



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 Kosovo



Kosovo* Report

Overview

Name of NHRI and mandate:

- Ombudsperson Institution of Kosovo (OIK)
- Ombudsperson, NHRI, Equality Body, NPM

Sources:

- ENNHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, Kosovo Country Report](#)

Good practices and improvements:

- **CM Principle 2:** the OIK has a broad **constitutional mandate**, including independence guarantees.
- **CM Principle 8, 12 and 3§4: good awareness and access to relevant state authorities and information:** the OIK reports that relevant state authorities have good awareness about its mandate and role, and that it has good access to relevant policy-makers and legislators. Moreover, all relevant state authorities are obliged to respond to and support the Ombudsperson on his requests on conducting investigations.
- **CM Principle 13: protection against threats, including functional immunity:** the law provides functional immunity for both the ombudsperson and staff. Still, the OIK reports that having in place civil procedural safeguards against SLAPP and providing legal aid to SLAPP targets would enhance such protection for the NHRI and other human rights defenders.

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Key areas where improvement is needed:

- **CM Recommendation 9: timely and reasoned response to NHRI recommendations and no vote on annual report:** while there is a legal obligation for relevant authorities to provide a timely and reasoned response to the OIK's recommendations, the NHRI reports this needs further improvement in practice. Moreover, and in line with international standards, the NHRI has called repeatedly for the parliament not to vote on its annual report.
- **CM Recommendation 6 and 7: adequate and sufficient funding:** While the NHRI enjoys very strong budgetary protection and no reduction of its budget is possible; the OIK reports that state authorities have not approved its repeated request to provide additional funding that would enable it to hire staff that is needed to effectively carry out the full breath of its mandate.

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	<p>Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles</p>
Assessment of implementation by the institution	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>Due to the specific international standing of Kosovo, the Ombudsperson Institution is unable to seek accreditation before GANHRI's Sub-Committee on Accreditation, organized under auspices of UN OHCHR, because of not being a UN Member. The Institution is a non-accredited, associate member of ENNHRI. However, it has a strong legal infrastructure which is in full compliance with Paris Principles. It has worked for the promotion and protection of a wide range of human rights issues in Kosovo.</p>

<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 institution</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>The national regulatory framework applicable to OIK has not changed since the 2021 ENNHRI Rule of Law Report. The Ombudsperson Institution of the Republic of Kosovo continues to function on a constitutional basis.</p> <p>[...] p. 5:</p> <p>The mandate of the Ombudsperson Institution of Kosovo is based in the Constitution and other laws which are approved by the Parliament. The legislation [o]n which our institution base[s] its mandate was approved in 2015 as part of a human rights law package, when three basic new human rights laws entered into force: Law on the Ombudsperson, Law for Protection from Discrimination and Law on Gender Equality, which vested new mandates and additional competences to the Ombudsperson Institution of Kosovo.</p> <p>The current Law on the Ombudsperson was drafted having in mind the best international standards on the human rights institutions, especially Paris Principles on NHRIs, and can be considered a model legal framework for other institutions alike. It includes provisions that guarantee organizational, administrative and financial independence. Furthermore, this law has extended functional immunity not only for the Ombudsperson and his deputies, but to its entire staff, all authorities are obliged to respond to the Ombudsperson on his requests on conducting investigations, as well as provide</p>

	<p>adequate support according to his/her request, and furthermore the government and the municipalities are obliged to provide space or offices suitable for work in public ownership in order to enable effective performance of the functions and responsibilities of the Ombudsperson and most importantly guarantees financial independence. Article 35 of this law provides: <i>“Regardless of the provisions of other Laws, the Ombudsperson Institution prepares its annual budget proposal and submits it for approval to the Assembly of the Republic of Kosovo, which cannot be shorter than previous year approved budget. Budget may be shortened only by the approval of the Ombudsperson”</i>.</p>
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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 institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>According to the Law, the Ombudsperson is defined as a legal mechanism for protection, monitoring and promotion of human rights and fundamental freedoms, and as a National Preventive Mechanism against torture and other cruel, inhuman and degrading treatments and punishments. Also, the Ombudsperson has the mandate of an equality body and works in promoting, monitoring and supporting equal treatment, without discrimination on grounds protected by the Law on Gender Equality and Law on the Protection from Discrimination and handles cases related to discrimination. Under the Law on Child Protection, the Ombudsperson is defined as a national mechanism for the protection of children’s rights. There are also a number of laws that set out additional powers for the Ombudsperson.</p> <p>The Ombudsperson exercises the mandate of monitoring the human rights situation in the country through the mechanism of monitoring court cases, where the parties have a status of alleged victim of human rights or when initiating cases with his own initiative (ex-officio) when it is considered that there may be systematic violations of human rights, monitoring the implementation of the</p>

