



European Network of
National Human Rights Institutions

Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play

**Cooperation and support from Member
States and the Council of Europe for NHRIs**



Cross-regional analysis for each principle of the Council of Europe Recommendation on NHRIs

In line with the operational paragraphs of CM Recommendation 2021/1, CoE Member States envisage to ensure that the Principles set out in the appendix to the Recommendation are implemented in relevant domestic law and practice (OP 2). Member States, furthermore, are recommended to evaluate on a regular basis the effectiveness of the measures taken in the implementation of the appendix to the Recommendation (OP 5). Accordingly, to facilitate follow-up to the CM Recommendation on NHRIs, [ENNHRI's baseline study](#) provides a cross regional analysis of the implementation of each CM Principle on NHRIs developed in CM Recommendation 2021/1, each time setting out the key challenges and good practices that emerge.

In line with the CM Recommendation (OP 4), the cross-regional analysis dedicates specific attention to ensure that the CM Principles are interpreted in line with the recommendations and General Observations of the Global Alliance of National Human Rights Institutions (GANHRI) Sub-Committee on Accreditation (SCA). Moreover, attention is also paid to how the CM Principles on NHRIs reflect other regional standards and recommendations from CoE bodies that are relevant for multi-mandated NHRIs, such as the [Venice Principles on Ombuds-Institutions of the Venice Commission](#) or the [ECRI General Policy Recommendation No.2 on Equality Bodies](#).

Explore the key findings for CM Principles Related to Cooperation and Support from Member States and the Council of Europe for NHRIs

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Cooperation and Support from Member States and the Council of Europe for NHRIs

Supporting NHRI Co-operation beyond State Authorities (CM Principle 15)

Beyond ensuring cooperation of various levels of state authorities and the administration with NHRIs (addressed in CM Principles 8,9,11), CM Principle 15 flags the importance for Member States to enable NHRI cooperation with other actors, including, in particular, cooperation with: NHRIs in third countries; civil society stakeholders; other human rights structures in-country (including specialised institutions at local and regional level); and international and regional organisations working in the human rights field.

Cooperation of NHRIs with the wide spectrum of human rights actors at home and abroad is fundamental for NHRIs' functioning as 'bridge-builders' between civil society and the state, and between domestic human rights realities and international human rights processes. As reflected in the [SCA General Observation 1.5](#) 'regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates'.

Overall, such cooperation is understood as being part of NHRIs' broad mandate to promote and protect human rights, and a specific legal basis enabling such cooperation is not necessary for NHRIs to engage with such actors in practice. Still, a legislative stipulation in NHRIs' mandates can be conducive to encourage formalised relationships of NHRIs with such actors, and to reflect the key importance of such a relationship for NHRIs' effective functioning. The baseline report reflects a wide variety of countries where such legislative provisions are in place, including in Belgium, Bosnia and Herzegovina, Croatia, Finland, France, Greece, Luxembourg, North Macedonia, Poland, Slovenia, Serbia and the United Kingdom.

NHRIs' cooperation with civil society deserves further attention, as this relates to the pluralistic nature of NHRIs which is highlighted in the title of CM Recommendation 2021/1. As the SCA ([General Observation 1.7](#)) highlights, pluralism facilitates the NHRIs' appreciation of, and capacity to engage on all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all individuals. The SCA develops four avenues to ensure NHRIs' pluralism, including: pluralistic composition of the decision-making body of the NHRI; ensuring participation of civil society in appointment process of NHRI leadership; reflection of different segments of society in NHRI staffing; as well as pluralism through procedures enabling effective cooperation with diverse societal groups.

In line with the last element to ensure pluralism, **many NHRIs in Europe have formalised their cooperation with a variety of civil society actors**, and especially human rights NGOs, including through the setting up of consultative councils. In Finland, for example, the NHRI's legal framework provides for the establishment of a Human Rights Delegation which serves as a forum for cooperation with human rights actors, including NGOs and human rights defenders, thereby institutionalizing cooperation. The Delegation deals with human rights matters that are of far-reaching significance and principal importance to the NHRI. In France and in Greece, legislation prescribes pluralistic and direct participation of a wide range of civil society organisations in the decision-making body of the NHRI, thereby enabling direct participation of such organisations in the NHRI's strategic decision-making.

NHRIs' **cooperation with 'other human rights structures'**, including 'regional, local and/ or specialised institutions' also deserves some further particular attention. In line with the SCA General Observations ([SCA General Observation 1.5](#)), NHRIs should develop, formalize and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including sub-national statutory human rights institutions, and thematic institutions. As emerges from the baseline reports, and in line with the CM Principle 15, NHRIs cooperate with other human rights structures and they do so **in many different ways**. In some instances, such as in Croatia, such cooperation is prescribed in law. In other instances, such as in Finland, the cooperation is embedded through the composition of the consultative body ('Human Rights Delegation') which includes a representative of the various Finnish human rights structures.

