

European Democracy Action Plan

ENNHRI Submission

ENNHRI, the European Network of National Human Rights Institutions, welcomes the European Commission's consultation on the European Democracy Action Plan.

ENNHRI is a network of 45 European National Human Rights Institutions (NHRIs) and covers 26 out of 28 EU Member ¹~~OBJ~~. As state-mandated bodies, independent of government, with a broad human rights remit, NHRIs are a key player in the protection and the promotion of fundamental rights, democracy and the rule of law in Europe.

Such a role for NHRIs has been recognised in a variety of recent EU policy-documents, including the [2019 Council conclusions on fundamental rights](#), the European Commission's initial monitoring cycle on rule of law, and the [European Parliament's draft proposal on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights](#)².

ENNHRI's submission to the European Commission on the Democracy Action Plan follows earlier submissions made to the European Commission [on the strengthening of the Rule of Law](#) and on the [review of the EU Charter Strategy](#). ENNHRI's submission is also congruent with FRA's call on the EU to 'draw more consistently on NHRIs as crucial actors for the implementation of fundamental rights, [...] Such reliance on NHRIs should be supported through close and regular relationships with specific NHRIs and ENNHRI in particular.'³

We recommend the European Commission:

1. Ensure synergies and complementarity of the EU Democracy Action Plan with the Commission's Policies and Instruments in the area of Rule of Law and Fundamental Rights

The EU's three foundational values of fundamental rights, democracy and rule of law are intrinsically intertwined. Accordingly, the EU's new Democracy Action Plan should build

¹ As no NHRI exists in Malta or Italy, ENNHRI does not have a member in those two EU Member States. ENNHRI is supporting the establishment of an NHRI in compliance with the Paris Principles in both EU Member States.

² Draft Report on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights 2020/2072 of July 2020, referring to the relevance and role of NHRIs in preamble F and para 8.

³ [FRA report on NHRIs](#), September 2020.

upon and complement the Commission's pre-existing and developing policies and instruments in the area of rule of law and fundamental rights.

ENNHRI's [submission to the European Commission's first annual rule of law monitoring cycle](#)⁴ for example, provides a rich source of information on the key issues of the current consultation, including **NHRI national reports and identification of regional trends on media freedom and pluralism, civil society space, and democratic checks and balances**. Relevant key trends identified by NHRIs include:

- Restrictions on civil society space, in particular in the form of limited access to funding, regulatory measures having a disproportionate impact on the rights and freedoms of human rights defenders and civil society organisations and instances of threats and harassment;
- Pressure on democratic checks and balances, such as the use of special or accelerated legislative procedures, limited consultation and impact assessments, on human rights, and limitations affecting the electoral systems;
- Threats to media pluralism, including attacks and hate speech targeting journalists and media actors and government's interference in media independence

The ENNHRI report on rule of law also includes a specific analysis of the impacts of **COVID19 measures** taken by state authorities. Concerns shared among NHRIs in this regard include the way measures are adopted in the context of the state of emergency; the situation of vulnerable groups; and the severe restrictions to a number of fundamental rights and freedoms such as access to justice, the right to health, the right to information, privacy and the right to family life.

In congruence with trends identified by NHRIs, ENNHRI welcomes the announced thematic focus of the Democracy Action Plan and the need to take account of COVID-19 impacts, but urges the Commission to ensure synergies and complementarity with ongoing EU processes in the area of rule of law and fundamental rights.

2. Recognise and support the role of NHRIs in ensuring that citizens can participate in democratic systems through informed decision-making and democratic debate

The existence of a strong and independent NHRI in compliance with the Paris Principles is a crucial element for ensuring democratic checks and balances in each country that takes

⁴ Further updated and complemented on our interactive website with regional trends and national reports across wider Europe [here](#).

rule of law and fundamental rights seriously.⁵ On the basis of their legal mandate, NHRIs monitor and report on the situation of fundamental rights, democracy and rule of law in EU Member States. They advise governments, provide recommendations in legislative and policy-making procedures, and intervene in courts, holding governments to account when violations occur. Through their pluralistic composition, close cooperation with diverse strands of civil society and accessibility to citizens, NHRIs are well-positioned to promote fundamental values to citizens and to contribute to democratic and inclusive decision-making that does not leave anyone behind.

