

STRONG AND EFFECTIVE NATIONAL HUMAN RIGHTS INSTITUTIONS

CHALLENGES, PROMISING PRACTICES AND OPPORTUNITIES

SUMMARY

1

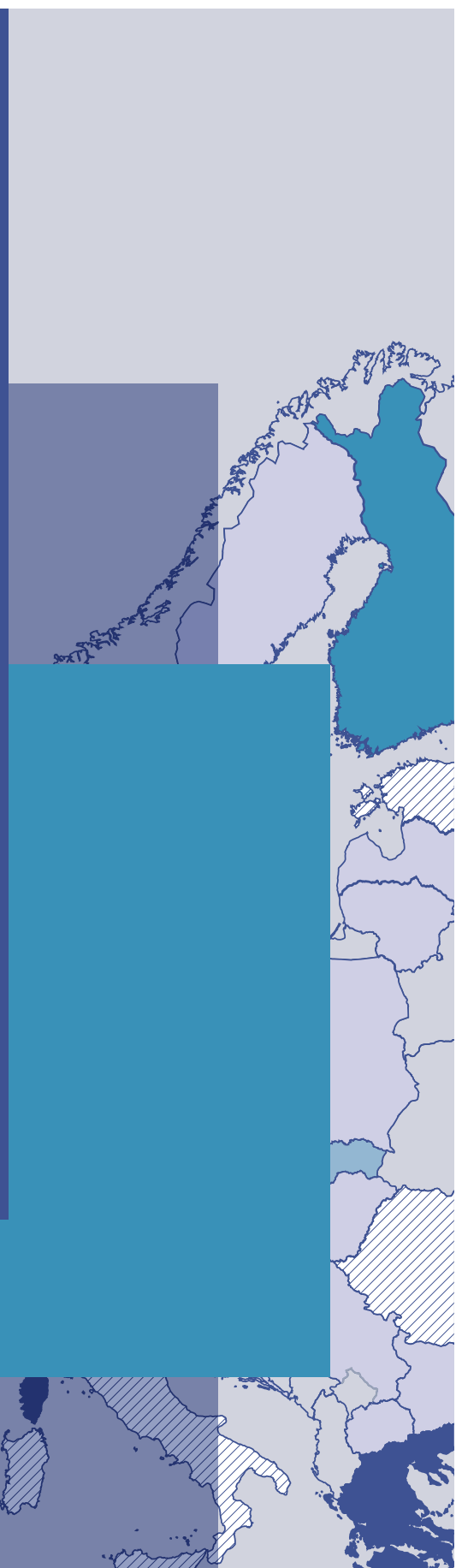
What are national human rights institutions?

2

Awareness of NHRIs in the EU

4

Key findings and FRA opinions



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National Human Rights Institutions (NHRIs) are a vital part of the country-level human rights protection system. By raising awareness, providing advice, monitoring and holding authorities to account, they have a central role in navigating the great human rights challenges of our day – tackling both persistent concerns like discrimination and inequality, and novel issues such as the rights implications of artificial intelligence and of the COVID-19 pandemic.

The report, published 10 years after FRA's first in-depth study on NHRIs, looks at such bodies in the EU, as well as North Macedonia, Serbia, and the United Kingdom. It explores relevant developments, challenges to their effectiveness and ways to maximise their impact. It also indicates promising practices and the potential for greater engagement such as the role of the NHRIs in supporting monitoring of the rule of law and compliance with the EU Charter of Fundamental Rights.

FRA's findings underscore that, to fulfil their potential, NHRIs need a clear mandate, independence, adequate resources, and, in their memberships, to reflect our societies' diversity. They also need to comply with the Paris Principles on the independence and effectiveness of NHRIs endorsed by the United Nations.

Paris Principles

The Paris Principles is the foundational document that established the international basis for national human rights institutions (NHRIs). They set out the minimum standards for NHRIs and provide the international benchmarks against which they can be accredited. The Paris Principles were adopted by the United Nations (UN) General Assembly, Resolution 48/134 of 20 December 1993.

To read the full document, visit the following link:

Principles relating to the Status of National Institutions (The Paris Principles)

WHAT ARE NATIONAL HUMAN RIGHTS INSTITUTIONS?

NHRIs are independent organisations set up by states to promote and protect human rights within their countries. The organisations come in various forms – such as human rights commissions, ombuds institutions – and commonly have multiple mandates. For example, half of the NHRIs covered by this report are also ombuds institutions and 16 have either full or partial equality mandates. Regardless of their exact structure and powers, they are vital to advancing human rights at the national level.

NHRIs have inherent links to international human rights law, which strengthens their roles and impact, and they are subject to the international minimum standards set out in the Paris Principles. These Principles provide the framework for independence and effectiveness in promoting and protecting human rights. The United Nations (UN) 2030 Agenda for Sustainable Development, specifically Sustainable Development Goal 16 on strong institutions, includes an indicator for NHRIs compliant with the Paris Principles (indicator 16.A.1).

