

ENNHRI submission

to the European Commission's EU Charter Report targeted consultations on civic space and rights defenders

This submission presents relevant information provided by ENNHRI and its members in the [the 2022 ENNHRI EU Rule of Law Report](#), [ENNHRI Human Rights Defenders Resource](#), [ENNHRI Report on the Implementation of EU Charter of Fundamental Rights - Activities of National Human Rights Institutions](#), [ENNHRI Action Plan on strengthening the application of the Charter of Fundamental Rights in the European Union \(2021-2024\)](#). The information is contextualised within [ENNHRI's Regional Action Plan on Human Rights Defenders](#) and associated prioritisation by ENNHRI of the promotion and protection of HRDs in Europe.

Question 1: *How do you as NHRI /Equality body contribute to activities aimed at implementing EU policies or strategies related to fundamental rights at EU and/or national level? Please give concrete examples.*

As reflected in the [2020 EU Charter Strategy](#) and [2019 Council Conclusions on the Charter](#), through their broad state mandate to promote and protect human rights, NHRIs are crucial actors for the promotion and protection of fundamental rights and in ensuring compliance with the Charter. They are therefore essential to the implementation of the Charter, as well as to enhance access to justice for individuals in the EU.

Building on the current important momentum to further unlock the potential of NHRIs as Charter agents, ENNHRI has adopted an [Action Plan on strengthening the application of the Charter of Fundamental Rights in the European Union \(2021-2024\)](#). It prioritises supporting the establishment of Paris Principles' compliant NHRIs in each EU Member State, and further building NHRIs' resources, capacity and enabling environment to work on the application of the Charter.

NHRIs use the Charter through their broad state mandates, which include monitoring, advising government and parliament, complaints-handling, legal assistance, reporting human rights education, training, and awareness raising. These functions are mutually reinforcing for the implementation of fundamental rights. Some concrete examples of NHRIs' engagement in the Charter implementation process are included in the ENNHRI Report '[Implementation of the EU Charter of Fundamental Rights - Activities of National Human Rights Institutions](#)'.

Furthermore, it is worth noting that ENNHRI co-organised and spoke during the [FRA-ENNHRI-Equinet's Online Seminar on the role of the EU Charter of Fundamental Rights in the work of NHRIs and EBs](#). During this event a discussion on the wider question of how the Charter relates to the Rule of Law was organised by ENNHRI. NHRIs from Poland, Ireland and Netherlands shared their good practices on how to make use of the Charter to tackle rule of law challenges. The Irish NHRI spoke about its experience with safeguarding the essence of rights under the EU Charter, including the right to an effective remedy under article 47 of the EU Charter, through strategic litigation. Furthermore, the Polish NHRI explained how the Article 47 of the Charter together with Article 2 and 19 TEU were used in cases concerning disciplinary proceedings against judges to protect the right to an independent court. The Netherlands Commission for Human Rights reflected on the current debates on EU rule of law and links with the EU Charter, including civil and political rights, media freedom & LGBTI under the EU Charter.

In its report on the [Implementation of the EU Charter of Fundamental Rights - Activities of National Human Rights Institutions](#) and [ENNHRI 2022 EU Rule of Law Report](#), ENNHRI underlined the close interconnection and mutually reinforcing relationship between the rule of law, democracy and human rights. A strong regime of rule of law is vital to the protection of human rights, and the rule of law can only be fully realised in an environment that protects human rights. Therefore, ENNHRI recommends EU actors to further develop synergies between the EU policies, strategies and actions concerning fundamental rights, the rule of law, and democracy, including their annual reports and related follow-up actions at EU and national level.

Question 2: *Could you give concrete examples how you cooperate with CSOs in the implementation of Charter rights?*

[General Observation 1.7 of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions](#) (SCA GANHRI) highlights the requirement for all NHRIs to be pluralistic institutions. The Paris Principles require NHRIs to cooperate with and represent the wide variety of strands of civil society in their country. As also highlighted in the FRA report on [Strong and effective national human rights institutions – challenges, promising practices and opportunities](#), NHRIs' cooperation with civil society is an important element of the Paris Principles. Thus, NHRIs in their way of working, relate to the broader community, by collaborating with civil society and engaging with those that may otherwise be left behind and not be heard. The requirement for NHRIs to be pluralistic can be implemented in various ways - including through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums.

