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COMPARATIVE NOTE ON SELECTED INSTITUTIONAL ISSUES CONCERNING NATIONAL HUMAN RIGHTS INSTITUTIONS

ALBANIA

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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

Following the publication of the *ODIHR Opinion on the Draft Law of Albania on the People's Advocate* in March 2026, the People's Advocate submitted to ODIHR a follow-up request for a comparative Note in relation to selected institutional and legislative issues not fully addressed in the ODIHR Opinion, to inform the further development of the new Draft Law "On the People's Advocate" of Albania. These issues include: (i) the cooling-off periods and revolving-door safeguards in comparative practice; (ii) the co-ordination among national bodies with human rights mandates; (iii) the powers of national human rights institutions (NHRIs) to impose administrative sanctions, or possible alternative mechanisms, in case of non-compliance with their lawful requests and procedures; (iv) the safeguards to mitigate possible post-mandate reduced employment opportunities for heads of institutions, including arrangements relating to employment in the public and private sectors; and (v) the handling of information received by an NHRI acting as NPM concerning allegations that may not reach the threshold of torture or other ill-treatment. This Comparative Note aims to provide an overview of relevant applicable international and regional standards with a view to inform possible amendments to the new Draft Law "On the People's Advocate" of Albania.

Cooling-off Periods and Revolving-door Safeguards - Risks to the actual or perceived independence of NHRIs may arise from "revolving-door" situations involving movement between NHRIs, bodies responsible for their appointment or funding, entities subject to oversight, or other public and private entities, which may give rise to actual, potential or perceived conflicts of interest, undue influence or concerns regarding actual or perceived independence, impartiality and integrity of an NHRI. International and regional standards do not expressly require pre-appointment nor post-office cooling-off periods for NHRI leadership, members or staff, and a comparative review of NHRI legislation does not indicate an established practice of prescribing such pre-appointment cooling-off periods for former executive officials, parliamentarians or political office-holders. Instead, States tend to address the risks posed by "revolving-door" situations through broader independence and integrity safeguards, including transparent, participatory and merit-based appointment processes, incompatibility rules, disclosure, recusal and case re-allocation measures, restrictions on the use of insider information, service in an individual capacity, restrictions on political or governmental influence in decision-making, and effective conflict-of-interest mechanisms. While cooling-off periods may constitute an additional safeguard to protect the actual and perceived independence of an NHRI, any such restrictions should be carefully framed. Eligibility restrictions affecting candidates for NHRI leadership positions should be based on objectively identifiable risks, limited to clearly defined offices or functions, proportionate in duration, and considered in light of other eligibility, incompatibility and dismissal provisions to avoid creating excessive or disproportionate barriers to appointment.

Co-ordination among National Bodies with Human Rights Mandates – As regards the second issue, comparative practice and standards show that there is no single institutional model for ensuring the coherence and effectiveness of the domestic institutional framework for human rights promotion and protection. Some States consolidate several human rights mandates within a single multi-mandate NHRI or ombuds institution, or have a composite NHRI made up of several organs, or have several national bodies with human rights mandates linked through statutory co-operation duties, advisory councils, platforms or formalized co-operation arrangements, while treaty-specific functions such as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention Against Torture (OPCAT), or National Implementation and Monitoring Mechanism (NIMM) as per Article 33 of the Convention on the Rights of Persons with Disabilities (CRPD) may be carried out through multi-body co-ordination mechanisms. The form chosen matters less than whether a rights holder, civil society organisation, detaining authority or public body can identify the competent institution. Whatever the option chosen, the legal framework should clearly identify the competent institutions, the respective division of responsibilities, referral mechanisms, co-operation modalities and, where appropriate, the lawful basis for data sharing. Generally, there is a tendency to encourage formalized co-operation, including memoranda of understanding, to strengthen co-ordination, avoid overlap and duplication, and support transparency and effective follow-up. Whatever form of institutional organization, it’s essential that mandate-specific functions are effectively carried out and retain sufficient visibility, expertise, resources, records and procedural autonomy.

Power of NHRIs to Impose Administrative Sanctions for Non-Compliance with the NHRI’s Lawful Requests and Procedures – While comparative practice shows that the imposition of administrative sanctions may be one of the tools available to ensure the effective implementation of an NHRI’s mandate, in particular in cases of refusal to provide information, denial of access, obstruction of investigations or other failures to comply with lawful procedural duties, the Paris Principles do not require NHRIs to have sanctioning powers, and many A-status NHRIs do not have such powers, relying instead on follow-up, public reporting, dialogue and accountability mechanisms to promote co-operation and referral to competent authorities. Where NHRIs have the power to impose sanctions for non-co-operation, they should be directed at ensuring compliance with the NHRI’s lawful requests and procedures, while ensuring that procedural requirements for their application do not become overly cumbersome, resource-intensive or capable of delaying the effective exercise of the NHRI’s mandate. Accordingly, where an NHRI or Ombudsperson does not impose sanctions directly but must rely on courts or other competent bodies, the legal framework should seek to ensure effective, timely and accessible mechanisms to address non-co-operation and obstruction without placing disproportionate burdens on the NHRI.

Post-Mandate Employment and Risks of Discrimination or Retaliation – As regards post-mandate safeguards, applicable standards emphasize that NHRI leaders and staff shall be protected against reprisals, intimidation and undue hardship resulting from the exercise of their mandate, including after leaving office. An important component of this is functional immunity, which should extend beyond the end of the mandate or employment. Regarding possible post-employment difficulties that may arise not only from ordinary labour market conditions but also from retaliation or professional disadvantage linked to human rights work, comparative practice shows that express post-mandate return clauses are not uncommon, particularly in relation to return to previous public employment, or equivalent placement if return is not possible, job reservation, leave of absence or compensation arrangements, while no uniform practice supports a State guarantee of return to private sector employment. Where appropriate, additional safeguards, such as preservation of employment status, transitional support measures or protected leave arrangements, may be considered to mitigate undue hardship and encourage a broad pool of qualified and independent candidates to apply. Any such measures should be balanced with proportionate post-employment conflict-of-interest rules. Any cooling-off period should be justified by an identified risk, proportionate scope and duration, and should be governed by clear and reviewable legal criteria to avoid possible arbitrary decisions.

Handling of Information concerning Allegations not Reaching the Threshold of Torture or Ill-treatment – The reviewed standards and comparative practice support a clear distinction between receiving information and the NPM’s preventive mandate under OPCAT, and adjudicating individual complaints. While NPMs may receive complaints or other information, including during visits, such information should primarily be used to identify patterns, assess risks and inform preventive monitoring, while complainants should be informed about, or referred to, competent investigation or complaints mechanisms, where appropriate. Comparative standards further support written procedures for receiving, recording, classifying and following up information, together with safeguards relating to confidentiality, informed consent, protection against reprisals and safe referral routes. Where an NHRI also has an individual complaints mandate, comparative practice supports maintaining separate personnel, records and procedures for the NPM and complaints functions in accordance with the OPCAT standards, while allowing appropriate information-sharing for preventive purposes. Information indicating an immediate risk of serious harm may justify urgent protective action, whereas information not requiring individual adjudication or referral should be retained and analyzed to support visit planning, systemic analysis and follow-up recommendations.

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

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I. INTRODUCTION

1. Following a request of the People's Advocate of the Republic of Albania to the OSCE Office for Democratic Institutions and Human Rights (hereinafter "ODIHR"), ODIHR published the *ODIHR Opinion on the Draft Law of Albania on the People's Advocate* on 31 March 2026 (hereafter "the 2026 ODIHR Opinion").[1] On 13 May 2026, a working meeting was organized between the People's Advocate of Albania and advisers, and ODIHR to present and discuss the main findings and recommendations from the ODIHR Opinion. The meeting provided an opportunity for the counterparts to raise a number of specific questions and contextual challenges relating to the Albanian legal and institutional framework governing the national human rights institution. On 29 May 2026, as a follow-up to this meeting, the People's Advocate of the Republic of Albania sent a new request to ODIHR to prepare a supplementary Comparative Note further elaborating on applicable international and regional standards and good domestic practices concerning selected legislative and institutional issues raised during the discussion.[2]

2. On 10 June 2026, ODIHR responded to this request, confirming the Office's readiness to prepare this Comparative Note on the said issues.