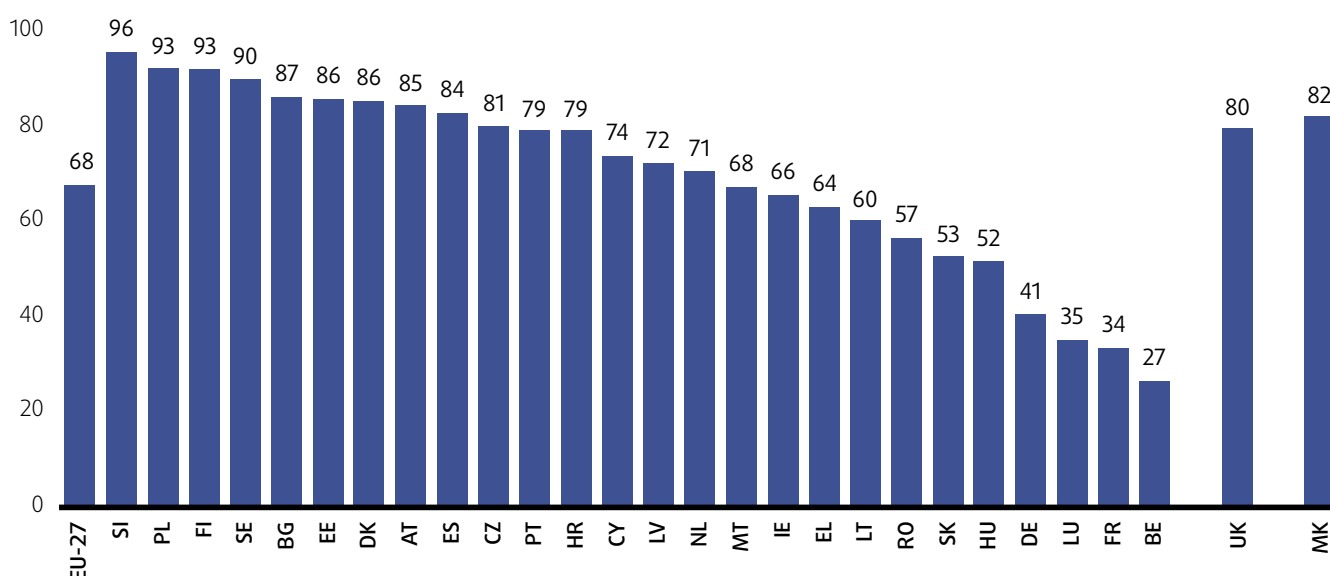
AWARENESS OF NHRIS IN THE EU

According to FRA's 2019 **Fundamental Rights Survey**¹ – covering the EU-27, North Macedonia and the United Kingdom – overall 68 % of people have heard of the NHRI in their country. But awareness of NHRIs varies widely by country, from 96 % in Slovenia to 27 % in Belgium (see Figure 1). On average, young people aged 16–29 are 60 % or less aware of the NHRI in their country than older people (68 % or more). People with severe limitations on their daily activities (such as people with disabilities) are 58 % or less often aware than those with no limitations (70 %). There are no differences between men and women in awareness of the NHRI.

NHRIs have the following characteristics:

- ★ special independent entities established under national law – typically reporting to the national parliament;
- ★ institutions broadly mandated to promote awareness raising and training and protect human rights by monitoring activities and by processing, investigating and reporting individual complaints;
- ★ national bodies advising on and monitoring human rights;
- ★ institutions accredited through an international peer assessment process as complying with the Paris Principles fully (A-status) or partly (B-status);
- ★ organisations mandated to monitor and report nationally and internationally on their state's human rights performance;
- ★ bodies entitled to participate in the UN Human Rights Council and other international human rights mechanisms.

FIGURE 1: AWARENESS OF THE RESPECTIVE NHRI, BY COUNTRY (%)^{a,b,c,d,e}



Source: FRA, *Fundamental Rights Survey 2019* [Data collection in cooperation with Statistics Netherlands (NL), Centre des technologies de l'information d'Etat (LU) and Statistics Austria (AT)]

▲ Notes:

- a Out of all respondents who were asked to complete the section 'Rights awareness and responsibilities' of the survey (n = 26,045).
- b For Italy no organisation equivalent to an NHRI was identified.
- c In the case of countries with two NHRIs, the better known was chosen for the survey.
- d The option 'prefer not to say' was chosen by less than 1 % of respondents and 'don't know' by at most 2 % in some Member States.
- e Question: 'Have you ever heard of any of the following? Please respond with the first thing that comes into your head. [NAME OF THE NATIONAL (ACCREDITED) HUMAN RIGHTS INSTITUTION]'

¹ FRA (2020), *What do fundamental rights mean for people in the EU? – Fundamental Rights Survey*, Luxembourg, Publications Office.

Addressing COVID-19

The NHRI in **Finland** has reacted swiftly to the COVID-19 measures, creating a web page that explains the legislative changes and their impact on the implementation of human and fundamental rights.*

The NHRI in **Poland** has created a landing page on its website collecting all NHRI activities related to the pandemic and to its monitoring of the government's response to COVID-19.**

The NHRI in **Luxembourg** addressed an open letter to the Prime Minister. It welcomes the daily efforts of the government to ensure that the entire population is protected during this difficult period, informing about its task of monitoring developments and ensuring to what extent limitations on fundamental rights

and freedoms are necessary and proportionate to what is required by the situation and reminding that "human rights constitute a clear and indispensable framework for the government to guarantee a fair balance between the protection of public health and the respect of fundamental rights and individual freedoms."***

* Finland, Human Rights Centre (2020), COVID 19.

** Poland, Commissioner for Human Rights (2020), Koronawirus i epidemia w Polsce.

*** Luxembourg, CDDH, Lettre ouverte du président de la CCDH au Premier Ministre. For more information on how the COVID-19 pandemic affected people's fundamental rights, see FRA's **Coronavirus Bulletins**.



Key findings and FRA opinions

- ★ **Sufficient powers:** NHRIs often have wide mandates. They cover many areas of EU law where the EU's bill of rights, the Fundamental Rights Charter, applies. This includes monitoring fundamental rights, handling complaints, investigating rights violations, advising policy makers, as well as liaising with other rights bodies nationally and internationally. To boost their impact, Member States, both governments and Parliaments, should formally consult NHRIs, follow up on their recommendations and answer their specific queries.
- ★ **Enhanced role at EU level:** The EU is steadily hardwiring fundamental rights into EU law and funding and could draw further on NHRIs when monitoring the implementation of fundamental rights commitments under EU law, including the EU's legally binding Fundamental Rights Charter. It could also regularly engage with them on fundamental rights issues, such as the rule of law or use of the Charter.
- ★ **Compliance with the UN Paris Principles:** Sixteen NHRIs in the EU are now fully compliant with the UN's guiding principles, up from nine since FRA published its first NHRI overview in 2010. Six other countries have non-compliant NHRIs and the remaining five are creating NHRIs, seeking accreditation and compliance. A European network (ENNHRI) now also supports, strengthens and connects NHRIs. All Member States should draw on such support and ensure their NHRIs are fully compliant with the UN's principles.
- ★ **Protection and independence:** Almost half of the NHRI leaders have legal protection against criminal and civil liability. Thirteen NHRIs reported that their staff faced threats and harassment at work. Member States need to protect NHRIs, their members and staff, including by law, and safeguard NHRIs' full independence to work.
- ★ **Diversity:** Engaging with a wide cross section of society can help raise rights awareness and make NHRIs more effective. This also includes building closer ties with civil society as well as regions and cities.
- ★ **Adequate resources:** Many NHRIs continue to lack staff considering their multiple mandates. Member States should therefore equip NHRIs with the necessary financial and human resources to carry out their mandates effectively.

