



ENNHRI Submission to the Venice Commission

Consultation on the Principles on the Protection and Promotion of the Ombudsman Institution (the Venice Principles)

ENNHRI appreciates the consultation organised by the Venice Commission, and welcomes this opportunity to comment on the draft Venice Principles.

Over half of ENNHRI's 42 members are Ombudsmans. All National Human Rights Institutions (NHRIs), including those that are not Ombudsmans, have an obligation under the UN Paris Principles to cooperate with other human rights bodies, including the Ombudsman(s) in that jurisdiction. ENNHRI greatly appreciates the role of the Ombudsman throughout the Council of Europe. ENNHRI welcomes any initiative, such as the Venice Principles, which aims to support and strengthen the work of the Ombudsman.

ENNHRI has three recommendations on the text of the Venice Principles, which we believe would strengthen the role of the Ombudsman, and also avoid any confusion within the human rights infrastructure of European states:

1. We recommend that para 10 be amended to read 'The mandate of the Ombudsman should cover....and protection and promotion of human rights and fundamental freedoms, including through a human rights based approach to its maladministration mandate'

The International Ombudsman Institute (IOI), highlights that all Ombudsmans should adopt a human rights based approach when performing their maladministration mandate, and thereby contribute to the promotion and protection of human rights (IOI 2017 Guide on "Developing and Reforming Ombudsman Institutions"). As not all Ombudsmans have a formal human rights mandate in their founding legislation (or Constitution), this addition would assist in underlining how a traditional maladministration Ombudsman can protect and promote human rights.

2. We recommend that para 23 be amended to read 'The Ombudsman should be seen as a human rights body, and should cooperate with other human rights bodies in its jurisdiction'

- a) As 'national human rights institution' or 'NHRI' is now an internationally recognised defined term, and as many but not all Ombudsmans are NHRIs,

we believe that the call to refer to any Ombudsman as a ‘human rights institution’ could cause confusion among stakeholders. We respectfully submit that ‘human rights body’ is as strong a term as ‘human rights institution’, but does not risk any confusion in relation to NHRIs accredited with reference to the UN Paris Principles.

b) Given the rich and dynamic human rights infrastructure in each European state, we recommend that the Venice Principles refer to cooperation between all independent state actors that address human rights. This would promote efficiencies and synergies, and would help avoid any human rights concerns falling through possible gaps between different human rights bodies’ mandates.

3. We recommend that para 6 be amended to include a merit-based selection procedure, with relevant experience included in objective criteria

Our experience of preparing for the accreditation of NHRIs, including Ombudsmans, has shown that a merit-based selection and appointment process helps to ensure the independence of the institution, as well as trust from the wider society. If the Parliament votes in an Ombudsman based purely on ‘high moral character in order to enjoy broad support in society’, there is a risk that the appointment could be political, and thus impact on (the perception of) independence.

ENNHRI remains available to provide any further information, and looks forward to reading the updated draft Venice Principles following the consultation process. ENNHRI is committed to ongoing cooperation with the Venice Commission.

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