and promotion of human rights and freedoms, equality and the rule of law. In the institution, we understand the role of the civil sector as an extremely important and credible partner in the protection and promotion of human rights and freedoms.

Montenegro 2024

Information from: Protector of Human Rights and Freedoms of Montenegro

Implementation of European Courts' judgments

In 2023, the total number of petitions submitted to the European Court of Human Rights in relation to Montenegro decreased. In 2022, 295 petitions had been assigned to a judicial formation of the Court. If we take into account the index of submitted petitions, which indicates the number of cases (inflow) in 2023 per 10,000 inhabitants, as a statistical parameter used by the European Court in its work, it indicates that Montenegro with an index of 2.80 is in third place of all member states of the Council of Europe per capita (the average index of member states of the Council of Europe for 2023 is 0.41). During 2023, not a single judgment was passed in relation to Montenegro that found a violation of any Convention right, while one decision was passed in which the petition was declared inadmissible.

In relation to the European Court of Human Rights' standards regarding the right to a fair trial enshrined in Article 6 ECHR, the Ombudsman has identified deficiencies in the procedure and efficiency of selecting judges and managing the work of the court; also in connection with organizational measures. The Protector has highlighted the need to strengthen the efficiency of the system by ensuring that the legislative framework makes it possible to meet the reasonable-length requirement of Article 6 ECHR. The problems that have been identified also concern the timely implementation of recommendations. To make sure that the recommendations are implemented and that human rights are effectively and fully respected, the parties have been encouraged to use all effective legal remedies to expedite court proceedings. For example, they can lodge a lawsuit for fair satisfaction before the Supreme Court of Montenegro or a control request for expediting the proceedings. A recommendation is also given to the Judicial Council to take legislative

measures to ensure the efficient functioning and operation of the court.

Relevant legal standards of the European Court of Human Rights in Strasbourg are applied in the proceedings, emphasizing the importance of state responsibility and the direct application of these standards to strengthen the national system and realize the rights of citizens within the national legal system. The recommendations are aimed at taking legislative procedural measures and actions, making decisions, and conclusively ending the proceedings.

In 2023, there were no initiatives for amending and supplementing laws, but it is noted that amendments to the Law on Free Legal Aid in terms of aligning the concept of victim with the Convention against Torture, which were accepted in the previous government mandate, have been returned and will be reprocessed with the new parliament.

Montenegro 2024

Information from: Protector of Human Rights and Freedoms of Montenegro

Other challenges to the rule of law and human rights

Judicial system

Enhancing the efficiency of the judicial system, in terms of organizational and legislative measures, especially in the process of selecting judges, as well as strengthening the information system, in order to ensure the effectiveness of the system at the level of procedural-legal prerequisites.

To improve the functioning of the justice system, the Protector recommends to:

- Strengthen the enforcement system of final court judgments in each individual case, in accordance with the established practice of the ECHR.
- Continuously improve and encourage the use of effective legal remedies to expedite proceedings, in order to resolve cases and ensure that citizens can exercise their rights within the framework of national law.

Hate Speech

In 2023, the largest number of reactions and statements from the Ombudsman were related to offensive speech, hate speech, online threats and intimidation, particularly examples of misogyny and sexism, especially towards public figures. The Ombudsman's practice, for years now, shows that a negligible number of cases relate to the exercise of the right to freedom of expression, and this was also the case in the mentioned period (1 case). However, there was a significantly higher number of cases and/or examples where a public reaction was needed regarding hate speech. According to the Media Union's data, there were 16 cases of attacks on journalists and media in 2023.

Media freedom

Journalism continues to be one of the professions whose representatives are exposed to the most frequent and continuous obstructions of work and attacks in the performance of their official duties, which requires a better systemic response from the competent state authorities.

We are concerned about the assessment of professional associations that the working conditions and salaries are below the national average, that they still suffering pressures, censorship and self-censorship, in polarized collegial relations. Due to the situation pointed out by the journalists themselves, but also by all relevant domestic and international subjects that monitor the situation in this area, the institution of the Protector supports the adoption of the Branch collective agreement for media activity, as well as new media laws.

It is necessary to continue to strengthen the awareness of the general public that a personal attitude towards editorial policies must not be a reason for harassing and endangering journalists and other media workers. It is especially important that public officials set an example in the promotion and respect of media freedom, and never interfere in their work.

Responsible individuals in the public administration system, but also in the private sector, should act transparently and provide answers to the questions and topics that journalists decide to deal with, regardless of how uncomfortable it may be for them and if they do not agree with the editorial policies of the particular media.

If there are justified cases when measures of restriction of freedom of expression are applied, especially when applying the strictest measures – such as criminal or misdemeanour liability - applicable international standards must be taken into account, in terms of possible pressures on the work of the media.

NHRI's recommendations to national and regional authorities

Protector of Human Rights and Freedoms of Montenegro recommends to:

- Start activities in the process of re-accreditation - change of status (from "B" to "A") Improve the database;
- Improve the promotion and content concept on digital platforms;
- Promotion of the establishment, activities and effects of the work of the UNCRC in Montenegro;
- Publication of the report of the UNCRC in Montenegro, which will be made on the basis of ten field visits to institutions of upbringing, education, social and health care, with the application of indicators for monitoring the Convention.