During the 10 years since FRA, in its first report on NHRIs, the number of Paris Principles-compliant NHRIs has risen from nine to 16 in the current 27 EU Member States. An additional six Member States have NHRIs that are not fully compliant with the principles. Consequently, all but five Member States – Czechia, Estonia, Italy, Malta and Romania – have NHRIs. Developments are also under way in those five countries to accredit institutions and achieve compliance with the Paris Principles.

An important development since FRA's 2010 report on the institutions is the establishment of the European Network of NHRIs (ENNHRI). This network supports, strengthens and connects NHRIs, providing advice on establishment and accreditation, peer exchange and capacity building, solidarity, and joint engagement with the EU and other mechanisms.

The EU has never legislated on issues dealing with NHRIs. But, in its Regulation (EU) No. 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide, it acknowledged the NHRIs' key relevance by explicitly committing itself to supporting NHRIs in non-EU countries. In addition, the Paris Principles are referenced in FRA's founding **Regulation (EC) No. 168/2007**. An explicit and operational involvement of bodies promoting fundamental rights in the implementation of EU law is included in the proposed revised Common Provisions Regulation for EU funding programmes.² NHRIs are regularly referred to in the debate on EU rule-of-law mechanisms. NHRIs could also be more involved in EU strategies and frameworks, in relation to issues such as the application of the Charter of Fundamental Rights of the European Union (the Charter) or reporting on the rule of law. The existence of strong, effective and independent NHRIs across all EU Member States is a precondition for achieving their full potential in an EU context.

PARIS PRINCIPLES-COMPLIANT A-STATUS NHRIS IN ALL EU MEMBER STATES

All EU Member States have committed to establishing NHRIs. As they have a horizontal mandate across all human rights, it is important that NHRIs are better equipped to implement fundamental rights within the narrower scope of EU law.

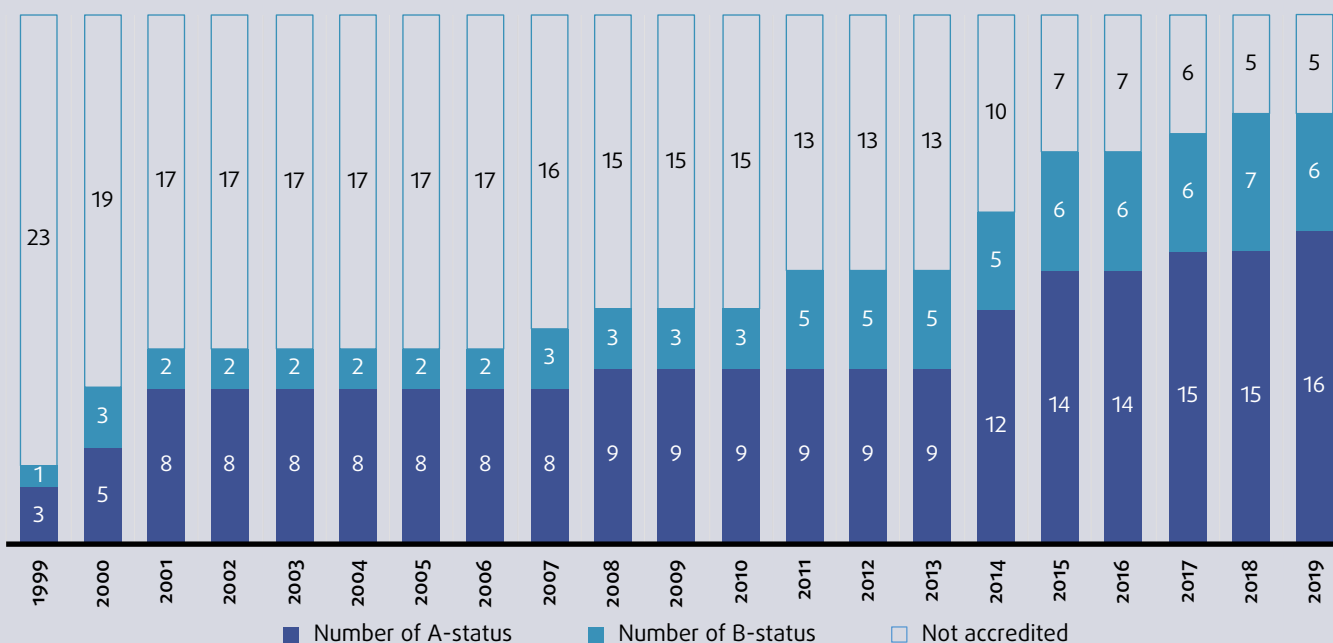


FRA OPINION 1

FRA, recalling its opinion from its 2010 report on NHRIs, considers that all EU Member States should have independent, effective and impactful NHRIs that comply with the Paris Principles to deliver and promote human and fundamental rights more effectively.

² European Commission (2018), **Proposal for a regulation laying down common provisions on [specific EU funds]**, COM (2018) 375 final, Brussels, 29 May 2018.

FIGURE 2: NUMBER OF EUROPEAN COUNTRIES WITH A- AND B-STATUS NHRIS



Source: FRA, 2020 [desk research based on ENNHRI and GANHRI membership accreditation data]

FRA OPINION 2

Member States that have NHRIs should strive to improve their effectiveness, independence and impact, as recommended by GANHRI’s SCA. Member States establishing NHRIs should be guided by GANHRI SCA’s general observations to ensure that they are compliant with the Paris Principles. In this respect, Member States can draw on the technical assistance that is provided by ENNHRI, intergovernmental organisations, and the UN Human Rights Office (OHCHR).

However, while only five EU Member States do not have an NHRI at all, 11 of the 27 Member States still do not have a Paris Principles-compliant A-status NHRI as of June 2020.

Notes:

Covers 27 EU Member States only; “not accredited” indicates the number of EU Member States without an accredited NHRI.

ENHANCED ROLES FOR NHRIS IN THE EU – INDEPENDENT FUNDAMENTAL RIGHTS MONITORING IN MEMBER STATES

The requirement under EU law to establish or designate equality bodies has in many countries meant that the NHRI also serves as an equality body. A subsequent European Commission recommendation encouraged the EU Member States to strengthen the independence and effectiveness of equality bodies so that they can better carry out their tasks, such as offering independent assistance to victims of discrimination, promoting equality, conducting independent surveys and issuing independent reports and recommendations (**Commission Recommendation (EU) 2018/951 on standards for equality bodies** -Recommendation 1.2).

