



European Network of  
National Human Rights Institutions

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

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**The situation in Spain**



# Spain Country Report

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## Overview

### Name of NHRI and mandate:

- Ombudsman of Spain/*Defensor del Pueblo* of Spain (DPS)
- Multi-mandated NHRI, also: Ombuds institution, NPM

### Sources:

- NHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, Spain Country Report](#); [ENNHRI, State of the Rule of Law in the European Union in 2023](#)
- Sub-Committee on Accreditation (SCA) : [SCA Country Report May 2018](#)
- CoE Independent Bodies: [ECRI Country Report on Spain \(2018\)](#); [CPT Country Report on Spain \(2021\)](#)

### Good practices and improvements:

- **CM Principle 1: establishment of an NHRI in full compliance with the Paris Principles:** The Ombudsman of Spain is an A-status accredited NHRI.
- **CM Principle 11 & 13: impartiality, integrity, transparency and fairness:** The enabling legislation provides a broad framework to protect the independence of the Ombudsman; it stipulates that the Ombudsman shall not be bound by any terms of reference, shall not receive instruction from any authority and shall fulfil their duties according to their own criteria. Additionally, this independence is safeguarded by provisions ensuring the Ombudsman's functional immunity.

- **CM Principle 6 and 10: Adequate resources, including for additional mandates:** While the need for additional resources has been a recurrent recommendation, the budget has been increased with 11% for 2023, including additional resources for an additional role.
- **CM Principle 5: dismissal of NHRI's leadership:** The Ombudsman shall be relieved from duty in case of resignation, expiry of this term of office, death or unexpected incapacity, flagrant negligence in fulfilling the obligations and duties of his office and non-appealable criminal conviction. The post shall be declared vacant by the Speaker of Congress in the event of death, resignation or expiry of the term of office. In all other cases it shall be decided by a three-fifths majority of the Members of each House, following debate and the granting of an audience to the person concerned.

### Key areas where improvement is needed:

- **CM Principle 4: selection, appointment, and tenure of the Ombudsman:** In line with the recommendations of the SCA (2018), there should be amendments to the selection and appointment process that would ensure the formalization and application of a process that requires wide advertisement, and broader consultation and participation in the procedure. Additionally, the legislation should provide a limitation to the re-election of the Ombudsperson.
- **CM Principle 9: timely and reasoned response to NHRI recommendations, in line with legal obligation:** Spanish legislation requires that public authorities provide reasoned responses to requests in the DPS' resolutions. At the same time, the DPS has called for national authorities to provide more prompt and solidly motivated answers to queries raised by the NHRI.

## 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

<b>Principle 1</b>	<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>
<b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b>	<p><i>SCA Report May 2018, p. 32</i></p> <p>The SCA recommends that the DPS be reaccredited with A-status.</p>
<b>Principle 2</b>	<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><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The institution of the Ombudsman of Spain has a constitutional basis. Its creation and mission are included in article 54 of the Magna Carta.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>This article is developed by organic laws such as O.L. 3/1981 on the Ombudsman, O.L. 1/2009, which confers on the Ombudsman the power to be NPM in accordance with the Optional Protocol to the Convention against Torture.</p> <p>Furthermore, Articles 32.1 b and 46 of LO 2/1979 of the Constitutional Court empower the Ombudsman to file appeals of unconstitutionality and protection (<i>amparo</i>).</p> <p>On the other hand, art. 502.2 of the Penal Code (L.O 10/1985) punishes those who hinder the work of the DP.</p> <p>O.L. 6/1984 on Habeas Corpus includes the DP as a legitimised entity.</p>
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## II. Strengthening of NHRIs