North Macedonia 2024

Information from: The Ombudsman Office in North Macedonia

Follow-up to last year's rule of law recommendations

NHRI's follow-up actions supporting implementation of regional actors' recommendations

The Ombudsman's Office in North Macedonia remains the central body for promoting and enforcing human rights. In its last three [reports](#), DG NEAR stipulates to North Macedonia the urgent need for improvement of the conditions in prisons, especially about the rights of persons in detention/prison. Finding alternatives to incarceration was also noted in the report, and is in line with the recommendation in the [Annual report](#) of the Ombudsman regarding the state of overcrowdedness in all closed penitentiaries. The condition of unhygienic premises, insufficient light and unfurnished premises has been continuously present for several years, which is why the Ombudsman has on several occasions through special information and reports indicated the necessity of taking urgent measures to overcome the problems. The recommendations made by the European Committee for the Prevention of Torture (CPT) on the treatment of detained and convicted persons were not addressed, which is a matter of serious concern. In 2024 the CPT published a [report](#) on the periodic visit in North Macedonia in October 2023. The report concludes that "there has been no improvement in the

treatment of persons deprived of their liberty by the police since its 2019 visit, although the report found that improvements have been made in some of the prisons, notably in respect of ensuring a minimum level of hygiene and state of repair in cells.”

The Law on Amendments and Supplements to the Law on Civil Registry (Official Gazette of the RNM [No. 129](#)), as of June 21, 2023, introduced significant changes aimed at simplifying and enhancing accessibility to the process of registering individuals not previously recorded in the birth registry. These amendments facilitate a smoother pathway for those seeking registration.

Key provisions of the amendments include that individuals who have submitted applications in response to the public call and are listed in the register of unregistered persons, as per the Law on individuals not registered in the Register of births, will undergo additional verification processes. Following these verifications, they will be officially entered into the register of births, with the deadline set at no later than December 31, 2023.

Regarding inter-party support and collaboration amongst NHRIs it is worth mentioning that the 2023 ENNHRI [NHRI Academy](#) took place in Skopje, with the Ombudsman office in North Macedonia as a co-host of the event. At the Academy, representatives from 24 National Human Rights Institutions (NHRIs) gathered to delve into significant rule of law obstacles and explore how they can leverage the mandates of their institutions to tackle these challenges. The profound role of the NHRIs in tackling corruption, while protecting and enhancing human rights was also recognized.

The Ombudsman, through its case work and various mechanisms, including the National Preventive Mechanism through regular visits to institutions where freedom of movement is restricted, monitors compliance with its recommendations, guidance, and reports.

In this year’s [Annual report](#) the Ombudsman noted that despite not being fully staffed this year as a Mechanism for civil control of individuals with police authorizations, the Ombudsman continued to execute this responsibility diligently, often taking proactive measures. For instance, he investigated the conduct of special unit members at the Ministry of Internal Affairs during a search at the Penal-Correctional Institution in late October. The Ombudsman discovered violations of the rights of the incarcerated individuals. Subsequently, in line with his authority, he submitted a request for the initiation of proceedings to determine criminal liability against the special unit member.

Following the amendments and additions to the Law on Civil Registry, the Ombudsman once again requested updated data from the relevant authorities regarding the registration of children and individuals affected by these changes. This data was needed for the Ombudsman to assess the efficiency of

the amendments to the Law on Civil registry, as no complaints were made regarding this matter.

State authorities' follow-up to NHRI's recommendations regarding rule of law

The recommendations given by the Ombudsman in last year's report pertained to ensuring that NHRI has a sufficient budget and maintains independence in financial decisions based on its needs, prevent the NHRI from having to justify its financial requirements and spending plan to state authorities, and ensuring the hiring of adequate professional staff according to the planned positions. Fulfilment of these conditions will directly reflect in the NHRI's efficiency. However, none of the abovementioned recommendations were implemented.

The Ombudsman's mandate in promoting and protecting human rights is closely related to facilitating a space where those rights could be exercised. In this venue, the Ombudsman's annual report provides a broad spectrum of activities and measures taken related to his recommendations. Namely, at the end of 2023, the [National strategy for the rights of persons with disabilities 2023-2030](#) and its 2023-2026 Action Plan were adopted. Organizations of persons with disabilities, supported by the Ombudsman, actively participated in preparing these strategic documents, which aim to promote and support the rights of these citizens in accordance with the Convention on the Rights of Persons with Disabilities.

A Draft Law on Secondary Education was publicized on the ENER System (Electronic National Register of Regulations), for which the Ombudsman provided an opinion. The Opinion commended the Ministry's commitment to harmonizing the regulation with the Convention on the Rights of the Child and the CRPD. It also expressed satisfaction with the improved normative framework for protecting against discrimination and promoting equality for children and youth in the education process.