3. This Note was prepared in response to the above request. ODIHR conducted this assessment within its mandate to assist the OSCE participating States in the implementation of their OSCE human dimension commitments.[3]

II. SCOPE OF THE COMPARATIVE NOTE

4. This Comparative Note covers only the list of selected legislative and institutional issues mentioned in the request of the People's Advocate of the Republic of Albania i.e., (i) the cooling-off periods and revolving-door safeguards in comparative practice; (ii) the co-ordination among national bodies with human rights mandates; (iii) the powers of NHRIs to impose administrative sanctions, or possible alternative mechanisms, in case of non-compliance with their lawful requests and procedures; (iv) the safeguards to mitigate possible post-mandate reduced employment opportunities for heads of institutions, including arrangements relating to employment in the public and private sectors; and (v) the handling of information received by an NHRI acting as NPM concerning allegations that may not reach the threshold of torture or other ill-treatment.

5. This Comparative Note provides an overview of relevant applicable international and regional standards and good domestic practices with a view to inform possible

1 See ODIHR, *Opinion on the Draft Law of Albania on the People's Advocate*, 31 march 2026.

2 These issues include: (i) the cooling-off periods and revolving-door safeguards in comparative practice; (ii) the co-ordination among national bodies with human rights mandates; (iii) the powers of national human rights institutions to impose administrative sanctions, or possible alternative mechanisms, in case of non-compliance with their lawful requests and procedures; (iv) the safeguards to mitigate possible post-mandate reduced employment opportunities for heads of institutions, including arrangements relating to employment in the public and private sectors; and (v) the handling of information received by an NHRI acting as NPM concerning allegations that may not reach the threshold of torture or other ill-treatment.

3 See especially *1990 OSCE Copenhagen Document*, para. 27, which states that participating States will "*facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law*"; Bucharest Plan of Action for Combating Terrorism (2001), Annex to *OSCE Ministerial Council Decision on Combating Terrorism*, MC(9).DEC/1, 4 December 2001, para. 10, which tasks ODIHR with continuing and increasing "*efforts to promote and assist in building democratic institutions at the request of States, inter alia by helping to strengthen […] ombudsman institutions*"; and *OSCE Ministerial Council, Madrid 2007, Decision No. 10/07 on Tolerance and Non-Discrimination*: Promoting Mutual Respect and Understanding, para. 10, which *"[e]ncourages the establishment of national institutions or specialized bodies by the participating States which have not yet done so, to combat intolerance and discrimination (…), drawing on the expertise and assistance of the relevant OSCE institutions, based on existing commitments, and the relevant international agencies, as appropriate*".

amendments to the new Draft Law "On the People's Advocate" of Albania with respect to selected institutional and legislative issues. At the same time, the country examples provided in each section are used to show how NHRIs in selected OSCE participating States approach the five above-mentioned issues. Their inclusion should not be read as an assessment of the respective NHRI as a whole, nor whether that referenced institution satisfies all relevant international and regional standards relating to NHRIs. Further, when referring to good legislative practices, ODIHR does not advocate for any specific model. Any country example should be assessed with caution since it cannot necessarily be replicated in another country. Country examples should always be considered in light of the broader national institutional and legal framework, as well as country context and political culture.

6. Moreover, in accordance with the *Convention on the Elimination of All Forms of Discrimination against Women*[4] (CEDAW) and the *2004 OSCE Action Plan for the Promotion of Gender Equality*[5] and commitments to mainstream gender into OSCE activities, programmes and projects, this Note integrates, as appropriate, a gender and diversity perspective.

7. Should the Comparative Note be translated in another language, the English version shall prevail.

8. In view of the above, this Note does not prevent ODIHR from formulating additional written or oral recommendations or comments on the issues addressed in the present Note or on relevant legal acts or related legislation pertaining to the legal and institutional framework regulating the People's Advocate of the Republic of Albania in the future.

III. COMPARATIVE OVERVIEW AND LEGAL ANALYSIS OF SELECTED ISSUES

9. For an overview of the relevant international and regional human rights standards and OSCE commitments on national human rights institutions, reference is made to Section III.1 of the *ODIHR Opinion on the Draft Law of Albania on the People's Advocate*. They will be referenced, as appropriate and relevant, when analysing the respective selected issues addressed below. For the purpose of this Comparative Note, the materials reviewed as regards NHRI practice were the General Observations of the Global Alliance of National Human Rights Institutions (GANHRI) Sub-Committee on Accreditation (SCA),[6] SCA accreditation reports on NHRIs from 2015-2026, and enabling legislation for NHRIs in the OSCE participating States. While this Comparative Note primarily addresses NHRIs, similar institution types, such as equality bodies and general ombudspersons, are referred to where the practice is helpful to provide comparative evidence.

4 *UN Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), adopted by General Assembly resolution 34/180 on 18 December 1979.

5 See OSCE *Action Plan for the Promotion of Gender Equality*, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.

6 The *GANHRI*, formerly known as the International Coordinating Committee for National Human Rights Institutions (ICC), was established in 1993 and is the international association of national human rights institutions from all parts of the globe. The GANHRI promotes and strengthens NHRIs in accordance with the Paris Principles, and provides leadership in the promotion and protection of human rights; GANHRI's Sub-Committee on Accreditation (SCA) has *developed General Observations to interpret the UN Paris Principles for accreditation purposes*. The *SCA General Observations* (2018) are the most detailed institutional standards used to assess whether an NHRI complies with the Paris Principles and are thus a key point of reference for understanding NHRI operation in practice.

1. Cooling-Off Periods and Revolving-Door Safeguards

10. International and regional standards relating to NHRIs and comparable bodies recognize institutional independence, as well as perceived independence, from the executive and other public authorities as an essential characteristic of NHRIs to ensure that they are able to fulfil their mandates.[7]

11. Risks to the actual or perceived independence of an NHRI may arise where members of its leadership or staff move between the NHRI and bodies responsible for its appointment or funding, or those that are monitored by the NHRI, or other entities with which the NHRI has, or is likely to have, an institutional relationship. Such movements are commonly referred to as "revolving doors" between public institutions or between public office and other sectors, which may happen before, during or after public service. While prior professional experience in public administration, detention systems, the judiciary, legal practice, academia or civil society may constitute a valuable source of expertise, revolving-door situations may, in certain circumstances, give rise to actual, potential or perceived conflicts of interest, or create opportunities for undue influence, including in relation to the handling of individual cases, access to confidential information, expectations concerning future employment, or otherwise undermine or appear to undermine the independence, impartiality and integrity of public institutions, as well as public confidence in such institutions.[8]

12. An effective system to manage pre- and post-public office and employment risks and other conflict-of-interest situations includes designing rules and procedures that mitigate risks, such as incompatibility requirements and conflict-of-interest rules that require disclosure, recusal and/or case-allocation measures where a personal, institutional, financial or professional link affects, or appears to affect, impartiality,[9] cooling-off periods, subject-matter limits, time limits, disclosure of post-term engagements by holders of at-risk positions, including abroad, and prohibiting any use of "insider" information after such officials leave the public sector.[10] "Cooling-off period", provided by law or in relevant ethical framework, whereby a time-limited restriction on appointment or employment prior to and/or following service in a public body are increasingly being used in the public sector, especially with respect to the post-public employment of senior officials in private sector, as an effective measure to mitigate such risks of conflicts of interest or undue influence.[11] Unlike incompatibility rules, which prohibit the simultaneous holding of certain offices or activities during service, and

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7 The UN Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (*Paris Principles)* were defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris (7-9 October 1991), and adopted by UN General Assembly Resolution 48/134 of 20 December 1993, Principles B.2 and B.3 in particular. See also Global Alliance of National Human Rights Institutions (GANHRI) - formerly known as the International Coordinating Committee for National Human Rights Institutions (ICC), Sub-Committee on Accreditation (SCA), General Observations (2018), which clarify and further explain the Paris Principles, especially General Observations 1.1, 1.5, 1.7 to 1.10. Indicator 16.a.1. of the Sustainable Development Goal (SDG) 16 specifically requires the existence of independent national human rights institutions in compliance with the Paris Principles. See also, e.g., *CoE Committee of Ministers, Recommendation CM/Rec(2021)1* on the Development and Strengthening of Effective, Pluralist and Independent National Human Rights Institutions, 31 March 2021, paras. 2-12; European Commission for Democracy through Law (Venice Commission), *Principles on the Protection and Promotion of the Ombudsman Institution* ("the Venice Principles"), 3 May 2019, especially paras. 6, 9, 21 and 25. See also *1990 OSCE Copenhagen Document*, para. 27.

