ENNHRI Policy to Support NHRIs Under Threat

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1. Introduction

National Human Rights Institutions (NHRIs) are key actors for the promotion and protection of human rights, democracy, and the rule of law in Europe. In order to fully realise their potential, NHRIs need to be provided with an enabling environment for their independent and effective work. Yet, European NHRIs have been facing threats, attacks, and undue challenges when implementing their mandate.

ENNHRI is committed to providing swift and tailored support to NHRIs in such circumstances, guided by relevant international and regional standards, as well as good practices in the region.

Building on the UN Paris Principles, which are the global cornerstone of NHRI standards, the Council of Europe Committee of Ministers Recommendation on NHRIs states that "Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation". While NHRIs should be supported when a threat occurs, the starting point remains that states hold primary responsibility for ensuring that NHRIs are not subject to threats and attacks.

The purpose of this policy is to provide NHRIs with an overview of the support available from ENNHRI if they perceive themselves as being under threat, and to clarify how they can access the support in practice. Moreover, the policy clarifies the principles that drive ENNHRI's support and the procedures that are followed in such cases.

2. Principles of action

This policy complements ENNHRI's general procedures and builds on its practice of supporting NHRIs under threat. Several interdependent principles underpin ENNHRI's work to support NHRIs under threat, namely:

2.1 Central role of the NHRI concerned

The NHRI concerned is best placed to understand the context in which it is operating, the nature of any threat it may be facing, and what the best option for possible support is. Therefore, in any actions of support and at all stages of the procedure, ENNHRI will coordinate, exchange

information and seek agreement with the NHRI under threat on the action, timing and approach to be taken. ENNHRI will take into account the national context and all other relevant aspects to ensure its support is adequate to the sensitivity of the situation at hand.

2.2 Do no harm

ENNHRI will always act in the best interest of the NHRI concerned, taking into account possible risks and avoiding any unintended negative consequences of its support ('do no harm'). This is among other general values of ENNHRI including respect for international human rights standards, cooperation, accountability, participation, and independence, as laid out in the ENNHRI Statutes.

2.3 Focus on NHRI standards

ENNHRI's support will always be based on international and regional standards on NHRIs, particularly the UN Paris Principles, the SCA General Observations, and the Council of Europe Committee of Minister Recommendation on NHRIs (CM 2021/1). Further recommendations or political commitments from regional actors (OSCE, Council of Europe, and EU among others) concerning NHRIs may also be referenced. ENNHRI may also rely on good practices from other European NHRIs as well as on learning from how they have overcome or reacted to threats.

2.4 Urgency

NHRIs under threat may be in need of immediate or swift support. In such cases, an accelerated procedure for drafting, approving, and disseminating statements or for ENNHRI to take action can be applied. For this reason, this Policy allows for more urgent and flexible support than the general ENNHRI procedures.

2.5 Flexibility

Threats to NHRIs and the circumstances in which they operate can vary immensely, and are dependent on, for example, the national context, mandates, enabling legislation, and systemic challenges, among other factors. Accordingly, the support provided by ENNHRI is analysed on a case-by-case basis and must be tailored to the specific circumstances. Therefore, flexibility might be required in the application of this policy to better adjust to the concrete situation faced by the NHRI.

2.6 Coordination and communication

ENNHRI will engage in communication and coordination with the NHRI concerned. When deemed relevant, ENNHRI can also coordinate with regional and international partners for possible joint support to the NHRI. Where appropriate, close coordination and communication

with partners can make the support provided to NHRIs more likely to be complementary and efficient.

3. Procedure

In full observance of the principles set out above, the expedited procedure for ENNHRI's support to NHRIs under threat involves four main steps:

Step 1: Engagement with the NHRI concerned

NHRIs can contact the ENNHRI Secretariat, Board, or Chair if they believe that they may be in need of support. Alternatively, if the ENNHRI Secretariat, ENNHRI Chair or Board becomes aware, through different sources, that an NHRI may be at risk, they can also proactively reach out to the NHRI concerned.

Once a contact with the NHRI is initiated, the ENNHRI Secretariat will coordinate the follow-up to the NHRIs' request, which may include obtaining further information from the NHRI on the situation and discuss the type of support that would be most helpful to the NHRI. If appropriate, the ENNHRI Secretariat will also seek to collect information online and from relevant sources.

Step 2: Consulting with the ENNHRI Chair and Board

The ENNHRI Secretariat will notify the ENNHRI Chair and Board of the situation and seek advice and direction on the proposed way forward. It will also consult and get approval on any draft statements, letters or opinions, through an urgent procedure. Where appropriate, the ENNHRI Chair can call an emergency meeting of the ENNHRI Board to get further advice on the matter.

