



European Network of
National Human Rights Institutions

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

The situation in Croatia



Croatia Country Report

Overview

Name of NHRI and mandate:

- Ombudswoman of the Republic of Croatia (ORC)
- NHRI, also: Ombuds-institution, Equality body, NPM. Protection of the Persons Reporting Irregularities

Sources:

- NHRI: [ENNHRI State of the Rule of law in Europe in 2022, Croatia Country Report](#)
- Sub-Committee on Accreditation (SCA): [SCA Report March 2019](#)
- CoE independent bodies: [CPT Country Report on Croatia \(2020\)](#); [ECRI Country Report on Croatia \(2018\)](#)

Good practices and improvements:

- **CM Principle 1: compliance with the Paris Principles:** The Ombudswoman of the Republic of Croatia is an A-Status institution.
- **CM Principle 2 & 13: The Ombudswoman has a broad constitutional mandate, including independence safeguards such as functional immunity.**
- **CM Principle 4: broad consultation and participation in selection process:** In line with a 2019 SCA recommendation, the institution advocated for a broad consultation and participation of civil society in the selection process, and so during the public hearing in the selection process questions to the candidates could be asked not only by members of the Parliament but also by external members of committees, who are representatives of CSOs and academia.

Key areas where improvement is needed:

- CM Principle 3&4 and 8: unfettered access to information and cooperation by relevant authorities to carry out all issues covered by the mandate:** in line with findings of the CPT (2020), in the context of the NHRI's work on the treatment of irregular migrants, the Ministry of the Interior still continues to deny the Ombudswoman direct access to data in their information system in the context of irregular migration. This is in spite of some positive steps regarding access to information during Ombudsman's (announced and unannounced) visits to police stations. This practice continues; thus, in her 2022 Annual Report to the Parliament the Ombudswoman repeated the recommendation she has been issuing since 2018 for the MI to provide access to the Ombudswoman to all data pertaining to the treatment of irregular migrants, including the data stored in its information system.
- CM Principle 6 and 10: ensure adequate, sustainable and sufficient resources, including for additional mandates:** In its 2019 findings the SCA recommended that the ORC be provided with adequate resources corresponding to its extended mandate in relation to whistle-blowers' protection (planned new staff members). In 2022, the institution has been strengthened with five new staff members, but this has not been done with regard to deputies. Namely, the Ombudsman Act prescribes three deputies as the minimum number of deputies, and considering today's mandates and powers it should be strengthened with at least another deputy. On a positive note, the NHRI reports that additional temporary space (after its office premises were destroyed in the earthquake) was provided to the office in 2022, following the ORC's recommendation.
- CM Principle 9: timely and reasoned response and follow-up to NHRI recommendations:** The Croatian Ombudswoman reports that after submitting the Annual Report to the Parliament, the Parliament votes for approval of the Report of the ORC – which can have an effect on the implementation of the recommendations of the ORC . Moreover, the ORC notes that while relevant authorities are legally obliged to provide a timely and reasoned response to the NHRI's recommendations, the parliament's consideration of the annual report and its recommendations faces delays which implied that in 2021, the newly elected Ombudswoman had to present 3 annual reports submitted by her predecessor simultaneously. In addition, regarding recommendations issued in annual reports, the Governmental Office for Human Rights and Rights of National Minorities is formally tasked with the systematic monitoring of the implementation of recommendations from the Ombudswoman's annual report. However, currently the Governmental Office is not fulfilling this obligation, as reported by the ORC. On the other hand, following the ORC's recommendation among others, in 2022 the Government of the RC established a multisectoral advisory body (the Council for Human Rights) which called on public authorities to take appropriate

measures and activities to implement the recommendations of the Ombudswoman as well as to provide the Ombudswoman with an appropriate explanation if they believe that a recommendation cannot be implemented in the proposed manner.

Specific findings per Principle

The tables below include data on the assessment of the implementation of each Principle (i.e. the individual parts) within the Recommendation from three sources: the National Human Rights Institutions, the Sub-Committee on Accreditation of GANHRI and the Council of Europe independent bodies. Overall, the findings are considered in four overall groups: the establishment of NHRIs; the strengthening of NHRIs; a safe and enabling environment for NHRIs; and cooperation with and support for NHRIs.

I. Establishment of NHRIs

Principle 1	Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles
Assessment of implementation by the NHRI	<i>Information provided by the NHRI in 2023</i> The institution of the Ombudswoman of the RC was established by the Constitution of the RC in 1990. It was accredited by the SCA as an A Status NHRI in 2008 and reaccredited in 2013 and 2019.
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<i>SCA Report March 2019, p. 18</i> Recommendation: The SCA recommends that the ORC be re-accredited with A status.