	<p>recommendations provided by the Ombudsperson, overseeing the standard of drafting legislation regarding the human rights issues and its compliance with the Constitution and international human rights law, and monitoring the implementation of laws focusing on human rights.</p> <p>According to the law, the Ombudsperson can make recommendations to the Government, the Assembly and other competent institutions of the Republic of Kosovo on matters relating to promotion and protection of human rights and freedoms, equality and non-discrimination; to publish notifications, opinions, recommendations, proposals and his/her own reports; to recommend promulgation of new Laws in the Assembly, amendments of the Laws in force and promulgation or amendment of administrative and sub-legal acts by the institutions of the Republic of Kosovo; to prepare annual, periodical and other reports on the situation of human rights and freedoms, equality and discrimination and conduct research on the issue of human rights and fundamental freedoms, equality and discrimination in the Republic of Kosovo; to recommend to the Assembly the harmonization of legislation with International Standards for Human Rights and Freedoms and their effective implementation.</p> <p>Article 29 of the Law foresee that: <i>"The Ombudsperson presents the Annual Report to the Assembly of the Republic of Kosovo"</i></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 institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>The Ombudsperson exercises the mandate of promoting human rights through the mechanism of raising awareness among the general public and public institutions on human rights, education, training and lectures, publishing opinions and brochures that outline the position of the Ombudsperson on a specific issue, statements on the implementation of certain measures, organization of open days for human rights, organization of thematic conferences / roundtables, exchange of visits with peer institutions, presentation in the media of the Ombudsperson's opinions, and other mechanisms defined by special laws.</p> <p>When it comes to education and training, for several years now, the Ombudsperson has been organizing the awareness raising "Know the Ombudsperson", with students and teachers of primary and lower secondary schools throughout of Kosovo. During 2022, 35 visits were made to primary and lower secondary schools in the country. This annual campaign aims to educate and inform students about human rights, the mandate and powers of the OIK as well as the ways of addressing complaints in the IAP. This campaign plays an important role in informing and educating teachers about human rights, respecting and protecting children's rights. The Ombudsperson also held 4 lectures/discussions on human rights with students of public and private universities in Kosovo during 2022, informing them about the mandate of the OIK, the local and international legal framework for human rights.</p>
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<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 institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>The Ombudsperson exercises the mandate of protection of the human rights through the mechanism of investigation of cases raised by the complainants, the ex-officio investigation of a potential violation, the mechanism of contesting an administrative act in the capacity of a public interest defender, providing general recommendations on the functioning of the judicial system, providing friend of the court (amicus curie) services, giving individual recommendations for cases of delays of court cases, conducting mediation and reconciliation proceedings, providing assistance to victims of discrimination, providing recommendations to public institutions for the proper implementation of obligations in the field of prevention from discrimination and equality, referring cases to the Constitutional Court and other mechanisms defined by special laws.</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 institution</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 6</i></p> <p>All authorities are obliged to respond to the Ombudsperson on his requests on conducting investigations, as well as provide adequate support according to his/her request</p> <p>Article 18, paragraph 6,7 and 8 of the Law on the Ombudsperson set forth:</p> <p><i>"6. The Ombudsperson has access to files and documents of each authority of the Republic of Kosovo, including medical files of the people deprived from liberty, in accordance with the law and can review them regarding the cases under its review and according this Law, may require any authority of the Republic of Kosovo and their staff to cooperate with the Ombudsperson, providing relevant information, including full or partial file copy and documents upon request of the Ombudsperson.</i></p> <p><i>7. Officials of the Ombudsperson Institution may, at any time and without notice, enter and inspect any place where persons deprived of their liberty are placed and other institutions with limited freedom of movement as well as can be present at meetings or hearing sessions where such persons are involved. Officials of the Ombudsperson Institution may hold meetings with such persons without the presence of</i></p>