8 GANHRI SCA, *General Observations*, General Observations 1.7, 1.8, 2.2, 2.4; justification to General Observation 1.9 specifically underlines "*the value [for the NHRI] in developing and maintaining effective links with relevant ministers and government agencies, particularly where cooperation will assist in promoting the NHRI's mandate […] [although] this must be done in a way that ensures both real and perceived independence of decision making and operation, and avoids a conflict of interest*"; Council of Europe, Model Code of Conduct for Public Officials, Articles 13-15 and 26.

9 See e.g., CoE, Committee of Ministers, *Recommendation Rec(2000)10 on codes of conduct for public officials, Appendix: Model Code of Conduct for Public Officials*, Articles 8, 13, 14, 15 and 26, which provides that officials should disclose conflicts, withdraw where necessary, avoid improper advantage from office, and not use confidential information or act in matters for which they had responsibility after leaving public service.

10 With respect to preventive measures concerning public official in general, see e.g., OECD, *Recommendation of the Council on Transparency and Integrity in Lobbying and Influence*, OECD Legal Instruments, OECD/LEGAL/0379; and OECD, *Anti-Corruption and Integrity Outlook 2026 - Harnessing the Integrity Advantage*, p. 63.

11 See e.g., OECD, *Anti-Corruption and Integrity Outlook 2026 - Harnessing the Integrity Advantage*, pp. 47-48.

conflict-of-interest rules, which require disclosure, recusal or other mitigating measures where a personal, professional, institutional or financial interest may affect, or appear to affect, impartiality, cooling-off periods seek to reduce the risk that recent or anticipated appointment opportunities or employment relationships may undermine the actual or perceived independence and impartiality of the NHRI.

13. It is noted that there is no explicit international or regional standard specifically requiring a cooling-off period prior to nomination or appointment as NHRI or Ombudsperson, nor for former NHRI leadership, ombudspersons or equality body leaders to respect a specific cooling-off period before new appointment or employment in public institutions or other sectors. With respect to affiliation with political parties, the Council of Europe's European Commission for Democracy through Law (Venice Commission) has for instance recommended to require that a candidate for this position of is not a member of any political party for a period of two years before appointment as an addition safeguard of the independence of the Ombudsperson.[12] A comparative review of legal frameworks governing NHRIs, ombudspersons or similar institutions shows that, while emphasis is placed on specific safeguards to ensure institutional independence and impartiality, and perception thereof – generally through provisions on incompatibilities during tenure and adequate conflicts-of-interest safeguards – such frameworks do not generally prescribe pre-appointment cooling-off periods in respect of previous public offices or other functions, such as top level executive positions, members of parliament or leadership positions in political parties.

14. The Albanian Draft Law provides for a seven year political cooling-off period from certain public offices or other functions for candidates to the position of People's Advocate (Article 4 (1) (g)) and a five year rule for candidates to the position of Commissioners (Article 33 (7) (g)), together with provisions linking eligibility, incompatibility and dismissal.[13]

15. The Paris Principles and SCA General Observations do not expressly provide for pre-office nor post-office cooling-off periods applicable to the leadership or staff of NHRIs. They require appointment processes to be clear, transparent, participatory, merit-based and pluralistic. In particular, the justification to General Observation 1.7 emphasizes that selection criteria should ensure the appointment of qualified *and independent* decision-making members, while General Observation 1.9 underlines that the NHRI must be constituted and empowered to consider and determine the strategic priorities and activities of the NHRI based solely on its determination of the human rights priorities in the country, *free from political interference*. SCA General Observations also state that members should serve in an individual capacity rather than as representatives of the organisations from which they come.[14] They also caution that political representatives should not participate in NHRI decision making, at a maximum should have only advisory functions without voting rights.[15] This supports strict incompatibility rules during office. A review of the SCA reports from March 2015 to April/May 2026 did not identify an SCA recommendation prescribing a fixed pre-appointment cooling-off period for NHRI leaders, members or staff. SCA practice addresses the same independence risk

12 See e.g., Council of Europe's European Commission for Democracy through Law (Venice Commission), Kazakhstan - Opinion on the Draft Law "On the Commissioner for Human Rights" (2021), CDL-AD(2021)049, paras. 81-82.

13 Draft Law, Articles 4 (1) (g), which provides specifically that "*1. A citizen may be elected as People's Advocate if, at the time of nomination, he or she simultaneously meets the following conditions: …(g) has not held the office of Minister, Deputy Minister, Member of Parliament, or leadership positions in political parties during the last seven (7) years preceding the nomination*"; Article 6 regulates incompatibilities; Article 9 (1) (c) provides for grounds of dismissals for carrying out activities incompatible with the office of People's Advocate. With respect to Commissioners, Article 33 (7) (g) provides that candidates shall not have "*held senior political positions in the public administration or leadership positions in political parties during the five (5) years preceding candidacy*", with Articles 33 (16) and 34 specifying that same rules as those applicable to the People's Advocate with respect to incompatibilities and dismissal apply to Commissioners.

14 GANHRI SCA, General Observations, General Observation 1.8.

15 GANHRI SCA, General Observations, General Observation 1.9 and justification.

through adjacent safeguards including transparent appointment, as noted above, as well as pluralism, service in an individual capacity, restrictions on political and government representatives' involvement in decision-making, conflict-of-interest rules, security of tenure, full time remunerated membership and staffing autonomy.[16]

16. In relation to staffing, the SCA states that NHRIs should determine their own staffing structure, skills profile and recruitment criteria, and should select staff through open, transparent and merit-based selection process that ensures pluralism and a staff composition that possesses the skills required to fulfil the NHRI's mandate.[17] It accepts that public servants may be recruited, but only through an open process under the NHRI's sole discretion. Mandatory assignment of government personnel, particularly at senior level, raises real and perceived independence concerns.[18] This point is made in the 2026 ODIHR Opinion, noting that the Draft Law should more explicitly guarantee the People's Advocate's authority to determine staffing structure and recruit and manage staff through procedures conducted by the institution.[19]

17. For ombuds institutions, the Venice Commission's 2019 *Principles on the Protection and Promotion of the Ombudsman Institution* ("the Venice Principles") provide that the ombudsperson should not, during their term of office, engage in political, administrative or professional activities incompatible with independence or impartiality, and that the ombudsperson and staff should be bound by self-regulatory codes of ethics.[20] Venice Commission reviews address revolving-door risk mainly through similar approaches to those described above, including incompatibilities during office, restrictions on incompatible political or professional activity, transparent appointment, staffing autonomy, disclosure, recusal and post-employment matter restrictions.[21]

18. A comparative review of domestic legal frameworks governing NHRIs, ombudspersons or similar institutions across the OSCE region shows that emphasis is generally placed on specific safeguards to ensure institutional independence and impartiality, and perception thereof, primarily through provisions on incompatibilities during tenure and adequate conflicts-of-interest safeguards.[22] At the same time, apart from a few exceptions,[23] such frameworks do not generally prescribe pre-appointment cooling-off periods in respect of previous public offices or other functions, such as top level executive

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16 GANHRI, *Sub-Committee on Accreditation reports*, 2015-2026; GANHRI SCA, *General Observations*, General Observations 1.8, 1.9, 2.1, 2.2 and 2.4.

17 GANHRI SCA, *General Observations*, General Observation 2.4.

18 *Ibid.*

19 ODIHR, *Opinion on the Draft Law of Albania on the People's Advocate (2026)*, paras. 108-113.

20 CoE Venice Commission, Principles on the Protection and Promotion of the Ombudsman Institution ("the Venice Principles"), 3 May 2019, Principle 9.

21 CoE Venice Commission, *Compilation of Venice Commission Opinions concerning the Ombudsman Institution*, CDL-PI(2022)022, Sub-Sections 3.1-3.2 on criteria for office and incompatibilities.

22 **Spain**'s Organic Act on the Ombudsman uses incompatibilities during office including those relating to political activities, whereby the appointed person must end the incompatibility within ten days before taking office, otherwise the appointment is deemed rejected; see Organic Act 3/1981 of 6 April on the Ombudsman, Articles 6–7; for instance, **France** uses broad incompatibilities and a short cure period for ordinary incompatibilities whereby wwithin one month of the publication of his or her appointment as Defender of Rights or as one of his or her deputies, the person appointed must cease all activities incompatible with his or her new duties (Article 3), while Article 17 of the Defender of Rights Organic Law contains a three year recusal rule for college members where they hold, or in the preceding three years held, relevant interests, functions or mandates in an organization concerned, see *Organic Law No. 2011-333 of 29 March 2011 on the Defender of Rights*, Articles 3 and 17.

