

# National Human Rights Institutions and Human Rights Defenders

*Enabling human rights and democratic  
space in Europe*



# ACRONYMS

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<b>CoE</b>	Council of Europe
<b>CSO</b>	Civil Society Organisation
<b>CDDH-INST</b>	Council of Europe Steering Committee for Human Rights Drafting Group on Civil Society and NHRIs
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>ENNHRI</b>	European Network of National Human Rights Institutions
<b>Equinet</b>	European Network of Equality Bodies
<b>EU</b>	European Union
<b>GANHRI</b>	Global Alliance of National Human Rights Institutions
<b>GO</b>	SCA General Observations to the Paris Principles
<b>HRD</b>	Human Rights Defender
<b>IOI</b>	International Ombudsman Institute
<b>LGBTI</b>	Lesbian, Gay, Bisexual, Transgender and Intersex
<b>MoU</b>	Memorandum of Understanding
<b>NGO</b>	Non-Governmental Organisation
<b>NHRI</b>	National Human Rights Institution
<b>OHCHR</b>	United Nations Office of the High Commissioner for Human Rights
<b>OSCE/ODIHR</b>	Organization for Security and Cooperation in Europe/ Office for Democratic Institutions and Human Rights
<b>SCA</b>	Sub-Committee on Accreditation
<b>SDG</b>	Sustainable Development Goal
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme

# INTRODUCTION

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Europe is facing a rising trend of shrinking democratic space, including reduced respect for human rights and the rule of law. This is reflected in various forms across European countries, including restrictive laws on the right to freedom of expression and assembly, laws undermining judicial independence, security measures disproportionately affecting individual freedoms, and negative public discourse on human rights. This context poses challenges and requires innovative responses from organisations and individuals who strive for the promotion and protection of human rights, including National Human Rights Institutions (NHRIs) and their staff.

NHRIs are state-mandated bodies, independent of government, with a broad constitutional or legal mandate to protect and promote human rights at the national level. This publication illustrates their role in supporting Human Rights Defenders (HRDs) in a context of shrinking democratic space in Europe, through a collection of relevant practices from ENNHRI members. Being HRDs themselves, NHRIs also face threats and need support. This publication aims to inspire a range of actors to join forces to further protect and strengthen HRDs and build a sustainable human rights environment in Europe with a vibrant democratic space and respect for the rule of law.




# WHY ARE NHRIs CONSIDERED TO BE HRDs?

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**Human Rights Defenders (HRDs)** are individuals or groups that promote and protect human rights for all, including civil, political, economic, social and cultural rights. HRDs work across the world in different social and political climates. They can be individuals (such as journalists, lawyers, activists or members of the public) or organisations, either public or private, working at the national, regional or international level (such as NGOs, trade unions). NHRIs established in line with the Paris Principles and their staff are recognised as HRDs (see [UN doc. A/HRC/22/47](#)).

Due to their **broad human rights mandate**, NHRIs work to promote a culture of rights and ensure that ‘no one is left behind’, including those lacking a voice or facing pressure. They contribute to the achievement of SDG 16 on promoting peaceful and inclusive societies and building effective, accountable and inclusive institutions ([UN Agenda 2030](#)). When democratic space is shrinking, NHRIs can help place human rights at the heart of the public debate.





NHRIs also act as **‘bridge-builders’** between international human rights standards and national realities by engaging with rights-holders and cooperating with government authorities, civil society and international organisations. It is unique to NHRIs that their independence, pluralism and effectiveness is periodically assessed. They receive international accreditation, ensuring their accountability and positioning them as interlocutors on the ground speaking up in defence of human rights in a variety of national contexts.

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In line with the Paris Principles, NHRIs must **carry out their work independently** of political considerations and promote respect for human rights, democratic principles and rule of law in all circumstances, including in situations of state of emergency (see SCA, GO 2.5). NHRIs can address national, international and regional mechanisms to trigger change domestically.

***“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”***

*Article 1 of the UN Declaration on Human Rights Defenders (1998)*

# HOW CAN NHRIs SUPPORT OTHER HRDs?

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NHRIs protect other HRDs in a number of ways. In line with the Paris Principles, they conduct independent monitoring activities, report to international bodies, make recommendations to state authorities, provide legal assistance and process individual complaints of HRDs. Through regular contact with individuals, the wider public and the media, NHRIs also raise awareness of human rights and promote a culture of rights.