The 2020 [FRA report's](#) findings confirm that all NHRIs covered by the report do engage with civil society organisations. According to FRA's findings, almost half of the institutions are formally obliged to do so, a third have the explicit power to do so and about a fifth do so as a matter of practice. NHRIs covered by the FRA report jointly cooperate closely with civil society in the following areas: 31 on awareness raising and human rights education and training, 23 on joint projects and three on other areas. They use a range of forms of communication and cooperation with civil society. Calls for proposals and funding of civil society organisations by the institutions remain a rare practice.

Question 3: In your view, in which areas do you as NHRIs and/or Equality body contribute the most to the protection of fundamental rights?

NHRIs as independent, state-mandated bodies with a broad human rights mandate, play a key role as pillars for the respect of human rights, democracy and rule of law. In line with the Paris Principles, and General Observation 1.2 of the GANHRI SCA, an NHRI's mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights. While NHRIs will prioritise their work in line with their national context and most pressing needs, it is important that NHRIs' mandate includes the ability to address any human rights issue, including new emerging issues. In addition, it is worth noting that NHRIs find some areas more relevant to address as the Charter only applies within the scope of EU law (eg.: access to justice/ rule of law; right to good administration). Nevertheless, NHRIs do tackle the full range of human rights issues including through other international and national legal instruments.

NHRIs are the only state-mandated independent bodies which can address all fundamental rights, including those taken up in the Charter, reflecting the interdependence and indivisibility of human rights as a whole. The broad mandate and broad thematic scope for NHRIs' work is also reflected in their [collective work through ENNHRI](#), which includes: rule of law, asylum and migration, economic and social rights, climate change and human rights, business and human rights, rights of persons with disabilities, rights of older persons and the SDGs. Through ENNHRI, NHRIs also address the impact of COVID-19 on human rights and their work, and are responding to the human rights impacts entailing from the war in Ukraine.

Question 4: Which are the main obstacles that you as NHRIs and/or Equality body face in carrying out your activities aimed at protecting fundamental rights? Please give concrete examples.

In a wider context of increasing challenges for the rule of law and fundamental rights in the EU, NHRIs' independence and effectiveness is also affected in a number of EU Member State. As indicated in the [ENNHRI 2022 EU Rule of Law Report](#), these include: general difficulties in cooperation from national authorities in legislative and policy-making processes (lack of responsiveness to NHRIs recommendations, lack of consultation by state authorities, despite NHRI's mandate to advise on the human rights implications of draft legislation and policy strategies); failure to liaise effectively or in a timely manner with NHRIs on legislative proposals, reports and requests; as well as an unsatisfactory level of implementation of NHRIs' recommendations.

While some NHRIs were given new competences in recent years, the expanded mandates were sometimes not accompanied by (efforts to provide) sufficient financial resources to perform them. Some ENNHRI members also warned about changes in their regulatory framework that may negatively influence their work and operations, while no substantial developments were recorded in EU countries without an accredited NHRI (in particular: Malta and Italy).

In certain countries, ENNHRI members also reported experiencing pressure, smears and actions by authorities threatening the continuity of heads of institutions' service, while others regret the lack of adequate measures and rules on immunity to ensure institutions' independence and protection against attacks and intimidation. In this context, the [Council of Europe Committee of Ministers Recommendation 2021\(1\) on the development and strengthening of effective, pluralist and independent NHRIs](#) provides an important impetus to further ensure the establishment and enabling environment for strong and independent NHRIs in each European country. ENNHRI provides support to NHRIs under threat in line with [Guidelines on ENNHRI Support to NHRIs under Threat](#).