The number of petitions submitted to the Ombudsman indicates that enforcement agents and courts are not implementing the [amendments](#) to the Law on Obligation Relations regarding the statute of limitations. Consequently, citizens are forced into bailiff-court relations. The Ombudsman asserts that the statute of limitations for enforcement should be universally applied, requiring executors and courts to adhere to the principles of constitutionality and legality in stopping enforcement when conditions for limitation are met. Additionally, there have been no improvements in the administrative judiciary, where citizens remain entangled for years in various procedures, a situation that also affects the work of the prosecutor's office, which prolongs pre-investigation procedures for years.

North Macedonia 2024

Information from: The Ombudsman Office in North Macedonia

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

The Ombudsman of the Republic of Macedonia was [accredited with B-status in October 2011](#).

The SCA acknowledged the NHRI's human rights promotional activities and encouraged it to continue to interpret its mandate broadly. Additionally, it encouraged the NHRI to advocate for a wider mandate that includes all human rights set out in international, regional and domestic instruments, covers all areas of human rights and provides it with explicit protection and promotion functions in all human rights.

Further, the SCA encouraged the NHRI to advocate for legislative amendments to the selection process that would include requirements to publicise vacancies, maximise the number of potential candidates, promote board consultation and participation in the process and ensure pluralism in the composition of staff.

The SCA emphasised the importance of the NHRI engaging with the international human rights system, encouraging it to actively engage with GANHRI, ENNHRI, as well as international and national NGOs and civil society organisations.

Finally, the SCA noted with concern that the NHRI had not been provided sufficient funding to carry out its additional responsibility as the NPM under the OPCAT. It urged the government to provide the NHRI with the necessary financial resources to enable it to fulfil this obligation.

In 2023, the NHRI sent a proposal for amendments to its enabling legislation to the President of the Parliament, with the aim of strengthening the institution's compliance with the UN Paris Principles.

Follow-up to SCA Recommendations and relevant developments

The [SCA](#) accredited the Ombudsman of the Republic of North Macedonia with B status in 2011, and since then, no changes have been made regarding the institution's status. The SCA welcomed the promotional activities undertaken by the Ombudsman and recommended that the Ombudsman's mandate be used even more broadly in this regard. As a result, the Ombudsman continuously increases the number of activities aimed at raising citizens' awareness about protecting their rights. Special attention is given to persons with disabilities, children, and students. The Ombudsman holds regular meetings with students to inform them on how they can exercise their rights, not only through the institution but also within the universities/faculties where they are enrolled.

Regarding the involvement of the Ombudsman in the international human rights system, the annual report provides detailed explanations of the activities and visits that the institution manages to carry out despite having a very limited budget. To move closer to achieving A status, the Ombudsman needs to improve its financial and institutional independence, which is why a draft law for the amendment and supplementation of the Ombudsman Law was submitted.

Regulatory framework

For the effective promotion and protection of human rights, it is crucial that the Ombudsman has full managerial, financial, and administrative autonomy. The independent allocation of the NHRI budget is also essential. The independence and autonomy of the Ombudsman and similar institutions are vital because they oversee state administration bodies, local government units, and other public authorities in areas that are particularly important to citizens and their rights.

From a formal-legal standpoint, the state has not yet established the necessary conditions for the Ombudsman to fully operate in promoting, preventing, and protecting human rights and freedoms. The required normative prerequisites for the independence of the Expert Service, the National Preventive Mechanism Team, special departments, and the Ombudsman's offices have not been met.

Additionally, under the current normative framework, having Ombudsman employees classified as administrative servants compromises the constitutional status and independence of the Ombudsman as an autonomous body. This setup obstructs the Ombudsman's ability to develop its capacities independently and to enhance the standards for its unimpeded functioning.

In December 2023, a group of parliament members submitted a draft law to amend and supplement the Law on the Ombudsman, which was placed on the agenda of the last session held by the previous composition of the Assembly of the Republic of North Macedonia. At that session, the procedure for voting on the amendments and supplements to the Ombudsman's law was postponed due to technical reasons. Consequently, during the reporting period, no new regulations concerning the institution were adopted.

NHRI enabling and safe environment

The Ombudsman has not been subjected to intimidation or threats. In that capacity, the Ombudsman enjoys complete freedom to share their expertise, opinions, and recommendations without being held accountable for their actions, in accordance with the Law on the Ombudsman. However, the limitations in the functioning of the institution pertain to the provision of resources for its operations. Namely, the Institution's funds come from the RNM Budget. In recent years, project collaborations with donors have helped supplement the basic budget, but in 2023, no donor funds were added to the institution's budget. However, this year, the institution received financial support through a donation from the European Commission project "Support for the Rule of Law of the RNM," where the Ombudsman is a direct beneficiary under the 4th component. Additionally, the institution received support from the UNHCR office in Skopje.

During the budget approval stage, it was evident that the funds allocated for the four sub-programs within the basic budget were insufficient. The international community could view this as inadequate and not serious enough for the Ombudsman to fulfil its mandate and competences, especially compared to the budgets of similar institutions in the region. Even this amount was not used effectively due to difficulties in finding the legal means to hire all the expert profiles needed by the departments, which are the main "consumers" of their budgets.