## 1. Monitoring and reporting

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Through human rights monitoring and reporting, NHRIs gather and verify information regarding the human rights situation in their country and share it with national, regional and international bodies. They assess whether international human rights standards are met at the national level and share the information with recommendations to national parliaments, policy makers, and regional and international human rights mechanisms. This can inform recommendations of international and regional actors towards state authorities. Effective monitoring should also take into account human rights-based indicators and disaggregated data.





### **Making vulnerable situations visible**

*Ombudsman for Human Rights of Bosnia and Herzegovina*

In response to the lack of full acknowledgement by national authorities of the challenges faced by the LGBTI community and journalists in Bosnia and Herzegovina (BiH), the BiH NHRI elaborated special reports in 2017 on their situation. The NHRI undertook broad consultations, including with affected individuals, representative CSOs, academic experts and state authorities, and presented the reports to the general public and the Parliamentary Assembly.

The recommendations on journalists resulted in swift follow-up action by state authorities, with the Parliamentary Assembly adopting a Conclusion that created obligations for the Ministry of Justice and the Ministry of Human Rights and Refugees, such as regular meetings with representatives of organisations and associations of journalists to discuss cases of political and other pressures on journalists.



## Monitoring public demonstrations

*Human Rights Defender Institution of the Republic of Armenia*

The Armenian NHRI monitored the demonstrations in April and May 2018 through media and social networks, handled the complaints received by phone, and conducted visits to police offices and detention facilities where participants were arrested. A significant number of cases received throughout the country were resolved on the spot with the support of NHRI representatives and cooperation with police officers. These cases were later reported to state authorities, requesting official investigations. A significant number of those arrested were released with the assistance of the NHRI.

### **SDG indicators and human rights based approach to data (HRBAD)**

Part of the global indicators framework to measure the implementation of the UN 2030 Agenda for Sustainable Development ([SDG indicator 16.10.1](#)) aims to measure violence against HRDs. NHRIs can use this indicator in monitoring and reporting to strengthen their national protection efforts for HRDs and to work with international mechanisms to expand data availability and coverage. OHCHR has also developed a [guidance note on a HRBAD](#) to strengthen national capacity on statistics, as well as a MoU template between NHRIs and national statistical offices (NSOs) to foster their cooperation in the collection and analysis of disaggregated data.

## 2. Recommendations and advice on legislation and executive measures

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NHRIs are responsible for advising and making recommendations to state authorities on human rights issues in all circumstances. They review existing laws, executive measures, policies, and practices. Where necessary, they recommend changes or the adoption of new measures to ensure compliance with human rights standards. This function becomes more difficult and relevant in a context of shrinking democratic space.

### **Counter-terrorism measures**

*Commission Nationale Consultative des Droits de l'Homme*

The French government declared a state of emergency in 2015, immediately after the Paris terrorist attacks. Based on judicial analysis and information collected from a wide range of sources, including experts and NGOs, the French NHRI published reports and press releases every two months to inform the public of the negative human rights implications of the government's security measures.

## Budget cuts for CSOs

*Office of the Ombudswoman of the Republic of Croatia*

In 2016, the Croatian government adopted a decree that significantly reduced the allocation of funds from the national lottery to CSOs working on human rights and democratisation. The Croatian NHRI engaged in public consultations and presented recommendations to the Government, while also raising the issue in its 2016 Annual Report to Parliament. In 2017, the government adopted the decree which resulted in an increased budget for the CSOs, although not meeting the level of 2015.



### OSCE/ODIHR legal opinions

Upon request by NHRIs, OSCE/ODIHR provides [legislative support](#) through expert opinions on national (draft) legislation concerning democracy, rule of law and human rights. In 2016 the Polish NHRI, the Commissioner for Human Rights, submitted a request to review the text of a national bill on CSO legislation. Even since the amendments were made to the law, the NHRI has continued to use [the opinion](#) in assessing its application.

### 3. Individual complaints-handling and strategic litigation

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NHRIs provide information to individuals about the available channels of redress for human rights violations, including competent authorities, complaints-handling procedures and available remedies. Some NHRIs can investigate, handle individual complaints, issue recommendations, and challenge laws and practices before constitutional tribunals and seek amicable settlement on individual complaints. Also, some NHRIs can intervene before national and regional courts as third parties, including the ECtHR.

