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## National Human Rights Institutions (NHRIs) and ENNHRI

Good morning ladies and gentlemen,

today is another historical day for NHRIs and ENNHRI as it is the first time we have to opportunity to address FREMP. We hope this morning will set a good practice example you will deem useful for your work and we would be eager to provide you a similar report on an annual basis.

Through ENNHRI, NHRIs address fundamental rights issues of regional importance, in collaboration with Member States, EU institutions and civil society organisations. I will use the limited time here to address three priority areas which NHRIs across Europe have identified as requiring pressing action at both the national and EU levels: rule of law and democratic space; asylum and migration; and economic & social rights. I will finish by highlighting some recommendations on the implementation of fundamental rights in the EU, including the Charter, and how NHRIs can further contribute in this respect, including at the level of the EU.

### Rule of Law and democratic space

NHRIs have witnessed challenges to rule of law and democratic space in several EU Members States in recent years. NHRIs' human rights monitoring has recorded impacts including on the right to a fair trial, freedom of expression, freedom of association and freedom of assembly. In the same vein, civil society space, human rights defenders and independent media are under increasing threat in many parts of the EU.

As recognised at the level of the Committee of Ministers at the Council of Europe in a 2018 Recommendation, NHRIs have an important role in promoting and protecting human rights defenders and in enabling a vibrant civil society space in Europe. Accordingly, ENNHRI is implementing its [Regional Action Plan](#) which includes preventative actions to ensure an enabling environment, including monitoring & intervening in legislative/ policy processes concerning independent state authorities, NGOs and HRDs to advocate compliance with HR standards. In addition, the Regional Action Plan also addresses how NHRIs can provide tailored responses when rule of law and democratic space are undermined. This can be done through actions such as strategic litigation and engaging with regional mechanisms.

While developing new mechanisms to strengthen the rule of law in Europe, the EU and Member States are encouraged to ensure interconnections between the EU values of rule of law,

democracy and fundamental rights. This should not only be done at level of 'principle' but also in actual implementation & reporting processes and at national level. In line with UN SDG 16, the existence of an NHRI in compliance with the Paris Principles can also be an indicator for EU institutions of respect for rule of law at national level.

We welcome initiatives that aim to ensure synergies between FR & ROL in process and practice such as the by Commissioner Reynders indicated possibilities of having common debates on ROL & FR monitoring at level of the Council (perhaps in your working party?). Strong and independent bodies, such as NHRIs, can provide fact-based and contextualised information to develop appropriate responses to rule of law challenges. In line with the recognition of the added value of NHRIs in the recent European Commission [Communication on ROL](#), the EU Council could also integrate the expertise of NHRIs in a possible rule of law peer review amongst member states, which could reflect existing methods of work of the UN's Universal Periodic Review where NHRIs already submit independent reports and take the floor in the interactive debate.

Undermining of CS space has also negative implications for NHRIs. Accordingly, [ENNHRI provides support to NHRIs](#), in cooperation with regional partners, to ensure they remain strong and independent, in compliance with the Paris Principles. In this respect, we reiterate our appreciation for the EU Council Conclusions adopted in September under the Finnish Presidency which underline the need for an NHRI enabling environment.

## Asylum and Migration

Violations of the fundamental rights of migrants, asylum applicants and refugees have also been identified by NHRIs as an area of pressing fundamental rights concern in the EU. Particularly at the borders, these human rights violations often occur without accountability. Furthermore, the widespread use of immigration detention without due consideration for the use of alternatives, the treatment of unaccompanied migrant children and inadequate or insufficient asylum and reception systems have been identified as key issues by NHRIs. Finally, integration of migrants has been recognised as an important area of work.

[NHRIs work on asylum and migration](#) concerns by conducting monitoring visits to places where migrants are accommodated or detained, making recommendations to the government and parliament on compliance with relevant EU and international human rights standards, and using their promotional mandate to raise the public awareness about migrants' rights. Some individual NHRIs have also already cooperated with relevant EU bodies on the ground, such as the Latvian NHRI which organised a joint training in partnership with FRONTEX.