<p><b>Principle 3.1</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is <b>as broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>monitor and analyse</b> the human rights situation in the country, <b>publish reports</b> on these findings and <b>address recommendations</b> to public authorities at national, regional and local levels and, when applicable, to private entities, and present an <b>annual report</b> to the relevant authorities, including before parliament, for its consideration.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>The annual reports of the Ombudsman are presented both before the Joint Congress and Senate Committee on relations with the institution, as well as in plenary sessions of both Chambers.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>In addition, the Ombudsman personally delivers the report to the presidents of both chambers, and a press conference is held at that time to ensure the widest possible public dissemination of the report. In addition, the report and its annexes are published on the institutional website, which is freely accessible.</p> <p>There are also regular monographic reports on specific issues of special social or institutional interest on the <a href="#">NHRI's website</a>.</p>

<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>ECRI Country Report on Spain, 2018, pp. 16-17 (Para.28)</i></p> <p>ECRI is pleased to note that the Ombudsperson has, under this mandate, intensified its activities in the field of equality, which are now documented in separate chapters of its annual reports.</p>
<p><b>Principle 3.2</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>freely address public opinion, raise public awareness</b> on human rights and <b>carry out education and training</b> programmes;</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The Ombudsman participates in numerous training processes for civil servants (for example, for state security forces).</p> <p>On the other hand, as part of its promotional work, a drawing competition on human rights is held for schoolchildren throughout Spain, and with the support of the Royal Household, a Human Rights Prize is awarded every two years, aimed at individuals or institutions throughout the Ibero-American countries. In addition, there are numerous educational activities that universities, social and cultural organisations and senior citizens' organisations receive from the institution thanks to the visits to the institution that take place throughout the year at the institution itself.</p>

<p><b>Principle 3.3</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>fully address all alleged human rights violations</b> by all administrative authorities, other relevant State entities and, when applicable, private entities</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Art. 54 of the Constitution, which regulates the Ombudsman, refers specifically to the institution's defence of the rights included in Title I of the Constitution (fundamental rights), for which the regulating Law grants it broad supervisory powers.</p>
<p><b>Principle 3.4</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- have <b>unfettered access to all relevant premises</b>, 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;</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p>



	<p><i>For further information, see also details provided under Principle 8.</i></p> <p>Art. 19.2 and 3 grant the PD the power to appear in any centre of the Administration or affiliated to a public service, to verify all data or interview whoever it deems appropriate. He/she may also have access to any type of documentation.</p> <p>Visits are also carried out as NPM and there is always maximum cooperation from the administrations to allow the Ombudsman to exercise its function.</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>CPT Country Report 2021, p. 107</i></p> <p>The CPT notes positively in this respect that the establishment was regularly visited by juvenile prosecutors and judges, as well as the NPM/Ombudsman; juveniles confirmed that they could request to meet them and talk to them in private.</p>

<p><b>Principle 3.5</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>monitor existing and draft policies and legislation</b> with human rights implications before, during and after their adoption in order to <b>advise</b> the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by <b>making relevant and concrete recommendations</b>.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The Ombudsman does not usually participate formally in the processes of drafting laws and other regulations. However, in its resolutions the institution frequently requests normative modifications of precepts that may affect the exercise of fundamental rights of citizens or that directly violate them.</p> <p>In summary, the NHRI has mainly ex-post and not ex-ante control in policymaking.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>In practice, the proposals for legislative amendment are reflected in the successive annual reports to the <i>Cortes Generales</i> (Parliament).</p> <p>On the other hand, apart from the appeals of unconstitutionality filed, the study of the constitutionality of the laws in question sometimes gives rise to the approval of recommendations to the Government for the adaptation of the legislative contents and their better interpretation in accordance with constitutional rights and freedoms.</p>

<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>ECRI Country Report on Spain 2018, p. 14</i></p> <p>The Ombudsperson has the powers to initiate investigations ex officio (Article 9.1 of the Organic Law 3/1981) and to suggest to the legislative body or the administration the modification of regulations. Thus, it would seem that he/she can review, on an on-going basis, the conformity with the prohibition of discrimination of all laws, regulations and administrative provisions at the national and local levels, as per § 13 of GPR No. 7</p>
<p><b>Principle 3.6</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>contribute to an effective justice system</b> 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;</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The NHRI's mandate to contribute to access to justice for individuals is based on the functions of complaints-handling and awareness-raising.</p> <p>Furthermore, the NHRI has power to lodge before the Constitutional Court the appeals of unconstitutionality and protection, which usually have strategic features.</p> <p><i>Information Provided by the NHRI in 2023</i></p>