The planned addition of three external members from civil organisations in the Citizen Control Mechanism did not happen again this year. Although, the Assembly of North Macedonia selected two associations in November 2023, the selection process for the third association was not completed within the reporting year.

It should be noted that to fully implement the Citizen Control Mechanism within the Ombudsman, additional financial resources from the RNM Budget are required. The Ombudsman submitted a written request to the Parliament to allocate the necessary funds in the 2024 Budget. However, despite this request, the Law on the Execution of the RNM Budget for 2024 did not approve the additional funds needed.

The Law on the Ombudsman requires that after reviewing the Annual Report, the Assembly determines measures based on general recommendations and obliges the Government to report every six months on their implementation. However, it has become customary for the parliamentary committee to consider the report immediately after its delivery and for the measures to be adopted in a plenary session towards the end of the year. This practice renders the legal provision ineffective and unnecessary.

Additionally, there is a lack of legally established cooperation with the Government, which often does not act on most of the special reports submitted by the Ombudsman. The Government does not discuss these reports in sessions, nor do they confront the arguments and findings in the presence of the heads of the relevant institutions.

In 2023 the institution continued to carry out its mandate and competences without the required number of deputies, considering that as of July 2021, the mandate of five deputies of the Ombudsman expired, and the Assembly of R.N. Macedonia has not yet elected new deputies.

NHRI's recommendations to national and regional authorities

- Sufficient budget that will allow the institution to proceed working efficiently within its mandate.
- Aligning the legal provisions concerning the Ombudsman's mandate, funding and independence, with the international standards that apply to human rights institutions.
- Ensuring proper procedures, for efficient use of the Ombudsman's funds, regarding hiring external collaborators and experts.

North Macedonia 2024

Information from: The Ombudsman Office in North Macedonia

Checks and balances

Separation of powers

In 2023, a total of 2,803 complaints were submitted to the Ombudsman across

various areas, with the majority concerning the judiciary. Each of these areas is detailed in this year's Ombudsman's report, which was submitted to the Assembly at the end of March.

No elections were held during 2023, but in 2024 the presidential and parliamentary elections took place in April and May respectively. During the election process, the Ombudsman office actively monitored and acted upon complaints related to the elections.

Furthermore, the Ombudsman acted upon the lack of implementation of some legal provision that entered into force recently. Namely, the Assembly voted a Law on Amendments and Supplements to the Law on Obligation Relations, which later was revised by the Supreme Court.

However, almost no citizen has exercised the rights provided by the law since its inception. This is due to the non-application of these legal provisions by both enforcement agents and the courts. The formal justification given is a supposed vagueness regarding the procedure to act and halt the execution process.

According to the Ombudsman, this Law on Obligation Relations provision has general applicability. There are no valid reasons or excuses for enforcement agents and courts not to apply it directly to each case, per the general legal principles of constitutionality and legality, where the conditions for limitation are met. This would effectively halt the enforcement payment process.

In the last months of 2023, citizens constantly complained to the Ministry of Internal Affairs about the poor implementation of the process for changing personal identification documents. The obligation for changing personal IDs results from the so-called Prespa Agreement. The Ombudsman stated that the Ministry failed to ensure the smooth and timely execution of this process. The Ombudsman repeatedly emphasized the need for additional human and material resources and suggested that the state cover the costs of changing identity cards. However, the Ministry did not accept these recommendations.

The process for preparing and enacting laws

There were cases when children-protégés of Correctional facility were excluded from the educational process, and the Ombudsman demanded most urgent solution to this problem. After the reaction, amendments to the Law on primary education were prepared, but not enacted. Although these children got trained in craft and computer skills, they remained excluded from the formal educational process.

On the other hand, the Ombudsman shares a positive opinion regarding harmonization and alignment of the national regulation with the Convention on

the Rights of the Child and the Convention on the Rights of Persons with Disabilities. The Ombudsman also expresses satisfaction with the improved regulatory framework for protecting against discrimination and promoting equality for children and youth in secondary education. Additionally, considering the views of civil society organizations involved in the Ombudsman's monitoring mechanism, the institution acknowledged their positive opinions and attitudes.

Independence and effectiveness of independent institutions (other than NHRIs)

[The Third assessment of the National Integrity system of "Transparency International"-Macedonia](#), stated the Ombudsman is among the first three institutions (third pillar) with the best results for integrity, accountability, responsibility, and readiness to fight corruption. The other two institutions are the State Audit Office and the State Commission for the Prevention of Corruption, independent institutions.

Also, the DG NEAR report recognized that the existing legislation allows for scrutiny by independent oversight bodies, specifically the State Audit Office and the Ombudsperson. However, a more systematic follow-up on their findings and recommendations needs to be done. The government should address shortcomings and prevent further irregularities and law enforcement agencies should prosecute offenses.

Enabling environment for civil society and human rights defenders

The Ombudsman's mandate is interchangeable related to NGOs and civil society organizations. Creating a safe space where experiences, and ideas are shared amongst all stakeholders is of utmost importance and is something that the Ombudsman strongly supports and advocates for.

