

ENNHRI Statement of Support for Poland's Commissioner for Human Rights

Poland's Commissioner for Human Rights is an independent and respected National Human Rights Institution (NHRI), fully compliant with the [UN Paris Principles](#).ⁱ NHRIs are recognised by the UN, the OSCE, the Council of Europe and the EU as key actors in the national, regional and international human rights framework.ⁱⁱ

As an A-status NHRI, the Commissioner for Human Rights is accredited as being independent, impartial, pluralistic and accountable in its work to promote and protect human rights in Poland. It is a valued member of ENNHRI, the European Network of National Human Rights Institutions.

Further to its [Joint statement](#) of March 2016, and the report of the International Ombudsman Institute's fact finding mission in July 2016,ⁱⁱⁱ ENNHRI expresses its deep concern that recent developments in Poland could negatively impact on the Commissioner for Human Rights' vital role to promote and protect human rights, further to the UN Paris Principles and the Polish Constitution. In particular, we draw the Polish authorities' attention to the following requirements that could be compromised by recent actions.

First, the UN Paris Principles place independence as the central and fundamental requirement for NHRIs to carry out their mandate effectively. One vital component to fulfil this condition is for NHRIs to have adequate state funding, "in order to be independent of the Government and not be subject to financial control which might affect its independence."^{iv} In this regard, ENNHRI shares the concerns of various international bodies, such as the Council of Europe Commissioner for Human Rights^v and UN treaty bodies.^{vi} ENNHRI calls for prompt action to ensure the Commissioner for Human Rights has adequate funding to carry out its mandate fully in line with the UN Paris Principles, as well as its related mandates, such as National Preventative Mechanism^{vii} and the independent monitoring mechanism for the rights of persons with disabilities.^{viii}

Secondly, NHRIs' mandate "includes all rights set out in international, regional and domestic instruments."^{ix} ENNHRI is concerned about actions taken against the Polish Commissioner for Human Rights,^x in reaction to its work in the field of protection and promotion of rights of LGBTI persons in line with its mandate, and based on binding international human rights standards, including the EU Charter of Fundamental Rights and Equality Directives.^{xi}

Thirdly, the UN Paris Principles require a "stable mandate for the members of the national institution, without which there can be no real independence... The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the member to fulfil their mandate."^{xii} ENNHRI underlines the importance of respecting the Commissioner for Human Rights' security of tenure and authority to promote and protect human rights, as set out in its mandate and the UN Paris Principles.

Finally, to comply with the UN Paris Principles, it is "strongly recommended that provisions [are] included in national law to protect legal liability of members of the NHRI's decision making body for the actions and decisions that are undertaken in good faith in their official capacity. Such functional immunity reinforces the independence of a [NHRI], promotes the security of tenure of its decision-making body, and its ability to engage in critical analysis and commentary on human rights issues."^{xiii} ENNHRI remains concerned by recent developments which facilitated broadly lifting the immunity of the Commissioner for Human Rights and, as with the [OSCE-ODIHR Opinion](#), calls for relevant legislation to ensure that appropriate immunity provisions are in place, in line with the UN Paris Principles.

ENNHRI strongly supports the Commissioner for Human Rights in its work to promote and protect human rights in Poland. ENNHRI urges all relevant actors to take prompt action to ensure that the Commissioner for Human Rights has sufficient funding and independence to carry out its mandate in line with the UN Paris Principles.

Adopted by ENNHRI, the European Network of National Human Rights Institutions, on the occasion of its General Assembly on 28 October 2016 in Zagreb, Croatia.

Endorsed by

**Office of the United Nations
High Commissioner for Human Rights
Europe Regional Office**



International Ombudsman Institute



And

European Network of Equality Bodies



ENNHRI, the European Network of National Human Rights Institutions, brings together 40 NHRIs across wider Europe. ENNHRI's goal is to enhance the promotion and protection of human rights across the European region. It carries this out through assisting in the establishment and accreditation of NHRIs, and supporting their work through facilitating exchange of practices, capacity building, and engagement with regional and international human rights mechanisms.

ⁱ Principles relating to the Status of National Institutions, adopted by General Assembly resolution 48/134 of 20 December 1993.

ⁱⁱ For example: UN: [Resolution adopted by the General Assembly](#) on 17 December 2015 on the report of the Third Committee (A/70/489/Add.2); OSCE: [Document of the Copenhagen Meeting](#); CoE: [Recommendation No. R \(97\) 14](#) of The Committee of Ministers to Member States on The Establishment of Independent National Institutions for the Promotion and Protection of human rights, EU: [EU Action Plan on Human Rights and Democracy](#) (as agreed by each EU Member State)

ⁱⁱⁱ See [Final Report on the IOI Fact Finding Mission in Poland](#), 24 October 2016.

^{iv} UN Paris Principles, Composition and guarantees of independence and pluralism (2), 1993. See also Parliamentary Assembly of the Council of Europe, AS/Ega (2014)11.

^v [Report](#) by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Poland, from 9 to 12 February 2016.

^{vi} UN Committee on the Elimination of Discrimination against Women, UN Committee on Economic, Social and Cultural Rights and UN Committee on the Elimination of Racial Discrimination.

^{vii} Article 25, Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (see also G.O. 2.9).

^{viii} Article 33(2) Convention on the Rights of Persons with Disabilities (see also G.O. 2.9).

^{ix} General Observations of the Sub-Committee on Accreditation, 2013 (G.O.), 1.2 Human rights mandate.

^x See IOI Report on Fact Finding Mission, at point 3 above.

^{xi} Such as Equality Framework Directive 2000/78/EC.

^{xii} G.O. 2.1 Guarantee of tenure for members of the NHRI decision-making body.

^{xiii} G.O. 1.2 Human rights mandate.