When the situation requires a particularly urgent response, the ENNHRI Chair can use their discretion to act alone, supported by the ENNHRI Secretariat and with agreement of the NHRI concerned. If this is the case, the ENNHRI Board will be informed as soon as possible of the circumstances and of the action taken.

Step 3: Providing the support

After the action has been agreed between ENNHRI and the NHRI concerned, the ENNHRI Secretariat will facilitate implementation of the support to the NHRI, in a timely manner. The ENNHRI Secretariat will also seek advice and agree with the NHRI on any communications about the situation and the support provided, including, where appropriate, informing partners, stakeholders, and other ENNHRI members.

Step 4: Monitoring the situation

The ENNHRI Secretariat will continue its engagement with the NHRI concerned, after support is provided, in order to be aware of any developments and, if available, receive information on the

impact of the support provided. Based on this, ENNHRI can also assess with the NHRI concerned if further actions of support are necessary. The ENNHRI Chair and Board will be equally informed and can provide advice on the situation.

Where the NHRI believes the threat has been managed or the goal set with the NHRI has been met, ENNHRI will coordinate with the NHRI for feedback on the implementation of the support, as well as, where relevant, can support the NHRI in providing updated information to relevant partners.

4. Further procedures

ENNHRI recognises that the specificities of each case might require discretion on the part of the ENNHRI Chair and/or the Board, supported by the ENNHRI Secretariat. Possible divergence from the procedure might include:

- In some cases, ENNHRI might decide to carry out a more detailed review of the situation before choosing to act in support of an NHRI. The more detailed review could involve desk research, consultation with ENNHRI's Expert Group on NHRI Standards and peer NHRIs, engagement with relevant stakeholders, among others.
- The ENNHRI Chair or Board might also choose to bring a matter before the ENNHRI General Assembly before taking action. This will often not be possible, particularly in situations of urgency or confidentiality, but the appropriateness of members' participation will be taken into account.
- Where ENNHRI believes that a specific threat relates to wider concerns or a regional trend affecting multiple NHRIs, it may also decide to tackle this systemic issue through regional advocacy, desk research, and recommendations to national authorities, in addition to providing tailored support to NHRIs concerned.

5. Support available from ENNHRI

ENNHRI can offer various types of support to European NHRIs, including:

- **Public support:** ENNHRI can demonstrate public support to an NHRI under threat, among others by releasing public statements, publishing open letters to relevant authorities, raising awareness of the situation and recommendations on its website and/or social media, and sharing information with relevant stakeholders.
- **Private and diplomatic engagement**: at times, NHRIs may find most appropriate for support to be provided without public communication on the matter. This can include ENNHRI having closed meetings, sending private letters, or engaging with relevant authorities bilaterally.

- **Policy recommendations**: based on NHRI standards and/or good practices in the region, ENNHRI can provide recommendations on various policies or measures that could impact on an NHRI's ability to carry out its work in an independent and effective manner.
- **Legal opinions**: where threats relate to legislation and/or draft bills, ENNHRI can advise NHRIs and/or relevant authorities on the applicable international and regional standards. ENNHRI can also provide a legal opinion on whether legislative amendments may be contrary to regional and international standards on NHRIs. Where appropriate, ENNHRI would cooperate with GANHRI and other regional networks for clarity on applicable standards and relevant practices.
- **In-country missions**: where relevant, ENNHRI can organise a visit to NHRIs in their countries, separately or as part of a delegation of partners, to better understand the context, show support, and meet relevant authorities.
- **Funding and technical support**: ENNHRI does not typically provide funding to NHRIs under threat. However, in extreme circumstances, ENNHRI can consider if it has resources to provide direct support to an NHRI facing exceptional challenges. For example, ENNHRI can consider providing direct assistance to help safeguard the safety of the NHRI's staff and leadership during active armed conflict. It can also provide financial relief, for instance by considering a fee waiver from its ENNHRI membership fee. Otherwise, ENNHRI can advise relevant authorities and/or relevant partners to consider funding an NHRI under threat, where appropriate.
- **Other support**: Upon advice of, and in coordination with the NHRI concerned, ENNHRI will consider if any other form of support can be provided. ENNHRI remains flexible in its support and will ensure that it is tailored to the case at hand.

Annex: Practical information on accessing ENNHRI's support to NHRIs under threat

Which NHRIs can request this support?

ENNHRI's support is available to all ENNHRI members that believe they may be in need of support, regardless of accreditation status and even if they do not consider themselves as being under active threat.