23 For instance, the **Scottish Commission for Human Rights** Act 2006 disqualifies a person from appointment as Chair or member if they were a Member of Parliament, Member of the Scottish Parliament or Member of the European Parliament ***during a one year period*** *before nomination or proposed appointment*; **Hungary**, whose NHRI has B-status, uses a broader ***four year*** pre-appointment exclusion for persons proposed as Commissioner or Deputy Commissioner who held listed political, governmental, local government, military, or law-enforcement positions (Act CXI of 2011 on the Commissioner for Fundamental Rights, section 5(5)); **Croatia** requires the Ombudsperson, and the Deputy Ombudspersons, to be persons who have not been members of any political party (see Croatia, Ombudsman Act, Articles 11–12); **Sweden**'s Act on the Institute for Human Rights prevents a person who has been a Board member or employed as Director from being appointed or employed in those roles earlier than five years after the previous role ended, see Act on the Institute for Human Rights, Section 9 (although that is an internal revolving-door rule between governance and executive roles, rather than a political eligibility exclusion). As a comparison, although at the EU/regional level, the **European Ombudsman**'s current selection framework is also useful as a comparator: it requires candidates not to have been members of national governments, the European Parliament, the European Council or the European Commission during the ***two years*** preceding publication of the call for nominations (see European Parliament, *Election of the European Ombudsman*, eligibility criteria).

positions, members of parliament or leadership positions in political parties, and in the limited examples identified, the periods range from one to four years.[24]

19. Similarly, a review of available legislation governing National Preventive Mechanisms (NPM) under the Optional Protocol to the Convention against Torture (OPCAT) indicates that explicit cooling-off periods for former executive officials or other public office-holders could not be identified as an established practice. At the same time, as with NHRIs, States generally address risks related to independence and impartiality through incompatibility rules, exclusion of serving officials, disclosure obligations and conflict-of-interest rules, including recusal and case re-allocation mechanisms. Staff handling sensitive NPM functions, particularly monitoring of places of deprivation of liberty, or the assessment of alleged ill-treatment who recently held senior positions directly connected to the subject matter under review may face an actual or perceived conflict of interest, potentially affecting the independence or impartiality of the NPM. Any such conflict should be assessed individually and managed through recusal, reassignment or exclusion from a particular visit, where necessary.[25]

20. Although comparative practice concerning pre-appointment cooling-off periods for NHRIs or similar institutions is limited, an overview of domestic frameworks governing cooling-off periods following public office, particularly in the context of transitions to private-sector roles, shows that their duration varies considerably across jurisdictions, reflecting the different levels of risk that legislators seek to address. Post-office restrictions governing transitions from public office to private sector roles address different risks and are not direct comparators for pre-appointment eligibility for NHRI office. In those separate contexts, cooling-off periods commonly range from approximately six months to four or five years, depending on the functions previously exercised, the new role envisaged, and the particular legal and institutional context, taking into account factors such as the potential for conflicts of interest, undue influence, or risks to the perceived independence of the office.[26] With respect to cooling-off periods for former national parliamentarians, it appears that this issue is not widely regulated, and when it is, the respective rules and regulations vary greatly.[27]

21. In light of the foregoing the comparative material shows that overall, few participating States' NHRI enabling laws contain cooling off periods, and those that do are notably shorter than the seven and five year periods of the Albanian Draft Law. In any case, any ineligibility criteria with respect to potential candidates to NHRI leadership positions **must be objective, time-limited and proportionate to the identified direct independence risk, for example *recent* senior political mandates prior to taking office**. These suggest that the Albanian Draft Law should therefore be re-assessed with

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24 *Ibid.*

25 SPT, Guidelines on national preventive mechanisms, paras 12, 18 and 20. See also e.g., GANHRI SCA, *Report and Recommendations*, 14–18 November 2016, review of India/NHRCI, p. 26

26 For instance, in **Belgium**, according to Article 5 of the *Law of 6 August 1931 on incompatibilities and prohibitions applying to ministers and ministers of state, and to members and former members of the legislative chambers*, members of the Chamber may not be appointed to a state-employed function within a year of the end of the mandate, with some exceptions, for example they may be appointed before the year ends to the office of minister or member of the Constitutional Court or as a diplomat; For instance, as a comparison, at the EU/regional level, see the overview of cooling-off regimes in the EU institutions with respect to the prohibition of lobbying activities, provided in respective Codes of Conduct, including two years after end of office for Members of the European Commission, three years for the President of the European Commission, six months for Members of the European Parliament, 18 months for the President of the European Council, two years for Members of the European Court of Auditors; for the European Ombudsman, for three years from end of office, obligation to inform incumbent ombudsman of intention to engage in advisory, non-remunerated or remunerated occupation; see European Parliamentary Research Service, *Rules on 'revolving doors' in the EU Post-mandate restrictions on members of EU institutions and parliamentarians in Member States*, April 2024, pp. 16-18.

27 For instance, in **Lithuania,** under Article 15 of the Law on the adjustment of public and private interests in the civil service, for a period of one year after leaving office, members of parliament have no right to take up employment for any legal person if in the year prior to the termination of the mandate they exercised supervision or control over the said legal persons or if the member participated in decisions concerning the award to these legal persons of state or municipal financing, or other funds or decisions relating to the capital of these companies; see European Parliamentary Research Service, *Rules on 'revolving doors' in the EU Post-mandate restrictions on members of EU institutions and parliamentarians in Member States*, April 2024, pp. 18-21.

respect to **the contemplated duration of the cooling-off period for certain public office-holders before being eligible to take up NHRI leadership positions to ensure that it is proportionate to the identified risks in the Albanian context, also considering the offices and functions covered, and the interaction of such ineligibility rules with incompatibility and dismissal provisions**.

2. Co-ordination among National Bodies with Human Rights Mandates

22. At the domestic level, human rights promotion and protection often depends on several institutions whose mandates may partially overlap. Further, the NHRI may have multiple mandates internally within the institution. A practical challenge to this domestic architecture may arise where the domestic legislation does not clearly identify the competent institution and respective division of responsibilities.[28]

23. In this respect, if there are several institutions along the NHRI which deal with issues related to human rights in a country, it is particularly important to, as far as possible, avoid potential overlap and duplication of work.[29] The Paris Principles require NHRIs to "*maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights".*[30] They also require NHRIs to develop relations with NGOs and other organizations working on human rights, economic and social development, racism, vulnerable groups and specialized areas.[31] The SCA "*recommends that NHRIs should develop, formalize and maintain regular, constructive and systematic working relationships with other domestic institutions and actors established for the promotion and protection of human rights. Interaction may include the sharing of knowledge, such as research studies, best practices, training programmes, statistical information and data, and general information on its activities*".[32] SCA General Observation 1.5 encourages formalized relationships, including public memoranda of understanding, to increase transparency and support co-operation.[33] When reviewing the human rights institutional architecture, the SCA has at times recommended strengthened or more formalized co-operation with other national entities responsible for human rights, including thematic and sub-national institutions.[34]

24. The OPCAT allows models of either one or several bodies to comprise the NPM, as long as there is full coverage of all places where persons are or may be deprived of their liberty, and the Subcommittee on Prevention of Torture (SPT) provides that embedded NPM functions should have a separate unit, staff and budget.[35] When it comes to equality bodies, the European Commission against Racism and Intolerance (ECRI) recommends that coverage be coherent across the whole territory and that equality bodies co-ordinate with other equality bodies, NHRIs and ombuds institutions to address intersectionality,

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28 GANHRI SCA, *General Observations*, General Observation 1.5; ECRI, *General Policy Recommendation No. 2 (revised)*, paras. 1-10 and 35-36; SPT, *Guidelines on National Preventive Mechanisms*, para. 32.
29 UNDP-OHCHR, *Toolkit for Collaboration with National Human Rights Institutions*, December 2010, p. 145.
30 See Section C(f) of the *Paris Principles*.
31 See *Paris Principles*, Section C Methods of Operation, paras. (f)-(g).
32 See *General Observations* 1. GANHRI SCA, *General Observations*, General Observation 1.5.
33 GANHRI SCA, *General Observations*, General Observation 1.5 and justification.
34 See e.g., GANHRI SCA, *Report – March 2019*, p. 20, where in reviewing France's *Commission nationale consultative des droits de l'Homme* (CNCDH), the SCA noted co-operation with the Defender of Rights and highlight that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates. NHRIs should develop, formalize and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including sub-national statutory human rights institutions, thematic institutions, as well as civil society and non-governmental organizations. See also GANHRI SCA, *Report and Recommendations, June 2021*, reviews of Mauritius/NHRC and Ukraine/Ukrainian Parliament Commissioner for Human Rights.
35 OPCAT, Articles 3, 4 and 17; SPT, *Guidelines on National Preventive Mechanisms*, paras. 7-12, 24-29 and 32.

