



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 Lithuania



Lithuania Country Report

Overview

Name of NHRI and mandate:

- Seimas Ombudsmen's Office (SOO)
- NHRI, also: ombuds-institution, NPM

Sources:

- NHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, Lithuania Country Report](#)
- Sub-Committee on Accreditation (SCA): [SCA Report March 2017](#)

Good practices and improvements:

- **CM Principle 1:** the Seimas Ombudsmen's Office is an A-Status NHRI.
- **CM Principle 2 and 3&4: constitutional mandate** with broad mandate and strong powers, including **unfettered access to information and premises.**
- **CM Principle 9: obligation to respond timely and follow-up to NHRI recommendations:** by law, the Ombudsman has the right to be informed about the adoption of decisions on the light of its recommendations no later than within 30 days. Moreover, the NHRI reports a high rate of compliance with its recommendations.

Key areas where improvement is needed:

- **CM Principle 4 & 5: appointment and dismissal process for the NHRI leadership:** the SOO reports that the Ombudsman might be dismissed following a parliamentary non-confidence vote, which might limit the objectivity of the process. Moreover, the candidate is nominated by the Speaker of the Seimas (Parliament) under her/his own discretion and the decision on the appointment is taken by the Seimas, without an inclusive and pluralistic appointment procedure, as well as the lack of requirements for human rights expertise. On a positive note, the NHRI reports that amendments to the requirement of human rights expertise are currently under Parliamentary vote.
- **CM Principle 6, 7 & 10: adequate resources to carry out the full breath of its mandate, including the NPM mandate:** the NHRI reports that resources have not been sufficiently strengthened, especially since the accordance of the NPM and NHRI mandates which limits the NHRI's ability to effectively discharge the full breath of its mandate.
- **CM Principle 13: protection against threats, including functional immunity:** In line with the SCA recommendation (2017), the SOO reports that measures necessary to protect and support the NHRI against threats and harassment and any other forms of intimidation (including SLAPP actions) are not in place. In particular, the enabling law is silent on whether and how NHRI's members enjoy functional immunity for actions taken in their official capacity in good faith.

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 Sub-Committee on Accreditation (SCA) of GANHRI	<i>SCA Report March 2017 p. 10</i> The SCA recommends that the SOO be accredited with A-status.
Principle 2	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.

Assessment of implementation by the NHRI	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 1</i></p> <p>The Lithuanian NHRI continues to function on a constitutional basis. The base for the establishment of the Seimas Ombudsmen's Office of the Republic of Lithuania is Art. 73 of the Constitution of the Republic of Lithuania.</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 NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, 2022, p. 2</i></p> <p>The Ombudsman shall have the right to make individual recommendations to anybody or institution falling within the Ombudsman's competence.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>Under Article 19² of the Law on the Seimas Ombudsmen, the Seimas Ombudsmen: 1) carry out monitoring of human rights in Lithuania and prepare reports on the human rights situation; 4) submit proposals to state and municipal institutions and bodies on human rights issues; 6) initiate investigations into fundamental human rights problems.</p>

	<p>It also should be mentioned that in practice, the annual report is presented only to the Committee on Human Rights, which carries out parliamentary control of the Seimas Ombudsmen’s Office, but not at the plenary session of the Seimas (Parliament). That makes it difficult to present key insights and recommendations to the Parliament as a whole.</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>Following Article 19² (2)(2), which came in force in 2018 (amendments made following SCA recommendations) the Seimas Ombudsmen’s Office disseminates information on human rights and raise public awareness on human rights issues.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2017, p. 10</i></p> <p>The Law does not provide an explicit promotion mandate. The SCA notes, however, that in practice the SOO undertakes promotional activities.</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>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>The Ombudsman's powers include the prevention of maladministration and the protection and promotion of human rights and fundamental freedoms.</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>Under Article 12 (1) of the Law on the Seimas Ombudsmen, the Seimas Ombudsmen shall investigate complainants' complaints about the abuse of office by and bureaucracy of officials or other violations of human rights and freedoms in the sphere of public administration.</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. 4</i></p> <p>Mandate to:</p> <p>request immediate provision of information, material and documents required for the discharge of the Seimas Ombudsmen’s functions</p> <p>[...] Enter the premises of institutions and agencies (enterprises, services or organisations), and at any time of the day, and unrestrictedly meet and interview persons present in the premises; request written or oral explanations from the officials whose activities are under investigation.</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 NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>In carrying out the functions of the National Human Rights Institution, the Seimas Ombudsmen's Office is guided by the Law on the Seimas Ombudsmen, i.e., by the special provisions on the functions of the NHRI and the NPM, and by the general norms of the Law, including the general provisions defining the rights of the Seimas Ombudsperson.</p> <p>Article 3 of the Law on the Seimas Ombudsmen provides three aims of activity of the Seimas ombudsperson, namely, classical ombudsperson mandate, NHRI, NPM. The objectives of the Law are implemented through specific (Article 19¹ and 19²) and general provisions of the Law on the Seimas Ombudsmen.</p> <p>The Seimas Ombudsmen are empowered to act not only following the functions of the national human rights institution, enshrined under Article 19² namely to</p> <p>4) submit proposals to state and municipal institutions and bodies on human rights issues; but also to carry other functions under Article 19 of the Law on the Seimas Ombudsmen, i.e. to:</p>