	<p><i>officials of respective institution. Any kind of correspondence of these persons with the Ombudsperson Institution is not prevented nor controlled.</i></p> <p><i>8. Ombudsperson or his/her representatives, upon official duty, can enter all official premises of all authorities."</i></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> <ul style="list-style-type: none"> - 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>Assessment of implementation by the institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>The Ombudsperson Institution of Kosovo can monitor existing and draft policies and legislation as foreseen in Article 18 of the Law on the Ombudsperson, which gives power <i>"to recommend promulgation of new Laws in the Assembly, amendments of the Laws in force and promulgation or amendment of administrative and sub-legal acts by the institutions of the Republic of Kosovo (1,7) and " to recommend to the Assembly the harmonization of legislation with International Standards for Human Rights and Freedoms and their effective implementation (1,8). In addition, the paragraph 3 of the same article sets forth: "The Ombudsperson can advise and recommend to the institutions of the Republic of Kosovo</i></p>

	<p><i>for their programs and policies to ensure the protection and advancement of human rights and freedoms in the Republic of Kosovo".</i></p> <p><i>The Ombudsperson may initiate matters to the Constitutional Court in accordance with the Constitution and Law on the Constitutional Court. (Article 16, para. 10).</i></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> <p>- 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>
<p>Assessment of implementation by the institution</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>OIK has the mandate to contribute to access to justice for individuals, including through complaints handling, strategic litigation before courts, providing legal assistance to individuals and awareness-raising.</p> <p><i>Information provided by the institution in 2023</i></p> <p>The Ombudsperson may provide general recommendations on the functioning of the judicial system. The Ombudsperson will not intervene in the cases and other legal procedures that are taking place before the courts, except in case of delays of procedures. The Ombudsperson may appear in the capacity of the friend of the court (amicus curiae) in judicial processes dealing with human rights, equality and protection from discrimination. The Ombudsperson may initiate matters to the Constitutional Court in accordance with the Constitution and Law on the Constitutional Court.</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> <p>- 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>
<p>Assessment of implementation by the institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>When it comes to international treaties Kosovo, because of the political obstacles, it still is not a party to international treaties. However, many of them, are unilaterally included in the Constitution of Kosovo and has a direct effect and supremacy over the domestic legislation.</p> <p>The Ombudsperson Institution of Kosovo in his Annual Report each year encourages inclusion of international human rights treaties in our Constitution, as it is the case with the Convention on the Rights of Persons with Disabilities and International Convention for Economic, Social and Cultural Rights, which still are not applied in Kosovo.</p> <p>These recommendation are usually followed up by our Assembly, as it was the case with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, which entered into force in 2020.</p>

<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 institution</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>Moreover, the Ombudsperson’s legal framework should be further strengthened by advancing procedures for the election of the Ombudsman and its deputies. According to the current legal provisions, when it comes to the election of the deputies, the Ombudsperson makes the proposal for deputy Ombudspersons to the Assembly based on an open and transparent competition, according to the call announced by the Ombudsperson Institution. Such proposal contains justification for the proposed candidates. The Ombudsperson proposes to the Assembly 10 candidates for five positions and the Assembly votes. The Assembly has already voted for 4 deputy Ombudspersons, and the remaining 1 deputy that needs to be from minority communities is still in the process.</p> <p><i>Information provided by the institution in 2023</i></p> <p>The Ombudsperson is elected from the Parliament of the Republic of Kosovo, for a mandate of 5 years without the right of re-election.</p> <p>According to the Law on the Ombudsperson, when it comes to the election of the Ombudsman, the Assembly of the Republic Kosovo has to publish the competition for election, in written and electronic media. The time period of the competition cannot be shorter than fifteen (15) nor longer than twenty (20) days. After expiration of time period foreseen in paragraph 4 of this Article, the</p>

selection Panel (hereinafter: the Panel) appointed by the competent Committee on Human Rights of the Assembly of the Republic of Kosovo (hereinafter: the Committee), within the period of fifteen (15) days, assesses whether the candidates meet the requirements envisaged by the Constitution and this Law to be elected Ombudsperson, and rejects nominees who do not meet the requirements determined in the competition. During the election procedure of candidates for Ombudsperson, ethnic and gender representation must be encouraged. The Panel conducts interview with each candidate who meets the conditions to be elected for Ombudsperson and based on the data presented and the interview results, prepares the short list of candidates qualified for Ombudsperson. The short list comprises of three (3) candidates, except in cases when within the group of three (3) candidates, there are more candidates with equal assessment points. The selection Panel submits the list of the candidates to the Committee. Proposal for Ombudsperson is made by the Committee. The Committee, attached to the short list, submits to the Assembly of the Republic of Kosovo the list of all candidates who meet the requirements to be elected for Ombudsperson. The proposal of the Committee contains the justification why the Panel has given priority to some of the candidates in comparison with other candidates. The Ombudsperson is elected by the Assembly of the Republic of Kosovo, with the majority of votes of all its deputies for a term of five (5) years, without the right of re-election.