It is worth highlighting that in the [ENNHRI submission to the EC on the New European Commission Strategy on the Effective Application of the Charter of Fundamental Rights in the EU](#), NHRIs have indicated important needs for support, including from the EU, to further develop their work on implementation of the Charter, including:

- Additional resources, possibly through earmarked EU funding to support NHRIs in the national application of the Charter;
- Further training of staff on the effective use of the Charter (and the Charter's added value compared to other human rights instruments);
- More EU information on progress on national implementation of the Charter (eg. through annual Charter report);
- Further development of EU tools and publications to work on implementation of the Charter (including in national language);

- Further sharing of experience with peers in other EU Member States (possibly through ENNHRI).

In this submission EU NHRIs confirm that, in addition to their own limitations, the lack of initiative and awareness concerning the Charter by national policy- and lawmakers is an important hurdle for their effective work on Charter implementation in the domestic context. Accordingly, joined-up approaches to Charter implementation, including the various national actors in the Charter enforcement chain would be important for its effective implementation. The establishment of national Charter focal points, following the adoption of the Charter Strategy by the Commission could provide important interlocutors to advance implementation of the Charter at national level, including through cooperation and consultation with NHRIs.

NHRIs also reflect that more clear and timely information on how fundamental rights impact assessments are undertaken at EU level and their results could benefit national follow-up, including through NHRIs' impact assessments at national level of, for example, national instruments which are adopted in implementation of EU obligations. In this vein, EU actors should inform and consult NHRIs early in the process of legislative initiatives that could have major impacts on fundamental rights to facilitate meaningful fundamental rights impact assessments at national level.

Question 5: Are there effective initiatives/actions at the EU- and/or national level that promote a safe and enabling environment for CSOs? Please give examples.

In the respective country report sections of [ENNHRI 2022 EU Rule of Law Report](#), NHRIs from Bulgaria, Croatia, Finland, France, Germany, Estonia, Ireland, Slovenia and Spain describe undertaking efforts to monitor and alert about problematic issues and support HRDs and CSOs at national as well as international level.

Equally, the 2022 ENNHRI Rule of Law report sheds light on capacity building/ training activities for CSOs carried out by NHRIs, in part for public authorities but also for a wider audience, as organised by ENNHRI members in France, Greece and Romania. In addition, efforts to secure CSOs' involvement and participation in law and policy making are mentioned by the ENNHRI member in Latvia. Another practice concerns human rights awareness raising initiatives, as exemplified by the 'Human Rights Alliance' in Denmark. Lastly, measures are under discussion in Germany, i.e. a bill aimed at fostering and strengthening the democratic engagement of civil society organisations.

The following example can be provided, in addition, drawing from [ENNHRI's Resource on Human Rights Defenders](#). The [Greek National Commission for Human Rights \(GNCHR\) expressed concern](#) about an increasingly hostile environment for human rights defenders, particularly organisations

and activists working with refugees, migrants, and the LGBTI+ community. Consequently, the GNCHR advocated for the adoption of a bill on “Recognition and Protection of Human Rights Defenders”. The bill aims to ensure that human rights defenders are free from attacks, reprisals and unreasonable restrictions.

It is worth noting that at the EU level there are two recent Commission initiatives that may support establishing a safe and enabling environment for CSOs. The first of them, [the European Commission’s initiative to protect journalists and human rights defenders in strategic lawsuits against public participation \(SLAPP\)](#) shall introduce effective safeguards to protect NHRIs and other human rights defenders from SLAPPs. In ENNHRI’s view, such litigation should curb rights defenders’ ability to report on issues of public interest and engage in open debate. Secondly, ENNHRI stresses that the [European Commission’s initiative to adopt the EU Media Freedom Act](#) should introduce binding standards on transparency, pluralism and media freedom in all EU Member States. Overall, this initiative would also reinforce the safe environment for a civic space more generally. An important outstanding gap at EU level is the lack of EU internal HRD protection mechanism, while the EU has developed support for HRDs in its external policy and actions.

In addition, the work of FRA with civil society, including through its Platform and annual report on civic space is relevant. Increasingly, FRA also engages with ENNHRI and NHRIs on this work, in view of NHRIs’ role in promoting and protecting civil society space in Europe (see further: [CoE 2018 Recommendation on civic space](#)).