In the reporting year, which marked the 30th anniversary of the adoption of the United Nations Convention on the Rights of the Child, the Ombudsman devoted most of his extracurricular work to this category of citizens - children, and in that direction conducted several researches, of which part in cooperation with non-governmental organizations. Also, two pieces of information related to the rights of the child in the educational process were prepared, and an opinion was submitted on the Proposal for the Law on Secondary Education, with an emphasis on students with disabilities, and an Analysis was prepared on the access of persons with disabilities to higher education.

The Ombudsman and the Foundation for Educational and Cultural Initiatives "Step by Step" researched children's rights comprehensively. The research is carried out as part of the project "Children in the 1st place!" financed by the European Union.

The Ombudsman, in cooperation with the Westminster's Democracy Foundation for a more inclusive society for young people and persons with disabilities, prepared an analysis on the topic "Access to higher education for persons with disabilities in the Republic of North Macedonia".

NHRI's recommendations to national and regional authorities

Considering that the system of check and balances is of utmost importance for the health of democracy and societies where rule of law supports and emphasises human rights, the Ombudsman recommends the following:

- Providing the NHRI with the proper legislative and financial independence for continuous monitoring of democratic processes and efficient fulfilment of its mandate not only regionally, but internationally as well.
- Inclusion of all of the stakeholders in the practices and processes concerning them, especially the NGOs and CSOs.

North Macedonia 2024

Information from: The Ombudsman Office in North Macedonia

Securitisation's impact on the rule of law and human rights

NHRI's actions to promote and protect human rights and rule of law in the context of national security and securitisation

The Ombudsman office receives complains on the work of the National Security Agency, regarding the citizenship procedure, more precisely the opinion that the Agency is obliged to provide in this procedure.

Namely, the failure of the National Security Agency to act, that is, the failure to provide the necessary opinion on the security check of the applicants, continues to be a major obstacle to the completion of the procedures for admission to citizenship.

Unlike in 2022, when communication and cooperation between the Ombudsman and the National Security Agency were completely halted for a period, the Agency in 2023 did respond to requests for security assessments of petitioners. However, these responses were always formal and lacked information on whether a positive or negative opinion was issued. As a result, the Ombudsman had to conduct additional checks with the Department of Civil Affairs, causing unnecessary delays in the proceedings before the Ombudsman institution.

The National Security Agency demonstrated a non-cooperative attitude towards the Ombudsman institution by not attending the International Conference on "The Supervisory Role of the Ombudsman over the Security Sector from the Aspect of Protecting the Rights of Citizens." The conference, organized in collaboration with the Geneva Centre for Security Sector Management (DICAF), took place on November 8, 2023, in Skopje. Despite receiving formal invitations, neither the Director of the Agency nor any other representatives participated in the event.

NHRI's recommendations to national and regional authorities

- Providing a profound answer in timely manner by the National Security Agency in the citizenship proceedings.
- Establishing a proper communication between the Ombudsman and National Security Agency.

North Macedonia 2024

Information from: The Ombudsman Office in North Macedonia

Implementation of European Courts' judgments

[Towards the end of 2022, the European Court of Human Rights issued a judgment “Elmazova and others against North Macedonia”](#) finding a violation of Article 46 of the European Convention on Human Rights. The Court established that Roma children were being segregated in two primary schools in North Macedonia. This situation had been previously observed by the Ombudsman, who took all available actions according to its mandate. Following the court ruling, the Ombudsman assessed the situation in the academic 2023-24 and found that no measures were taken regarding the ECHR decision. After gathering the necessary data, the Ombudsman delivered an Information to the authorities concerning established situation.

NHRI’s recommendations to national and regional authorities

Creating a national co-ordination mechanism to monitor the implementation of the Court’s judgement.

North Macedonia 2024

Information from: The Ombudsman Office in North Macedonia

Other challenges to the rule of law and human rights

Corruption is very persistent in the Macedonian context. All forms of corruption, beginning with the petty corruption, to high level corruption are hindering citizen’s from fully exercising their rights. The role of the NHRI concerning this issue is not very vivid, thus very little explored. However, NHRI has full mandate to act upon some of the issues related to corruption, with full consideration of the constitutional principle of rule of law, such as the division of powers. Because of that according to the Macedonian legal framework, the Ombudsman is recognized as an external channel for whistleblowing.

North Macedonia 2024

Information from: The Ombudsman Office in North Macedonia

NHRI's recommendations to national and regional authorities

- [Ensure legal, financial and operational independence of the NHRI, by national authorities.](#)
- Ensuring strong national and international support for the independent institutions in North Macedonia, which are recognized by Transparency International-Macedonia, as institutions with the best results for integrity, accountability, responsibility and readiness to fight corruption.

Serbia 2024

Information from: Protector of Citizens of the Republic of Serbia

Follow-up to last year's rule of law recommendations

State authorities' follow-up to regional actors' recommendations on rule of law

The Protector of Citizens monitors with special attention the handling of the recommendations issued by relevant regional and international actors and through its work, encourages their full implementation.

