

Towards a Strategic Engagement of National Human Rights Institutions in the EU Rule of Law Mechanisms

High-level Consultation 5 February 2020

Outcome Report: Executive Summary

I. ENNHRI and NHRIs

The European Network of National Human Rights Institutions (ENNHRI) is a network bringing together **45 European National Human Rights Institutions** (NHRIs) across wider Europe, providing a platform for collaboration and solidarity in addressing human rights challenges and a common voice for NHRIs at the European level.

NHRIs are national institutions with a legal mandate to promote and protect human rights domestically independent from government, accredited with an internationally accepted quality label on the basis of their compliance with the UN Paris Principles. As such, NHRIs play a **key role in the promotion, protection and strengthening of the rule of law and democracy at national as well as regional level.**

II. Strategic Engagement of NHRIs

On 5 February 2020, Heads of 19 European NHRIs, representatives from EU institutions and bodies, as well as representatives from Council of Europe bodies and civil society stakeholders, took part in a High-Level Consultation meeting hosted by ENNHRI in Brussels to reflect on a possible **strategic engagement of NHRIs** in the EU Rule of Law Mechanism. In that context, NHRIs highlighted:

- The close **interconnection** between the rule of law and human rights and NHRIs as a **rule of law indicator**;
- Reporting to and engaging in the EU Rule of Law Mechanism is an integral part of NHRIs' mandate to promote and protect human rights, providing added value to the mechanism as **sources of reliable, objective, verifiable and contextualised information**, based on their regular monitoring and reporting of the human rights situation on the ground;
- NHRIs' key position in contributing to the identification and implementation of **follow up action to address detected issues at the national level**, including facilitating discussions

with national parliaments and, when covered by their mandate, through court proceedings;

- Opportunities for development of **synergies between EU and Council of Europe**; and
- European and national action to **ensure an enabling and protecting environment for human rights defenders** – including NHRIs – as constituent element of a strong rule of law and human rights framework.

III. Contribution of NHRIs to the EU Rule of Law Mechanism

Building on these highlights, Heads of European NHRIs at the High-Level Consultation meeting agreed on the opportunity and added value of a **united approach**, in a spirit of cooperation and solidarity. NHRIs intend to engage by developing **country-specific rule of law reports** – derived from relevant national reports – **compiled in one regional report**. These include references to the UN Paris Principles, Sub-committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI) recommendations and standards on NHRI enabling environment, reflecting a human rights-based approach and related to the consultation topics of the new Rule of Law Review Cycle for 2020.

IV. Considerations for the European Institutions

Moreover, the Heads of European NHRIs signalled several considerations for EU institutions to allow meaningful contributions by NHRIs in both in the consultation phase and in the various stages of the follow-up process, anchored in existing procedures, of the Rule of Law Review Cycle for 2020. In particular following considerations were raised:

- strive to ensure that standards and benchmarks reflect the close interconnection and **mutually reinforcing relationship between the rule of law and human rights**;
- envisage NHRIs' engagement in EU Rule of Law Mechanism takes into account their role as (a) **rule of law indicators**, (b) **reliable sources of information** on respect for human rights with rule of law implications and (c) actors contributing to the **identification of appropriate remedies and responses** and their implementation monitoring;
- recognise the mandate of NHRIs as **state-mandated bodies, independent of government**, with a broad constitutional or legal mandate to protect and promote human rights at the national level;
- carefully **consider potential risks for NHRIs** when establishing the boundaries of their reporting and participation in EU Rule of Law mechanisms, and should envisage EU action to support NHRIs under threat if needed; and

- Enable **sufficient resources** for ENNHRI and NHRIs to contribute to the mechanism and help promote a role of law culture in EU Member States.

V. Role for ENNHRI

- Support common reporting, through developing a common and coherent reporting structure and methodology, collating and publishing an ENNHRI-wide regional rule of law report, and sharing reports with relevant regional stakeholders, in line with consultation requirements and timelines.
- Support effective participation, through identifying opportunities for participation in the different stages of the processes and representing NHRIs collectively in relevant regional fora, through either a member or the Secretariat;
- Sharing with stakeholders its expertise on NHRIs, including on the Paris Principles, SCA recommendations, and requirements for an enabling environment for NHRIs, and develop coherent NHRIs' related indicators (see Annex I);
- Support NHRIs that come under threat, in line with ENNHRI's [Guidelines](#) on support to NHRIs under threat.
- Facilitate the convening of European NHRIs to exchange and agree joint action on rule of law, through knowledge exchange and peer learning, and debate to identify opportunities for common action in support of rule of law in Europe.
- Maintaining regular contacts with regional stakeholders to inform and consult NHRIs on relevant developments and in fostering synergies between divergent regional processes.