	<p>7) inform the Seimas, the Government and other state institutions and agencies or the appropriate municipal council of the gross violations of law or deficiencies, contradictions of or gaps in laws or other legal acts;</p> <p>8) recommend to the Seimas, state or municipal institutions and agencies to amend the laws or other statutory acts which restrict human rights and freedoms;</p> <p>10) apply to the administrative court with a request to investigate conformity of an administrative regulatory enactment (or its part) with the law or Government resolution;</p> <p>11) propose to the Seimas to apply to the Constitutional Court regarding the conformity of legal acts with the Constitution and laws of the Republic of Lithuania;</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 NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>The Seimas Ombudsmen has the mandate to contribute to access to justice for individuals, through complaints handling. The right to lodge a complaint with the Ombudsman is complementary to the right to access to a court. According to the Law on the Seimas Ombudsmen when performing his/her duties, the Seimas Ombudsmen has the right to propose to the Seimas to apply to the Constitutional Court regarding the conformity of legal acts with the Constitution and laws of the Republic of Lithuania. However, the right of Seimas Ombudsmen to apply to the Constitutional Court directly is not established by the Constitution of the Republic of Lithuania. In 2017, while introducing</p>

	<p>individual constitutional complaint, the draft amendment of the Constitution proposed to grant the constitutional right to apply to the Constitutional Court not only to individuals, but also to the Seimas Ombudsmen. However, as qualified majority required for the adoption of a constitutional amendment was not achieved, in order to circumvent the one-year waiting period before submitting for vote the same amendment, Ombudsmen were deleted from the text.</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>Under Article 19² (2)(5) (adopted in 2017 and which came into force on 1 January 2018), the Seimas Ombudsmen are obliged to seek harmonisation of national legislation with the international commitments of the Republic of Lithuania in the field of human rights;</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2017, p. 10</i></p> <p>Further, the SOO's enabling Law does not explicitly mandate it to either interact with the international human rights system or to encourage ratification or accession to international human rights</p>

	<p>instruments. The SCA acknowledges, however, that in practice the SOO undertakes functions in these areas.</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 NHRI</p>	<p><i>Information provided by the NHRI in 2023.</i></p> <p>Article 6 of the Law on the Seimas Ombudsmen provides the criteria for eligibility for the position of the Seimas Ombudsmen. A candidate must be a citizen of the Republic of Lithuania, who is a person of high moral character, has a BA and MA in law or is a university graduate in law and who has a record of at least ten years of practice or teaching of law. As can be seen from the above list of eligibility criteria, there is no requirement to have experience in the sphere of human rights.</p> <p>The NHRI reports that amendments are undergoing in this regard via a parliamentary vote on May 2023.</p> <p>Moreover, the candidate to the position of the Seimas Ombudsman is nominated by the Speaker of the Seimas (Parliament) under her/his own discretion and the decision on the appointment is taken by the Seimas. Notwithstanding Civil Society voices its position during the process, the NHRI reports</p>

	<p>no inclusive and pluralistic appointment procedure in line with the Paris Principles.</p> <p>To guarantee that the post of the NHRI does not stay vacant for any significant period of time, the Article 9 (4) of the Law on the Seimas Ombudsmen foresees that the Seimas Ombudsman shall continue in office until the new appointment is made to the post of the Seimas Ombudsman.</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>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>Concerning legal guarantees related to the Seimas Ombudsmen’s independence, it should be noted that the current legislative framework provides for a possibility to remove a Seimas Ombudsmen from the office following, among other grounds, a parliamentary no-confidence vote. The latter ground might be seen as problematic, as according to the “Principles on the Protection and Promotion of the Ombudsman Institution” („The Venice Principles”) adopted by the European Commission for Democracy through Law (Venice Commission) of the Council of Europe, ombudsmen should be removed from office only according to an exhaustive list of clear and reasonable conditions established by law.</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>See Principle 10 on the need for sufficient resources to develop the capacity to effectively discharge its functions, especially since receiving the NPM and NHRI mandates.</i></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>See Principle 10 on the need for sufficient resources to develop the capacity to effectively discharge its functions, especially since receiving the NPM and NHRI mandates.</i></p> <p><i>Information provided by the NHRI in 2023</i></p> <p>In addition, we are bound by the requirements for the positions and their descriptions set by the general provisions applicable for all civil servants set by the Ministry of the Interior, regardless of the specifics of the work and performed functions.</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>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>Mandate to:</p> <ul style="list-style-type: none"> - request immediate provision of information, material and documents required for the discharge of the Seimas Ombudsmen’s functions
<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. 5</i></p> <p>When it comes to implementation of the NHRI’s recommendations, following subparagraph 3 of Article 20 of the Law on the Seimas Ombudsmen, a proposal (recommendation) of the Seimas Ombudsmen must be considered by the institution or agency, or official to whom this proposal (recommendation) is addressed, informing the Seimas Ombudsmen about the results of such consideration. The Seimas Ombudsmen has to be informed about the adoption of the decisions on measures to be taken in the light of the proposal (recommendation) of the Seimas Ombudsmen no later than within 30 days from the receipt of the proposal (recommendation). In 2021, most of the</p>