In some country reports (eg. Finland and Moldova), it is flagged that the tendency to create new thematic human rights bodies and tasks without holistic and strategic analysis on impacts to existing structures **risk further fragmenting and complicating the human rights architecture**. In other instances (eg. Hungary), the merger of a specialised institution into a more broadly mandated NHRI has been met with criticism. A peculiar situation persists in Romania, where without clarification from the government which institution should be considered the NHRI, the accreditation applications of the Romanian Institute for Human Rights and the Romanian Ombuds are facing a stalemate.

As the CoE Commissioner has indicated; while governments have leeway to choose the institutional set-up of NHRIs and other human rights structures within their broader domestic context, they should while doing so respect the internationally applicable

standards, including on independence and effectiveness.¹ As addressed specifically in CM Principle 8, the CM requires that NHRIs should be consulted when legislative initiatives have an impact on their mandate, independence and operation.

Development of Council of Europe Co-operation Programmes on NHRIs (CM Principle 16)

CM Principle 16 indicates that Member States should encourage and consider sponsoring the development of co-operation programmes of the Council of Europe for NHRIs, with a view to strengthen their contribution to the effective implementation of the ECHR and other relevant instruments.

From ENNHRI's membership survey, it is apparent that **only a limited number of NHRIs have so far received such support** (around one-third of respondees). Such support appears largely focused on addressing specific human rights themes, such as combatting discrimination, supporting migrants' rights, Roma rights, or addressing sexual exploitation of children, rather than support for the functioning of NHRIs and their contribution to the implementation of the CoE acquis more broadly.

In some cases (eg. for Azerbaijan and Türkiye), the CoE cooperation programmes are developed in cooperation with the EU, and interrelate with the EU's neighbourhood policy. One interesting example of a more dedicated CoE cooperation programme, including the strengthening of an NHRI and its contribution to the implementation of CoE instruments, is the 2015 project launched in support of the NHRI in Kosovo* "[Support to the implementation of European Human Rights standards and the Reform of the Ombudsperson Institution](#)", co-financed by the governments of Norway and Switzerland. The NHRIs from Albania and Moldova also indicate to have received support from the CoE both for enhancing the functioning of their institution, as its work in relation to the implementation of CoE instruments.

The cross-regional evaluation of the implementation of CM Recommendation 2021/1 shows that no situation is perfect, and that each CoE Member State can learn from its peers. Good practices and challenges are apparent for each of the Principles of CM Recommendation 2021/1. Accordingly, the facilitation of peer exchange among CoE Member States and in-country support through technical and comparative expertise could significantly strengthen NHRIs' contributions to the implementation of the ECHR and other CoE instruments. A **comprehensive CoE programme dedicated to NHRIs**, possibly in cooperation with CoE Member States, the EU and ENNHRI, to facilitate in-country support (such as multi-stakeholder roundtables) and peer exchange amongst

¹ [CoE Commissioner for Human Rights Statement on Hungary, November 2020](#). For a further analysis: Human Rights and Equality Institutions in Europe: Balance between Centralisation and Fragmentation?', Finnish Human Rights Centre's publications 2/2022, available [here](#).

NHRIs (possibly through ENNHRI) could be greatly beneficial to ensure strong and independent NHRIs across the region, and their contribution to the implementation of the ECHR and other instruments.

Strengthening the Role and Meaningful Participation of NHRIs and ENNHRI within the Council of Europe (CM Principle 17)

CM Principle 17, as well as Operational Paragraph 6 of CM Recommendation 2021/1, recommends Member States seek **new ways and means to strengthen the role and meaningful participation of NHRIs and ENNHRI within the Council of Europe**. This recommendation, notably, echoes the Committee of Ministers' [2019 Helsinki Decision](#) as well as the [Reykjavik Outcome Declaration of the Summit](#).

From ENNHRI's membership survey, responding NHRIs indicate they engage mostly in the context of country-specific procedures of CoE bodies. NHRIs provide information independent from government to CoE bodies (in writing and/ or in the context of country visits) and follow-up on the outcomes of CoE procedures at domestic level, through engagement with state authorities and civil society, as well as broader awareness-raising activities. NHRIs appear to engage most, accordingly, with the European Commission against Racism and Intolerance (ECRI), the Committee for the Prevention of Torture (CPT) and the Council of Europe Commissioner for Human Rights. This is followed by engagement with the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), with which two thirds of respondents indicate engagement. Around half of the respondents indicate they engage with the European Court of Human Rights, the European Social Committee, and the Advisory Committee on the Framework Convention for the Protection of National Minorities (FCNM).

Impressively, the ENNHRI survey shows that NHRIs engage with at least thirteen different CoE bodies. Beyond those already mentioned, NHRIs also engage with: the Group of States against Corruption (GRECO), the Venice Commission, the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), the Parliamentary Assembly (PACE), the group of experts on action against trafficking in human beings (GRETA), and the Committee of Ministers (especially in the context of CM DH meetings).