For example, possible threats to NHRIs can take the form of:

- Undue political pressure seeking to undermine the independence or continuity of the NHRI;
- Reduction of formal independence;
- Changes in mandate or functions that can negatively impact the NHRI;
- Amendments to an NHRI's enabling legislation and/or constitutional basis;
- Reduction in funding and/or restrictions to access funds;
- Imposed and inappropriate organisational changes;
- Removal of NHRI leadership or senior staff, particularly where contrary to standards on dismissals;
- Groundless or abusive lawsuits or charges against leadership or staff;
- Verbal, written, or physical attacks against staff and leadership of the NHRI;
- Ill-treatment or death threats against staff and leadership of the NHRI;
- Defamatory campaign against the NHRI, its leadership, or staff, including on social or traditional media;
- Public defamation or reputational attacks, including by politicians and/or other state bodies.
- Administrative or judicial harassment, or any form of breach of the functional immunity of an NHRI's leadership and staff;
- Manifest disregard to an NHRI's powers and mandates;
- Electronic surveillance of NHRI leadership or staff;
- Restrictions on the freedom of movement and freedom of assembly;
- Any other systemic or substantial challenges that risk undermining the NHRI's ability to carry out its mandate effective and independently.

NHRIs are also encouraged to engage in early communication in case they believe their enabling environment is deteriorating and a risk of threat is emerging. It is up to NHRIs to decide if and when they need support from ENNHRI under this policy.

How can NHRIs request this support?

Support from ENNHRI is coordinated by the ENNHRI Secretariat. NHRIs can also contact the ENNHRI Chair and ENNHRI Board for advice on the support available (information on ENNHRI's governance positions can be found here).

NHRIs can reach out to ENNHRI through all possible channels - such as by email, phone, or in-person. It is preferable that communication to the ENNHRI Secretariat is sent by email to ENNHRI's Secretary General and relevant colleagues at the ENNHRI Secretariat (contact details are available here).

Once communication is established, the ENNHRI Secretariat can suggest further contact, through the available channels (online meeting, phone or in person), to have a better understanding of the situation and, following the request of the NHRI, propose the support available and next steps, as per the 'Procedure' under this Policy.

If the ENNHRI Secretariat, ENNHRI Chair or Board becomes aware, through the media or other sources that an NHRI may be at risk, they can also proactively reach out to the NHRI concerned to get more information. However, the decision to trigger any support remains within the NHRI's discretion.

How does ENNHRI work with partners to support NHRIs under threat?

ENNHRI's support can be provided separately or jointly with other regional and international partners, depending on what is deemed most appropriate by the NHRI concerned. If appropriate, ENNHRI can facilitate NHRIs' engagement with relevant partners, including those that are part of the 'Contact Group of Partners to Support NHRIs under Threat'.

How can NHRIs support their peers in such cases?

In the past, European NHRIs have acted in solidarity with their peers that perceive themselves as being under threat, be it through ENNHRI or bilaterally. Where relevant and agreed with the NHRI concerned, ENNHRI can facilitate sharing relevant information and/or call for actions with all its members to provide separate support.

For example, it could be relevant for NHRIs to learn from one another in such difficult moments, or, where appropriate, to engage with their national authorities to encourage diplomatic engagement towards protecting an NHRI under threat in another country. Simply reaching out to the NHRI concerned to show solidarity can, in itself, be an important act of support. In addition, where appropriate, exchange of information between peer NHRIs, including those in neighbouring countries, can contribute to supporting the NHRI concerned, as well as acting as an early indicator of potential threats that may spread at the sub-regional context.

Similarly to the support provided by ENNHRI, it is essential that the NHRI concerned retains the decision on if, how, and when separate support from peers can be helpful.

How else does ENNHRI work towards an enabling environment for NHRIs?

In addition to supporting NHRIs once a threat or attack takes place, ENNHRI advocates for an enabling environment for the independent and effective work of all NHRIs in Europe so they are not subject to threats or attacks in the first place.

Actions that can help prevent threats include monitoring and advocating for the implementation of international and regional NHRI standards across Europe, tackling challenges that are common to several NHRIs in the region, and promoting an enabling environment for all Human Rights Defenders (HRDs) in Europe. In addition, NHRIs can be supported to prepare against threats by building their long-term resilience, identifying early warning signs, and preparing action plans for responding to threats, as well as learning from peers on how to deal with specific challenges. For example, ENNHRI's Expert Group on NHRI Standards was created, among other reasons, to allow NHRIs to share their experience and expertise in applying regional and international standards in daily practice.

ENNHRI collects information on the enabling environment of NHRIs across Europe through its joint annual Rule of Law Report, which highlights developments in NHRIs' enabling and safe space, relevant changes to their regulatory framework and, where applicable and considered appropriate by the NHRI, threats or undue challenges they are facing. Moreover, ENNHRI has published a Baseline Study on the implementation of the Council of Europe Committee of Ministers' Recommendation on NHRIs (CM 2021/1). It provides a unique understanding of where Europe stands in relation to respecting the standards set out in the Recommendation, as well as providing country-specific information and recommendations to national and regional actors.

Ultimately, all the activities of ENNHRI are driven by NHRIs themselves and aim at contributing to an enabling environment for their independent and effective work promoting and protecting human rights.

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