The conclusions of the Council of the European Union on the Charter, adopted in September 2019, underlined that “independent national human rights institutions, equality bodies and other human rights mechanisms [...] play a crucial role in the protection and promotion of fundamental rights and in ensuring compliance with the Charter.” It encouraged cooperation with these mechanisms and supported them in its mandates, including in the implementation and promotion of the Charter.

With their broad human rights mandate, NHRIs are relevant in the many areas within the scope of EU law where the Charter applies. This includes key issues of EU law (such as asylum and migration, data protection and criminal justice) in which NHRI monitoring of the application of the Charter in the Member States could be reinforced. The institutions can also develop cooperation and support for actors in the Charter’s enforcement components – governments, administrations, legislators, judges and other legal practitioners, law enforcement bodies, civil society organisations and rights defenders – to improve their use and awareness of the Charter.



FRA OPINION 3

The EU could draw more consistently on NHRIs as crucial actors for the implementation of fundamental rights, including by ensuring independent and effective fundamental rights monitoring in the EU Member States. Such reliance on NHRIs should be supported through close and regular relationships with specific NHRIs and ENNHRI in particular. A qualified interaction could be reserved for Paris Principles-compliant NHRIs and ENNHRI. The capacity of NHRIs and ENNHRI to engage effectively must also be ensured by providing sufficient human and financial resources.

Any such involvement must be effected without compromising the independence and effectiveness of the NHRIs, as defined in the Paris Principles. NHRIs do not replace the duty of states to implement fundamental rights, but can provide independent advice and country-specific recommendations and can serve as an independent monitoring mechanism for the state delivery of their fundamental rights commitments.

Note: E&W, England and Wales; NI, Northern Ireland; SCT, Scotland.

FIGURE 3: INSTITUTIONS MANDATED AS AN EQUALITY BODY UNDER EU LAW

A-status	Austria	Belgium	Bulgaria – Commission	Bulgaria – Ombud	Croatia	Cyprus	Czechia	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania – Institute	Romania – Ombud	Slovakia	Slovenia	Spain	Sweden	United Kingdom – E&W	United Kingdom – SCT	United Kingdom – NI	North Macedonia	Serbia
B-status																																		
No accredited institution																																		
0 – Contributing (not sole equality body)																																		
Equality body	0			0				0	0					0	n/a					0														

Source: FRA, 2020 [based on 33 responses to questionnaire sent to 34 NHRIs, FRA desk research]

FRA OPINION 4

The EU institutions could establish a more regular exchange with NHRIs. For instance, this could be done in the Council of the European Union, in its working parties on fundamental rights or in other working parties.

A regular exchange of promising practices and challenges related to NHRIs could allow mutual learning on how to best enhance the effectiveness, independence and impact of the NHRIs to make best use of them in an EU context.

In addition, exchange could be had with the European Commission in contexts such as the monitoring of the EU Charter of Fundamental Rights and the rule of law.

FRA's research shows that only four of the 33 NHRIs covered by this report are currently using the Charter systematically, whereas the others indicate that they are not yet making full use of its potential. The institutions consider, however, that overall in their legal and political systems, the use of the Charter appears to be increasing. When asked whether the role of the Charter has increased over the last 10 years – since the Charter became legally binding – in the work of the respective NHRIs themselves, among NHRIs that responded to this question, 16 said that the role had increased, whereas 13 did not see such an increase in the Charter's relevance for their work. Eighteen NHRIs considered the Charter's limited scope to be a reason for not using it much. Nearly as many (16) stated that the lack of understanding of the Charter's added value compared with international instruments, such as the European Convention on Human Rights, or national legal sources (13), was a reason for low levels of Charter use. Thus, the institutions appear mainly to perceive the Charter to be too complex to apply, although only four NHRIs indicated that restrictions in their mandate prevented them from making greater use of the document.



According to FRA’s research, because of their national focus and established channels with the UN, relatively few NHRIs engage in direct exchange and cooperation with EU institutions; however, ENNHRI has played an important role in improving NHRIs’ connection to regional policies and processes, including at EU level. ENNHRI also provides a collective voice for NHRIs across the region, including through establishing regional reports and recommendations that can feed into law- and policy-making processes. Overall, exchanges between NHRIs and the EU could be increased significantly – both in EU processes and in Member States’ involvement in EU procedures.

An important example is the potential for development of national bodies in the monitoring of EU-funded programmes at national level. Under the current EU funds, programming period 2014–2020, EU legislation requires that, to access EU funding (such as for regional development, cohesion and social issues), Member States must comply with certain conditions (*ex ante* conditionalities), including the capacity to implement EU anti-discrimination and gender equality law and policy, as well as the UN Convention on the Rights of Persons with Disabilities. To monitor implementation, EU law also envisages the possibility of involving national bodies with an equality mandate in relevant monitoring committees at the national level; however, according to FRA’s research, very few NHRIs, which are also equality bodies, participated in monitoring committees of EU-funded programmes.

For the next EU programming period, 2021–2027, the current Commission proposal for the revised (so-called) Common Provisions Regulation for EU funds opens up the possibility of involving national bodies responsible for the promotion of fundamental rights. This potential role for entities such as NHRIs in EU-funded programmes is an opportunity to reinforce the implementation of fundamental rights across the EU and to strengthen the role of the institutions and increase their impact on the ground. It is also an opportunity to better integrate international human rights standards into EU law and policy making processes.

Note: E&W, England and Wales; NI, Northern Ireland; SCT, Scotland.



FRA OPINION 5

The EU should continue providing resources to NHRIs and ENNHRI to further support their effective contribution to the implementation of fundamental rights and the rule of law in Europe. The European Commission could consider more funding opportunities to help NHRIs develop expertise on the Charter’s application at national level. This could facilitate their role in assisting Member States apply the Charter, including in law and policy making and when using European structural and investment funds.