	<p>This institution mediates between citizens and the Constitutional Court as it can bring the petition of an individual or an organisation to the High Court; it is the only institution in the country with this legitimacy.</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>ECRI Country Report on Spain 2018, p 14 (Para.17) and p.16 (Para.28)</i></p> <p>Furthermore, only victims of discrimination committed by a public authority can make a complaint to the Ombudsperson, but there is no equality body in place with which victims of discrimination could lodge a civil law complaint.</p> <p>[The Spanish ombudsperson] is competent for investigating ex officio or on a complaint the activities and decisions of the public administration.</p> <p><i>CPT Country Report on Spain 2021, p. 107</i></p> <p>Further, juveniles could make complaints (and requests) to those bodies (in open or closed envelopes) [NPM/ombudsman) or to the director of the establishment</p>
<p><b>Principle 3.7</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>encourage the signature, ratification of and accession</b> to international human rights treaties and <b>contribute to the effective implementation</b> of such treaties, as well as related judgments, decisions and recommendations as well as to <b>monitor States' compliance with them.</b></li> </ul>

<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>In the system of checks and balances, it is not the Ombudsman who is legitimised to monitor the transposition of international agreements and treaties, but rather the Council of State, an institution consulted in all international treaties and conventions on the need for authorisation by the Parliament prior to the Spanish State's consent.</p> <p>According to Article 93 of the Spanish Constitution, it is up to the Parliament or the government to guarantee compliance with international treaties.</p> <p>However, the Spanish NHRI, El Defensor del Pueblo, as High Commissioner of the Cortes, exercises a very important competence insofar as it supervises the actions of national public administrations.</p> <p>The Ombudsman regularly uses international mandates as a very consistent argument in his reminders of legal duties, recommendations and suggestions to the Spanish administration, and is therefore a key actor in the fulfilment and promotion of these mandates to Spanish public administrations, legal actors and institutions.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA report May 2018, p.34</i></p> <p>The SCA acknowledges that the DPS has engaged with the international human rights system to a substantial degree. It further acknowledges that the DPS reports that it is not able to fully participate in all periodic reviews of Spain as a result of resource limitations. It encourages the DPS to continue this engagement, and to advocate for additional resources to ensure its ability to fully participate in and cooperate with the international human rights system.</p>

<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>CPT Country Report on Spain 2021, p. 12 (Para.8)</i></p> <p>As of 5 November 2009, the Spanish Ombudsman (<i>Defensor del Pueblo</i>) is designated as the National Preventive Mechanism (NPM).</p>
<p><b>Principle 4</b></p>	<p>The process of <b>selection and appointment of the leadership of a NHRI</b> 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><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023.</i></p> <p>The Ombudsman is elected by the two Houses of Parliament, which represent the Spanish people as a whole and its territories, in which national sovereignty resides, and therefore his or her appointment enjoys the greatest democratic legitimacy.</p> <p>Their election requires a particularly qualified parliamentary majority, three-fifths of the members of the Congress of Deputies and the Senate.</p> <p>Consequently, the parliamentary groups must seek profiles of broad consensus, and with publicity, to elect the head of the Institution, which guarantees that the appointment falls to people who enjoy</p>