In a context of shrinking democratic space in the EU, exacerbated by the impacts of the COVID-19 pandemic, strong and independent NHRIs in compliance with the UN Paris Principles are more important than ever. However, NHRIs also face increasing constraints, including lack of adequate resources, threats to their independence, and insufficient consultation and cooperation of state authorities with NHRIs.⁶

ENNHRI calls on the European Commission to recognise the important role of NHRIs in the new Democracy Action Plan and to include support for these institutions to carry out their role independently and effectively, in compliance with the UN Paris Principles. The Democracy Action Plan should include necessary safeguards in order to ensure an enabling environment for NHRIs and civil society, so that NHRIs are free from threats and harassment.⁷

3. Further support ENNHRI's role to enable NHRIs' cross-border cooperation and partnership with the EU, for a democratic Europe

ENNHRI supports the establishment and accreditation of NHRIs in Europe, and has contributed to the establishment of NHRIs in 7 additional EU Member States since 2011.⁸ As network bringing together all NHRIs in Europe, ENNHRI facilitates NHRIs' cross-border

⁵ The European Commission, in this sense, has included the existence of an NHRI in compliance with the Paris Principles as possible indicator for rule of law for the purposes of its collection of information for its initial annual report on rule of law. This approach of the Commission runs in line with UN SDG Goal 16, recognising the existence of an NHRI in compliance with the Paris Principles as an indicator for peaceful, just and inclusive societies. See also, Council of Europe, [Recommendation](#) CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe.

⁶ As recognized by a variety of regional actors (see [2020 FRA report on NHRIs](#); CoE CoM [Recommendation](#) on civil society space; CoE [Commissioner for Human Rights Human Rights 2019 Comment on Paris Principles](#)) and evidenced by NHRIs in [ENNHRI's 2020 Report on Rule of Law](#).

⁷ See further: [2020 FRA report on NHRIs](#); Council of Europe, [Recommendation](#) CM/Rec(2018)11.

⁸ See further: [2020 FRA report on NHRIs](#); [ENNHRI's 2020 Report on Rule of Law](#).

cooperation and peer exchange, and enables NHRIs' engagement with European actors, including the European Union. The contribution to European rule of law, democracy and human rights monitoring and enforcement frameworks has been identified since 2018 as one of the key thematic priorities for regional cooperation by ENNHRI members.

Accordingly, ENNHRI has developed a [Regional Action Plan to promote and protect Human Rights Defenders and enable democratic space](#). The Action Plan sets out key priorities for NHRIs nationally as well as collectively for ensuring an enabling environment for Human Rights Defenders and civil society, and to support NHRI responses to structural threats to democracy as well as to threats to individual defenders.

In the area of rule of law, ENNHRI has set up a common reporting methodology for NHRIs which resulted in an initial [ENNHRI annual report on rule of law in Europe](#), informing relevant European policy processes, including the current consultation on the European Democracy Action Plan.

ENNHRI has also facilitated [NHRIs' reaction to the COVID-19 pandemic](#), including through collecting and facilitating exchange on good practices and developing an NHRI [common position](#) on the need for human rights in COVID-19 responses in Europe, highlighting the need for broad public debate, accountability of government by parliament and judicial independence.

In order to ensure sustained and deeper NHRI cross-border cooperation in a particularly demanding context, ENNHRI calls on the Commission for further financial support, for ENNHRI as well as other civil society organisations contributing to democracy, fundamental rights and rule of law in Europe.⁹

⁹ See in this regard also [FRA report on NHRIs](#), September 2020, calling on the EU to 'continue providing resources to NHRIs and ENNHRI to further support their effective contribution to the implementation of fundamental rights and the rule of law in Europe'.