cross-refer cases and avoid duplication.[36] Article 33 (2)-(3) of the CRPD requires independent monitoring and participation of persons with disabilities through representative organizations.[37]

25. In previous opinions relating to NHRI legislation, ODIHR regularly recommended that the NHRI or other similar bodies consider **formalizing their relationship by outlining the division of competencies, and the modalities of co-operation, between the NHRI and other bodies with human rights mandates, e.g., through a Memorandum of Understanding (MoU) or other modalities**.[38]

26. With respect to ombuds institutions specifically, the Venice Commission has recognized that States have a wide margin of discretion in choosing between a single general ombuds institution, several specialized ombuds institutions or mixed arrangements. It has treated the choice of model as a matter for national design, provided that the selected model contains the safeguards necessary for independent and effective functioning, including in terms of co-ordination.[39]

27. The question considered below is how multiple mandates are co-ordinated inside one institution or across several bodies with human rights mandates at the national level. In the Albanian Draft Law, this former question particularly arises in relation to specialized sections, local offices, the Human Rights Council and the clause requiring additional budget where special laws assign new duties.[40]

28. Across the OSCE region, a comparative review shows that co-ordination is usually achieved through one of four legal designs rather than through a uniform model. Some States consolidate several mandates in a single multi-mandate ombuds or NHRI, others use a compound NHRI made up of several organs, a third group leaves mandates distributed between several bodies but links them through statutory co-operation duties, advisory councils, common platforms or co-operation agreements, and a final model uses multi-body arrangements for treaty specific functions, especially OPCAT NPM or CRPD. The useful examples for the present issue are those that show how the law accounts for the specific responsibilities of the institution.

29. Among consolidated ombuds-type institutions, France's Defender of Rights and Czechia's Public Defender of Rights show examples of where several rights protection functions are placed in one institution, although it is noted that France's Paris Principles accredited NHRI is the CNCDH.[41] France's Defender of Rights was established as a result of the merger of four distinct independent administrative authorities: the French Ombudsperson (*Médiateur de la République*), the Children's Ombudsperson, the equality and anti-discrimination authority (*Haute Autorité de lutte contre les discriminations et pour l'égalité* (HALDE)), and the National Commission on Security Ethics (*Commission nationale de déontologie de la sécurité* (CNDS)). As a consequence, the Defender of Rights is responsible for protecting rights and freedoms in relations with public services, safeguarding children's rights, combating discrimination and promoting equality, overseeing security ethics, and providing guidance and protection to whistleblowers. Czechia combines complaints, equal treatment, NPM, forced return monitoring and CRPD related functions with recent reforms broadening the institution's

36 ECRI, *General Policy Recommendation No. 2 (revised)*, paras. 7, 9, 10, 35 and 36.
37 CRPD, Article 33 (2)-(3).
38 See e.g., ODIHR, *Opinion on the Draft Law Amending and Supplementing the Ombudsman Act of Bulgaria* (2017), para. 38; *Opinion on the draft Law on the National Commission for the Promotion and the Protection of Fundamental Human Rights and the Fight against Discrimination in Italy* (2021), para. 55.
39 Venice Commission, *Compilation of Venice Commission Opinions concerning the Ombudsman Institution*, CDL-PI(2022)022, Section 2.1, citing Venice Commission practice on the choice between one single and several specialised Ombudspersons; Venice Principles, Principles 4-5.
40 Draft Law on the People's Advocate of the Republic of Albania, Articles 10(1)(j), 32, 36, 37, 38 and 39(5).
41 France, *Organic Law No. 2011-333 on the Defender of Rights*; *Defender of Rights*, institutional information.

human rights mandate and establishing a children's defender sharing the Office.[42] These examples support an approach of continued integration where the institution consolidates functions while retaining mandate-specific expertise and procedures.

30. Finland and the United Kingdom illustrate different co-ordination structures. Finland's NHRI is a composite institution comprising the Human Rights Centre, the Human Rights Delegation and the Parliamentary Ombudsperson. These bodies perform different institutional roles, with the functions of promotion, co-operation and human rights expertise carried out by the Human Rights Centre and the Human Rights Delegation, while legality control and inspections remain with the Parliamentary Ombudsperson.[43] The United Kingdom NPM shows a treaty specific network model, consisting of 21 statutory bodies monitoring different detention settings with common governance, a rotating chair, a steering group, an annual conference and shared reporting.[44]

31. Where mandates are institutionally divided between bodies, institutions in Belgium and Denmark illustrate the need for co-operation arrangements that are more than informal arrangements. Belgium's Federal Institute for Human Rights has a federal and residual mandate, while other bodies cover equality, migration, data protection, poverty, regional matters and specialized oversight.[45] However, while co-operation platforms and protocols can assist, gaps may persist where complaint competence, NPM coverage or inter-federal mandates are not clearly settled. Denmark provides an example of co-operation between an NHRI, a parliamentary ombuds institution and specialist torture prevention expertise, including joint OPCAT related inspections.[46]

32. Romania provides an example of formalized co-ordination between institutions with complementary human rights mandates with the conclusion in 2024, of a Collaboration Protocol between the People's Advocate and the Romanian Institute for Human Rights aimed at strengthening co-operation between the two institutions.[47]

33. The reviewed material does not point to a single legislative formula for addressing co-operation, but to a number of concrete legal approaches. The practical value of including a more detailed co-operation provision in the legislation is that they settle recurring questions including those around competences, referrals, urgent action, and follow up without allowing another body to direct the NHRI.[48] Follow up is also part of co-ordination and thus should be considered here. SCA practice supports rigorous and systematic follow up of NHRI recommendations and has noted dedicated follow up capacity as a positive measure.[49] Where several institutions or mechanisms issue recommendations, the important point is clarity as to how issues are handled. In light of the foregoing, **comparative practice and standards show that that there is no single institutional model for ensuring the coherence and effectiveness of the institutional framework for human rights promotion and protection functions. As regards the Albanian Draft Law, a review of domestic practice and standards suggest that the legislation, or binding internal rules, or other formalized co-operation arrangements such as MoU, should specify the relationship and co-operation modalities between the People's Advocate, the Commissioner for Protection from**

42 *Czech Public Defender of Rights Act*; ENNHRI, "Czech Republic."
43 See *Human Rights Centre*, "About us."
44 UK National Preventive Mechanism, *"About"* and UK NPM, "*How we are structured*"
45 Federal Institute for Human Rights, *"Who we are",* Unia, *"Collaborations at national level"*; ENNHRI, *Belgium Country Report - Implementing the CoE Recommendation on NHRIs*, 2025.
46 ENNHRI, *Denmark Country Report - CoE NHRI Recommendation Baseline*, 2023; Danish Institute for Human Rights, institutional information.
47 See e.g., ENNHRI, *Romania Country Report - CoE Recommendation on NHRIs*, 2025.
48 GANHRI SCA, *General Observations*, General Observation 1.5 and justification; ECRI, *General Policy Recommendation No. 2* (revised), paras. 7 and 35-36; *OPCAT*, Articles 4 and 20.
49 GANHRI SCA, *Report and Recommendations*, March 2022, review of Thailand/NHRCT; GANHRI SCA, *Report and Recommendations*, May 2018, review of Moldova/OPA; Council of Europe Recommendation CM/Rec(2021)1, Appendix, paras. 9-10.