	<p>recommendations issued by the Seimas Ombudsmen were considered. This percentage includes the recommendations of the Seimas Ombudsmen, which were implemented immediately after their submission, as well as the cases when the implementation of the recommendations was repeatedly requested (such as by providing additional arguments, holding meetings with representatives of institutions, justifying the importance of the recommendations to the public).</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>There are some differences when recommendations regarding NPM function are provided. Following the Article 19¹ (6) the competent authorities must examine the proposals/recommendations of the Seimas Ombudsman and enter into a dialogue with them on possible implementation measures of the proposals/recommendations as well as inform the Seimas Ombudsman about the results of the implementation of their proposals/recommendations.</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>ENNHRI, State of the Rule of Law in Europe in 2022, p. 6</i></p>

	<p>Since 2014 the Seimas Ombudsmen have been carrying out the national prevention of torture by regularly visiting places of detention. However, the resources and staffing were not sufficiently strengthened and, as a result, there is a significant shortage of human resources, thus the Seimas Ombudsmen's Office cannot adequately and in full capacity perform all its mandates and additional competencies, such as work to promote and protect the rule of law.</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 NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.3</i></p> <p>legislative initiatives¹ concerning the Seimas Ombudsmen’s Office, introduced in 2021, are pending adoption in the Parliament (the Seimas of the Republic of Lithuania). If adopted, proposed amendments risk undermining to a certain extent the principles of independence and autonomy of the Ombudsmen. In particular, the draft Law on Amending Articles 18 and 22 of the Law on the Seimas Ombudsmen No. VIII-950 seeks to set an imperative 6 month deadline for the examination of complaints, as well as to place restrictions on the Ombudsmen’s right to mediate between a complainant and the institution whose actions are being complained of. The aim of this regulation, which is replicating the one abolished in 2004, is to apply similar rules to the Seimas Ombudsmen as those applicable to some other governmental institutions, responsible for monitoring the implementation of specific legal acts and providing public administrative services.</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>In 2023 the NHRI reports that up to now such draft law has not been submitted for final vote, even though it passed two of the required three votes in previous year. Taking into account that adoption of the draft law was not included into 2023 Spring session agenda of the Parliament, the adoption process may be considered as de facto suspended".</p>

	<p>¹ Amendments are still on the agenda of the Seimas (Parliament), although they have not yet been adopted. The relevance of the issue, therefore, remains.</p>
Principle 12	<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>
Assessment of implementation by the NHRI	<p><i>Information provided by the NHRI in 2023</i></p> <p>It depends exclusively on the institution's capacities and resources to carry out informational and other activities. However, training and awareness raising campaigns are carried out at some extent.</p>
Principle 13	<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>
Assessment of implementation by the NHRI	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>Measures necessary to protect and support the NHRI against threats and harassment and any other forms of intimidation (including SLAPP actions) are not in place. The Law on the Seimas Ombudsmen is silent on whether and how NHRI's staff members enjoy functional immunity for actions taken in their official capacity in good faith. Thus, the Lithuanian NHRI believes that legislation should include</p>

	provisions to protect NHRI's staff from legal liability for acts undertaken in good faith in their official capacity.
Principle 14	Member States should ensure that confidential information collected by NHRIs in the context of their mandate is privileged and is not unduly made public .
Assessment of implementation by the NHRI	<p><i>Information provided by the NHRI in 2023</i></p> <p>As concerns this issue, it should be noted that there are no special provisions. For this reason, general personal data protection under the law on the legal protection of personal data and other provisions apply.</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>Under provisions of Article 19² (2) adopted in 2017 (came into force on 1 January 2018), the Seimas Ombudsmen’s Office is obliged to perform the functions of a national human rights institution in cooperation with state and municipal institutions, agencies, civil society, social partners, international organisations.</p>

	<p>There is an on-going cooperation and networking with counterpart institutions, civil society stakeholders, other human rights structures in forms of thematic or general events, meetings, discussions, or other activities. Also, through regular meetings with international counterpart organisations such as those taking place within the framework of ENNHRI and GANHRI;</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA Report March 2017, p. 10</i></p> <p>The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. In this regard it acknowledges the SOO's engagement and cooperation with the other Ombuds institutions and civil society organizations in Lithuania.</p>