Question 6: Are there initiative/actions at the EU- and/or national level that can result in restricting the space for CSOs? Please give examples.

The [ENNHRI 2022 EU Rule of Law Report](#) illustrates worsening conditions in which human rights defenders (HRDs) and civil society organisations (CSOs) need to act in several EU countries. As reported by ENNHRI members in France, Greece, Poland and Slovakia, CSOs and HRDs continue to be the object of attacks, smears and threats, including legal harassment and Strategic Lawsuits Against Public Participation (SLAPPs), with those working on sexual and reproductive rights, LGBTI+ rights, rights of migrants and asylum seekers and environmental protection being particularly targeted. Furthermore, some ENNHRI members regret the limited efforts by state authorities in ensuring CSOs’ access to and involvement in law and policy making.

In Poland, ENNHRI’s member also alerts about activists being targeted by police during demonstrations, and retaliations against prosecutors opposing controversial judicial reforms. Cases of legal harassment, including SLAPPs, also seem to be on the rise, as reflected in reports on

Luxembourg and Slovenia. In this respect, a new emerging trend concerns provisions providing for the dissolution of associations which undermine basic values and principles. Legal provisions foreseeing the dissolution of associations based on vague formulations risk leading to disproportionate and arbitrary interferences with the right to freedom of association – as mentioned by ENNHRI members in Belgium as regards the bill on associations inciting hatred and discrimination and by ENNHRI's member in France as regards the law on the respect of Republican values.

At the same time, ENNHRI members alert that problems persist with laws restricting civic space and CSOs' activities as well as criminalising HRDs' activities, in particular in the area of migration, as reported in Croatia and Hungary – where the CJEU recently intervened to declare Hungarian provisions criminalising and obstructing the provision of assistance to asylum seekers as incompatible with EU law. ENNHRI members also report how HRDs and civil society organisations active on the protection and promotion of the rights of migrants and asylum seekers are also increasingly the object of restrictive measures and practices, as reflected in the burdensome registration requirements introduced in Greece; in Croatia and France, where authorities continue to limit access to information and physical access to migrants settlements; and in Poland, where the emergency regime and related rules applicable to the Belarus border zone have obstructed monitoring and humanitarian assistance by HRDs and civil society.

A decline in media freedom and pluralism has become visible across the EU over the past year, which ENNHRI members associate with the increasing political pressure on media, a lack of transparency of media financing and ownership and a worrying increase in episodes of harassment, threats and attacks against journalists and media outlets, including by public authorities. These include violent physical attacks, including police violence, verbal attacks, smear campaigns, as well as legal harassment including SLAPPs and were voiced by ENNHRI members in Bulgaria, Croatia, Germany, Greece, Luxembourg, the Netherlands, Poland, Romania, Slovakia and Slovenia.

ENNHRI members in a number of EU countries further alerted about laws disregarding the balance to be struck between the protection of freedom of expression and information and competing rights and interests, as well as few efforts to ensure a balanced democratic debate free from hate speech and racialized narratives. The ENNHRI member in Ireland reported that weak media authorities are a concerning issue. Finland alerts about journalists' fear of being subjected to pressure and intimidation, which leads to censorship especially on certain sensitive topics such as migration, the public health crisis or environmental protection. The situation in Slovenia is reported as particularly concerning, with journalists being subject to smears, attacks and SLAPPs by government representatives. In Romania, ENNHRI member alerts about criminal prosecutions triggered against journalists by politicians and public authorities.

Question 7: *Do you as NHRI/Equality Body have in place a system to monitor the civic space?*

NHRIs have [reported](#) using the Charter in their monitoring activities to assess the compatibility of states' (in)actions with human rights standards. Since the Charter provides stronger protection of certain rights, enshrines new and modern rights, benefits from the effects of EU law (supremacy and direct effect) and is also supported by the CJEU case-law, it can provide a valuable baseline in developing human rights indicators.