<p>Principle 2</p>	<p>Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their interpretation developed by GANHRI's Sub-Committee on Accreditation.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The Ombudswoman of Croatia continues to function on a constitutional basis., as established by Article 93 of the Constitution Mandates are further established and regulated in the Ombudsman Act (official Gazette no. 76/12), the Antidiscrimination Act (Official Gazette no. 85/08, 112/12), the Act on the National Preventive Mechanism (Official Gazette no. 18/2011, 33/15) and the Act on the Protection of the Persons Reporting Irregularities (Official Gazette no. 46/22).</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Croatia, 2018, p. 13 (Para.17)</i></p> <p>ECRI is pleased to note that the Ombudsperson has all the powers recommended in ECRI's GPR No. 7 § 24 and conforms with the recommendations under ECRI's GPR No. 2 on national specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.</p>

II. Strengthening of NHRIs

<p>Principle 3.1</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor and analyse the human rights situation in the country, publish reports on these findings and address recommendations to public authorities at national, regional and local levels and, when applicable, to private entities, and present an annual report to the relevant authorities, including before parliament, for its consideration.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022 , p. 6</i></p> <p>In relation to the NHRI's recommendations, the Ombudswoman can issue recommendations in individual cases and through the Annual and Special Reports.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>Also in individual cases, the Ombudswoman can issue warnings, proposals, opinions and recommendations.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Croatia, 2018, p. 13 (Para. 17)</i></p> <p>Its competences include, inter alia, dealing with complaints of discrimination, providing information to persons who complain of discrimination about their rights and remedies, increasing public awareness, conducting surveys and collecting and analysing data on discrimination. Although the</p>

	<p>Ombudsperson cannot issue binding decisions or impose sanctions, it can give warnings, proposals, opinions and recommendations.</p>
<p>Principle 3.2</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - freely address public opinion, raise public awareness on human rights and carry out education and training programmes;
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The ORC regularly addresses public opinion via the media and via the institutional communication channels – the web page, the newsletter, youtube, twitter and LinkedIn pages. Additionally, public awareness raising is conducted via the Annual and the Special Reports, public campaigns, public events and training programmes.</p> <p>The staff of the ORC conducts training sessions for a variety of stakeholders - judges, lawyers, civil servants, employers and unions, CSO and the media on various topics, in cooperation with various stakeholders (Judicial Academy, State Administration School, CSOs and similar).</p>

<p>Principle 3.3</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <p>- fully address all alleged human rights violations by all administrative authorities, other relevant State entities and, when applicable, private entities</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information Provided by the NHRI in 2023</i></p> <p>The Ombudsman Act, Article 4:</p> <p>The Ombudsman shall promote and protect human rights and freedoms and the rule of law by examining the complaints of the existence of unlawful practices and irregularities with respect to the work of government bodies, bodies of local and regional self-government units, legal persons vested with public authority and legal and natural persons in accordance with special laws. [i.e. the Antidiscrimination Act and the Act on the Persons Reporting Irregularities.]</p> <p>Article 26 (Case report):</p> <p>(1) When the Ombudsman concludes the investigation of a complaint in which s/he established the violation of the right, he/she shall draft a case report which shall be delivered to the body to which the complaint refers and to the complainant.</p> <p>(2) The case report shall contain a description of the facts and circumstances of the investigated case, an assessment of whether the complainant's constitutional or statutory rights have been violated and the manner in which the rights were jeopardised or violated.</p>

(3) In the case report the Ombudsman shall, where possible, recommend or propose to the body the way the threat or the violation of the right in question may be averted.

(4) The Ombudsman may propose to initiate a criminal, misdemeanour or disciplinary proceeding if during the performance of duty s/he establishes that the complainant's rights have been violated with elements of a criminal offence, misdemeanour or a breach of working discipline.

Article 27 (Information on the undertaken measures):

(1) The bodies as referred to in Article 4 of this Act shall notify the Ombudsman, within the time limit set by him/her, of the measures undertaken as a result of his/her proposal or recommendation.

(2) If the bodies referred to in Article 4 of this Act do not notify within the set time limit the Ombudsman on the measures undertaken or if they do not act in accordance with his/her recommendation or proposal, the Ombudsman shall inform thereof the body authorised for supervision of the bodies as referred to in Article 4 of this Act.

(3) If the body that conduct the supervision does not notify, within the open deadline on the established facts and undertaken measures, the Ombudsman shall inform thereof the Government of the Republic of Croatia.

(4) In the case of a more serious violation of or threat to the citizens' rights, the Ombudsman may notify the Croatian Parliament and the public of the failure of undertaking measures in accordance with his/her recommendation or proposal.

(5) The Ombudsman may propose to the head of the body as referred to in Article 4 of this Act the initiation of an appropriate proceeding against a person who through his/her unconscientiously actions has violated a constitutional or statutory right and who has failed to undertake, on the proposal of the Ombudsman, appropriate measures to lessen or remedy the resulting harm. The head of the body is

obliged to inform the Ombudsman on the initiation of the proceeding for breaches of the official duty within 30 days from the day of receipt of the proposal.

Article 20 (Initiation of proceedings):

(1) Anyone who considers that the bodies as referred to in Article 4 of this Act have jeopardised or violated, through their illegal or irregular work, his/her constitutional or statutory rights and freedoms may lodge a complaint to the Ombudsman with the aim of initiating a proceeding.

(2) The Ombudsman may also on his/her own initiative initiate a proceeding for the purpose of investigating individual or recurrent violations of constitutional and statutory rights and freedoms.

Article 22:

(1) The Ombudsman shall not take action where judicial proceedings are ongoing, except if it is apparent that the proceedings in question are being unnecessarily delayed or that powers are manifestly abused, in which cases he/she may request an explanation from the president of the competent court.