The recommendation from the [Report](#) of the European Commission on Serbia for 2023 [Rulebook](#) regarding the provision of adequate premises for the work of the Protector of Citizens has not been fulfilled. At the end of 2023, the Protector of Citizens started work on drafting the [Law on the Protector of Citizens](#) on internal organization and systematization of job positions in the Secretariat of the Protector of Citizens. It will be harmonized with the [Law on the Protector of Citizens](#), and will be adopted in the first half of 2024.

Moreover, the recommendation from the [Concluding Observations on the implementation of the International Covenant on Economic, Social and Cultural](#)

[Rights from 2022](#), among other things, refers to the member state taking necessary measures so that the competent state authorities adhere more closely to the views and decisions of the Protector of Citizens. The Protector of Citizens, as independent state body, records encouraging steps in terms of acting on the recommendations of the Protector of Citizens, however, there is still room for improvement, especially in terms of systemic recommendations in the area of protection of economic, social and cultural rights.

NHRI's follow-up actions supporting implementation of regional actors' recommendations

In 2023, the Protector of Citizens, as the national rapporteur in the area of trafficking in human beings, took numerous concrete steps in order to critically monitor the activities of state institutions and submit constructive proposals in the area of combating trafficking in human beings in order to implement the obligations arising from national legislation ([GRETA recommendation](#), after the third evaluation round, June 2023).

On this occasion, numerous [meetings](#) were held with representatives of the Government and judicial authorities in order to achieve cooperation and improve the area of combatting human trafficking, bearing in mind the recommendations from the GRETA report and the State Department's Trafficking in Persons Report ([TIP Report](#)) 2023. At the initiative of the Protector of Citizens, the competent state authorities implemented numerous activities: the Anti-Trafficking Council was appointed (Decision on amendments to the Decision on the establishment of the Anti-Trafficking Council, "Official Gazette of the RS", no. 92/17 and 60/23), the Working Group for the preparation of the planning document for the area of trafficking in human beings was appointed, which began work on its preparation, the National Coordinator for combating trafficking in human beings was also [appointed](#). Two public prosecutors [were appointed](#) as contact points for combating trafficking in human beings in order to speed up the work process, detect perpetrators of crimes in this area, and conduct proactive investigations in cooperation with police officers. The staff and financial capacities of the Centre for Human Trafficking Victims' Protection, the competent institution that performs identification of victims of human trafficking and provides adequate support and assistance to victims with the aim of their recovery and reintegration, were strengthened.

In terms of recommendations to national and regional actors, the member recommends the following:

- Improve technical equipment in premises for the interrogation

The existence of special rooms for the interrogation of persons, equipped with

technical equipment for audio and/or video recording, represents a type of preventive action and a significant measure of protection of persons deprived of their liberty against possible illegal conduct of police officers. In carrying out the tasks of the NPM, the Protector of Citizens [pointed out](#) the need for the Ministry of Interior to continue implementing activities in order to equip the premises for the interrogation of persons with technical equipment for audio and/or video recording, as well as to regulate more closely the actions of police officers when conducting interrogations in the mentioned premises.

- More efforts to combat impunity for torture and contribute to establishing individual responsibility in such cases

Among other things, the Protector of Citizens [pointed out](#) the need for competent authorities (Ministry of Interior, Internal Control Sector and competent public prosecutor's offices) to make an additional effort to fulfil their role in combating impunity for torture and other forms of abuse and illegal treatment and to contribute to establishing individual responsibility in each individual case of abuse, in a procedure prescribed by law, while appropriately sanctioning the responsible officials and compensating the victims.

- Police forces to respect rule of law and international standards

The Protector of Citizens issued a [recommendation](#) for the Ministry of Interior to ensure, through continuous training, that all police officers, when exercising police powers, act in accordance with the law and other regulations and respect the standards set by the European Convention for the Protection of Human Rights and Fundamental Freedoms, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the European Code of Police Ethics and other international acts related to the police.

- Improve application of the Methodology for the conducting of investigations in cases of abuse by the police

Finally, although it is not authorized to control the work of public prosecutor's offices, the Protector of Citizens issued an Opinion in which it pointed out the need to improve the method of application of the [Methodology](#) for the conducting of investigations in cases of abuse by the police, and bearing in mind the importance of conducting effective investigations to realise, improve and protect human rights and freedoms. It pointed out the need to provide adequate resources to conduct effective investigations, to ensure that all those who participate in them are trained to properly apply the instructions in the Methodology for the conducting of investigations in cases of abuse by the police and if necessary, to additionally regulate the manner of monitoring the operational course of an investigation, so that it is efficient, thorough and

effective, and as such, leads to the determination of individual responsibility and the appropriate sanctioning of the perpetrators in the procedure prescribed by law, as well as to the compensation for the victims.

Serbia 2024

Information from: Protector of Citizens of the Republic of Serbia

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

The Serbian Protector of Citizens was last [re-accredited with A-status in October 2021](#).

The SCA noted that while the draft law partially addressed concerns with respect to the selection and appointment process of the Protector, there were still concerns that the process would not be fully participatory. The SCA encouraged the NHRI to continue to advocate for the formalization and application of a process that includes requirements in this regard.