As further stated in [ENNHRI 2022 EU Rule of Law Report](#), NHRIs are in a key position to report and participate in rule of law monitoring initiatives as an integral part of their mandate to promote and protect human rights. Monitoring and reporting on the situation of human rights in their country is in fact an obligation under the Paris Principles and a central function of all NHRIs.

Stemming from ENNHRI's report on the ["Implementation of the EU Charter of Fundamental Rights – Activities of National Human Rights Institutions"](#), the following practices of two NHRIs can be highlighted:

Since its 2015 annual report on migration, which combines statistics and a legal analysis of human rights compliance, the Belgian Federal Migration Centre (Myria) developed a checklist for practitioners, civil servants and judges to assess if the best interest of the child is duly taken into account in their work. The checklist is based on human rights indicators under several legal sources, including the Charter at Article 24 (rights of the child) and Article 47 (right to an effective remedy and to a fair trial), which provides stronger protection in this regard than the European Convention on Human Rights.

During the preparation of its annual report, the Ombudswoman of the Republic of Croatia uses a table of indicators relevant for specific legal areas. The table is composed of different legal instruments, including the Charter, which are used to assess national legislative provisions and the practice of state institutions.

Question 8: *Do you as NHRI/Equality Body have in place a system for monitoring threats or attacks (including physical attacks) on CSOs activists and rights defenders? If yes, how does it work? Do you provide for support or finance an alert mechanism and/or supporting services in case of physical and on-line attacks to CSOs activists and rights defenders?*

In the context of [ENNHRI's Resource on Human Rights Defenders](#), the following practices of NHRIs from Slovakia, Luxembourg and Germany have been collected.

The Slovak National Centre for Human Rights has [mapped experiences](#) of threats, intimidation, harassment and restrictions of rights faced by human rights defenders and civil society in the field

of environment protection. The research aimed to find out whether cases of harassment occur, and, if they do, what their nature is and whether they are reported to public authorities. The information was collected via questionnaires which asked respondents to detail their experiences. The NHRI collected 11 cases considered by respondents as a threat, harassment, or intimidation. Harassment of and slander against individuals or their families were most common. Additionally, threats and the use of administrative procedures as a form of harassment (e.g. complaints, criminal reports) were prevalent.

The Consultative [Human Rights Commission of Luxembourg took part](#) in an event to gather input for the development of a project for human rights defenders. Named Shelter Cities, it aims to set up a procedure for the reception of individual human rights defenders in Luxembourg for a predetermined rest period. This would be done via the [protectdefenders.eu](#) website. The government reiterated its commitment to the project in its candidacy pledge for the UN Human Rights Council 2022-2024.

A similar project, [ShelterCity](#), is being implemented in the Netherlands in cooperation with Justice and Peace Netherlands, Dutch cities, and local organisations.

In 2020, the German Foreign Office launched the [Elisabeth-Selbert-Initiative](#). This is a [protection programme open to human rights defenders](#), including NHRI members and staff abroad, who face threats due to their work. The initiative consists of three main elements, including on-site assistance, grants for temporary relocation within home countries or regions, and grants for temporary relocation to Germany.

ENNHRI has been approached by some members (e.g. Finland) with a view to provide further information that would enable the setting up of further HRD protection mechanisms at national level, including NHRIs.

However, against a perceived general trend of shrinking space for civil society and HRDs as documented above (and through [ENNHRI 2022 EU Rule of Law Report](#)), the need to protect NHRIs, their mandate and staff becomes even more relevant. This is also the case due to the fact that NHRIs increasingly face challenges regarding their independent and unrestricted operation. NHRIs do not only monitor and step in to support other HRDs when under threat but they are, equally, becoming themselves the target of attacks or harassment.

Concretely, what is missing is an EU internal protection framework for human rights defenders, comparable to the EU Guidelines on HRDs and EU funded protection mechanisms applicable in the EU's external operations (such as, eg, [protectdefenders.eu](#)). FRA echoed this demand in their report "[Protecting civic space in the EU](#)". They recognized NHRIs as being HRDs and proposed the EU consider the creation of a monitoring mechanism for HRDs and CSOs in the EU, allowing them to report attacks, register alerts, map trends and provide support to victims.

