

Concluding Conference Statement on the role of National Human Rights Institutions¹

Enhancing the implementation of the EU Charter of Fundamental Rights: Strong and effective NHRIs in the EU

Project findings

National Human Rights Institutions ('NHRIs') are key for the respect for fundamental rights in the EU and advancing the EU's common values of fundamental rights, democracy and the rule of law (art. 2 TEU). In March 2021, the Council of the European Union recognised that independent NHRIs and equality bodies "play a crucial role in the protection and promotion of fundamental rights and in awareness-raising and contribute to ensuring compliance of national policies with the Charter."²

Within their broad mandates to promote and protect human rights, NHRIs advise national governments on human rights implications of policies and law in general and the EU Charter in particular. Given that a significant part of national law- and policymaking is directly or indirectly influenced by EU law, NHRIs also have an important role for the respect of fundamental rights when Member States transpose and implement EU legislation. Moreover, NHRIs play a role in relation to the monitoring of the rule of law.

To date all but four EU Member States have internationally accredited NHRIs. However, the EU institutions and Member States do not yet fully use the potential of NHRIs in the context of the development, transposition and implementation of EU legislation (including fundamental rights impact assessments) or the monitoring of the Charter and CRPD compliant use of EU funds. But there has been a positive trend, especially with regard to the use of the EU Charter by NHRIs and their submissions, through ENNHRI, to the Commission's annual Charter reports, the consistent engagement of NHRIs in the context of the annual rule of law reporting and their submissions to relevant consultations on EU policy and legislative initiatives such as in relation to SLAPPs or the EU Democracy Package.

The regional project and FRA research identified ways how NHRIs can contribute to raising awareness of the importance of EU law among citizens, civil society, legal professionals, policy makers and the media and thus help addressing low awareness about the Charter among legal practitioners and public servants. The regional project and FRA research also pointed to the need for a more meaningful participation of fundamental rights actors such as NHRIs to deal with EU Funds conditionality as additional task, which in turn will require sufficient human and financial resourcing of NHRIs. While NHRIs jointly contribute through ENNHRI to the Commission's annual rule of law reporting, the Commission reports regular reference NHRI findings as sources of information and NHRIs have also been involved in national rule of law dialogues to advance implementation of the reports' findings.

¹ This concluding statement is based on the findings and experiences of an intensive collaborative transnational regional project, [Supporting National Human Rights Institutions in monitoring fundamental rights and the fundamental rights aspects of the rule of law | European Union Agency for Fundamental Rights \(europa.eu\)](#), funded by the EEA and Norway Grants, involving the EU Agency for Fundamental Rights (FRA) as lead partner, seven National Human Rights Institutions (NHRIs) and the European Network of National Human Rights Institutions (ENNHRI). The following NHRIs took part in the project:

- [Ombudsman of the Republic of Bulgaria - Website](#)
- [Ombudsman of the Republic of Croatia - Website](#)
- [National Centre for Human Rights of Slovakia - Website](#)
- [Commissioner for Human Rights of Poland - Website](#)
- [Commissioner for Administration and the Protection of Human Rights \(Ombudsman\) of Cyprus - Website](#)
- [Human Rights Ombudsman of the Republic of Slovenia - Website - Project page](#)
- [Ombudsman of the Republic of Latvia - Website - Project page](#)

² Council conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union, Brussels, 8 March 2021, available at: [pdf \(europa.eu\)](#)

Importantly, the Commission's rule of law reports have also included country-specific recommendations to Member States to establish and strengthen NHRIs. Finally, the project and FRA research indicate various action points as a way forward to ensure that the EU can build on efficient and resilient NHRIs in all its Member States.

Ways forward

The EU Member States are encouraged to:

- **establish a strong and independent NHRI** where it does not yet exist, and strengthen NHRIs in line with international standards and recommendations, including from the international accreditation committee and the European Commission.
- regularly consult NHRIs on human rights **impact assessments and legal scrutiny** of (draft) policy and legislation to guarantee that independent fundamental rights expertise, including on the Charter of Fundamental Rights is taken into consideration whenever Member States are acting within the scope of EU law.
- make sure that officials at national, regional and local levels **are aware of national specialised independent fundamental rights expertise, including that of NHRIs**. This should include encouraging officials to consult NHRIs on human rights implications arising in law and policy making, including when acting within the scope of EU law.
- ensure that there is a systematic tracking and public reporting on the **follow-up and implementation of NHRIs' recommendations** by relevant state authorities. This should include reporting on which recommendations are still pending and at which stage, as well as which recommendations have explicitly been rejected or left without reaction by competent national authorities. If NHRIs' recommendations are not acted on, there could be effective formal ways for NHRIs to have these addressed by parliament.
- ensure that NHRIs are **allocated financial and human resources** at a level that enables operational capacity to deliver on their broad mandates effectively and independently. This includes also ensuring additional resources for the additional roles and mandates NHRIs take up in the context of ensuring fundamental rights compliance of EU legislation, such as the future EU Artificial Intelligence Act, the Migration and Asylum Pact or the EU Corporate Sustainability Due Diligence Directive. NHRIs must also have the capacity to increase awareness about their mandate and functions with the public, including those in vulnerable situations. Resources should allow NHRIs to cooperate with other institutions with a human rights remit at national level, to ensure its effective functioning and to interact with the UN, the Council of Europe, and other international and regional organisations, including EU institutions.
- consult NHRIs upfront in the **process of implementing EU funds** covered by the Common Provisions Regulation (CPR), including on calls for proposals and selection criteria. NHRIs should be invited to participate in monitoring committees as a matter of routine and in a manner that fully respects their mandate and independence. Member States should also ensure effective coordination, cooperation and communication at national level between the managing authorities, CSOs and independent fundamental rights bodies, including NHRIs.
- ensure the possibility of an **independent review of decisions by fund managers** on fundamental rights grounds through transparent and effective complaint mechanisms. They should consult NHRIs when setting up such complaint mechanisms.
- make sure that, when NHRIs are engaged in the **preparation, implementation or monitoring and evaluation of EU-funded programmes and operations**, including through participation in monitoring committees, they are provided with sufficient, and where required, additional human, technical and financial resources so that they are able to perform their core tasks and exercise their powers effectively, including at the local or regional level.

- ensure that NHRIs have **access to training, guidance, and financial resources** to be able to assess the EU Charter compliance of EU Funds. They should fully use the potential granted by Articles 36 and 37 of the CPR 21–27 to fund capacity building and additional technical assistance for independent fundamental rights bodies that are included in a partnership in the meaning of Article 8 of the CPR 21–27. Member States should also fully use similar fund-specific technical assistance, such as the assistance on the delivery of employment, education and social inclusion policies provided in Article 9 of the ESF+ Regulation. Such capacity building should include training on the functioning of EU funds and their related procedures.
- **Cooperate and consult with NHRIs in advancing the rule of law**, in particular also in the context of the follow-up to recommendations from the European Commission’s annual rule of law report.

The European Commission is encouraged to:

- consider **establishing and facilitating a formalised, multilateral and transparent, structured, and systematic process of interaction** between EU institutions and NHRIs in view of enhancing implementation of the EU Charter of Fundamental Rights, EU law, including in the context of monitoring EU funds and the rule of law.
- in the context of **EU funds, make use of the knowledge and expertise of NHRIs when assessing complaints**. Moreover, the Commission should **actively promote the use of its Code of Conduct on Partnership**, a delegated regulation from 2013 instructing Member States how to implement the CPR’s partnership principle, by promoting amongst others the inclusion of the expertise of NHRIs throughout the programming period.
- establish a **regular exchange with NHRIs on the implementation of the EU Charter** of Fundamental Rights and consider involving NHRIs more regularly in the development, implementation and evaluation also of other EU strategies and legislation that are relevant for fundamental rights at national level.
- recognise the key role NHRIs can play in the **national follow-up to the European Commission’s annual rule of law report** by triggering a genuine discussion at national level, including in national parliaments.
- consider establishing a **regular exchange of promising practices and challenges related to NHRIs** allowing for mutual learning amongst Member States on how to make best use of the NHRI’s expertise and mandates in an EU context.
- consider adopting a European Commission **recommendation on NHRIs**, raising awareness about the role of NHRIs in advancing the EU’s common values of fundamental rights, democracy and the rule of law (art. 2 TEU), while clarifying what is expected from EU Member States to facilitate a strong and independent NHRI is in place. Such Recommendation can build on existing EU policy commitments, FRA opinions, and established international standards and country specific recommendations on NHRIs.

Brussels, 22 February 2024