#### **Complaints-handling of imprisoned HRD**

*Public Defender of Georgia*

A human rights activist from an area outside of state control faced physical danger and criminal charges while being imprisoned due to her human rights work. The Georgian NHRI challenged her detention and harassment as illegal, calling for a fair investigation and issuing several public statements calling on authorities to ensure her safety. The NHRI also raised international and regional attention of the case and nominated the HRD for the Václav Havel Human Rights Prize and the UN Human Rights Prize.



## **National strategic intervention before Regional Court**

*Polish Commissioner for Human Rights*

A journalist employed by the state-owned Polish radio publicly criticised a governmental reform of the public media which led to seizure of the control over the management and supervisory boards of public TV and radio companies. As a result, the journalist was dismissed from his job, after which he initiated a proceeding before the Common Regional Court at the national level. The Polish NHRI joined his first instance proceedings, raising the journalist's right to freedom of speech, referring to previous ECtHR cases, and his right to freely express his position as a journalist. The Regional Court accepted the individual's claim.

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### **Referral of individual cases to UN and European independent mechanisms**

NHRIs can refer individual complaints to independent international and regional actors. For example, the UN Special Rapporteur on the situation of human rights defenders helps to ensure an enabling environment for HRDs through country visits, receiving individual cases and complaints, and presenting UN reports. At the European level, EU missions consult NHRIs in monitoring and reporting on the situation of HRDs, and the CoE Commissioner for Human Rights meets with NHRIs to discuss how best to provide effective protection to HRDs and support their activities.



## 4. Promoting a culture of rights

NHRIs promote a wide understanding and respect for human rights principles and standards. They increase public awareness and address the implications of negative public discourse on human rights, including through educational campaigns, publications, and information-sharing through the media. NHRIs also raise awareness of HRDs' role, act against smear campaigns, disseminate information about protection programmes, and support with advocacy when HRDs' rights are threatened and/or violated.

### **Freedom of expression and freedom of the press**

*People's Advocate of the Republic of Moldova*

In Moldova, when a politician verbally threatened media actors and civil society representatives that were criticising his political activities and position, the Moldovan NHRI issued a public statement condemning the discourse. It also requested the General Prosecutor's Office to investigate the case and take actions to prevent further polarisation within the society. This was supported by OHCHR and major human rights organisations in the country.



## Human Rights Annual Award

*Danish Institute for Human Rights*

The *Human Rights Annual Award* is granted by the Danish NHRI's Human Rights Council to an exceptional person or organisation that has promoted and protected human rights in Denmark, Greenland or the Faroe Islands. The candidates are nominated through public consultation and the media, with the NHRI acting as the secretariat for the Council jury. The award winner is selected by a vote among the CSOs represented in the council. For example, in 2016 the award was given to 20 transgender activists, who raised awareness on transgender issues, and in 2017 to a representative of the Association of Godhavns Boys who strived for the rights of children neglected while in care.

### Digital security tools for HRDs

HRDs often use online and offline tools to communicate and coordinate their work. However, their data can be sensitive and digitally threatened. NHRIs can raise awareness of reliable tools through which HRDs can protect their data and privacy, such as [\*Security in-a-Box\*](#), [\*Surveillance Self-Defense\*](#) and [\*Umbrella\*](#). NHRIs can also use digital tools themselves to be better informed on the situation of groups facing difficulties at the national level, such as the CoE [\*Platform to Promote the Protection of Journalism and Safety of Journalists\*](#).



# HOW CAN NHRIs & OTHER ACTORS COLLABORATE?

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## 1. Supporting NHRIs facing threats

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NHRIs and their staff, like other HRDs, often face challenges and threats at the individual and institutional levels in the course of their work. In the context of shrinking democratic space, these challenges are amplified and may have the potential to undermine an NHRI's role. Strong collaboration between NHRIs and other actors can help to enhance their effectiveness in this climate.

NHRIs facing threats are supported by ENNHRI in cooperation with crucial regional actors. [ENNHRI's Guidelines](#) clarify the procedure of carefully assessing a threat in light of the Paris Principles. Recommendations are also made to state authorities on ensuring the independence and effectiveness of NHRIs, on request by members. Over the last two years, ENNHRI has provided support to member NHRIs from Georgia, Poland and Ukraine. For example, a joint [Statement of Support](#) was issued for Poland's NHRI, together with the OHCHR Europe Regional Office, IOI and Equinet.