Another important measure ENNHRI recommends to the Commission is the adoption of a Commission Recommendation clarifying to EU Member States how to ensure independent and strong NHRIs in their country, which contribute to the implementation of EU values and policies at national level. Such EU guidance would be timely and run in line with the Commission's commitment in its 2020 Charter Strategy to support the establishment and functioning of strong and independent NHRIs in EU Member States, while also contributing to the protection of fundamental rights and the implementation of the Charter in the EU.

Question 9: Are you building capacity, or financing capacity building, for CSOs on how to protect civic space? Are you supporting them in any other way?

Under its [Regional Action Plan on Human Rights Defenders](#), and in line with the Paris Principles' requirement for NHRIs to function in a pluralistic manner, ENNHRI has mainstreamed in its capacity-building activities attention for strengthening NHRIs' cooperation with CSOs, and including CSOs in our trainings and events. With regards to capacity-building on supporting and protecting civic space in particular, ENNHRI's [2020 NHRI Academy](#), co-organised with OSCE ODIHR, was fully dedicated to the topic. Beyond the training being provided to NHRI representatives from across ENNHRI's membership in the context of the NHRI Academy, two ENNHRI members, the NHRIs from Slovenia and Moldova, also received dedicated follow-up trainings, to build their institutional capacity on promoting and protecting human rights defenders.

In 2022, ENNHRI launched an [online resource](#) to give guidance to European NHRIs who wish to find more effective ways of working with and protecting the rights of human rights defenders. Equally, human rights defenders and civil society can find useful information and tools on how they can collaborate with NHRIs to counter increasing limitations on democratic space in Europe. The resource includes information on who are human rights defenders; relevant national and international guidelines and frameworks; as well as a repository of NHRI good practices. ENNHRI intends to further expand its resource, including with more dedicated information on national and regional HRD protection mechanisms.

Question 10: Are there dialogues between NHRIs/Equality bodies and public authorities at national, EU or international level that work well regarding activities aimed at making the fundamental rights enshrined in the Charter a reality on the ground? Do these dialogues, if existing, also cover rule of law and democracy related issues? Please give examples.

[The annual NHRIs' rule of law reporting](#) is an example of a dialogue between NHRIs and EU and national authorities on rule of law. It also supports making the fundamental rights enshrined in the

Charter a reality on the ground because fundamental rights protection, rule of law and democracy are interlinked and mutually reinforcing principles. It is crucial to underline that the EU efforts to uphold the rule of law across member States and the implementation of fundamental rights must be based on a broad concept of the rule of law which reflects those interlinkages with human rights, access to justice as well as democracy more generally. Hence, this fundamental rights perspective does need to be clearly visible when tackling rule of law challenges at EU level. In that sense, it is also worth considering that, in line with the [2020 EU Charter Strategy](#), the state-appointed Charter focal points – which play a role in facilitating coordination and information sharing - could support and enhance the dialogues on the Charter rights between the state authorities, rights defenders such as NHRIs, and CSOs at national level.

Moreover, such dialogue between NHRIs and public authorities at national level is preserved through a general annual reporting conducted by NHRIs. In line with the Paris Principles as well as par. 1.6 of the [General Observations of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions](#) (GANHRI) such annual, special and thematic reports of NHRIs serve to highlight key national human rights concerns and provide recommendations to public authorities. This is also highlighted in the [Council of Europe Committee of Ministers Recommendation 2021\(1\) on the development and strengthening of effective, pluralist and independent NHRIs](#), which states that Member States should ensure that the mandate given to NHRIs allows them monitor and analyse the human rights situation in the country, publish reports on these findings and address recommendations to public authorities as well as present an annual report to the relevant authorities, including before a parliament, for its consideration.