Through ENNHRI, NHRIs cooperate with each other and [engage with regional mechanisms](#), including the EU. Since migration is a cross-border issue, ENNHRI facilitates regional and bilateral cooperation, through both peer exchange and joint monitoring missions, for regional solidarity. In

2015, for example, the Croatian NHRI cooperated with its Slovenian counterpart to do joint monitoring after the migration route shifted towards the Slovenian border. In fact, the majority of the 25 NHRIs who are part of ENNHRI's Asylum and Migration Working Group have been working on the protection of migrants' rights at the borders. When carrying out this work, they cooperate closely with civil society organisations, which often have permanent presence on the ground, and have regularly reported to the EU Fundamental Rights Agency on the human rights issues they identify. By working with NHRIs, Member States can ensure that their domestic legislative and policy approach on migration is in accordance with their obligations under EU and international law. NHRIs in many EU member states have provided advice and expertise to government on domestic legislation's compliance with international HR standards relevant to migration, including in the Netherlands and France.

### **Economic and Social Rights**

Despite progress under the Europe 2020 strategy, [NHRIs report](#) large numbers of individuals still living in poverty, and facing discrimination or lack of access to housing, the labour market and social benefits.

The EU and Member States are encouraged to ensure that the implementation of the European Pillar on Social Rights and EU economic and social policies are aligned with the EU Fundamental Rights Charter but also with the European Social Charter and ECHR. The accession of the EU to the ECHR which is high on the agenda of FREMP would indeed not only be important for the protection of civil and political rights, but also for economic and social rights in Europe.

Given their proximity to rights holders, close cooperation with civil society, and mandate to address parliament and government, NHRIs are very well placed to advise state authorities on how to ensure that economic and social policies, including those concerning poverty, are in line with a state's HR commitments. In some EU member states, including in Hungary, NHRIs have been defining energy & access to water as a matter of human rights and have made recommendations to government to collect data on access to energy & water and its implications on the right to health. In Germany, the NHRI has been training civil society on how to provide independent parallel reports to the UN Committee on ESR feeding into tailored recommendations addressed to state authorities.

Through ENNHRI, European NHRIs develop capacities on defining human rights-based approaches to economic and social policies. This is done via collaborative initiatives such as the [Cooperation Platform](#) between the CoE-FRA-Equinet - ENNHRI or through specific tools such as the ENNHRI [Guide for NHRIs on](#) how to apply a HRBA to poverty while using SDGs.

As well as being a global indicator under SDG 16, [NHRIs are indeed working towards the realisation of the broader 2030 Agenda](#), through raising awareness, monitoring, reporting and

aligning the SDGs with the equivalent fundamental rights frameworks. This is achieved through cooperation with civil society, state bodies and statistical agencies, and regional partners. As mentioned yesterday by FRA, also here it is important to further develop NHRI capacities, and ENNHRI is investing in this, including through support provided by DG DEVCO under the EIDHR.

## Recognizing NHRIs as the EU's national fundamental rights actors

As reflected in the September Council Conclusions and from the former illustrations, NHRIs in compliance with the PPs can be considered national level guardians of Fundamental Rights and the EU Charter. As some NHRIs will further illustrate next week at the Conference organised by the Finish Presidency & the EC at the occasion of 10 year existence of the Charter, NHRIs use the Charter through their variety of promotional and protective functions which are mutually reinforcing for the implementation of fundamental rights.

Ten years after binding force of EU Charter and in line with the set-up of FRA at EU level, it is time now for the EU to adopt regulation ensuring national guardians of the Charter -NHRIs-, including Paris Principles' standards that envisage an enabling environment for NHRIs to carry out their work in an independent and effective manner.

We would recommend the EU & Member States also to further develop cooperation with NHRIs at national & regional level to realise fundamental rights and Charter in the EU, including through:

- formalising & ensuring consistent participation of NHRIs to EU FR reporting processes. In this regard, we welcome proposed set-up of annual discussion in FREMP on the Charter<sup>4</sup> & would recommend including independent NHRI reports;
- to further clarify, especially through EU case-law, the scope of EU competence under the Charter, which is not sufficiently clarified for coherent application at national level by actors such as NHRIs;
- to develop FR indicators at EU level so that these can be used by relevant actors, including NHRIs, when working on implementation of the Charter at national level. This would be useful, for example, for the purpose of fundamental rights impact assessments, as well as monitoring & reporting progress. While the EC is currently developing ROL indicators for its new annual ROL monitoring cycle, including through

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<sup>4</sup> See September 2019 Council Conclusion on the Charter, para 11. Note that such a role aligns with long-established reporting practice by NHRIs at UN human rights mechanisms, including UPR.

involvement of relevant actors such as NHRIs. A similar exercise would be recommendable in the area of fundamental rights.