(2) If the explanation referred to in paragraph 1 of this Article is not provided in a timely manner, the Ombudsman shall inform the president of the Supreme Court of the Republic of Croatia.

(3) The Ombudsman shall be entitled to freely decide whether he/she will accept the complaint into consideration and to which extent. He/she may not take action with respect to a complaint, in particular in the following cases: - if the case in question concerns issues that are the subject of ongoing proceedings, except when proceedings are being unjustifiably delayed or in cases of manifest abuse of power, - if the deadline for an appeal provided for by special regulations is still open, - if the complainant failed to lodge an appeal within the legally prescribed deadline, - if three years have elapsed since the occurrence of an irregularity or the adoption of a decision by the bodies as referred

	<p>to in Article 4 of this Act, except in cases where the Ombudsman deems that the issue in question is of greater importance for human rights and freedoms.</p>
<p>Principle 3.4</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - have unfettered access to all relevant premises, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by their mandate and to all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests and with due respect for the confidentiality of information obtained;
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>Regarding the NHRI's work on the treatment of irregular migrants - in spite of some positive steps regarding access to information during Ombudsman's (announced and unannounced) visits to police stations, the Ministry of the Interior still continues to deny the Ombudswoman direct access to data in their information system.</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>Article 28 (Inspection):</p> <p>(1) The Ombudsman may at any time and without prior notification inspect the premises where the persons deprived of liberty are placed, premises where persons whose freedom of movement has been</p>

	<p>restricted and specific groups whose rights and freedoms the Ombudsman protects. The Ombudsman shall be entitled to inspect all the premises of bodies in which he/she is carrying out the inspection.</p> <p>(2) After having carried out the inspection, the Ombudsman shall draft, if necessary, a report which he/she shall submit to the body referred to in paragraph 1 of this Article and to the authority responsible for supervising the said body. If the report contains recommendations and/or remarks, the body referred to in paragraph 1 of this Article and the supervising authority shall immediately, or within a period of 30 days at the latest, inform the Ombudsman of the actions undertaken pursuant to his/her report.</p> <p>(3) The Ombudsman may inform the Croatian Parliament and the public if none of the bodies as referred to in paragraph 2 of this Article inform the Ombudsman on the undertaken measures.</p> <p>(4) The Ombudsman is entitled to communicate with anyone who might provide him/her with information regarding suspicions of human rights violations in the body or institution being inspected without the presence of the employee of the body or institution referred to in paragraphs 1 and 2 of this Article.</p> <p>(5) The Ombudsman shall periodically inform the public on the conducted inspections in special reports which he/she publishes on his/her website.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>CPT Report on Croatia 2020, p. 22 (Para.31)</i></p> <p>Further, in a response dated 24 September 2020 to the Ombudsman’s 2019 Annual Report, the Ministry of the Interior questioned whether the NPM had a mandate to conduct unannounced visits to police establishments if no-one is detained therein. It goes without saying that for a monitoring body to be effective it must have the power to make unannounced visits to any police stations whenever it deems it necessary and to consult all relevant documentation. Monitoring bodies are</p>

	<p>there to ensure that the police carry out their work professionally and in accordance with the law, and to work constructively to strengthen the protection of all persons deprived of their liberty.</p> <p><i>CPT Report on Croatia 2020, p.22 (Para.31)</i></p> <p>In this respect, the Croatian NPM, which is a part of the Croatian Ombudsman’s Office, has a clear mandate to examine all issues related to the treatment of migrants deprived of their liberty. However, since 2020, NPM monitors have only been allowed to consult files of migrants who have been “arrested” and not those pertaining to other migrants deprived of their liberty (i.e. “intercepted”) which are stored on the electronic information system of the Ministry of the Interior.</p> <p>2022 Annual Report – recommendation 154 (repeated)</p>
<p>Principle 3.5</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <p>- monitor existing and draft policies and legislation with human rights implications before, during and after their adoption in order to advise the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by making relevant and concrete recommendations.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 12</i></p> <p>The Ombudswoman regularly takes part in legislative and policy processes. [...] p. 16, the Croatian NHRI also actively participates in the drafting of relevant regulations providing comments and</p>

	<p>proposals through public consultations, as well as by participating in working groups and, at times, discussions in the relevant parliamentary committees.</p>
<p>Principle 3.6</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - contribute to an effective justice system for all, through awareness-raising measures and facilitating access to rights and remedies and, as applicable, by providing legal assistance, being a party before the courts or, when applicable, receiving individual complaints;
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The Ombudswoman of Croatia (...) has the mandate to contribute to protection of human rights for individuals, including through awareness-raising, individual complaints-handling, (...) strategic litigation before courts (only in antidiscrimination and whistle-blowers' protection cases)</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 16</i></p> <p>The institution of Ombudswoman addresses problematic issues in respect to the access to justice and effective judicial protection, primarily by acting on complaints concerning the lengthiness of judicial procedures and abuse of judicial powers, in which cases we can seek the explanation of the President of the Court.</p>

