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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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Implementation of regional actors' and NHRI's recommendations on the rule of law (from previous year) and actions undertaken by NHRI to facilitate implementation

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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NHRIs' establishment, independence and effectiveness

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 the 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.

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Impact of securitisation 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, ENHHRI'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.

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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.

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Other challenges in the areas of 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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