	<p>social prestige and the express recognition of the majority of the representatives of the popular will, freely elected periodically by direct and secret universal suffrage.</p> <p>On the other hand, the requirements established by the legal system to be Ombudsman do not exclude any person on the grounds of birth, race, sex, religion, opinion or any other personal or social condition or circumstance, since the only requirement is to be Spanish, of legal age and enjoy civil and political rights.</p> <p>Article 3 LODP: "Any Spaniard of legal age and in full enjoyment of his or her civil and political rights may be elected Ombudsman".</p> <p>In short, the social extraction and the profile of the people who occupy the management positions of the Institution are not conditioned in any way by the Law, which leaves the possibility that all social groups and all professional profiles may eventually be integrated into this management body.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA Report May 2018, p. 33</i></p> <p>In accordance with the Law, Parliament appoints the Defensor.</p> <p>The SCA acknowledges that the DPS reports that, in practice, its selection process is transparent and participatory, and that civil society organizations can participate in this process through members of parliament. Further, the DPS reports that, while vacancies are not formally advertised, the public is aware that the selection process will take place as a result of media attention surrounding the expiration of the term of the Defensor.</p> <p>However, the SCA is of the view that the selection process currently enshrined in the existing Law is not sufficiently broad and transparent in that it does not: - require the advertisement of vacancies; and does not specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process. The SCA encourages the DPS to continue to advocate for the formalization and application of a process that meets the above requirements</p>

The SCA is of the view that civil society involvement in the selection process should be direct rather than through members of Parliament. This could be achieved, for example, by: directly soliciting proposals from civil society; and allowing civil society to directly participate in the evaluation process.

*SCA Report May 2018, p. 34*

The law is silent on the requirement for pluralism and diversity within the DPS.

The SCA continues to encourage the DPS to advocate for the inclusion in its enabling law of a requirement to ensure that its composition is broadly reflective of all of the segments of Spanish society.

*SCA Report May 2018, p. 34*

In accordance with article 2.1 of the Law, the Defensor is appointed for a five (5) year term. The Law is silent on the number of times that an individual can be re-elected.

The SCA acknowledges that the DPS reports that, generally, the Defensor is not re-elected.

As a good practice, the SCA considers it preferable that the enabling law of an NHRI limits the possibility of re-election to one additional term. The SCA encourages the DPS to advocate for amendment to the law to provide for such a limitation.



<p><b>Principle 5</b></p>	<p>To ensure <b>independence</b>, the enabling legislation of a NHRI should contain an <b>objective dismissal process for the NHRI leadership</b>, 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><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The Ombudsman ceases to hold office immediately at the end of his or her five-year term of office.</p> <p>The Ombudsman may also be removed by resignation, death or incapacity, gross negligence in the performance of his or her duties and obligations, or conviction, by final judgement, for an intentional crime. Once the post is vacant, the procedure for the appointment of a new Ombudsman is initiated within a period of no more than one month. The law also regulates the interim replacement of the institution.</p> <p>The Deputy Ombudsmen shall be dismissed by the Ombudsman, with the prior consent of the Houses, in the manner determined by their Rules of Procedure.</p> <p>In the forty years of institutional activity, there has never been a parliamentary removal of the Ombudsman or his Deputies.</p> <p>In order for the dismissal of the Ombudsman to be declared, in cases of notorious negligence or judicial criminal conviction, the vote of a three-fifths majority of each House is required, and the prior hearing of the interested party.</p>

<p><b>Principle 6</b></p>	<p>Member States should provide NHRIs with adequate, sufficient and sustainable resources to allow them <b>to carry out their mandate</b>, including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI for <a href="#">ENNHRI's report State of the Rule of Law in the European Union 2023</a></i></p> <p>Regional actors have traditionally reiterated concerns over the NHRIs resources, requesting an increase. Positively, the budget for 2023 was increased by 11.87% over 2022, reaching a total of €20,917,800<sup>1</sup>.</p> <p>[...]</p> <p>As Spanish Parliament entrusted the institution to create an independent Commission to produce a report on sexual abuse in the Catholic Church and the role of the public authorities, the budget's increase has made it possible to set up a specialised unit, the Victim Care Unit for victims of sexual abuse in the Catholic Church.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA Report May 2018, p. 34</i></p> <p>The SCA encourages the DPS to continue this engagement, and to advocate for additional resources to ensure its ability to fully participate in and cooperate with the international human rights system.</p> <p><i>SCA Report May 2018, p. 35</i></p> <p>The DPS reports that it has not been allocated with sufficient funding to create new programs or strengthen existing ones and that, while it has received some increases in its budgetary allocation, these have not been sufficient to address the limitations faced by the institution.</p>