<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Croatia, 2018, pp. 13-14 (Para.17)</i></p> <p>While the Ombudsperson has the right to file criminal charges to the state attorney’s office, join proceedings before civil courts as an intervener sui generis and initiate cases before misdemeanour courts, ECRI notes that it can only initiate cases before civil courts for cases of discrimination concerning the collective interests of a certain group, but not individual ones, as per GPR No. 7.</p> <p><i>ECRI Report on Croatia, 2018, p. 14 (Para.18)</i></p> <p>ECRI recommends that the Ombudsperson is granted the right to bring civil cases concerning an individual person.</p>
<p>Principle 3.7</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - encourage the signature, ratification of and accession to international human rights treaties and contribute to the effective implementation of such treaties, as well as related judgments, decisions and recommendations as well as to monitor States’ compliance with them.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>In the Croatian NHRI’s annual reports, the Ombudswoman encourages the signing, accession and ratification of the relevant international instruments. Thus, for example both in our 2021 and 2022 Annual Report, the Institution recommended the ratification of the Optional Protocol to the ICESCR and of the Revised European Social Charter.</p>

The ORC contributes to the effective implementation of the international instruments by using them as legal sources in the conducting of her mandates, contributing with the shadow reports to the international human rights monitoring mechanisms and cooperating with them, as well as through her public awareness-raising activities.

The state's compliance with their recommendations is regularly monitored and addressed in our reports.

The ORC contributes to the implementation of ECtHR judgments primarily through recommendations and participation in public consultation process, where we monitor whether the proposed legislation is aligned with the Convention and ECtHR practice.

In our Annual Reports, the Ombudswoman provides data about the level of respect for constitutional and legal rights of citizens, especially taking into account the Convention and ECtHR practice. The Annual Reports also includes the chapter of relevant ECtHR cases regarding Croatia.

Also, The ORC is a member of the National Council of Experts for the Execution of the Court's judgments, which is an inter-sectoral body for the analysis and implementation of the ECtHR judgment at national level. Regarding our participation in the National Council activities, besides our monitoring role, we also submit comments on the Action plans proposed by the Government State Agent, including *M.H. and others v. Croatia*.

<p>Principle 4</p>	<p>The process of selection and appointment of the leadership of a NHRI should be competence based, transparent and participatory, in order to guarantee the independence and pluralist representation of these institutions. It should also be based on clear, predetermined, objective and publicly accessible criteria.</p> <p>The duration of the appointment should be clearly set out in the founding legislation, so that the leadership posts of the NHRI do not stay vacant for any significant period of time.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.7</i></p> <p>In line with the CM Recommendation 2021/1 and the Paris Principles In the [2021] election of the Ombudswoman, the institution advocated for a broad consultation and participation of civil society in the selection process, resulting in the fact that during the public hearing in the selection process questions to the candidates could be asked not only by members of the Parliament but also by external members of committees, who are representatives of CSOs and academia. Also, the public hearing was streamed online and is/was publicly accessible.</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>The Ombudsman Act:</p> <p>Article 10 (Ombudsman’s election):</p> <p>(1) The Ombudsman shall be appointed by the Croatian Parliament for a term of eight years with the possibility of reappointment.</p> <p>(2) At the latest six months before the expiry of the Ombudsman mandate, or no later than 30 days after the termination of office due to other reasons, the Croatian Parliament shall publish a public call to propose the candidates for Ombudsman.</p>

(3) The Committee for the Constitution, Standing Orders and Political System, with prior opinion of the Committee for Human Rights and Rights of National Minorities of the Croatian Parliament, shall propose at least two candidates for Ombudsman according to the received applications from the public call and it shall be submitted to the Croatian Parliament.

Article 11 (Requirements for election of the Ombudsman):

A person fulfilling the following requirements may be appointed as Ombudsman:

- a Croatian citizenship with permanent residence on the territory of the Republic of Croatia,
- a completed integrated undergraduate and graduate university degree in law
- a minimum of 15 years of professional work experience
- a distinguished expert enjoying a reputation among the public as a person of high moral principles who protects and promotes human rights and freedoms and the rule of law,
- a person who has not been convicted for criminal offences and against whom no criminal proceedings have been instituted for criminal offences subject to ex officio prosecution,
- a person who has not been a member of any political party.

Article 14 (Temporary inability to perform the duties and relief of duty of the Ombudsman and his/her deputies):

(1) In cases of temporary inability or termination of duty of the Ombudsman before the expiration of the term of office for which s/he was elected, one of the deputies of the Ombudsman, referred to in