However, some challenges faced by NHRIs were identified in the [ENNHRI 2022 EU Rule of Law Report](#) in the area of cooperation between NHRIs and state authorities. For example, the Croatian NHRI raised serious concerns over a delayed parliamentary debate on the Ombudswoman's annual reports and, most importantly, on the Parliament's obligation to vote and adopt the NHRI's annual report. This may ultimately lead to lessening the impact of NHRI's recommendations and pose a serious threat to NHRI's independence and effectiveness.

Therefore, to combat reported obstacles on the dialogue between NHRIs and state authorities, ENNHRI urges national authorities to increase transparency and participatory nature of follow-up action, including enhanced engagement with NHRIs, for example through dedicated working groups and regular dialogue. Efforts need to be dedicated to establish a fruitful dialogue between NHRIs and national authorities in order to ensure that issues reported and identified by NHRIs are taken into account and successfully dealt with by relevant actors.

Question 11: *Are there any EU or national processes where NHRIs/Equality bodies are systematically consulted regarding legislative proposals related to their areas of work? Please give examples.*

The [ENNHRI 2022 EU Rule of Law Report](#) provides an overview of challenges NHRIs face in the area of consultations on legislative proposals. While several NHRIs report an overall good cooperation with national authorities (in Austria, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Germany, Hungary, Ireland, Latvia, Portugal and Spain), a number of them report difficulties in cooperation with national authorities in legislative and policy-making processes, as is the case for ENNHRI members in Belgium, France, Germany, Greece, Hungary, Luxembourg and Romania (also in the context of the pandemic). State authorities often fail to timely and effectively consult with NHRIs on legislative proposals. Sometimes, there is no systematic involvement of NHRIs in relevant legislative and policy processes, as reported in Slovakia.

In Poland, the NHRI experiences an overall problematic cooperation with state authorities. In Hungary, the NHRI reports struggles in cooperation with government and other state bodies, especially in the field of environmental issues. The NHRI from Hungary also raises concerns over the reoccurring situations when the Government either does not consult with the NHRI important draft bills at all or such consultations are established with a very short deadline to submit an opinion. The Romanian institution reports only to be consulted at request from the Parliament, while the NHRI in Spain does is not formally included in the process of drafting laws but contacts policy-makers at its own initiative. The NHRIs from Croatia and Luxembourg highlighted that they sometimes witness lack of cooperation to provide data and information requested by the institution.

As illustrated in the [ENNHRI 2022 EU Rule of Law Report](#), some NHRIs report on good practices concerning consultations on draft laws. For instance, the Croatian NHRI actively participates in the drafting of relevant regulations concerning its mandates providing comments and proposals through public consultations, as well as by participating in working groups (i.e. reforms on Croatian justice system). Moreover, the NHRI from Cyprus continues to be engaged, and expresses its views, in discussions held in Parliamentary Committees, as regards the drafting of bills affecting the Rule of Law in matters related to NHRI's competences.

Lastly, it is vital to underline that in line with [the CoE Recommendation CM/Rec\(2021\)1 on NHRIs](#), Member States should ensure that NHRIs enjoy adequate access to information and to policy makers and legislators, including timely consultations on the human rights implications of draft legislation and policy strategies. NHRIs should also be consulted, in a timely manner, on draft legislation and policies that affect their mandate, independence and operation. State authorities should also provide a timely and reasoned response to NHRI's recommendations. [This year's](#)

[ENNHRI rule of law report](#) proves that further actions need to be undertaken to ensure NHRIs wide participation in consultations of legislative proposals.

Question 12: *Are CSOs or, where relevant, NHRIs included in the national committees set up to monitoring the implementation of EU funded programmes under the Common Provisions Regulation (CPR) and are they involved in the arrangements set up under the horizontal enabling condition to ensure compliance with the Charter? If so, what is their role in this context?*

Following the 2019 Council Conclusions on the Charter (para 17), the 2021 [Common Provision Regulation \(CPR\)](#) on EU funds develops a potential role for NHRIs in monitoring and contributing to the compliance with fundamental rights (EU Charter and UN CRPD) of EU funded programmes. While the CPR leaves a broad margin of appreciation for national authorities to set up their arrangements at national level, NHRIs are being approached by state authorities to become involved, and are engaging in seeking arrangements with state authorities concerning their involvement in the implementation of the CPR.