	The SCA encourages the DPS to continue to advocate for the provision of adequate funding.
<b>Principle 7</b>	NHRIs should have the <b>authority to determine their staffing profile and recruit their own staff</b> , as well as <b>sufficient resources</b> 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.
<b>Assessment of implementation by the NHRI</b>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The Ombudsman's staff is freely appointed by the Ombudsman, in accordance with the regulations and within the budgetary limits, in accordance with the principles of merit and ability.</p> <p>Since 2012, all selection processes for advisors have been carried out through the publication of calls for applications and their bases and the principle of transparency.</p> <p>The remuneration of the Ombudsman and his Deputies is comparable to that received by the other high State judges (presidents of the Congress of Deputies, the Senate, the Constitutional Court, the Supreme Court, etc.). For their part, the remuneration of the Ombudsman's staff corresponds approximately to that received by the higher levels of public administration staff, in line with the remuneration of staff in the service of the Spanish Parliament.</p> <p>The staff of the Ombudsman shall be considered to be staff in the service of the Parliament.</p>
<b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b>	<p><i>SCA Report May 2018, p. 34</i></p> <p>The SCA encourages the DPS to ensure the ongoing and effective fulfilment of its mandate by guaranteeing staff security of tenure. This could be achieved through an amendment to the law that explicitly provides for such security of tenure regardless of the election of the Defensor.</p>

<p><b>Principle 8</b></p>	<p>Member States should ensure that NHRIs enjoy <b>adequate access to information and to policy makers and legislators</b>, including timely consultations on the human rights implications of draft legislation and policy strategies.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The Ombudsman has adequate access to information and to policy makers in relation to policy making with human rights implications. However, information and policy makers are accessed on the initiative of the NHRI. Furthermore, it is worth noting that it is illegal for an authority or public official in Spain to obstruct the investigation of the Ombudsman, the Court of Accounts or equivalent bodies of the Autonomous Communities by refusing or unduly delaying the sending of the reports that they request or hindering their access to the files or administrative documentation necessary. Such actions are punished as crime of disobedience under Article 502.2 of the current Spanish Penal Code with the penalty being suspension of employment or public office for a period of six months to two years.</p>
<p><b>Principle 9</b></p>	<p>Member States should <b>implement the recommendations of NHRIs</b> and are encouraged:</p> <ul style="list-style-type: none"> <li>- to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame,</li> <li>- to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and</li> <li>- include information thereon in their relevant documents and reports.</li> </ul>

<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>What is more, public authorities are obliged to give timely and reasoned responses to the requests made by the Ombudsman in the NHRI's resolutions.</p> <p>The Ombudsman of Spain recommends to the authorities to provide more prompt and more solidly motivated answers to queries raised by the NHRI.</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>In the <a href="#">"Proceedings" section</a> of the institutional website, all general recommendations are published in full text (without personal data and preserving confidentiality), including a file with the file number, the administration to which it is addressed and whether it has been accepted, rejected by the administration or is still pending a response (in process).*</p>
<p><b>Principle 10</b></p>	<p>When member States grant NHRIs <b>additional competences</b> 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 <b>have access to sufficient resources to develop the capacity to effectively discharge its functions</b>, including having appropriately qualified and trained staff.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The NPM's resources are established annually through the Ombudsman's budget, which is an autonomous service of Section II of the General State Budget (<i>Cortes Generales</i>). The financial allocations for the various structures that make up the NPM, come from this budget, although they are not broken down by programme as this is not required by the budgetary discipline in force.</p>

### III. Safe and Enabling Environment

<p><b>Principle 11</b></p>	<p>Member States should ensure that NHRIs can <b>operate independently</b>, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of <b>impartiality, integrity, transparency and fairness</b>.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.4</i></p> <p>Organic Law 3/1981, of April 6, on the Ombudsman, regulates a broad framework of protection for the head of the institution and his deputies so that they can exercise their function with absolute independence from the different public authorities.</p> <p>Article 6.1 of the aforementioned Organic Law establishes that “the Ombudsman shall not be subject to any binding terms of reference whatsoever. He shall not receive instructions from any authority. He shall perform his duties independently and according to his own criteria”</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>The nature of the Institution, as it is regulated, prevents conflicts of interest in the performance of its duties.</p> <p>The very independence that the Ombudsman enjoys in the exercise of his functions, which he carries out with a markedly institutional character and with a clear attitude of dialogue, gives him significant moral authority in his activity.</p>