	<p>Article 12, paragraph 5 of this Act shall replace the Ombudsman until the cessation of a temporary inability or election of a new Ombudsman.</p> <p>(2) The Ombudsman shall be relieved of his/her duty by the Croatian Parliament before the expiration of the term of office upon his/her own request, if due to a change in the circumstances he/she no longer fulfils the requirements for appointment provided for in Article 11 of this Act, if he/she is prevented from performing his/her duties for a period of over six months or if he/she does not perform the duty according to this Act.</p> <p>(3) The Ombudsman shall be relieved by the Croatian Parliament with a prior opinion of the Committee for Human Rights and Rights of the National Minorities and the Committee for the Constitution, Standing Orders and Political System.</p> <p>(4) The deputies of the Ombudsman shall be relieved of their duties by the Croatian Parliament on the proposal of the Ombudsman.</p> <p>(5) The deputy Ombudsman shall be relieved of his/her duty by the Croatian Parliament before the expiration of the term of office upon his/her own request, if due to a change in the circumstances he/she no longer fulfils the requirements for appointment provided for in Article 12 paragraph 3 of this Act or if he/she is prevented from performing his/her duties for a period of over six months.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2019, p. 18</i></p> <p>The ORC reports that while hearings are held during the selection process and these hearings are open to the public, only members of parliament are able to participate directly in this process. With respect to the involvement of civil society in the parliamentary process for selecting the Ombudsman, the SCA is of the view that this involvement should be direct rather than through members of parliament. This could be achieved, for example by: - directly soliciting proposals from civil society; or - allowing civil society to directly participate in the evaluation of candidates. The SCA encourages the</p>

	<p>ORC to advocate for amendments to the selection process to better promote broad consultation and the participation of civil society in the selection process.</p> <p><i>SCA Report March 2019, p. 19</i></p> <p>In accordance with article 93 of the Constitution and article 10 of the Law, the term of office of the Ombudsman is eight (8) years. The enabling law does not limit the number of times that the Ombudsman can be re-appointed. In order to promote institutional independence, the SCA is of the view that it would be preferable for this to be limited to one (1) reappointment.</p>
<p>Principle 5</p>	<p>To ensure independence, the enabling legislation of a NHRI should contain an objective dismissal process for the NHRI leadership, with clearly defined terms in a constitutional or legislative text. 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.</p>
<p><i>No information</i></p>	

<p>Principle 6</p>	<p>Member States should provide NHRIs with adequate, sufficient and sustainable resources to allow them to carry out their mandate, including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022 pp. 6-7</i></p> <p>Following the earthquakes in Zagreb in 2020, the Office of the Ombudswoman worked in the temporary office space, which could not accommodate all of their staff, nor their case files (archives) and generally did not meet their needs (no meeting room for instance).</p> <p>[...]</p> <p>The Croatian NHRI has taken an action to improve its functioning in compliance with the Paris Principles and Recommendations 021/1 of the Committee of Ministers of the Council on National Human Rights Institutions. In line with those recommendations:</p> <p>[...]</p> <ul style="list-style-type: none"> • Raised the issue of the need on the Government side for the provision of adequate resources corresponding to our extended mandate in relation to whistle-blowers' protection (planned new staff members). • Raised the issue of the inadequate premises of the institution. <p><i>Information Provided by the NHRI in 2023</i></p> <p>Following the adoption of the new Act on the Protection of the Persons Reporting Irregularities in April 2022, the ORC was strengthened through employment of five new staff members, but this has</p>

	<p>not been done with regard to deputies. Namely, the Ombudsman Act prescribes three deputies as the minimum number of deputies. But as new mandates were assigned to the institution, the number of deputies never changed. So, at the time when the institution had only one (ombudsman) mandate, the Ombudsman also had three deputies. Deputies are elected state official who needs to be elected by the Parliament, therefore parliamentary support is key.</p> <p>Therefore, the precondition for effective and timely action in all the mentioned mandates is insurance of both expert (civil servants/staff members) and management capacities (deputies) of the institution, so considering today's mandates and powers, it should be strengthened for at least another deputy. Deputies are elected state officials who need to be elected by the Parliament, therefore parliamentary support is key.</p> <p>Additional temporary office space was provided to the ORC in 2022, thus generally resolving the above mentioned issues.</p>
<p>Principle 7</p>	<p>NHRIs should have the authority to determine their staffing profile and recruit their own staff, as well as sufficient resources available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The staffing profile is determined by the Internal Rules of the Ombudsman and the staff are selected following a public call and a testing procedure by the ORC in line with the Civil Servants Act.</p> <p>The financial resources are provided for ORC as an independent institution in the State Budget, which is voted by the Croatian parliament and are mostly sufficient for the fulfilment of our mandates, although for some activities we do secure additional funding via projects.</p>

<p>Principle 8</p>	<p>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.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>See further Principle 3§4 on lack of access from the Ministry of the Interior to the information system concerning treatment of irregular migrants</i></p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 6</i></p> <p>Nevertheless, Croatian NHRI perceives that, in general, it has adequate access to information and to policy makers, also is involved in all stages of legislation and policy making with human rights implications.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>Article 9 of the Ombudsman act - (Access to information and obligation of confidentiality)</p> <p>(1) The Ombudsman shall be entitled to all information as well as to access all data and documents belonging to bodies as referred to in Article 4 of this Act while performing his/her tasks and according to the Data Protection Act.</p> <p>by the set deadline, the Ombudsman shall notify the authority that shall monitor the said body from Article 4 of this Act and may also notify the Croatian Parliament and the public.</p> <p>Article 25 (Duty of cooperation and provision of assistance):</p>

The bodies as referred to in Article 4 of this Act shall ensure the access to all data, information and acts related to the filed complaint, or provide all the necessary assistance to the Ombudsman at his/her request.

Article 26 (Case report):

(1) When the Ombudsman concludes the investigation of a complaint in which s/he established the violation of the right, he/she shall draft a case report which shall be delivered to the body to which the complaint refers and to the complainant.

