

Mr Ruslan Stefanchuk  
Chairman of the Verkhovna Rada of Ukraine

Monday, 13 December 2021

## Re: Open Letter in Support of the Ukrainian Parliamentary Commissioner for Human Rights (Ukrainian NHRI)

Dear Mr Stefanchuk,

The European Network of National Human Rights Institutions (ENNHRI) was informed of recent developments at the Verkhovna Rada (Parliament) of Ukraine that raise concerns regarding the tenure of the Ukrainian Parliamentary Commissioner for Human Rights. In this open letter, we recall relevant authorities of the international and regional standards that are in place to ensure the independent and effective work of National Human Rights Institutions (NHRIs).

On 1 December 2021, the Ukrainian's Parliament Committee on Rules of Procedure, Deputy Ethics and Organization of Work approved a [Draft Resolution](#) on the establishment of a Temporary Special Commission to verify a possible violation of oath by the Commissioner for Human Rights (no. 6322). The Draft Resolution is now sent to the Parliament's Plenary. If approved, it would formally trigger the process of a possible dismissal of the current Commissioner.

ENNHRI is concerned that this initiative falls under a series of attacks that the Commissioner has faced from parliamentarians. In April 2020, a first attempt through a draft law (no. 3312) risked undermining the institution and sought the dismissal of the Commissioner. This proposal was withdrawn after strong criticism from international bodies and local human rights organisations. Most recently, the Ukrainian NHRI has faced backlash for its opposition to the "Law on Prevention of Threats to National Security Related to Excessive Influence of Persons with Significant Economic and Political Weight in Public Life", known as the "anti-oligarch law" (no. 5599). Retaliation for the NHRI's position on this issue included public insults from top officials.

### International and Regional Requirements

The [UN Paris Principles](#), adopted by the UN General Assembly Resolution 48/134 of 20 December 1993, is the cornerstone of the standards applicable to NHRIs. Based on them, the

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Sub-Committee on Accreditation ([SCA](#)) of the Global Alliance of National Human Rights Institutions ([GANHRI](#)) provides further contemporary content and scope of the requirements to ensure NHRI's independent and effective work. It follows from these standards that:

- The Head of the NHRI must be able to undertake their responsibilities without fear and without inappropriate interference from the State or other actors.
- Any dismissal process must be made in strict conformity with all the substantive and procedural requirements as prescribed by law.
- The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the Head of the NHRI to fulfil their mandate.
- Members may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality set out in the national law.
- Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction.

More recently, the Council of Europe's Committee of Ministers stressed in its [Recommendation 2021/1](#) that "the dismissal process should be fair and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate". Moreover, the Recommendation emphasises that "Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation".

The Principles on the Protection and Promotion of the Ombudsman Institution ([Venice Principles](#)) also include safeguards for ensuring the tenure and independence of Ombuds institutions, requiring a narrow interpretation of dismissal criteria, which should be clearly and reasonably established in law. States shall refrain from taking any action aiming at or resulting in any hurdles to the effective functioning of Ombuds institutions and shall effectively protect them from any such threats.

The Parliamentary Assembly of the Council of Europe, in its recommendations on Ombuds Institutions ([Recommendation no. 1615 of 2003](#)) also emphasised that a key characteristic of the effective functioning of any ombudsman institution is personal immunity from any persecution or sanction related to the performance of official duties, other than dismissal by parliament due to incapacity or serious ethical violation.

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## Moving ahead

The Ukrainian NHRI is [internationally accredited](#) with A-status by the SCA, which testifies its full compliance with the [UN Paris Principles](#), including the principles of independence and impartiality. However, the SCA may initiate a Special Review where it appears that the circumstances of an NHRI may have changed in a way that affects compliance with the UN Paris Principles, such as when a dismissal process is carried out without due regard to applicable standards.

ENNHRI therefore strongly supports the Ukrainian Commissioner for Human Rights and calls for national authorities to fully respect the standards referred to above. NHRIs are not exempt from criticisms and public scrutiny for their actions. However, international and regional standards oblige states to ensure a stable mandate for Head of NHRIs and an environment that is conducive for their independent and effective work.

ENNHRI remains available to further clarify the applicable standards and to cooperate on this matter.

Yours faithfully,



Caroline Fennell  
**ENNHRI Chair, on behalf of ENNHRI's Board**

***This is an open letter and has been made public on ENNHRI's website. This letter was also sent to the President of Ukraine. A copy of this letter was sent to:***

***Mr Dmytro Lubinets***, Chairperson of the Committee of the Verkhovna Rada of Ukraine on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations.

***Mr Serhii Kalchenko***, Chairperson of the Committee of the Verkhovna Rada of Ukraine on Rules of Procedure, Parliamentary Ethics and Administration.

***Mr David Arakhamia***, Chairperson of the faction of the political party "Servant of the People" at the Verkhovna Rada of Ukraine.

***Mr Yuriy Boyko and Mr Vadym Rabinovych***, Co-chairs of the faction of the political party "Opposition Platform – for life" at the Verkhovna Rada of Ukraine.

***Ms Yuliia Tymoshenko***, Chairperson of the faction of the political party "The All-Ukrainian Union - Batkivshchyna" at the Verkhovna Rada of Ukraine.

***Mr Artur Gerasymov and Ms Iryna Herashchenko***, Co-chairs of the faction of the political party "European Solidarity" at the Verkhovna Rada of Ukraine.

***Mr Yaroslav Zhelezniak***, Chairperson of the faction of the political party "Holos" at the Verkhovna Rada of Ukraine.

***Mr Viktor Bondar and Mr Taras Batenko***, Co-chairs of the Deputy Group "Party for the future" at the Verkhovna Rada of Ukraine.

***Mr Oleh Kulinich***, Chairperson of the Deputy Group "Credence" at the Verkhovna Rada of Ukraine.

***Mr Dmytro Razumkov***, People's Deputy of Ukraine.