Discrimination, and CRPD Article 33 (1) (2) framework, as well as other national bodies with human rights mandate. The applicable provisions should clarify the respective division of responsibilities, co-operation arrangements, referral mechanisms, and the legal basis for data sharing, with a view to facilitating individual access to the human rights promotion and protection framework. As noted above, the comparative material supports a range of institutional designs, provided that mandate-specific functions retain sufficient visibility, expertise, adequate resources to perform respective mandates, records and procedural autonomy to prevent mandate dilution and potential gaps in protection.[50]

3. Powers of NHRIs to Impose Administrative Sanctions for Non-Compliance with the NHRI's Lawful Requests and Procedures and Other Mechanisms for Ensuring Enforcement

34. This section examines the ability of an NHRI to impose enforceable consequences to non-compliance with an NHRI's lawful requests and procedures. These may arise as a result of actions such as refusal to provide information or access, obstruction of an investigation or inspection, and failure to respond or provide reasons within a statutory deadline. Articles 24-27 of the Draft Law establish administrative offences and fines in connection with the failure to provide information, obstruction, non-cooperation and lack of response to recommendations within fixed deadlines. The 2026 ODIHR Opinion identified low implementation of recommendations and the need to strengthen co-operation, access to information and follow up. The comparative review and analysis consider which types of non-compliance may justify a sanction, whether the NHRI would generally impose the sanction directly or initiate enforcement before another authority as well as other potential effective mechanisms for ensuring enforcement of NHRI's lawful requests and recommendations.[51]

35. The Paris Principles do not require that NHRIs be granted the power to impose administrative sanctions in case of non-co-operation with the NHRI or hinderance of its work. Several NHRIs considered to be fully compliant with Paris Principles actually do not have such powers. At the same time, SCA General Observation 1.6 emphasizes the importance of follow up action on recommendations contained in the NHRI reports and public disclosure of detailed information on the measures taken or not taken by public authorities in implementing specific recommendations or decisions. In addition, where an NHRI has quasi-judicial competency, it should have the ability to seek enforcement through the court system of its decisions on the resolution of complaints (SCA General Observation 2.9).[52]

36. The Council of Europe Venice Principle 16 underlines that an Ombudsperson shall have a legally enforceable right to unrestricted access to all relevant documents, databases and materials, including those which might otherwise be legally privileged or confidential, while Principle 17 requires ombudspersons to have the legally enforceable right to demand that officials and authorities respond within a reasonable time set by them. The

50 GANHRI SCA, *General Observations*, General Observation 1.5; SPT, *Guidelines on National Preventive Mechanisms*, para. 32; ECRI, *General Policy Recommendation No. 2 (revised)*; *CRPD*, Article 33 (2)-(3); CRC Committee, *General Comment No. 2*.

51 ODIHR, *Opinion on the Draft Law of Albania on the People's Advocate*, paras. 92 and 98-99; Draft Law on Albania, Articles 19(4), 24(2), 25, 26 and 27.

52 See GANHRI *SCA, General Observations* (2018), General Observation 2.9. See also for example, GANHRI SCA, Report of the 46th Session of the SCA, October 2025, Review of Egypt/National Council for Human Rights, where the SCA recommended full authority to investigate complaints, protection of complainants and witnesses from retaliation, power to seek court enforcement of complaint decisions, follow up of complaint outcomes and referral of systemic findings to government. In other reviews, the SCA has treated rigorous and systematic follow up of recommendations as part of the protection mandate, see e.g., GANHRI SCA, Report and Recommendations, May 2018, *Review of Moldova/OPA*; GANHRI SCA, Report and Recommendations, March 2022, *Review of Thailand/NHRCT*.

Venice Commission has criticized legislation which included an obligation to respond within a determined time-limit, or to grant access to places of deprivation of liberty but without providing for specific sanctions in case of hindering the Human Rights Defender's work.[53] The Venice Commission also cautioned that such sanctions should be adequate: serious enough to deter officials from ignoring lawful requests, but not excessive.[54]

37. Council of Europe Recommendation No. R(91)1 on administrative sanctions require the sanction and the circumstances in which it may be imposed be laid down by law. They also set out a range of procedural and due process safeguards. Where a penalty is punitive or severe, Article 6 ECHR safeguards may also be engaged under the European Court of Human Rights' criteria for criminal matters.[55]

38. Standards and recommendations pertaining to equality bodies envisage a stronger adjudicative role where the enabling law gives the equality body decision-making powers. The ECRI states that equality bodies with decision-making functions should be able to decide whether discrimination occurred, issue legally binding decisions requiring action to end discrimination and achieve equality, and impose effective, proportionate and dissuasive sanctions, which may consist of compensation, fines and publication of decisions as possible sanctions, and requires court appeal for binding decisions.[56]

39. For NPMs under the OPCAT, given the preventive nature of NPMs' functions, the OPCAT requires States Parties to ensure that NPMs can effectively exercise their mandate through unrestricted access to places of deprivation of liberty, relevant information and persons, as well as protection against reprisals (Articles 18-21) but does not prescribe a specific sanctioning mechanism for obstructing NPM's work. States Parties to the OPCAT should nevertheless ensure effective domestic measures to prevent and remedy hinderance with NPM activities, which may include administrative or disciplinary sanctions.

40. Comparative practice shows that most GANHRI accredited NHRIs in OSCE participating States, including most of those accredited with A-status, do not have direct sanctioning powers related to non-compliance with a defined procedural duty, such as granting unannounced and free access to inspect and examine any public premises, documents, equipment and assets without prior written notice. At the same time, there are some exceptions from NHRIs and other similar institutions in participating States. Slovenia's Human Rights Ombudsman Act provides for a EUR 500 fine to be imposed on the responsible person of an authority that fails to submit requested materials and on a person who unjustifiably fails to respond to an Ombudsperson's summons; the Ombudsperson is expressly designated as the minor offence authority deciding those offences and imposing the fines.[57] In Sweden, Parliamentary Ombudspersons, which are separate from Sweden's NHRI, may request information and statements subject to a conditional fine not exceeding SEK 10,000 and may order payment of that fine.[58] Certain models attach legal consequences to non-co-operation without giving the NHRI the

53 See e.g., Venice Commission and DG I, *Joint Opinion on the Draft Amendments to the Law on the Human Rights Defender of Armenia*, CDL-AD(2015)035, para. 28, reproduced in Venice Commission, *Compilation of Venice Commission Opinions concerning the Ombudsman Institution*, CDL-PI(2022)022, Section 5.2 on independence from other State institutions/bodies

54 *Ibid.*

55 Council of Europe Committee of Ministers, *Recommendation No. R(91)1 on administrative sanctions*, Principles 1-7; European Court of Human Rights, Engel and Others v. the Netherlands, nos. 5100/71 et al., 8 June 1976; Recommendation No. R(91)1, Explanatory Memorandum.

56 ECRI, *General Policy Recommendation N°2 (revised) on Equality Bodies to combat racism and intolerance at national level*, adopted on 13 June 1997 and revised on 7 December 2017, paras. 14-18. See also *ODIHR Comparative Note on Gender Equality Laws Across the OSCE Region*, Section VI.

57 Slovenia, *Human Rights Ombudsman Act*, Article 56, which further specifies that "Minor offence proceedings shall be conducted by, and decisions in these proceedings shall be taken by, an official person of the Ombudsman who meets the conditions pursuant to the act governing minor offences, and on the basis of adopted regulations".

58 Sweden, *Act with Instructions for the Parliamentary Ombudsmen*, Sections 20-25 and 36.

competence to impose fines directly.[59] At the same time, when NHRIs or ombudspersons do not have the power to impose fines directly but are required to refer matters to courts or other competent bodies for that purpose, it may render the work of the NHRI or Ombudsperson very difficult if s/he has to go through the courts to impose sanctions or gain access to relevant information.[60] Such arrangements may place additional procedural and resource burdens on the NHRI or ombuds institution and may delay investigations or other oversight activities. It is noted that stronger compliance powers appear to be granted to NHRIs when they exercise a defined equality, anti-discrimination or accessibility mandate, to which specific statutory enforcement mandates are attached (see also para. 38 *supra*).[61]

41. In light of the foregoing, **while comparative practice shows that the imposition of administrative sanctions may be one of the tools available to ensure the effective implementation of an NHRI's mandate, in particular in cases of refusal to provide information, denial of access, obstruction of investigations or other failures to comply with lawful procedural duties, the Paris Principles do not require NHRIs to have sanctioning powers, and many A-status NHRIs do not have such powers, relying instead on follow-up, public reporting, dialogue and accountability mechanisms to promote co-operation and implementation of recommendations. Where NHRIs have the power to impose sanctions, they should be directed at ensuring compliance with the NHRI's lawful requests and procedures, while ensuring that the procedures required for their application do not become overly cumbersome, resource-intensive or capable of delaying the effective exercise of the NHRI's mandate. Accordingly, where an NHRI or Ombudsperson does not impose sanctions directly but must rely on courts or other competent bodies, the legal framework should ensure effective, timely and accessible mechanisms to address non-co-operation and obstruction without placing disproportionate burdens on the NHRI.**

59 For instance, **Portugal** makes unjustified non-compliance with the Ombudsperson's duty to co-operate a crime of disobedience and treats unjustified absence or refusal to make a requested statement, after summons, as qualified disobedience (see *Statute of the Ombudsman*, Articles 29-30 and 38); **Ukraine**'s Code of Administrative Offences penalizes non-compliance with lawful requirements of the Ukrainian Parliament Commissioner for Human Rights, and authorized officials of the Commissioner's secretariat or representatives may draw up administrative offence protocols for specified offences (*Code of Administrative Offences*, Articles 188-40 and 255 (1) (8-1)); **Azerbaijan**'s Ombudsman, Chief of Staff and Deputy Chief of Staff may compile protocols on administrative violations in the right to information field, with adjudication lying elsewhere (see Azerbaijan Commissioner for Human Rights (Ombudsman), *'Ensuring the right of access to information',* citing Constitutional Law Article 13-1 and administrative-offence protocol powers.