The SCA encouraged the NHRI to continue to address all violations of human rights and to ensure effective follow-up so that the State makes the necessary changes to ensure that human rights are clearly protected. It further encouraged the NHRI to ensure that its positions on these issues are made publicly available, as this will contribute to strengthening the credibility and accessibility of the institution for all people in Serbia. Additionally, it encouraged the NHRI to continue to formalize its working relationships and cooperation with a wide range of civil society organization and human rights defenders.

Finally, the SCA notes that the new draft enabling law provides additional responsibility for the NHRI, including as the National Rapporteur on human trafficking and the National Monitoring Mechanism under the CRPD. The NHRI informed of the importance of being able to attract staff with relevant and specific expertise needed to fulfil the existing and new mandates. In this regard, the SCA encouraged the NHRI to continue to advocate for additional funding to ensure it can carry out its new mandate, as well as to attract and retain adequately qualified and experienced staff through competitive and

attractive salaries.

The new law on the Protector of Citizens was adopted at the end of 2021.

Follow-up to SCA Recommendations and relevant developments

In the context of [recommendations of the SCA](#) related to adequate funding, at the end of 2023 the Protector of Citizens developed the Proposal for the funding of priority areas for the next mid-term period. The Proposal contains two new program activities related to the new competences of the Protector of Citizens provided for by the Law on the Protector of Citizens. Development of the new program activities includes identification of goals and indicators of program activities, as well as the evaluation criteria and their verification, in accordance with the methodology of creating the program budget, that is, the Law on the Budget System.

Regulatory framework

There have been no changes to the Serbian NHRI's regulatory framework since the adoption of the new Law on the Protector of Citizens in November 2021, which was discussed in more detail in the previous ENNHRI 2023 Report on the state of the rule of law in Europe.

NHRI enabling and safe environment

Independence and funding of the NHRI

The Law on the Protector of Citizens from 2021 additionally strengthened the independence of the Protector of Citizens, which enabled it to fulfil its broad mandate in accordance with the Paris Principles. In 2023, the Protector of Citizens was provided with sufficient funds for work, and they were not reduced.

Competences of the NHRI

When it comes to the performance of tasks from the new competences provided for by the Law on the Protector of Citizens, in 2024, the Protector of Citizens will adopt the new Rulebook on internal organization and systematization of job positions in the Secretariat, which will be harmonized with the needs related to the performance of tasks under the new competences.

The premises of the Serbian NHRI

The Secretariat of the Protector of Citizens is still placed in the same premises. However, based on the number and structure of employees determined by the upcoming new Rulebook on internal organization and systematization of job positions, the Protector of Citizens will reassess the need for new offices, and, if necessary, will again contact the competent authorities to resolve this issue.

Cooperation with the NHRI

Competent authorities achieved the legally prescribed cooperation with the Protector of Citizens to the greatest extent, by submitting relevant information to its inquiries, submitting regulations and strategic documents in the drafting phase for opinions and comments, providing access to information, documents and interviews with the staff during supervisory visits, etc.

The Protector of Citizens did not encounter situations in which it felt threatened by the state authorities, and it enjoys authority among the state authorities.

NHRI's recommendations to national and regional authorities

The Protector of Citizens recommends that:

- Competent state authorities should provide higher salary coefficients for employees in the Secretariat of the Protector of Citizens in accordance with the complexity of work and the responsibility that comes with working in an independent human rights institution of constitutional rank.
- Competent authorities should understand the importance of the implementation of the Protector of Citizens' recommendations regardless of the fact that the lack of compliance is not punishable like in the case of the judgments issued by the Constitutional Court.

Serbia 2024

Information from: Protector of Citizens of the Republic of Serbia

Checks and balances

Separation of powers

Non-enforcement of national courts' judgments

Acting on the complaints of citizens, the Protector of Citizens observed that some authorities, in certain cases, did not act on judgments of the Administrative Court, even after several requests calling for the enforcement of these judgments. Bearing in mind that the law stipulates that the administrative bodies, when reviewing their decisions on the rights, obligations and interests of citizens, are bound by the legal understandings, the reasoning and arguments made by the competent court., The Protector of Citizens issued [recommendations](#) to the authorities in order to eliminate the observed shortcomings.

In their complaints, citizens continue to point out problems related to the supervision that the Ministry of Justice carries out over the work of the judicial administration, - namely the handling of cases by the courts within the prescribed time limits, and the handling of the complaints and petitions of citizens. Violations of the right to a fair trial, i.e. pointing to certain irregularities in the manner in which the acting judge conducts the proceedings, as well as irregularities in court decisions, continue to be the subject of appeals. Most often, citizens point out the wrongly established factual situation and the wrong application of the rules r. However, it is observed that complaints about the improper conduct of the proceedings or the deficiency of the court decision are often the result of the lack of knowledge of citizens, resulting from the lack of professional legal assistance.

