

## ENNHRI Submission to Council of Europe High-Level Reflection Group

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In the context of seismic changes ongoing in Europe for human rights, democracy and rule of law, ENNHRI welcomes the establishment by the Council of Europe Secretary-General of a High-level Reflection Group to develop the Council of Europe's responses to the current challenges and realities across our region.

Bringing together all National Human Rights Institutions (NHRIs) in Europe, which are [recognised as pillars for the protection of human rights, democracy and rule of law by the Council of Europe](#), ENNHRI calls upon the High-level Reflection Group to take into account its recommendations:

- 1. The Council of Europe should further integrate and support independent national actors and their pan-European networks, such as NHRIs and ENNHRI, in its strategies and actions to build greater unity between Council of Europe Member States**

Based on their broad constitutional or legislative mandate to promote and protect human rights, NHRIs bridge governments with civil society and bring national realities to international actors and mechanisms, including those of the Council of Europe and the European Union. Under the umbrella of ENNHRI, all European NHRIs come together to forge solidarity, mutual learning and joint action [to address the most pressing challenges for human rights and rule of law across Council of Europe Member States](#). ENNHRI's [strategic priorities](#) include supporting and enabling NHRIs' individual and collective contributions to the Council of Europe, as illustrated through ENNHRI's Third Party Interventions in ongoing cases concerning the right to [access to abortion and rule of law](#) or the [right to a healthy environment](#).

While developing its response to current seismic challenges, the Council of Europe should also consider in particular the added value and relevance of the work of NHRIs in [situations of conflict and post-conflict](#), where human rights abuses usually are more widespread and societies divided. Independent, strong and trusted institutions such as NHRIs are needed not only to support individuals affected by conflict, but also to promote a culture of rights. NHRIs in situations of (post-)conflict play an essential role also in conflict prevention, management and resolution, as well as peace-building and transitional justice. NHRIs, including in Ukraine and its neighbouring countries, [have been at the forefront of the response to the human rights challenges from the war against Ukraine](#). While continually monitoring and reporting on the situation on the ground, they

have developed initiatives such as dedicated hotlines and information campaigns and expressed solidarity in various ways, including through ENNHRI. Notably, ENNHRI [provides guidance and support to NHRIs on promoting and protecting rights in non-government controlled areas and other disputed territories](#), contributing to closer cooperation across Council of Europe Member States even in some of the most challenging contexts.

NHRIs are trusted actors nationally and internationally due to their accountability in line with the Paris Principles and the [international accreditation system](#). Through [Recommendation 2021/1](#), the Council of Europe Committee of Ministers has recently also set in place the golden European standards for the establishment and strengthening of effective, pluralist and independent NHRIs in each Council of Europe Member State, which complement the Paris Principles.

Accordingly, while the Council of Europe is developing its responses to address current challenges, it should consistently include and build on the potential of NHRIs and ENNHRI. The Council of Europe, notably, should deliver on the strategic priorities reflected in the Committee of Ministers 2021 [Hamburg](#) and 2019 [Helsinki](#) Decisions to further strengthen the role and meaningful participation of NHRIs and civil society organisations in the Organisation. Accordingly, the Council of Europe should further invest resources to make the Organisation more transparent and accessible to NHRIs and ENNHRI as well as to civil society organisations, especially at the level of the Committee of Ministers, which remains the least transparent and accessible body, but with the most significant powers. Better access to information will facilitate a stronger role and improved participation for NHRIs.

Importantly, and as put forward in the Committee of Ministers Helsinki Decision as well, the Council of Europe should also develop more robust mechanisms to protect human rights defenders, including NHRIs, when facing threats to their independence and functioning due to their human rights work, including for their cooperation with the Council of Europe. Especially in a context of conflict and growing threats to the rule of law and democracy in Council of Europe Member States, robust regional protection mechanisms for human rights defenders become increasingly needed.

The Council of Europe should furthermore strengthen support for NHRIs at national level, such as through cooperation programmes that would comprehensively support the implementation of CoE Recommendation 2021(1) on ensuring the establishment and functioning of strong, independent and pluralist NHRIs in each Council of Europe Member State. Thereby, the Council of Europe should [take into account the findings and reports by ENNHRI and NHRIs](#), and can cooperate with ENNHRI, making use of its technical expertise. Enhanced cooperation and

interaction with NHRIs could also contribute to making the Council of Europe more visible in their work at national level.

**2. The Council of Europe should install a systemic follow-up by the Committee of Ministers of violations of human rights, democracy and rule of law in Council of Europe Member States, based on each State's record on implementation of judgments of the European Court of Human Rights and of the recommendations of Council of Europe independent monitoring bodies, and including NHRIs and civil society reports and recommendations.**

The Council of Europe is a global frontrunner for human rights, democracy and rule of law on account of its well-elaborated legal framework and the related expert bodies and institutions, including the European Court of Human Rights, the European Committee of Social Rights, the Council of Europe Commissioner for Human Rights and the other specialised monitoring and advisory bodies, mandated to independently assess Member State's compliance with the Council of Europe's legal framework. Despite this, the Council of Europe's authority and *raison d'être* is currently challenged, in particular due to the lack of implementation by Member States of the judgements of the European Court of Human Rights and of the findings and recommendations of the Council of Europe independent monitoring bodies.