In order to ensure that the leadership posts of the NHRI does not stay vacant, the procedure for electing the Ombudsperson starts six (6) months before the expiration of his/her mandate and .

In case of expiration of the mandate, the Ombudsperson or his/her deputy shall exercise its function until the election of the new Ombudsperson, respectively of the new deputy.

<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>Assessment of implementation by the institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>Law on the Ombudsperson, Article 13, regulates the issue of dismissal, which can happen for the following reasons: a) Due to physical or mental disability that causes inability to perform his/her functions, b) in case he/she has committed a criminal offense punishable by the legislation of the Republic of Kosovo to six (6) months imprisonment or more based on final court decision; c) in case he/she performs actions in contradiction to sub-paragraph 1.5 of Article 6 and paragraph 2 of Article 7 of this Law. The procedure for the dismissal of the Ombudsperson should be open and public, where there shall be guaranteed the right to Ombudsperson to be publicly heard. Assembly elects and dismisses the Ombudsman.</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 institution</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p>

	<p>The Ombudsperson Institution of Kosovo functioning is based on a very strong legal framework, which guarantees its operational and financial independence.</p> <p>[...], p. 6:</p> <p>[...] and furthermore the government and the municipalities are obliged to provide space or offices suitable for work in public ownership in order to enable effective performance of the functions and responsibilities of the Ombudsperson Institution of Kosovo (OIK) and most importantly guarantees financial independence. In particular, Article 35 of this law provides that “Regardless of the provisions of other Laws, the Ombudsperson Institution prepares its annual budget proposal and submits it for approval to the Assembly of the Republic of Kosovo*, which cannot be shorter than previous year approved budget. Budget may be shortened only by the approval of the Ombudsperson.” As these strong legal guarantees are in place, we didn’t have any threat to our independence.</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.4</i></p> <p>Moreover, the Assembly and the Government have not approved Ombudsperson’s budget request for 8 additional positions in the Ombudsperson Institution.</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 institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>Kosovo NHRI has the authority provided by Law to recruit its own staff. Employees of the Ombudsperson Institution are civil servants. However, the provisions of the Law on Civil Service shall</p>

	apply to employees of Ombudsperson Institution, only to that extent that there is no infringement of constitutional independence of the Institution.
Principle 8	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.
Assessment of implementation by the institution	<i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i> OIK confirms that it has adequate access to information and to policy makers and it is involved in all stages of legislation and policy making with human rights implications.
Principle 9	Member States should implement the recommendations of NHRIs and are encouraged: <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.
Assessment of implementation by the institution	<i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i> The addressees of the NHRI's recommendations are legally obliged to provide a timely and reasoned reply. Article 28 of the Law on the Ombudsperson states that "Authorities to which the

	<p>Ombudsperson has addressed recommendation, request or proposal for undertaking concrete actions, including disciplinary measures, must respond within thirty (30) days. The answer should contain written reasoning regarding actions undertaken about the issue in question.”</p> <p>[...]</p> <p>However, although the implementation rate of recommendations addressed to the central and local level authorities has increased every year, it still remains unsatisfactory. Nonetheless, it is OIK’s priority to improve this situation, and as indicated in previous reports, the European integration process was of great help.</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>For several years in a row, the Assembly has neglected Ombudsperson's request with regard to not voting on the Annual Report. The Ombudsperson's Annual Report discloses the situation of human rights which needs to be discussed in the Assembly but should not be voted on and therefore approved by the Parliament. It is worth highlighting that in this regard the Ombudsperson has addressed a report with recommendations to the Assembly of the Republic of Kosovo.</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>