	In any case, both the Ombudsman and the Deputy Ombudsmen are subject to a very strict regime of incompatibilities provided for in article 7 of the Organic Law, whereby they must devote themselves exclusively to their duties.
<b>Principle 12</b>	Member States should <b>foster awareness</b> 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.
<b>Assessment of implementation by the NHRI</b>	<i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i> State authorities, regional and local authorities, as well as many public bodies through their relations with the Ombudsman of Spain have demonstrated to have good awareness of the NHRIs' mandate, independence and role.
<b>Principle 13</b>	Member States should take all measures necessary <b>to protect and support NHRIs</b> against threats and harassment and any other forms of intimidation, including through ensuring <b>functional immunity</b> . 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.
<b>Assessment of implementation by the NHRI</b>	<i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 4</i> According the law establishing the NHRI, paragraph 2 reads that "The Ombudsman shall enjoy immunity. He may not be arrested, subjected to disciplinary proceeding, fined, prosecuted or judged

	<p>on account of opinions he may express or acts he may commit in performing the duties of his office”.</p>
<p><b>Principle 14</b></p>	<p>Member States should ensure that <b>confidential information collected</b> by NHRIs in the context of their mandate is <b>privileged and is not unduly made public</b>.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The Ombudsman's Office participates in the one-stop/single operation model of public administrations, so that all communications addressed to the Ombudsman are sent to his office, in sealed envelopes to preserve confidentiality, from any public registry in the country, including prisons or any other place of deprivation of liberty.</p>



## IV. Co-operation and Support

<p><b>Principle 15</b></p>	<p>Member States should <b>take effective measures to enable NHRIs to communicate and co-operate</b> with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> <li>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;</li> <li>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;</li> <li>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;</li> <li>d. international and regional organisations working in related or similar fields.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <ul style="list-style-type: none"> <li>a. Article 7 of Law 2/2014, of 25 March, on State Action and Foreign Service, states that: "The Ombudsman, as the Spanish institution for the promotion and protection of human rights, develops relations of collaboration and technical assistance with counterpart national institutions in</li> </ul>

other States and independently facilitates the monitoring periodically carried out by international organisations on the human rights situation in Spain.

The Government may request the collaboration of the Ombudsman in carrying out missions to international human rights fora".

Within the framework of the European Union, collaboration with the European Ombudsman is articulated both bilaterally and through the European Network of Ombudsmen (ENO).

Collaboration with the United Nations is articulated through direct dialogue with the Office of the United Nations High Commissioner for Human Rights, and through work with GANHRI and ENNHRI.

The same relationship is articulated with the different departments of the Council of Europe.

Currently, in addition, due to its role as the National Preventive Mechanism of the OPCAT, the Institution's duty to interact directly with the United Nations Subcommittee on Prevention of Torture (SPT) has been established in the regulations.

b. Civil society submits complaints and holds meetings with the institution on a regular basis.

c. In order to carry out its constitutional functions, the Ombudsman relies on the collaboration of the equivalent institutions in those Autonomous Communities where they have been created and have been functioning effectively. The regulatory framework for this cooperation is established in Law 36/1985, of 6 November 1985, which regulates relations between the Ombudsman Institution and similar institutions in the different Autonomous Communities. Coordination meetings are held annually, but contact is on a daily basis.

**Assessment of implementation  
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*SCA Report May 2018, p. 35*

In considering its engagement with the international and regional human rights systems, the SCA encourages the DPS to continue its cooperation with OHCHR, GANHRI, ENNHRI and others NHRIs, as well as international and national NGOs and civil society organizations.