## **Institutional and personal threats**

*Polish Commissioner for Human Rights*

Since 2016, the Polish government has adopted legal reforms impacting on human rights, rule of law and democracy, including the reduction of judicial independence, restricting the right of assembly and limiting funding for CSOs. The Polish NHRI has issued legal opinions and public statements, joined constitutional complaints, intervened in parliamentary instances and cooperated with international organisations speaking out for human rights, democracy and the rule of law. At the same time, the NHRI has been faced with institutional and individual threats, including budgetary constraints and initiatives to undermine functional immunity.

### **UNDP, OHCHR and GANHRI Guidelines**

In addition to the ENNHRI Guidelines, GANHRI together with UNDP and OHCHR have developed Guidelines on Reprisals and Other Acts of Intimidation Against National Human Rights Institutions, their Members and Staff. The Guidelines aim at providing guidance to effectively respond, jointly or individually, to situations of reprisals and other acts of intimidation against all NHRIs, their members and their staff, irrespective of their accreditation status and as a result of their mandated work.



## 2. Cooperation among actors

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In increasingly challenging national contexts, cooperation and solidarity among national, regional and international actors becomes even more important to reinforce actions to enable human rights and democratic space in Europe. Over 40 NHRIs from across wider Europe are supported by ENNHRI to collaborate in promoting and protecting human rights at the national level and to cooperate with relevant regional and international stakeholders.

### **Peer-exchange and capacity-building**

Peer support among NHRIs can help in addressing challenges faced in a context of shrinking democratic space. ENNHRI, together with regional partners, organises trainings and capacity-building activities for NHRI staff, including topics on HRDs, NHRIs facing threats and communicating human rights. For example, in 2018, the [NHRI Academy](#), jointly organised by ENNHRI with OSCE/ODIHR, included a session on 'Creating a safe and enabling environment for HRDs'.

Moreover, [ENNHRI's 2018 Annual Conference](#) brought together over 100 key human rights stakeholders from across wider Europe to discuss how European NHRIs can better support democratic space and HRDs in the region.


## Collective interventions before the ECtHR

NHRIs can collectively intervene before the ECtHR. ENNHRI, through its [Legal Working Group](#), provides support for strategic litigation and prepares third-party interventions on key human rights concerns. In *Big Brother Watch & Ors vs The United Kingdom*, related to the right to respect for private life and data protection, ENNHRI submitted written observations and provided an international legal analysis to the Court, which delivered its [judgement](#) on the 13 September 2018, including ENNHRI's submission within its conclusions.

## Engagement with regional and international actors

ENNHRI provides a collective voice for European NHRIs and links them to regional and international (human rights) mechanisms. For example, ENNHRI contributed to the CoE CDDH-INST [report](#) which analysed the protection and promotion of civil society space in Europe in the current shrinking democratic space.





Speaking up when regional human rights mechanisms risk being undermined is also a priority for ENNHRI. This is done in various forms, including publications, working papers and joint statements with regional partners, and social media activity. ENNHRI's [Submission on the draft Declaration of Copenhagen](#), for example, warned against the weakening of the European Convention system and advocated to safeguard the independent functioning of the ECtHR.

When addressing global actors and mechanisms, ENNHRI closely liaises with GANHRI. In October 2018, GANHRI adopted the [Marrakesh Declaration on 'Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions'](#). In follow-up of the Marrakesh Declaration, ENNHRI developed a regional plan of action.



# ANNEX

## International and regional framework related to NHRIs and HRDs

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- [Universal Declaration of Human Rights \(1948\)](#)
- [UN Paris Principles \(1993\) and General Observations](#)
- [UN Declaration on Human Rights Defenders \(1998\)](#)
- [EU Guidelines on Human Rights Defenders \(2008\)](#)
- [Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities \(2008\)](#)
- [OSCE Guidelines on the Protection of Human Rights Defenders \(2014\)](#)
- [Guidelines on ENNHRI Support to NHRIs under Threat \(2016\)](#)
- [Implementation of the OSCE Guidelines on Human Rights Defenders \(2017\)](#)
- [Protection and Promotion of the Civil-society Space: Compilation of Measures and Practices in place in the Council of Europe Member States \(CDDH-INST, 2018\)](#)
- [European Union Agency for Fundamental Rights \(FRA\) Report on “Challenges facing civil society organisations working on human rights in the EU” \(2018\)](#)
- [GANHRI Marrakesh Declaration: “Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions” \(2018\)](#)





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