ENNHRI, from its side, engages with CoE bodies and procedures of a more cross-regional nature, representing the collective voice of NHRIs across the region. For example, [ENNHRI submits Third Party Interventions](#) before the European Court of Human Rights and represents NHRIs in its capacity as observer to the Steering Committee for Human Rights (CDDH) and its subordinate groups. Accordingly, ENNHRI is engaging with the CoE on key human rights issues and is contributing to related

standard-setting processes, such as in the area of [artificial intelligence](#) and [the right to a healthy environment](#).

Two CoE actors have developed dedicated and publicly available information for NHRIs, explaining how NHRIs can engage with the CoE process they are facilitating. The Council of Europe Department for the Execution of Judgments launched a [webpage](#) explaining how NHRIs can contribute to the execution of ECtHR judgments. The Secretariat to the European Social Committee, from its side, launched a [manual](#) on how NHRIs and equality bodies can engage in the Committee's periodic reporting process and complaints mechanism. Notably, both manuals have also been accompanied with dedicated awareness-raising meetings with NHRIs. While the Department for the Execution of Judgments co-organised a [capacity-building activity](#) for NHRIs with ENNHRI in 2021, the Secretariat to the European Social Committee sets up [regular webinars](#) with ENNHRI and NHRIs to update them on how they can contribute to the periodic reporting cycles. The survey responses from ENNHRI's members indicate the relevance of such targeted efforts of the CoE to inform and engage NHRIs. NHRIs rank participation to the European Social Committee through the development of independent reports amongst the most meaningful engagement opportunities at the Council of Europe. Work on the implementation of ECtHR judgments, on the other hand, ranks amongst the processes responding NHRIs wish to engage on further.

Overall though, **NHRIs indicate a general lack of transparency and information concerning their meaningful engagement across the CoE procedures.** While NHRIs report engagement with at least 13 different CoE bodies, the information on when and how to meaningfully engage is overall fragmented and not easily accessible. While NHRIs are described by the CoE as 'pillars for fundamental rights, democracy and rule of law', **no structural CoE approach is in place to facilitate meaningful engagement of NHRIs.** As reported by one NHRI who engages across a variety of CoE bodies, the NHRI 'is required to invest significant staff capacity in tracking the procedures, deadlines and announcements regarding upcoming reviews and visits [...], including due to the lack of a formal and consistent system for the notification of NHRIs about such updates by CoE Secretariats.'

Furthermore, it is reported by NHRIs that **some CoE bodies lack awareness** of the specific nature and mandate of NHRIs as independent state authorities, and the added value they can bring for advancing the implementation of CoE instruments. One member thus indicates that rather than being informed and invited to contribute to a country visit by the CoE body, it was invited through government, which raises concerns in view of its independence. Another hurdle mentioned is the **lack of formal participation rights** for NHRIs and ENNHRI, including in particular at CoE decision-making bodies such as the Parliamentary Assembly and the Committee of Ministers. In

some instances, notably in the context of the execution of judgments, participation rights for NHRIs and ENNHRI are foreseen. Yet, as also [submitted by ENNHRI](#) in the context of the CoE Summit, such participation could become strengthened and be more meaningful. For example, in the context of execution of ECtHR judgments, Member States could be required to respond to NHRIs' submissions, or NHRIs be given the right to orally intervene at CM DH.

The UN can serve as inspiration for the Council of Europe on how to further support meaningful participation of NHRIs; including by setting in place a focal point and staff at the CoE Secretariat (DG I), dedicated to facilitating NHRI participation, and launching a notification system, dedicated webpage and information bringing together engagement opportunities for NHRIs. Furthermore, to facilitate domestic follow-up by NHRIs of CoE country-specific judgments and recommendations, these could be pulled together in regularly updated CoE country-specific online databases. As is the practice already at the UN, moreover, and in line with NHRIs' independence, NHRIs' participation should be made possible through independent participation rights in CoE procedures, including the country-specific procedures at the level of the CM.

Beyond inspiring further development of meaningful participation for NHRIs and ENNHRI at the Council of Europe, the baseline overview also provides an interesting insight into how CoE independent bodies are supporting strong and independent NHRIs through their recommendations addressed to state authorities in their monitoring and reporting procedures. From the comparative overview, it emerges that ECRI most consistently develops recommendations to state authorities on NHRIs (31 of 40 countries), followed by the CPT (20 of 40 countries), the Council of Europe Commissioner for Human Rights (14 of 40 countries), and the Venice Commission (6 of 40 countries).

While to some extent, the discrepancy in numbers is related to the specific mandates of the various CoE bodies and NHRIs' multiple mandates, ENNHRI envisages that by providing reliable data through its baseline on challenges and good practices concerning the implementation of CM Recommendation 2021/1, this can **engender further consideration and support by the CoE independent monitoring bodies for NHRIs**. For example, in ENNHRI's survey for NHRIs, the relevance for the Venice Commission to allow for initiation of opinions by NHRIs, is flagged as important. By more consistently paying attention to and support the existence of strong and independent NHRIs in each CoE Member State, the CoE monitoring bodies also further contribute to the overall aim of the CoE to promote and protect human rights, democracy and rule of law in the Council of Europe.