(2) The case report shall contain a description of the facts and circumstances of the investigated case, an assessment of whether the complainant's constitutional or statutory rights have been violated and the manner in which the rights were jeopardised or violated.

(3) In the case report the Ombudsman shall, where possible, recommend or propose to the body the way the threat or the violation of the right in question may be averted.

(4) The Ombudsman may propose to initiate a criminal, misdemeanour or disciplinary proceeding if during the performance of duty s/he establishes that the complainant's rights have been violated with elements of a criminal offence, misdemeanour or a breach of working discipline.

Article 27 (Information on the undertaken measures):

(1) The bodies as referred to in Article 4 of this Act shall notify the Ombudsman, within the time limit set by him/her, of the measures undertaken as a result of his/her proposal or recommendation.

(2) If the bodies referred to in Article 4 of this Act do not notify within the set time limit the Ombudsman on the measures undertaken or if they do not act in accordance with his/her recommendation or

	<p>proposal, the Ombudsman shall inform thereof the body authorised for supervision of the bodies as referred to in Article 4 of this Act.</p> <p>(3) If the body that conduct the supervision does not notify, within the open deadline on the established facts and undertaken measures, the Ombudsman shall inform thereof the Government of the Republic of Croatia.</p> <p>(4) In the case of a more serious violation of or threat to the citizens' rights, the Ombudsman may notify the Croatian Parliament and the public of the failure of undertaking measures in accordance with his/her recommendation or proposal.</p> <p>(5) The Ombudsman may propose to the head of the body as referred to in Article 4 of this Act the initiation of an appropriate proceeding against a person who through his/her unconscientiously actions has violated a constitutional or statutory right and who has failed to undertake, on the proposal of the Ombudsman, appropriate measures to lessen or remedy the resulting harm. The head of the body is obliged to inform the Ombudsman on the initiation of the proceeding for breaches of the official duty within 30 days from the day of receipt of the proposal.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>See further Principle 3§4 on lack of access from the Ministry of Interior to the information system concerning treatment of irregular migrants.</i></p>

<p>Principle 9</p>	<p>Member States should implement the recommendations of NHRIs and are encouraged:</p> <ul style="list-style-type: none"> - to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame, - to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and - include information thereon in their relevant documents and reports.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>The understanding of the NHRI mandate, its independence and role varies across the system and depends on individual institutions. As previously noted, voting on the Annual Report in the Croatian Parliament, and in particular the negative vote on the annual report which is an assessment of the situation regarding human rights in the country, affects the level of implementation of the recommendations.</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>Firstly, it is important that the Parliament discusses Ombudswoman’s annual reports in a timely manner, as the Parliament not debating them in time, but with a considerable delay, makes the findings in the reports less relevant due to the passage of time, as well as negatively impacts the implementation of the recommendations from the annual reports. That was the case with the Ombudswoman’s annual reports for 2018 and 2019, which were not debated in 2019 nor in 2020. In</p>

2021, the newly elected Ombudswoman had to present 3 annual reports: Report for 2018, Report for 2019 and Report for 2020 (and additionally 1 Special report) to the Parliament at the same time during a single discussion on all 3 annual reports together. Similarly Ombudswoman's 2021 Report has still not been discussed in the Parliament at the time of submitting this information.

ENNHRI, State of the Rule of Law in Europe in 2022, p. 6

In relation to the NHRI's recommendations, the Ombudswoman can issue recommendations in individual cases and through the Annual Report. The addressees of the NHRI recommendations are legally obliged to provide a timely and reasoned reply. When it comes to individual cases, in line with the Article 27 of the Ombudsman Act the bodies to which recommendation was issued shall notify the Ombudswoman, within the time limit set by her, of the measures undertaken as a result of her recommendation. If the bodies do not notify within the set time limit the Ombudswoman on the measures undertaken or if they do not act in accordance with her recommendation, the Ombudswoman shall inform thereof the body authorised for supervision of that bodies. If the body that conducts the supervision does not notify, within the open deadline, the Ombudswoman shall inform thereof the Government of the Republic of Croatia. In the case of a more serious violation of or threat to the citizens' rights, the Ombudswoman may notify the Croatian Parliament and the public of the failure of undertaking measures in accordance with her recommendation or proposal.

ENNHRI, State of the Rule of Law in Europe in 2022, p.6

Regarding recommendations issued in annual reports - the Governmental Office for Human Rights and Rights of National Minorities is formally tasked with the systematic monitoring of the implementation of recommendations from the Ombudswoman's annual report. However, currently the Governmental Office is not fulfilling this obligation.