FIGURE 4: ACCREDITATION OF NHRIS AND ADDITIONAL MANDATES UNDER UN TREATIES

A-status																																			
B-status																																			
No accredited institution																																			
0 – Contributing (not sole equality body)	Austria	Belgium	Bulgaria – Commission	Bulgaria – Ombud	Croatia	Cyprus	Czechia	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania – Institute	Romania – Ombud	Slovakia	Slovenia	Spain	Sweden	United Kingdom – E&W	United Kingdom – SCT	United Kingdom – NI	North Macedonia	Serbia	
CERD (Art. 14-body)																																			
OPCAT (NPM)							0		0																										
CRPD (NMM)	0									0													0			0		0							

Source: FRA, 2020 [based on 33 responses to questionnaire sent to 34 NHRIs, FRA desk research, and NHRI feedback]

FRA OPINION 6

To increase the available analysis and evidence base to check compliance with the Charter when transposing and implementing EU legislation, Member States should consider inviting NHRIs to contribute to relevant procedures. This could be in relation to, for example, compatibility checks and impact assessments.

The EU can draw further inspiration from the practice of the UN, whereby Paris Principles-compliant NHRIs are granted particular status in terms of participation and contribution to a number of bodies, mechanisms and processes, including the Human Rights Council and treaty bodies. Such opportunities are far reaching in the UN, involving input into country assessments, follow-up procedures, development of standards and the complaints procedures.

IMPACTFUL AND SECURE INSTITUTIONS

For NHRIs to have a strong impact on human rights, the ability to provide advice to policymakers and law makers is crucial. FRA's research (see **Box on methodology**) shows that the institutions covered by this report use

their annual and thematic reports to flag relevant developments, as well as their potential to engage with governments and parliaments, including during the COVID 19 pandemic; however, while NHRIs usually address their annual reports to parliaments, these are not always the subject of parliamentary discussion, limiting their visibility and impact. Such discussion is obligatory in only a few countries.

NHRIs need to have sufficient powers to make an impact. Strong powers, such as the ability to request government ministers to respond to specific queries, may be rarely used, but their mere existence can provide an NHRI with the necessary authority. The research for this report shows that all of the institutions publish information and data about their activities, providing useful information for both external evaluation and self-assessment. This may include the number of reports produced or other public interventions by NHRIs, the number of recommendations adopted or the number of monitoring missions.

Note: E&W, England and Wales; NI, Northern Ireland; SCT, Scotland.

FIGURE 5: NHRIS' ADVICE TO GOVERNMENTS

	Austria	Belgium	Bulgaria – Commission	Bulgaria – Ombud	Croatia	Cyprus	Czechia	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania – Institute	Romania – Ombud	Slovakia	Slovenia	Spain	Sweden	United Kingdom – E&W	United Kingdom – SCT	United Kingdom – NI	North Macedonia	Serbia	
A-status																																			
B-status																																			
No accredited institution																																			
Explicit obligation																																			
Explicit possibility																																			
Implicit possibility / in practice																																			

Source: FRA, 2020 [based on 33 responses to questionnaire sent to 34 NHRIs]

To remain impactful, the institutions need a strong legal basis that provides for their establishment and functioning and guarantees their independence. In line with the Paris Principles, the legal basis of any NHRI should be concerned with its independence, existence, structures, mandates and powers in particular. The research for this report has shown that, while the legal basis for NHRIs in the EU Member States is generally quite strong, based on statutory law adopted by parliament, only 14 institutions are also protected by constitutional provisions.

Related to the legal basis is the need for an NHRI mandate that is broad enough to cover all relevant human and fundamental rights. The mandate should, according to the Paris Principles, be based on the international instruments to which a state is party (Competence and responsibilities, paragraph 3(b)). To highlight the NHRIs role as regards the promotion and monitoring of fundamental rights in an EU context, explicit reference could be made to the Charter and EU law in documents forming the basis of NHRIs' work. FRA's research shows that the Charter is not referred to as a key standard in the institutions' set-up: with the exception of a draft law in Sweden, the documents forming the legal basis of the NHRIs within the EU do not mention the Charter explicitly.

According to FRA's research, the vast majority of the 33 NHRIs covered by this report have mandates that include monitoring activities. Among the institutions, 28 carry out monitoring activities, such as through inspections of places of detention. Of these NHRIs, 13 do so as an explicit obligation, eight as an explicit possibility and seven on the basis of established practice alone.

Notes: E&W, England and Wales; NI, Northern Ireland; SCT, Scotland. (*) Under the umbrella structure of Finland's NHRI, the Parliamentary Ombudsman has its legal basis in the constitution, while the Human Rights Centre is established by law.



FRA OPINION 7

To reinforce the impact of NHRIs, EU Member States could invite such institutions to make recommendations on the fundamental rights implications of draft legislation and policies to improve fundamental rights compliance, including during the state of alarm of emergency as recently declared in the context of the COVID-19 pandemic. Parliaments could also have a formalised relationship with NHRIs and ensure that reports by NHRIs addressed to parliament are properly presented and discussed.

EU Member States could ensure that there is a systematic tracking and public reporting of the follow-up and implementation of NHRIs' recommendations. This could include reporting on which recommendations are still pending and at which stage, as well as which recommendations have explicitly been rejected or left without reaction by competent national authorities.

If NHRIs' recommendations are not acted on, there could be effective formal ways for NHRIs to have these addressed by parliament.

FIGURE 6: TYPE OF LEGAL BASIS BY STATE AND INSTITUTION – CONSTITUTION OR ORDINARY LEGISLATION

	Austria	Belgium	Bulgaria – Commission	Bulgaria – Ombud	Croatia	Cyprus	Czechia	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania – Institute	Romania – Ombud	Slovakia	Slovenia	Spain	Sweden	United Kingdom – E&W	United Kingdom – SCT	United Kingdom – NI	North Macedonia	Serbia		
A-status																																				
B-status																																				
No accredited institution																																				
Constitution									*																											
Law									*																											

Source: FRA, 2020 [based on 33 responses to questionnaire sent to 34 NHRIs, and FRA desk research]

FRA OPINION 8

For reasons of independence and effectiveness, EU Member States could, when establishing new or strengthening existing NHRIs, ensure a firm legal foundation – ideally secured with a constitutional provision. Changes to the legal basis require prior effective consultative processes, including a strong role for the NHRI itself.

In addition to having a broad human rights mandate to address all human rights and a clear reference in their mandate to international human rights law (including treaties and interpretations made by the corresponding monitoring mechanisms), the legal basis or equivalent of NHRIs could also reference EU law, the Charter and the jurisprudence of the Court of Justice of the European Union. This will contribute to strengthening links to EU fundamental rights.