Access to information

After the cyber-attack on the website of the Republic Geodetic Authority in June 2022, citizens living abroad could not use its services. That is, they did not have access to the eCadastre pages of the Republic Geodetic Authority. The Republic Geodetic Authority carries out professional geodetic works, state survey works, deals with Real Estate Cadastre affairs and the management of all geospatial data at the national level.

For this reason, the Protector of Citizens sent an opinion to the Republic Geodetic Authority to consider the possibility of re-providing the availability of basic real estate cadastre data through its website to all persons located abroad, as well as to initiate the adoption of the missing by-law, which would prescribe the scope of data availability, as well as conditions and manner of providing complete data. The Protector of Citizens has no knowledge of whether this opinion has been acted on.

Enabling environment for civil society and human rights defenders

The Pride March [was held on](#) 9th September 2023 in Belgrade, without incident, but with significant involvement of police forces. Apart from a small group of people that were blocked by a police cordon, no gatherings of opponents of the Pride were reported. This Pride March, the most attended one so far, walked peacefully with the message "We are not even close", referring to the realisation of the rights and the adoption of the [demands](#) made by the LGBTQIA+ community.

NHRI's recommendations to national and regional authorities

The Protector of Rights recommends that:

- Competent authorities should continue taking active steps in order to prevent violence against media actors, enabling them to work safely;
- Competent authorities should continue to invest efforts in strengthening ombudsman institutions and other independent institutions as guarantors of the rule of law.

Serbia 2024

Information from: Protector of Citizens of the Republic of Serbia

Implementation of European Courts' judgments

In its capacity as National Preventive Mechanism (NPM), the Protector of Citizens monitors certain aspects of the European Court of Human Rights' judgment in the case of [Stanimirović v. Serbia](#). The way NPM monitors the

implementation of this judgment, as well as the CPT and other treaty bodies' recommendations, is by monitoring compliance with relevant international standards in the prevention of torture.

NHRI's actions to support the implementation of European Courts' judgments

NPM visits to police stations

In carrying out the tasks of the NPM, during 2023, the Protector of Citizens paid special attention to monitoring the conduct of the police in light of the standards enshrined in the ECtHR's judgments against Serbia. The Protector of Citizens paid [59 visits](#) to police departments and police stations within their composition. During these visits, the conduct of police officers towards arrested and detained persons was monitored in connection with the respect for basic rights, such as: the right to access a lawyer and a doctor, the right to inform a close person about the deprivation of liberty and the right to be informed of the rights of arrested and detained persons, which form a guarantee against abuse.

Detainees at police stations

Also, during visits to institutions for the enforcement of penal sanctions (such as prisons), the NPM mostly focused on the treatment of persons by the police before they were brought to the institution and conducted interviews with detainees in order to gather information on the conduct of police officers towards them during their deprivation of liberty, during detention, as well as during the application of other police powers.

In the visit reports, around [60 recommendations](#) were issued to the relevant police stations and the competent ministry, with the aim of improving their work. The recommendations were mostly acted upon.

Detainees' right to access a counsel

The NPM issued a [recommendation](#) to the Ministry of Interior that it should improve the recording of the exercise of the right of arrested and detained persons to access a counsel, by undertaking the necessary activities to include in such persons' detention records information on whether they wanted to hire defence counsel of their own choice, whether the defence counsel was assigned ex officio, when this is mandatory by law, and whether they had an unhindered conversation with the defence counsel. While recording all relevant data on the exercise of this right, during 2023, special attention was paid to monitoring the handling of the above-mentioned recommendation. In this regard, progress has been observed in the recording of the exercise of this

right, in such a way that police stations now record information about the counsel, the time when he/she was contacted, the time when he/she approached the arrested and detained person and the time when he/she had a confidential interview with the person.

With the aim of further improvement in this area, after the visit to the Valjevo Police Department in 2023, the Protector of Citizens in the capacity of NPM issued a [recommendation](#) to the Šabac Bar Association that it needs to point out to its members the importance of defence counsels in the protection against abuse and to remind them of the obligation to approach the defence of persons deprived of their liberty in accordance with the regulations and the code.

Medical examination upon admission

Also, during visits to institutions for the enforcement of penal sanctions, the NPM paid special attention to the method of performing the first examination upon admission to the institution, bearing in mind the importance of the role that healthcare services play in combating abuse. Acting in accordance with the recommendations of the NPM, the relevant institutions established the Book of Injuries of persons deprived of their liberty and introduced the practice of photographing injuries. In all cases in which the doctor, upon admission to the institution, observes injuries on the face that he/she suspects were caused in a violent manner, or the person states that they were inflicted by the police, the head of the institution informs the competent prosecutor's office and provides the documentation.

In order to establish a continuous dialogue regarding possible measures to implement the recommendations of the NPM, to follow-up on the report on the implementation of the CPT recommendations and to improve the situation in the area of torture prevention, three [meetings](#) were held in 2023 with representatives of the Ministry of Interior. Participants in those meetings included the Commission for the implementation of standards of police conduct in the field of torture prevention, the Internal Control Sector, the International Cooperation Sector, the Police Directorate and the Border Police Directorate.

References

This list of references covers the whole country report.