Information provided by the NHRI in 2023

	<p>However, following the ORC's recommendation among others, in 2022 the Government of the RC established a multisectoral advisory body, the Council for Human Rights, chaired by the Deputy Prime Minister, whose members consist of the representatives of the public administration bodies and government offices, along with several CSO representatives. In the several meetings it has held so far, the ORC presented the human rights situation in the RC and the recommendations from her 2021 annual report and the Council issued a Conclusion calling on public authorities to take appropriate measures and activities to implement the recommendations of the Ombudswoman as well as to provide the Ombudswoman with an appropriate explanation if they believe that a recommendation cannot be implemented in the proposed manner. The Conclusion also communicated about the necessity of the public authority bodies maintaining a constructive dialogue with the Ombudswoman regarding the implementation of her recommendations, as well as about a plan to hold thematic sessions on the topic of their implementation. Consequently, at one of its sessions following the Conclusion The ORC's recommendations related to the human rights of older persons were discussed.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report 2018 on Croatia, p. 14 (Para.19)</i></p> <p>[...] All four ombud's institutions are obliged to submit their annual reports to the Parliament where the latter casts a vote for their approval. [...] ECRI considers that [...] regulations, the vote [...], are serious impediments to the independence of these institutions.</p> <p><i>(Para.20)</i> ECRI recommends that the authorities amend the legislation so that the reports of the Ombudsperson and specialised ombudspersons are not voted on [...] to fully ensure their independence.</p>

<p>Principle 10</p>	<p>When member States grant NHRIs additional competences to perform functions foreseen by international conventions in the field of human rights, such as the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Convention on the Rights of Persons with Disabilities, the NHRI should have access to sufficient resources to develop the capacity to effectively discharge its functions, including having appropriately qualified and trained staff.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Further Principle 6 with regards lack of resources with regards the new whistle-blower protection mandate.</i></p> <p><i>Information from the NHRI</i></p> <p>In 2019, with the adoption of the Act on the Protection of the Persons Reporting Irregularities, the ORC was tasked with an additional mandate – that of the external channel for the reporting of irregularities. This change was not accompanied by the adequate rise in the human and material resources. Additionally, following the earthquakes in Zagreb in 2020, the Office of the Ombudswoman worked in the temporary office space, which could not accommodate all of their staff, nor their case files (archives) and generally did not meet their needs (no meeting room for instance).</p> <p>When it comes to new mandates and additional staff, the ORC was strengthened through employment of five new staff members, but this has not been done with regard to deputies. Namely, the Ombudsman Act prescribes three deputies as the minimum number of deputies. But as new mandates were assigned to the institution, the number of deputies never changed. So, at the time when the institution had only one (ombudsman) mandate, the Ombudsman also had three deputies.</p>

	<p>Therefore, the precondition for effective and timely action in all the mentioned mandates is insurance of both expert (civil servants/staff members) and management capacities (deputies) of the institution, so considering today's mandates and powers, it should be strengthened for another deputy.</p> <p>Also, additional temporary office space (after the office space was destroyed in the earthquake) was provided to the ORC in 2022.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2019, p. 19</i></p> <p>The ORC reports that, while its funding situation has improved, it would benefit from additional funding in order to carry out its functions, including its responsibilities as NPM under OPCAT. The SCA notes that the ORC has recently been mandated with additional responsibilities under the whistle-blower legislation but that no new funding has been allocated to allow it carry out these new responsibilities</p>

III. Safe and Enabling Environment

<p>Principle 11</p>	<p>Member States should ensure that NHRIs can operate independently, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of impartiality, integrity, transparency and fairness.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Generally, the ORC is able to operate independently and carry out her mandate effectively in a climate of impartiality, integrity, transparency and fairness.</p> <p>There are several obstacles in place, nevertheless (as stated above) related to:</p> <ul style="list-style-type: none"> • the failure of the Parliament to discuss the reports in a timely manner • the access to all information related to irregular migrants by the Ministry of Interior
<p>Principle 12</p>	<p>Member States should foster awareness and the co-operation of all relevant public authorities in relation to the mandate, independence and role of NHRIs, including through training and awareness-raising activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>Also, some state authorities still perceive the institution to a large extent by its first mandate of the ombudsman (focusing on maladministration) which it has had for 30 years, rather than the newer mandates, including the NHRI mandate. Part of this can be contributed to a general public lack of</p>

awareness and knowledge about human rights, including on the role of NHRIs in promoting and protecting human rights.

Information Provided by the NHRI in 2023

However, following the ORC's recommendation among others, in 2022 the Government of the RC established a multisectoral advisory body, the Council for Human Rights, whose members consist of the representatives of the public administration bodies and government offices, along with several CSO representatives. In the several meetings it has held so far, the ORC presented the human rights situation in the RC and the recommendations from her 2021 annual report and the Council issued a Conclusion calling on public authorities to take appropriate measures and activities to implement the recommendations of the Ombudswoman as well as to provide the Ombudswoman with an appropriate explanation if they believe that a recommendation cannot be implemented in the proposed manner. The Conclusion also communicated about the necessity of the public authority bodies maintaining a constructive dialogue with the Ombudswoman regarding the implementation of her recommendations, as well as about a plan to hold thematic sessions on the topic of their implementation. Consequently, at one of its sessions following the Conclusion The ORC's recommendations related to the human rights of older persons were discussed.

Additionally, the staff of the ORC conducts training sessions for a variety of stakeholders - judges, lawyers, civil servants, employers and unions, CSO and the media on various topics, in cooperation with various stakeholders (Judicial Academy, State Administration School, CSOs and similar).