Similarly, 29 of the institutions are able to investigate systematic human rights violations and formulate redress recommendations. Of these, 12 do so as an explicit obligation, 10 as an explicit possibility and seven on the basis of established practice alone. Moreover, 27 NHRIs have the power to investigate allegations of systematic human rights violations on their own initiative, as an explicit obligation (10), or possibility (10) or in practice (seven).

A majority of the institutions also have the power to investigate individual complaints of human rights violations and formulate redress recommendations, although here the proportion is lower, with 23 NHRIs (20 as an explicit obligation).

The research for this report shows that all NHRIs monitor and assess follow-up and implementation of recommendations by governments to some extent, with several of the institutions publishing data and information on the acceptance of their recommendations by relevant authorities.

Finally, assessments of NHRIs must look at their real action and impact, beyond mere compliance with the formal aspects of the Paris Principles. FRA's research shows that the institutions measure their impact on the human rights situation, taking the most important human rights issues in society into consideration. Such important issues may be the human rights aspects of the rule of law, migration and integration, environmental and technological changes, equality and hate crime, or the effect of global pandemics on fundamental rights.

FRA OPINION 9

EU Member States should ensure that NHRIs are sufficiently resourced to undertake periodic evaluations of the impact and effectiveness of their work, including external evaluations, where necessary. The results of such evaluations must be made public.

Note:
E&W, England and Wales;
NI, Northern Ireland; SCT,
Scotland.

FIGURE 7: NHRIS' POWER TO INVESTIGATE INDIVIDUAL COMPLAINTS OF HUMAN RIGHTS VIOLATIONS

A-status	Austria	Belgium	Bulgaria – Commission	Bulgaria – Ombud	Croatia	Cyprus	Czechia	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania – Institute	Romania – Ombud	Slovakia	Slovenia	Spain	Sweden	United Kingdom – E&W	United Kingdom – SCT	United Kingdom – NI	North Macedonia	Serbia	
No accredited institution																																			
Explicit obligation																																			
Explicit possibility																																			
In practice																																			
No such possibility																																			

Source: FRA, 2020 [based on 33 responses to questionnaire sent to 34 NHRIs]

INDEPENDENT NHRIS

A central element that helps to ensure the independence of NHRIs is the selection and appointment procedures for the members of the decision-making body of the institutions. The accreditation review by the SCA indicates that more needs to be done, including as regards EU Member States. Similarly, dismissal procedures also need to be considered.³

The research for this report shows the need to improve the appointment processes of the NHRIs' decision-making bodies to ensure transparency and credibility. Despite great variations in terms of types of bodies and practices between Member States, general lessons can be drawn that are important for all. With reference to the general observations of the SCA and the findings of this report, lessons learned include ensuring an appointment process that is transparent and open to applications, or otherwise considering ways to strengthen the institutions' independence. The independence of NHRIs would be strengthened by candidates being scrutinised by an independent expert committee according to statutory requirements ensuring transparency and merit-based choices. The consideration of candidates could also benefit from parliamentary involvement, such as through advisory hearings.



FRA OPINION 10

In accordance with the Paris Principles and with reference to the general observations of the SCA, FRA considers that EU Member States should enhance the selection and appointment process of members (leaders) of NHRIs, ensuring greater transparency and processes open to the widest possible range of applicants. Such processes could include independent expert committees and parliamentary involvement.

3 See GANHRI (2018), **SCA General Observations**, 2.1.





FRA OPINION 11

As underlined by the Council of the European Union, EU Member States should ensure a safeguarding and enabling environment for NHRIs and civil society, so that NHRIs are free from threats and harassment. To prevent NHRIs, including their leadership and staff, from threats or other forms of pressure related to the work of promoting and protecting human rights, the EU and its Member States must, in close cooperation with the NHRIs, put in place safeguarding measures, including legislation.

NHRIs, their members and staff must be protected from harassment, attacks or other acts of intimidation as a result of their mandated activities, and any such actions must be properly addressed as a priority by the EU Member States.

Another important institutional requirement enhancing the independence of NHRIs and protection from some forms of threats is the protection against criminal and civil liability for acts undertaken by the institutions while performing their tasks (functional immunity). The absence of such protection from external influence may lead to the NHRIs not being able to perform their tasks without fear of legal proceedings. The research for this report shows that the leadership of only 16 out of the 33 institutions covered by this study enjoys such immunity, which is extended to the management board in four Member States. In other countries, such as Croatia, the deputy ombudspersons also enjoy the same immunity as the Ombudsman. With regard to staff, protection against such liability is provided in only two Member States.

There are various other forms of threats to NHRIs, including to their leadership and staff, which significantly undermine their work. The Council of Europe Commissioner for Human Rights has reported on some threats against the institutions, including in EU Member States. Threats include budgetary cuts and interference in the selection and appointment process;⁴ therefore, it is important to have in place a strong prevention system. In addition, the UN has recognised the importance of NHRIs in preventing reprisals against civil society organisations.⁵ The UN Secretary-General has recently stressed to the General Assembly that

states must take measures to prevent pressure on NHRIs.⁶

The Council of the European Union has “underline[d] the necessity of safeguarding an enabling environment for independent national human rights institutions, Equality Bodies and other human rights mechanisms”.⁷

The research for this report shows that the main challenges to ensuring safeguarding and an enabling environment for NHRIs include cases of harassment of, threats to and attacks on their staff, leadership and premises. Thirteen NHRIs reported that their employees and volunteers had been subjected to threats and harassment due to their work, predominantly in the online setting, within the past 12 months. Another form of threat is an overly negative discourse about human rights issues, which was reported by one third of the institutions.

4 Council of Europe, Commissioner for Human Rights (2018), **Paris Principles at 25: National Human Rights Institutions needed more than ever**, 18 December.

5 UN Human Rights Council (2019), **A/HRC/RES/42/28**, 1 October.

6 UN General Assembly (2019), **A/74/226**, 25 July; UN General Assembly (2019), **A/RES/74/156**, 23 January.

7 Council of the European Union (2019), **Council Conclusions on the Charter of Fundamental Rights after 10 years: State of play and future work**, p. 11.

INSTITUTIONS REFLECTING DIVERSITY – IN AN ENVIRONMENT CONDUCTIVE TO HUMAN RIGHTS

A pluralistic representation of society within NHRIs and their consultative forums is a Paris Principles requirement, intertwined with their independence. It is an element of critical importance for the effective functioning of NHRIs and their ability to have an impact on the human rights situation on the ground. Each institution should reflect the broader composition of society and also, in its way of working, relate to the broader community, by collaborating with civil society and engaging with those that may otherwise be left behind and not be heard. The Paris Principles refer to the appointment of NHRI members to be “established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights”. Cooperation with civil society is also an important element of the Paris Principles.