60 See e.g., Venice Commission, *Opinion on the Possible Exclusion of the Parliamentary Commissioner for Administration and Health Service Commissioner from the "Safe Space" Provided for by the Health and Care Bill (2021), paras. 79-81.*

61 For instance, Türkiye's Human Rights and Equality Institution and the Cypriot Commissioner may impose fines or other orders under their anti-discrimination mandates (see for **Türkiye**, Law No. 6701 on the Human Rights and Equality Institution of Türkiye, Articles 9, 18-21 and 25; and for **Cyprus**, Combating of Racism and Other Discrimination (Commissioner) Law 2004, Sections 3, 17-18, 23 and 25-31); see also in **Ireland**, where the Irish Human Rights and Equality Commission may issue compliance notices whose breach can lead to criminal liability and court enforcement (see Irish Human Rights and Equality Commission Act 2014, Sections 36-39); The United Kingdom Equality and Human Rights Commission may use unlawful act notices, action plans, enforceable agreements, compliance notices and court proceedings, while the Accessibility Commissioner within the Canadian Human Rights Commission may issue compliance orders and notices of violation carrying administrative monetary penalties (see for the United Kingdom, Equality Act 2006, Sections 20-24 and 31-32; and for Canada, Accessible Canada Act, Sections 73-77, 80-84 and 91-102); **France**'s Defender of Rights may propose a penal settlement in defined discrimination cases, subject to acceptance and prosecutorial approval (see Organic Law No. 2011-333 of 29 March 2011 on the Defender of Rights, Article 28). Separate equality bodies in Albania, Bulgaria, Romania and Lithuania may impose sanctions and underlying legislation states the applicable sanctioning procedures, including the definition of violations, the form of the decision, enforcement and judicial review (see **Bulgaria,** Protection against Discrimination Act, Articles 40, 47 and 76-84; **Romania**, Government Ordinance No. 137/2000 on preventing and sanctioning all forms of discrimination; **Lithuania**, Country report: Lithuania, 2024, European network of legal experts in gender equality and non-discrimination; **Albania**, Law No. 10 221 of 4 February 2010 on Protection from Discrimination, as amended, Articles 32-33).

4. Post-Mandate Employment and Risks of Discrimination or Retaliation

42. ODIHR's *Guidelines on the Protection of Human Rights Defenders* (2014) are relevant to issues relating to post-mandate and reprisals because they recall that participating States should protect human rights defenders against threats and retaliation, and should provide a safe and enabling environment for human rights work.[62] NHRI leaders and staff have been recognized as human rights defenders where they act through independent institutions carrying out a human rights mandate, and as such should not face reprisals or intimidation as a result of work undertaken in accordance with their mandate.[63]

43. To mitigate risks of retaliation, the 2026 ODIHR Opinion recommended that functional immunity for the People's Advocate, commissioners and staff should apply after the end of the mandate or employment, in line with applicable international standards and recommendations.[64]

44. In practice, with respect to leadership or staff of an NHRI, the transition after the end of service may raise concerns regarding access to future employment or appointments. Difficulties in obtaining new employment may result from ordinary labour market conditions, but may also, in certain circumstances, reflect retaliation or professional disadvantage linked to the nature of the human rights work performed. A former NHRI leader or staff member may face difficulties in returning to previous employment or public service, may be subject to retaliatory litigation or disciplined as a result of good faith actions undertaken in the exercise of the NHRI mandate.[65] Such risks are relevant considerations in ensuring that NHRI positions attract a sufficiently broad pool of qualified and independent candidates, who should not be deterred from accepting such functions due to disproportionate professional or financial consequences after leaving office.

45. Article 7 (4) of the Draft Law on the People's Advocate provides that *"[u]pon completion of the term of office, the People's Advocate shall have the right to return to the position or post previously held in the public sector, or to be assigned another position equivalent to that held prior to appointment"*. While the Draft Law provides for a public sector return right for the People's Advocate, similar provisions could be considered for other leadership positions and potentially for staff, if it is documented that they may experience such hardship in practice. With respect to persons previously employed in the private sector, the comparative material does not establish a general obligation to guarantee their right to return to private employment after service in an NHRI. The Venice Commission recognizes that there may be technical difficulties in offering objective security of employment after the end of a term, [66] this supports an approach that treats return rights,

62 ODIHR, [Guidelines on the Protection of Human Rights Defenders](), 2014, pp. 20-27.

63 UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, UN Doc A/HRC/22/47, 16 January 2013, paras 23, 34, 116, 119(d), 120(c); GANHRI, Marrakech Declaration: Expanding the Civic Space and Promoting and Protecting Human Rights Defenders, with a Specific Focus on Women, 13th International Conference of NHRIs, 10-12 October 2018; UN General Assembly, Resolution 80/214 on National Human Rights Institutions, A/RES/80/214, 22 December 2025, where the UN General Assembly has stated that NHRIs, their members and staff should not face reprisals or intimidation as a result of work undertaken in accordance with their mandate, and has called for investigation, remedies and protection measures; UN Special Rapporteur on the situation of human rights defenders and Special Rapporteur on freedom of peaceful assembly and association, 'UN experts raise concern about increasing attacks on National Human Rights Institutions', 27 April 2026.

64 ODIHR, *Opinion on the Draft Law of Albania on the People's Advocate*, para. 33 and Recommendation A.2, and references cited therein. See also Venice Principles, Principle 23; and GANHRI SCA, *General Observations*, General Observations 2.2 and 2.3. See also recent SCA reports that apply similar safeguards, including by recommending express functional immunity for staff and by treating threats, intimidation, reprisals and retaliation affecting NHRI members or staff as matters relevant to independence and effectiveness (see GANHRI SCA, Report and Recommendations, 47th Session, 20 April-1 May 2026, reviews of Rwanda/NCHR and Ukraine/Ukrainian Parliament Commissioner for Human Rights; GANHRI SCA, *Report and Recommendations*, 2nd Session 2024, reviews of Turkmenistan/Ombudsman, Rwanda/NCHR and Iraq/IHCHR).

65 ODIHR, *Guidelines on the Protection of Human Rights Defenders*, 2014, paras. 12-16 and 46-56.

66 Venice Commission, *Compilation of Venice Commission Opinions concerning the Ombudsman Institution*, CDL-PI(2022)022, Section on immunity, citing opinions on Armenia, Montenegro, Moldova and Kazakhstan.

equivalent placement and transition allowance as comparative national techniques rather than as a universal ombuds standard. Nevertheless, any such measures should be balanced with proportionate post-employment conflict-of-interest rules, and where justified by an identified risk, proportionate cooling-off requirements designed to preserve the integrity and independence of the NHRI.

46. From the comparative review of NHRI and ombudsperson laws across the OSCE region, it appears that express post-mandate return clauses are not uncommon, although generally concerning return to public office or equivalent placement, job reservation, leave of absence or compensation arrangements.[67]

47. For ordinary staff, a general future employment guarantee may not be necessary if national labour law protection, including anti-retaliation remedies, fair access to future recruitment and justified limited post-employment restrictions are clear and proportionate. Where a staff member is blacklisted, denied public employment, threatened with disciplinary action, or sued because of good faith NHRI work, the appropriate remedy should address the retaliatory act through specific measures.[68]

48. At the same time, a review of comparative practice does not seem to support a state guarantee of private sector employment after NHRI service, which may itself pose challenges. Alternative to return could consist of transition allowance, compensation, training or certification of service, or other proportionate transitional support, as well as effective protection against retaliation. It is noted though that outside the NHRI context, protected leave of absence from private-sector employment to take up public functions exists in some legal systems, to enable individuals to temporarily leave employment to perform certain civic or institutional roles without permanently losing their professional position.[69] These examples do not establish a general model for NHRI personnel, and any statutory private sector leave or return right would require assessment under domestic labour and equality law.