<p>Principle 13</p>	<p>Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation, including through ensuring functional immunity. Any cases of alleged reprisals or intimidation against NHRIs, their membership and staff, or against those who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 7</i></p> <p>When analysing NHRI's safe space, it is worth noting that in Croatia measures necessary to protect and support the NHRI, heads of institution and staff against threats and harassment and any other forms of intimidation (including SLAPP actions) are in place. In line with the Article 8 of the Ombudsman Act, the Ombudswoman and her Deputies enjoy immunity as do Members of the Croatian Parliament and the provisions of the Constitution of the Republic of Croatia on the immunity in the Croatian Parliament are applied to them appropriately (Article 76).</p>
<p>Principle 14</p>	<p>Member States should ensure that confidential information collected by NHRIs in the context of their mandate is privileged and is not unduly made public.</p>
<p><i>No information</i></p>	

IV. Co-operation and Support

<p>Principle 15</p>	<p>Member States should take effective measures to enable NHRIs to communicate and co-operate with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI; b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment; c. other human rights structures, including regional, local and/or specialised institutions, notably Ombudsman institutions and equality bodies and their respective networks, where appropriate through jointly organised activities; d. international and regional organisations working in related or similar fields.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The ORC is able to engage and actively engages in all forms of cooperation cited in principle no. 15.</p> <p>The Ombudsman Act:</p> <p>Article 7 (Autonomy and independence of the Ombudsman):</p>

(4) In the performance of duties falling within his/her competence the Ombudsman shall cooperate with the public and especially with associations promoting citizens' interests, the academic community and the media. (5) In the performance of duties falling within his/her competence the Ombudsman may ask for assistance from scientists, experts and institutions.

Article 17 (Participation in the work of the Croatian Parliament)

(1) The Ombudsman may, if s/he considers it to be necessary after monitoring the status within his/her scope, indicate the need for the adoption and amendments of acts and other regulations to the Croatian Parliament. S/he may indicate the need of alignment of laws and bylaws with international standards and the Constitution of the Republic of Croatia.

(2) The Ombudsman shall participate in the work of working bodies of the Croatian Parliament and shall participate in the sessions of the Croatian Parliament when issues falling within his/her competence are debated.

Article 18 (Relationship with the Government of the Republic of Croatia):

(1) The Ombudsman may point out to the Government of the Republic of Croatia the need for adopting acts, bylaws, strategies, programmes and other acts concerning the protection of human rights and freedoms and ensuring the rule of law.

(2) The Ombudsman shall participate in the proceeding of drafting the regulations within his/her scope.

(3) State administrative bodies are obliged to publish the information on possibilities to address the Ombudsman on their internet websites.

Article 19 (The Ombudsman and the public):

(1) The Ombudsman shall regularly inform the public through the media and internet website, by way of organising public debates and events, publishing reports and other appropriate means.

(2) The Ombudsman shall inform the public on the perceived phenomena of violations of human rights and freedoms and established violations of the constitutional and statutory rights.

(3) In applying the principle of publicity the Ombudsman shall cooperate with public information services and other media. Public institutions in the area of informing, founded by public authorities, are obliged to enable the Ombudsman to officially address to the public in an appropriate way without compensation.

Article 31

(1) The Council for Human Rights (hereinafter: The Council) is an advisory body that considers and proposes strategic guidelines in the field of promotion of human rights and freedoms, ensures permanent cooperation in the field of human rights and freedoms between the Ombudsman, civil society, academic community and media and considers other issues of importance for the work of the Ombudsman in the field of promotion of human rights and freedoms.

Article 32

(1) The Ombudsman and special Ombudsmans are obliged to mutually cooperate in the field of promotion and protection of human rights in accordance with the principle of compatibility, mutual respect and efficiency in protection and promotion of human rights.

(2) Ways and methods of cooperation shall be stipulated in the Agreement on mutual cooperation. The agreement shall especially regulate planning of joint activities, performance in individual cases and

	<p>inspections, continued holding of meetings, joint appearance in the public, cooperation with the media, cooperation in drafting reports and analysis as well as in educating of their staff.</p> <p>In addition, the ORC cooperation with the CSOs includes the establishing the Network of Antidiscrimination Contact Points – a group of 11 CSOs active in the area of antidiscrimination, with the aim of information sharing and joint activities, working on complaints submitted by CSOs as well as issuing a call when drafting the annual reports to a number of various stakeholders – CSOs, academics, religious communities, etc. to provide information.</p> <p>Also, the ORC has a Human Rights Council, a body which includes representatives of national minorities, academia, media and CSOs with whom the institution closely collaborates.</p> <p>At the international level, we engage in bilateral cooperation with our counterparts and are members and actively participate in a number of networks: GANHRI, ENNHRI, Equiet, IOI, AOM, NEIWA, Network of NPMs of SE Europe, etc.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Croatia, 2018, p. 13 (Para.16)</i></p> <p>The Ombudsperson is a multi-mandated independent authority which has been designated as the central body for the elimination of discrimination and promotion of equal treatment. It supervises compliance with the Anti-Discrimination Act, with the exception of certain discrimination grounds that fall within the remit of three specialised ombudspersons: disability (the Ombudsperson for Persons with Disabilities), discrimination against children (the Ombudsperson for Children), and gender/sex, gender identity and sexual orientation (the Ombudsperson for Gender Equality).</p>