VI. Agreements

ENNHRI members, who took part in a High-level Consultation Meeting on 5 February 2020, came to the following agreements, subject to consultation among all ENNHRI members. For more information about EU Rule of Law Mechanisms, especially the relevant policy domains for the entire geographic scope of the network, please consult the [background paper](#).

1. NHRIs should engage in EU Rule of Law Mechanisms, taking into consideration the policy processes and timelines relevant for EU Member States, Enlargement, Eastern Partnership and other Countries.

2. ENNHRI Secretariat should maintain regular contacts with relevant stakeholders (European Union Institutions, Council of Europe, regional civil society partners, etc.) and inform/consult members on relevant developments.
3. Although process and modalities are still under development, ENNHRI should engage with EU Rule of Law Mechanisms by developing country-specific Rule of Law reports – derived from relevant national reports – considering NHRIs as a relevant indicator for Rule of Law including UN Paris Principles, SCA recommendations and Enabling Environment, following Annex II of the [background paper](#).

This consultation framework should consider:

- Four consultation topics specified by the European Commission DG JUST (functioning justice systems; anti-corruption; constitutional aspects and shrinking democratic space; media pluralism and rule of law)
 - Rule of Law fundamentals as specified by the new [European Commission Communication on Enlargement Methodology](#) (Judiciary and fundamental rights; Justice, Freedom and Security; and Functioning of democratic institutions)
 - Benchmarks in the forthcoming European Commission Communication on Eastern partnership; and
 - Relevant aspects stemming from Council of Europe Recommendation on Civil Society Space, among other standards.
4. Despite the various EU Policy domains (EU domestic Rule of law cycle, EU enlargement negotiations, Eastern Partnership Association Councils, and Human Rights Dialogues), Council of Europe processes, and each of their respective timelines, one reporting structure will be developed leaving enough space for NHRIs to include national specificities. ENNHRI Secretariat, in consultation with the Board, will provide this structure and will facilitate the process.
 5. ENNHRI Secretariat will collate national reports, including a chapter on methodology of reporting referencing Annex II of the background paper and specifying the contributions as per NHRI and not a statement of ENNHRI as such, into one regional report.
 6. In order to ensure the use of the information by relevant stakeholders (European Institutions, Council of Europe, Council of Europe), the regional report should be published by ENNHRI.

7. In coordination with NHRIs, depending on the timelines of relevant policy processes, ENNHRI Secretariat should share the contributions of the NHRIs with relevant stakeholders, matching potential consultation requirements.¹
8. Information provided by NHRIs to the ENNHRI Secretariat for the purpose of rule of law reporting should be collated according to the relevant geographic area of interest, and provided directly to relevant European Institutions.
9. Depending on the national context, each NHRI should take into account any potential risks and safeguards required as a result of providing the country-specific report. In addition, ENNHRI will provide support as and when required, in coordination with relevant partners, following ENNHRI's guidelines for NHRIs under threat.
10. Review the process in 2020, with a view to informing ENNHRI's engagement in other relevant rule of law mechanisms (European Parliament, European Council, Council of Europe, UN or other), and proposed actions in 2021 for each mechanism.

For more information about EU Rule of Law Mechanisms, especially the relevant policy domains for the entire geographic scope of the network, please consult the [background paper](#) prepared for the consultation meeting, or contact ENNHRI Secretariat at info@ennhri.org.



¹ Depending on the relevant policy process, ENNHRI will share the entire collated report, or compilations of parts of the report respecting the various geographic clustering of the policy arena (EU Member States, South East and Eastern Europe) to Brussels or Strasbourg-based “stakeholders” working on the EU Rule of Law Cycle 2020, EU Enlargement Package 2021 and in the context of the new Eastern Partnership EC Communication with representatives of the European Institutions (i.e. European Commission, European Parliament, European External Action Service and European Economic and Social Committee) and the Council of Europe. Only with explicit consent of the members, information will be provided to other stakeholders. NHRIs are invited to share the collated report or their own chapter to EU and CoE representatives on the national level.