Assessment of implementation by the institution	<p><i>Information provided by the institution in 2023</i></p> <p>The Ombudsperson of Kosovo is a multi-mandated body. It acts as an Ombudsperson institution, NHRI, NPM and Equality Body. Article 35 of the Law provides that “ in case powers and liabilities of the Ombudsperson Institution increase with this Law and other Laws, it is accompanied with additional, appropriate and specific financial and human resources”, nonetheless, the institution had a lot of challenges after the entering into force of the Law for Protection against Discrimination, because although it gave to the Ombudsperson the additional competences as an equality body, this mandate was not accompanied by adequate human and financial resources.</p>
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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 institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>In exercising its mandate, the Ombudsperson Institution is guided by the principle of institutional, functional and budgetary independence. In the sense of the latter, Article 132, paragraph 2 of the Constitution defines the principle of non-interference and prohibition of receiving instructions from any authority in the Republic of Kosovo. The Constitution also sets out the principle of the obligation of every public institution to respond to the requests of the Ombudsperson. According to Article 134, paragraph 4 of the Constitution, the Ombudsperson shall be immune from prosecution, civil lawsuit and dismissal for its actions or decisions. The Ombudsperson submits to the Assembly of the Republic of Kosovo annual report on the situation of human rights and fundamental freedoms in the country. The function of the Ombudsperson is exercised pursuant to Law No. 05/L-019 on Ombudsperson. According to this law, the Ombudsperson is governed by the principles of impartiality, independence, pre-eminence of human rights, confidentiality and professionalism¹ and enjoys organizational, administrative and financial independence.</p>

<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 institution</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The relevant state authorities have good awareness of the Ombudsperson’s mandate, independence and its role.</p>
<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 institution</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i></p> <p>The Ombudsperson Institution of Kosovo, however, confirms that 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.</p> <p>[...]</p> <p>However, we consider that human rights defenders in general, including NHRIs in performing their mandates can face threats including defamation, harassment, and attacks that constitute SLAPP, therefore we consider that having in place civil procedural safeguards against SLAPP and providing</p>

	<p>legal aid to SLAPP targets would positively curb the use of SLAPP, and EU can have a great impact in this regard.</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>Furthermore, [Law on the Ombudsperson, Law for Protection from Discrimination and Law on Gender Equality] has extended functional immunity not only for the Ombudsperson and his deputies, but to its entire staff.</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>Assessment of implementation by the institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>Confidentiality is one of the principles of the Ombudsperson Institution of Kosovo. According to Article 18 of the Law on the Ombudsperson "the Ombudsperson, his deputies and staff must keep-safe the confidentiality of all information and data they receive, paying special attention to safety of complainants, damaged parties and witnesses, in accordance with the Law on personal data protection" and "obligation for official confidentiality is also valid after ending of mandate or termination of their employment."</p> <p>Furthermore, article 12 sets forth "The Offices of the Ombudsperson Institution are inviolable. Archives, files, communications, property, funds and assets of the Ombudsperson Institution, wherever they are or by whosoever held, shall be inviolable and enjoy immunity from control, acquisition, official search, confiscation, from expropriation or from any other intervention or through bailiff, administrative, judicial or legislative action."</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 institution</p>	<p><i>Information provided by the institution in 2023</i></p> <p>International Cooperation is one of the priorities of the Ombudsperson Institution of Kosovo (OIK), because it is a bridge to oversee the effective implementation of international human rights obligations arising from international mechanisms and instruments, which are part of the international human rights system. OIK every year is invited and participates in all the meetings and conferences organized from the Global Alliance of National Human Rights Institutions (former ICC)</p>

with the status of an observer. On 14th November 2012 we addressed a formal request for accreditation; however, the Sub-Committee on Accreditation has responded that GANHRI statute allows membership and accreditation only to the Countries that are member of United Nations. However, OIK is member of many other international networks, as follows: IOI, ENNHRI, EQUINET, EOI, ENOC, AOMF; AOM etc.

A good cooperation exists with CSO, as well. In October 2021, by initiative of the Ombudsperson Institution in Kosovo was established the Dialogue Forum between the Ombudsperson Institution of Kosovo (OIK) and Civil Society Organizations (CSO), aiming to set up a structured cooperation between the OIK and CSO representatives. This initiative gathered a considerable number of active civil society organizations dealing with human rights in different fields and perspectives. The goal of the forum is to create a common platform for the active involvement of both parties, OIK and CSOs; to enhance cooperation in field of identifying challenges and human rights violations in Kosovo, as well as the development of joint activities for better promotion and protection of human rights in Kosovo; to address collectively systematic human rights violations; to coordinate joint activities for better human rights promotion and education and promote the work and the role of the Ombudsperson Institution and Civil Society in protection and promoting of human rights in the country.

Mutual meetings and exchanges exists with all the counterparts and organization in region and beyond.