In addition to strategic action in relation to the implementation of the European Convention on Human Rights and judgments of the Court in particular (further addressed below under 3), ENNHRI recommends the setting up of a systemic procedure at the level of the Committee of Ministers to follow-up the implementation by each Council of Europe Member State of the Council of Europe's judgements and findings of independent monitoring bodies addressed to it. The procedure should include clear benchmarks for ensuring swift and appropriate follow-up by the Committee of Ministers, in cooperation with other relevant Council of Europe bodies, and foresee escalation of follow-up action when Member States do not enhance their implementation of their human rights obligations under the Council of Europe's legal framework. Enhanced attention in the context of such follow-up procedure should be considered for rights which appear to be systematically violated across Council of Europe Member States, such as access to justice, right to housing, or domestic violence against women. Such a process should, notably, also ensure participation rights for NHRIs and civil society to provide independent national-level reports on the state of implementation in their country. While developing such approach to NHRI participation, good practices from the [United Nations Universal Periodic Review](#), or the EU accession policy can be taken as inspiration. In the context of the EU accession policy, notably, the follow-up by state authorities of NHRI recommendations are included as benchmark to assess advancement of EU candidate countries on their path to EU integration.

To further strengthen the authority of the findings of Council of Europe independent bodies, and to further their implementation at national level, it is also essential to ensure further transparency and accessibility of Council of Europe country-specific procedures to national stakeholders, including NHRIs. NHRIs already provide information and follow-up across the wide variety of Council of Europe independent monitoring bodies, including the Council of Europe Commissioner, the [European Social Committee](#), the Venice Commission, [the Istanbul Convention monitoring procedures](#), the European Committee for the Prevention against Torture, the Group of States against Corruption, Advisory Committee on the Framework Convention for the Protection of National Minorities, and the European Commission against Racism and Intolerance. However, the potential contribution of NHRIs and ENNHRI to the Council of Europe independent mechanisms and the implementation of the Council of Europe's legal framework is not fully capitalised, including through a lack of transparency and fragmentation of clear participation rights, guidance and information on how NHRIs can most effectively engage with the Council of Europe bodies. The Council of Europe should consider the [good practice of the United Nations](#) concerning the rights, guidance and support provided to NHRIs and their networks to contribute to intergovernmental and independent country-specific procedures to inspire further transparency and accessibility for NHRIs at the Council of Europe.

### **3. The Council of Europe should develop a comprehensive, well-resourced strategy on implementation of the European Convention on Human Rights and judgments of the European Court of Human Rights, including NHRIs and civil society organisations.**

[The Council of Europe's data](#) on the lack of implementation of judgments of the European Court of Human Rights, including of leading cases, indicates this is a systemic problem across the Council of Europe which is further on the rise. Notably, and as indicated through the 2022 report of [Democracy Reporting International and the European Implementation Network](#), as well as [ENNHRI's annual rule of law reporting](#), the non-implementation of European Court of Human Rights judgments has serious negative effects on human rights, democracy and rule of law in Europe.

The 2021 Committee of Minister's Hamburg Decision has rightly included the implementation of the European Convention of Human Rights and the implementation of European Court of Human Rights judgments as key strategic priority. However, so far, the identification of this strategic priority has not been followed by the necessary comprehensive follow-up and commitment of sufficient resources to this area of work of the Council of Europe. The [2021 Annual Report on the Supervision of the Execution of Judgments of the Court](#), notably, reflects the crucial role of the Department for the Execution of Judgments, and flags the need to urgently strengthen the Department's resources. However, according to the [Programme and Budget of the Council of](#)

[Europe for 2022-2025](#), the Department's budget will stay the same in real terms as compared to 2021.

While developing further strategic responses and securing relevant resources for this strategic priority, the Council of Europe should also bear in mind the need to strengthen the involvement and support for NHRIs and civil society organisations in the implementation of judgments of the European Court of Human Rights and the European Convention on Human Rights. The crucial role of NHRIs in this context has been regularly recognised at the highest political level of the Council of Europe, including at the inter-governmental conferences in [Brighton \(2012\)](#), [Brussels \(2015\)](#) and [Copenhagen \(2018\)](#), as well as in the review of the [10-year "Interlaken process"](#) aimed at further strengthening the ECHR system. Yet, there is vast potential to further involve and support NHRIs and civil society in carrying out this role. Measures to strengthen such involvement could include, [for example](#), to introduce a requirement that Action Plans of State Parties include reports on how NHRI and NGOs have been involved in identifying and implementing measures needed to execute a judgment, or that Member States are required to respond to submissions made under Rule 9 by NHRIs and NGOs. In addition, further support should be provided by the Council of Europe to build the capacity of NHRIs to carry out their role in the context of the implementation of judgments, both through in-country support as through supporting peer exchange and learning across NHRIs. The latter could be done through ENNHRI, in cooperation with the Department on the Execution of Judgments, and civil society partners such as the European Implementation Network, [as was successfully done in 2020](#). Overall, the Council of Europe should significantly increase technical cooperation projects focused on implementation of judgments, including NHRIs and civil society.

In conclusion, ENNHRI stands ready to further engage with the Council of Europe and the High-Level Reflection Group, and to further contribute to the principles, values and mission of the Council of Europe, with a view to enhance the enjoyment of human rights, democracy and rule of law across our region.