



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 Monaco



Monaco country report

Overview

Name of NHRI and mandate:

- Monaco does not have a National Human Rights Institution. At the moment, the High Commissioner for the Protection of Rights, Liberties and for Mediation is the Ombudsman on matters relating to the protection of citizens' rights and freedoms or on anti-discrimination matters.

Sources:

- ENNHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, Monaco Country Report](#)
- CoE Independent Bodies: [ECRI Country Report on Monaco \(2022\)](#)

Key areas where improvement is needed:

- **CM Recommendation 1:** Monaco does not have a National Human Rights Institution. At the moment, the High Commissioner for the Protection of Rights, Liberties and for Mediation is the Ombudsman on matters relating to the protection of citizens' rights and freedoms or on anti-discrimination matters. ENNHRI has been in touch with the institution to gather more information about its work and intentions to apply for accreditation and/or ENNHRI membership.

- **CM Recommendation 3: limited mandate:** In a 2022 report, ECRI reports the High Commissioner to have a limited mandate in terms of prevention and promotion of equality and human rights, and finds the institution to have limited powers to address protection of rights within its mandate beyond friendly settlement of individual complaints.

Specific findings per Principle

The tables below include data on the assessment of the implementation of Principles (i.e. the individual parts) within the Recommendation from two sources: ENNHRI and Council of Europe independent bodies. Overall, the findings are considered in three groups: the establishment of NHRIs; the strengthening of NHRIs; and a safe and enabling environment 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 ENNHRI	<p><i>ENNHRI State of the Rule of Law in Europe, 2022, p. 1</i></p> <p>At present, there is no accredited NHRI in Monaco.</p> <p>The High Commissioner for the Protection of Rights, Liberties and for Mediation is an Ombuds-type institution and may also issue guidance on matters relating to the protection of citizens' rights and freedoms, or on anti-discrimination matters, in cases referred to it by the administrative authorities. ENNHRI has been in touch with the institution to gather more information about its work and intentions to apply for accreditation and/or ENNHRI membership.</p>
Assessment of implementation by CoE independent bodies	<p><i>ECRI Report on Monaco 2022, p. 7 (Para.1)</i></p> <p>Established in 2013, the High Commissioner for the Protection of Rights, Freedoms and Mediation is an independent public institution.</p>

II. Strengthening of NHRIs

<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 CoE independent bodies</p>	<p><i>ECRI Report on Monaco 2022, p. 7 (Para.3)</i></p> <p>ECRI notes with regret that in the absence of any organic law concerning discrimination, the High Commissioner’s powers in relation to promotion and prevention (§§10a and 13 of GPR No. 2) are still very limited, because any action to raise awareness of equality and promote it can only be based on the few provisions that exist</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> <ul style="list-style-type: none"> - fully address all alleged human rights violations by all administrative authorities, other relevant State entities and, when applicable, private entities

<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Monaco 2022, p. 8 (para.6)</i></p> <p>ECRI strongly recommends that appropriate legislation be passed in order to provide a framework for combating all forms of discrimination and to enable the High Commissioner to play its role as an equality body at national level to the full, taking due account of the recommendations made in ECRI General Policy Recommendation (GPR) No. 2, in particular in §§ 1, 2, 13, 14, 17, 24 and 36.</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 CoE independent bodies</p>	<p><i>ECRI Report on Monaco 2022, pp. 7-8 (Para.3)</i></p> <p>In particular, the High Commissioner has no power to conduct inquiries, publish studies or issue opinions on proposed legislation of its own accord (§13 c, d, j and n of GPR No. 2)¹¹ and it is rarely consulted when legislation is drafted.</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 CoE independent bodies</p>	<p><i>ECRI Report on Monaco 2022, p. 7 (Para.2)</i></p> <p>The main role of the High Commissioner is to assist anyone who believes that their rights or freedoms have been infringed by the authorities (except in relation to employment disputes within the civil service) or that they have suffered “unjustified” discrimination in the public or private sector.</p> <p><i>ECRI Report on Monaco 2022, p. 8 (Para.4)</i></p> <p>With regard to the support and litigation function (§§10b and 14 of GPR No. 2), ECRI observes that the High Commissioner essentially plays a support role by helping victims to put together a file and identify avenues that may be open to them. Most complaints concerning individual instances of discrimination lead to a proposed friendly settlement, with a success rate of 75%.</p> <p>ECRI also regrets to note that no action has been taken to implement its recommendations to give the High Commissioner the function of providing legal assistance to victims of discrimination, including representation in judicial proceedings. In addition, ECRI notes that the High Commissioner has no authority to take decisions on complaints.</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 CoE independent bodies</p>	<p><i>ECRI Report on Monaco 2022, p. 8 (Para.4)</i></p> <p>In ECRI's opinion – and this is a cause for concern – the High Commissioner also has limited powers to access evidence and information necessary for its inquiries as this access can be denied on the basis that the requested information is secret or confidential</p> <p>ECRI recommends that the Monegasque authorities strengthen as a matter of priority the High Commissioner's powers of inquiry as a matter of priority, in accordance with §21 of ECRI GPR No. 2, to enable the institution to obtain the information it needs for its inquiries – including information not in the public domain – within a set time frame</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.

Assessment of implementation by CoE independent bodies	<p><i>ECRI Report on Monaco 2022, p. 8 (Para.4)</i></p> <p>Where the alleged infringement stems from legislation or regulations, the High Commissioner can approach the authorities, but the proportion of general recommendations that are implemented is around 50%. ECRI notes with concern that the authorities often fail to act on requests for information or the High Commissioner's recommendations (particularly where the authorities have been asked to reverse a decision regarded as disproportionate), or do not co-operate at the speed necessary to find a solution in due time, to the detriment of complainants</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 CoE independent bodies</p>	<p><i>ECRI Report on Monaco 2022, p. 7 (Para.1)</i></p> <p>ECRI welcomes as a good practice the adoption of a Charter of Ethics and Good Practice in 2019 which formally establishes the principles of neutrality, impartiality and independence on the basis of which it operates. ECRI notes with satisfaction that the law provides guarantees as to the High Commissioner’s independence, including with regard to independent management of its human and material resources.⁴ However, because the institution of the High Commissioner and its functions and powers are provided for in a sovereign order and not in a constitutional or parliamentary instrument, its independence is not fully consistent with ECRI’s General Policy Recommendation (GPR) No. 2 on Equality Bodies to combat racism and intolerance at national level.⁵ Although there are strong indications that the High Commission has de facto independence, the law should be brought into line with §§1-2 of ECRI GPR No. 2</p>