In an EU context, pluralism reflects the respect for cultural, religious and linguistic diversity as laid down in the Charter of Fundamental Rights of the European Union (Article 22) and the Treaty on European Union (Article 2). In addition, the Treaty establishes (Article 10(3)) that decisions in the EU should be taken as openly and as closely as possible to the citizen. In this vein, it appears beneficial if human rights scrutiny takes pluralism in society into account when implementing EU law.

The research for this report shows that 15 NHRIs seek to ensure pluralism through the composition of their decision-making collegial bodies – the commission-type institute NHRIs. In addition, FRA’s research shows that the balance between women and men in staff and leadership positions in the institutions is better than it was 10 years ago in both categories.



FRA OPINION 12

In accordance with the Paris Principles, EU Member States are encouraged to ensure that the structures and membership of NHRIs capture the diverse nature of society. This can be achieved through the composition of collegiate decision-making bodies, advisory bodies and staff. NHRIs must also be able to conduct regular and constructive engagement with civil society. Reflecting the plurality of society, including marginalised groups, is essential for the credibility and effectiveness of NHRIs.

Note:
E&W, England and Wales; NI,
Northern Ireland; SCT, Scotland.

FIGURE 8: INSTITUTIONS’ WAYS OF ENSURING PLURALISM

	Austria	Belgium	Bulgaria – Commission	Bulgaria – Ombud	Croatia	Cyprus	Czechia	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania – Institute	Romania – Ombud	Slovakia	Slovenia	Spain	Sweden	United Kingdom – E&W	United Kingdom – SCT	United Kingdom – NI	North Macedonia	Serbia		
A-status																																				
B-status																																				
No accredited institution																																				
Pluralistic body within the NHRI																																				
Additional advisory bodies – broad scope																																				
Additional advisory bodies – narrow scope																																				

Source: FRA, 2020 [based on 33 responses to questionnaire sent to 34 NHRIs, and FRA desk research]

FRA OPINION 13

EU Member States should consider increasing support for cooperation between NHRIs and cities or regions – with dedicated resources. Such cooperation would not only reinforce human rights locally but also support the awareness of rights. SDG target 16.10 (“ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements”) could be further considered when increasing exchanges of NHRIs with different layers of governance including cities and regions.

All NHRIs covered by this report engage with civil society organisations. Almost half of the institutions are obliged to do so, a third have the explicit potential to do so and about a fifth do so as a matter of practice. NHRIs jointly cooperate closely with civil society in the following areas: 31 on awareness raising and human rights education and training, 23 on joint projects and three on other areas. They use a range of forms of communication and cooperation with civil society. Calls for proposals and funding of civil society organisations by the institutions remain a rare practice.

Supplementing the research for this report, FRA conducted a consultation with civil society on its cooperation with NHRIs. The result of this shows that, while good engagement takes place, it could be diversified in more thematic areas, cooperation could be formalised and extended to cover all areas of work of the NHRI – an element also noted in SCA recommendations.

FRA’s research also touched on other forms of inclusiveness. Almost half of the NHRIs covered engage with competent authorities of cities and other local

authorities through various forms of cooperation. Three NHRIs have set up offices in different parts of the country to increase their outreach to rights holders or to step up rights promotion. City authorities have benefited from the institutions’ expertise on rights, which positively influenced good governance, including engagement of rights holders in of policy-making processes. This includes the area of rights, such as access to justice, right to information, freedoms of religion, conscience, opinion, information and speech, addressing and preventing discrimination through targeted human rights education of public officials, accessibility of services and creation of spaces for diversity.

Note: E&W, England and Wales; NI, Northern Ireland; SCT, Scotland.

FIGURE 9: NHRIS’ COOPERATION WITH CSOS

A-status	Austria	Belgium	Bulgaria – Commission	Bulgaria – Ombud	Croatia	Cyprus	Czechia	Denmark	Estonia	Finland	France	Germany	Greece	Hungary	Ireland	Italy	Latvia	Lithuania	Luxembourg	Malta	Netherlands	Poland	Portugal	Romania – Institute	Romania – Ombud	Slovakia	Slovenia	Spain	Sweden	United Kingdom – E&W	United Kingdom – SCT	United Kingdom – NI	North Macedonia	Serbia
Explicit obligation																																		
Explicit possibility																																		
Implicit possibility / in practice																																		

Source: FRA, 2020 [based on 33 responses to questionnaire sent to 34 NHRIs, and FRA desk research]

ADEQUATELY RESOURCED NHRIS

Adequate financial and human resources are of critical importance for national institutions to perform their various human rights mandates independently and effectively.

The diverse nature of NHRIs (some also being ombuds institutions and equality bodies) in EU Member States does not allow for easy comparison of their available resources, be it financial or human. While FRA's research indicates a slight overall increase in the budgets of the institutions (mainly related to additional mandates, inflation not considered) in the EU between 2010 and 2019, in some years and for some NHRIs, there were considerable budget cuts. Comparing available data between 2011 and 2019 on the institutions reveals that there has generally been an increase in the number of staff, which, however, must be put in the context of a growing number of tasks.

The research for this report shows that many NHRIs continue to have a very small staff considering their multiple mandates, such as also being an equality body under EU law, a national preventive mechanism under the UN Optional Protocol to the Convention against Torture (OPCAT) and a national monitoring mechanism under the UN Convention on the Rights of Persons with Disabilities.



FRA OPINION 14

In line with the Paris Principles and recommendations for specialised bodies by the Council of Europe and the European Commission, EU Member States should ensure that NHRIs are allocated financial and human resources at a level that enables operational capacity to deliver their mandates effectively and independently. To this end, timely exchange between NHRIs and policymakers, in the form of pre-budget consultation without prejudice to their independence, could be useful. Any overall budget cuts to public services should not disproportionately disadvantage NHRIs.

Resources should be sufficient for NHRIs to be able to address key human rights issues and implement their functions in an effective manner. This is important in general as well as to reinforce their own expertise on issues such as the Charter. NHRIs must also have the capacity to increase awareness about their mandate and functions with the general public and vulnerable groups.