On the basis of initial reports by NHRIs, ENNHRI aims to draw attention to relevant roles for NHRIs, potential opportunities, as well as some limits for their involvement in the monitoring of EU funded programmes, in line with the UN Paris Principles.

Potential Role for NHRIs

On the basis of initial reports from members (including from Croatia, Finland, Greece, Ireland), relevant roles for NHRIs in the context of the CPR can be summarised as follows:

1. NHRIs can take part of monitoring committees of EU funded programmes in an *advisory* capacity;
2. NHRIs can develop fundamental rights curricula and awareness-raising for state authorities involved in the implementation of the EU funded programmes;
3. NHRIs can engage on fundamental rights in the set-up and monitoring of EU funded programmes by building on their existing work, such as disseminating annual and special reports with recommendations

Opportunities

NHRIs have reported as notable advantages:

- The access to information on structural reforms taking place in a country, which are not often approached or understood by national authorities involved from a fundamental rights perspective;
- Access to, engagement with, and awareness-raising of policy-makers and civil servants of ministries involved in structural reforms (eg.: defense, agriculture ministries) which otherwise not necessarily engage on fundamental rights and with NHRIs;
- Potential integration of fundamental rights in structural reforms in a state, at the development, monitoring and implementation stages with possibly structural positive impacts for fundamental rights in a country.

Limitations

Limitations are also apparent for NHRIs when carrying out a potential role in the context of the monitoring and contributing to fundamental rights compliance of EU funded programmes under the CPR:

- Limited role for NHRIs in light of the Paris Principles' independence requirement: in line with their independence, it is inappropriate for NHRIs to take up a decision-making or voting position in the context of the CPR, nor to issue 'fundamental compliance certificates' to state authorities in advance of the EU funded projects being implemented;
- Limited NHRI resources while no funds guaranteed for carrying out this additional role: carrying out a role in monitoring fundamental rights compliance of EU funded programmes likely requires substantial resources, while the impact of such work by NHRIs is not easily measured. Allocation of funds by NHRIs for an additional role is challenging in a [context of already limited resources to carry out their core mandate](#), while state authorities allocate additional mandates to NHRIs without additional funds, and while no specific EU funds are allocated to independent bodies involved in the monitoring of fundamental rights compliance of EU funded programmes;
- Limited expertise of NHRIs on the Charter and EU funds: the very specific expertise required for NHRIs to be involved in the conditionality compliance on both the EU Charter (with a very broad scope) and EU funds (of a very technical nature) is generally not in place yet. NHRIs have suggested EU support on developing a 'fundamental rights checklist' which can be used and disseminated by NHRIs in the context of the monitoring EU funds;
- Risk of repercussions while no EU protection mechanism in place: there is a potential risk that when non-compliance is found with the EU CPR, this may have negative impacts on state authorities' cooperation with actors involved in compliance-checks, including NHRIs.

Importantly, there is no EU mechanism in place to prevent such instances or which could protect actors because of their involvement in the implementation of the EU CPR.

In light of these limitations, there is a clear need for EU technical, financial and political support for NHRIs and other independent bodies who take up a role in the implementation of the EU's CPR fundamental rights conditionality.

In light of the current opportunities and challenges reported by NHRIs, ENNHRI calls on the European Commission and the EU Agency for Fundamental Rights (FRA) to ensure urgent consultation with NHRIs to enable timely EU guidance and support for NHRIs when taking up a role in implementing the EU CPR. ENNHRI stands ready to provide further information to the Commission and FRA to enable timely guidance and support to NHRIs, in compliance with the UN Paris Principles.

About ENNHRI

ENNHRI is the European Network of National Human Rights Institutions. We bring together over 40 National Human Rights Institutions (NHRIs) to enhance the promotion and protection of human rights in Europe. Our network provides a platform for collaboration and solidarity in addressing human rights challenges and a common voice for NHRIs at the European level.