Resources should also allow NHRIs to cooperate with other institutions with a human rights remit at national level, to ensure coordination and to interact with the UN, the Council of Europe and other international and regional organisations, including EU institutions.



FRA OPINION 15

Special attention should be paid to ensuring that each explicit mandate and additional task of an NHRI is endowed with sufficient resources to be carried out effectively and without undermining existing work.

The EU and its Member States must also ensure that additional mandates and additional tasks do not impinge on the effectiveness of the NHRI by disproportionately locking up capacity or indicating strategic choices.

EU Member States should consult NHRIs on any legislative or policy initiatives that impact NHRIs, including mandates and budgets.

NHRIs have, under the Paris Principles and international standards, an important role in cooperating with the UN. Cooperation is also essential with regional human rights mechanisms and other regional and national mechanisms – including NHRIs in other countries competent in the areas of the protection or promotion of human rights, as well as other bodies with a human rights remit within the same country.

Methodology

The information was collected through primary and secondary sources (qualitative and quantitative).

FRA staff collected data through questionnaires and interviews of the NHRIs in the then 28 EU Member States and the two accession countries falling within FRA's mandate – North Macedonia and Serbia. This was carried out between April and September 2019. The NHRIs or equivalent institutions with membership of ENNHRI, for those Member States with no NHRI in place, responded to a questionnaire and were interviewed. A total of 34 NHRIs received FRA's questionnaire; 33 responded, although some NHRIs opted to not answer all sections of the questionnaire. Additional desk research was conducted during the same period. The NHRIs and the national liaison officers conducted data verification of the draft report in January 2020.

FRA received valuable feedback on the initial data analysis and key findings from the advisory board to the report, which included representatives of ENNHRI, GANHRI, Equinet, the Council of Europe, the European Commission, the UN Human Rights Office, OSCE-ODIHR, the Advisory Panel of FRA's Fundamental Rights Platform and two independent experts.

TABLE OF MANDATES OF NHRIS (OR NEAREST EQUIVALENT) (*)

NHRI	Mandates									
	Promotion and protection of human rights	Ombuds institutions with a mandate on maladministration	National preventive mechanisms under OPCAT	National monitoring mechanisms under CRPD	Equality bodies with a mandate on equal treatment	Monitoring of forced returns (EU Returns Directive)	Reporting on trafficking in human beings (EU directive)	Protecting freedom of movement and mobility rights in the EU	Other mandates	Number of mandates per NHRI
NHRIs per mandate	33	15	18	23	15	8	2	4	12	
Austrian Ombudsman Board	✓	✓	✓	✓					✓	5
The Inter-federal Centre for Equal Opportunity and the fight against racism and discrimination (Unia) (Belgium)	✓			✓	✓			✓	✓	5
Ombudsman of the Republic of Bulgaria	✓	✓	✓	✓		✓		✓	✓	7
Commission for Protection against Discrimination (Bulgaria)	✓				✓					2
Ombuds institutions of the Republic of Croatia	✓	✓	✓		✓				✓	5
Commissioner for Administration and Protection of Human Rights (Cyprus)	✓	✓	✓	✓	✓	✓				6
Public Defender of Rights (Czechia)		✓	✓	✓	✓	✓		✓	✓	7
Danish Institute for Human Rights	✓		✓ (**)	✓	✓					4
Chancellor of Justice (Estonia)	✓	✓	✓	✓	✓	✓ (**)				6
Human Rights Centre (Finland)	✓		✓ (**)	✓						3
Parliamentary Ombudsman (Finland)	✓	✓	✓	✓						4
National Consultative Commission on Human Rights (France)	✓			✓			✓		✓	4
German Institute for Human Rights	✓			✓					✓	3
Greek National Commission for Human Rights	✓								✓	2
Office of the Commissioner for Fundamental Rights (Hungary)	✓	✓	✓		✓				✓	5
Irish Human Rights and Equality Commission	✓			✓	✓			✓	✓	5
National Guarantor for the Rights of Persons Detained or Deprived of Liberty (Italy)	✓		✓	✓		✓				4
Ombuds institution's Office of the Republic of Latvia	✓	✓		✓	✓	✓			✓	6
The Seimas Ombudsmen's Office (Lithuania)	✓	✓	✓							3
Consultative Human Rights Commission of Luxembourg	✓			✓			✓			3
Netherlands Institute for Human Rights	✓			✓	✓					3
Commissioner for Human Rights (Poland)	✓	✓	✓	✓	✓					5
Portuguese Ombuds institutions	✓	✓	✓	✓ (**)						4
Romanian Institute for Human Rights	✓									1
People's Advocate (Romania)	✓		✓							2
Slovak National Centre for Human Rights	✓				✓					2
The Human Rights Ombudsman of the Republic of Slovenia	✓	✓	✓							3
Ombuds institution of Spain	✓	✓	✓	✓ (***)		✓				5
Equality Ombudsman (Sweden)	✓				✓					2
Ombudsman of the Republic of North Macedonia	✓	✓	✓	✓			✓		✓	6
Protector of Citizens of the Republic of Serbia	✓	✓	✓							3
Equality and Human Rights Commission (United Kingdom)	✓			✓	✓					3
Northern Ireland Human Rights Commission	✓			✓						2
Scottish Human Rights Commission	✓		✓	✓						3

(*) initially compiled in January 2020, is regularly updated, see online [Annex III of NHRI mandates](#)
 (**) partly involved; (***) under general mandate.



For the full report on strong and effective National Human Rights Institutions – see: <https://fra.europa.eu/en/publication/2020/strong-effective-nhris>

See also: FRA (2010), **National Human Rights Institutions in the EU Member States. Strengthening the fundamental rights architecture in the EU**, Luxembourg, Publications Office



PROMOTING AND PROTECTING YOUR FUNDAMENTAL RIGHTS ACROSS THE EU —

National Human Rights Institutions (NHRIs) are a vital part of the country-level human rights protection system. By raising awareness, providing advice, monitoring and holding authorities to account, they have a central role in navigating the great human rights challenges of our day – tackling both persistent concerns like discrimination and inequality, and novel issues such as the rights implications of artificial intelligence and of the COVID-19 pandemic.

FRA's findings underscore that, to fulfil their potential, NHRIs need a clear mandate, independence, adequate resources, and, in their memberships, to reflect our societies' diversity. They also need to comply with the Paris Principles on the independence and effectiveness of NHRIs endorsed by the United Nations.



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