49. In light of the above, **automatic return to a previous public post where one existed may be recommended as a domestic safeguard**, **or equivalent placement where return is impossible, functional immunity continuing after office, continuing confidentiality obligations and proportionate post-employment conflict rules. To prevent potential risks of retaliation or discretionary decision, return, equivalent placement and related benefits should be governed by clear and reviewable legal criteria rather than executive discretion. The return right should specify the deadline for return, the implementing authority, the meaning of an equivalent post, the remedy for refusal, and whether comparable safeguards apply to Commissioners, senior staff, and others.**

67 For instance, **Slovenia**'s Human Rights Ombudsman Act provides a clear return and transition arrangement, giving the Ombudsman and Deputy Ombudsmen the right to resume their former function or workplace within three months after termination of office; where return is impossible, they have the right to an appropriate workplace corresponding to their education and qualifications; if neither return nor appropriate placement is possible and the person does not meet pension conditions, the person receives compensation of 80 per cent of the last monthly salary for no longer than 8 months, subject to extensions in Article 49 (see *Human Rights Ombudsman Act*, Articles 48-50); **Poland**'s Act on the Commissioner for Human Rights provides a more concise return right arrangement whereby after completing their duties, the Commissioner has the right to return to the previous position or to take a position equivalent to the previous one, unless legal obstacles arise (see *Act on the Commissioner for Human Rights*, Article 6,. **France** uses secondment by right for civil servants and magistrates appointed as Defender of Rights or deputy, thereby preserving career continuity while reducing the risk that promotion is used as reward or leverage (see *Organic Law No. 2011-333 on the Defender of Rights*, Article 3); **Spain** provides special leave or equivalent status for public servants appointed as Ombudsperson or Deputy Ombudsperson under Article 6 of the rules of organization and functioning, while Article 35 of the Organic Act reserves the previous posts of public servants assigned to the Ombudsperson's office (*Organic Act on the Ombudsman*, Article 35; *Rules on the Organisation and Functioning of the Ombudsman* [Reglamento de Organización y Funcionamiento del Defensor del Pueblo), Article 6.

68 UNGA Res. 80/214; ODIHR, *Guidelines on Human Rights Defenders*, paras. 45-56.

69 See e.g., in **France**, suspension of the labour contract for the duration of a parliamentary mandate (see Article L3142-83 of the Labour Code).

5. Handling Complaints and Information Received by an NHRI Acting as NPM

50. The 2026 ODIHR Opinion cited the UN Committee against Torture's concern that the NPM's power to receive and consider complaints from prisoners was incompatible with its preventive mandate under the OPCAT, and recommended that the Draft Law exclude individual complaint handling from the NPM mandate while clarifying that the NPM may receive and consider allegations as information for preventive monitoring and inform complainants about, or refer them to, competent investigation or complaints mechanisms.[70] This underscores that NPMs can receive information that may not disclose a torture-related violation but may still identify risk factors.[71] The question for this Section is how to approach that distinction in compliance with the requirements of the OPCAT and role of the institution as an NHRI exercising NPM functions.

51. The OPCAT gives NPMs access to all relevant information, all places of deprivation of liberty and their installations and facilities, and the possibility to conduct private interviews with persons deprived of their liberty and any other person who may supply relevant information. It also protects persons and organizations from sanctions or prejudice for communicating information to the NPM, and treats confidential information as privileged.[72] These provisions are central to any complaint or information handling protocol.

52. Venice Commission opinions also support separating the receipt of complaints or information from the legal basis for visiting places of deprivation of liberty. In its ombuds and NPM-related opinions, the Venice Commission has stressed that the institution, and persons acting on its behalf, should have free access at any time to all places where persons deprived of liberty are or may be detained, without consent from another agency and without prior notification. It has also stated that visits may take place in connection with a concrete complaint or on the institution's own initiative. This reinforces the point made in the 2026 ODIHR Opinion that NPM access should extend to all places of deprivation of liberty and should not depend on the prior receipt of a complaint or threshold finding.[73]

53. Where the NPM is embedded in an NHRI or ombuds institution, the SPT expects a separate NPM unit or department with its own staff and budget.[74] SCA General Observation 2.8 focuses on a formal mandate, appropriate expertise, adequate resources and effective performance of NPM or monitoring functions, while General Observation 2.9 supports accessible written complaint procedures, protection of complainants and witnesses from retaliation, referral to competent bodies and follow up. Where the host institution also has an individual complaints mandate, those standards support a clear separation between preventive NPM information handling and ordinary complaints handling, with safe referral procedures between them.[75]

54. While most NPMs receive complaints or allegations, including during visits, the challenge is to respond without being diverted from the preventive mandate. Generally,

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70 ODIHR, *Opinion on the Draft Law of Albania on the People's Advocate*, para. 52 and Recommendation C.1; UN Committee against Torture, *Concluding observations on the third periodic report of Albania* (2025), CAT/C/ALB/CO/3, 23 December 2025, paras. 16-17.

71 APT, "What challenges do complaints raise for the NPM's preventive mandate?"; CPT, "Effective complaints mechanisms should be available to detainees across Europe".

72 OPCAT, Articles 20-21.

73 Venice Commission, *Compilation of Venice Commission Opinions concerning the Ombudsman Institution*, CDL-PI(2022)022, Section 8.2 on powers of investigation and Section 8.5 on prevention mechanism functions; Venice Principles, Principle 16; ODIHR, *Opinion on the Draft Law of Albania on the People's Advocate (2026)*, Recommendation C.2.

74 SPT, Guidelines on National Preventive Mechanisms, para. 32.

75 GANHRI SCA, General Observations, General Observations 2.8 and 2.9; GANHRI SCA, Report and Recommendations, 47th Session, 20 April–1 May 2026, review of Ireland/IHREC; GANHRI SCA, *Report and Recommendations*, March 2022, review of New Zealand/HRC; GANHRI SCA, *Report and Recommendations*, 2nd Session 2024, review of Turkmenistan/Ombudsman.

it is recommended that written procedures for receiving, recording, and classifying information, using it for preventative purposes or referring it where appropriate, are in place as well as clear explanation of what the NPM can and cannot do, confidentiality and consent safeguards, reprisals risk assessment and use of complaints to identify patterns and inform preventive work.[76]The CPT has similarly stated that effective complaints mechanisms are a fundamental safeguard against torture and inhuman or degrading treatment across places of deprivation of liberty. It identifies accessibility, promptness, thoroughness, independence, impartiality and protection against intimidation or reprisals as key elements.[77] The Nelson Mandela Rules require prisoners to have opportunities to make requests or complaints to prison administration, judicial authorities or other competent authorities, including confidential access to inspectors.[78]These standards govern the availability of complaint mechanisms to detainees but do not require the NPM itself to determine individual complaints. Domestic practices vary greatly as to the handling of complaints of torture or other ill-treatment.[79] A comparative review of legislation also supports a finding that the relevant distinction is between individual complaint adjudication and preventive use of information.[80]

55. In light of the foregoing, it is suggested that an NPM should distinguish receiving information from adjudicating complaints by recording relevant information in accordance with confidentiality and data protection requirements, assessing urgency and reprisals risk, and determining the appropriate response. The standards also suggest that a public explanation of the NPM's mandate is important because persons deprived of their liberty may otherwise expect individual remedies the NPM is not in a position to provide.[81] Where the information indicates immediate risk of serious harm, the NPM should consider urgent protective action, such as an urgent visit, confidential verification, contact with facility management, or referral to a competent medical and/or legal or law enforcement authority subject to the relevant confidentiality, informed-consent and reprisals safeguards.[82]

56. Where an NHRI has a separate individual complaints mandate, the NPM may transfer the matter to the complaint's unit with informed consent and appropriate safeguards. The

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76 APT, "What challenges do complaints raise for the NPM's preventive mandate?"; APT, "What internal procedures should NPMs put in place to receive and handle complaints?"; APT, "What are the synergies between complaints and the NPM's preventive mandate?", *NPM Toolkit*.

77 CPT, *"Effective complaints mechanisms should be available to detainees across Europe"*, 27 March 2018.

78 UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)*, A/RES/70/175, 17 December 2015, Rules 56-57.

79 For example, the **United Kingdom** NPM, a network of 21 statutory bodies monitoring different forms of detention, explains that NPMs differ from bodies that deal with complaints of ill-treatment after the event with a view to redress, while recognising that preventive and complaints functions are complementary. It also stresses that NPMs must act with due care so that persons deprived of their liberty and others do not come to any harm from communicating with them (see *UK National Preventive Mechanism*, "About"); **Germany**'s National Agency for the Prevention of Torture uses tips from individual enquiries to select facilities and problem areas for future monitoring and may act urgently where an enquiry indicates danger to self or others (see National Agency for the Prevention of Torture (Germany), *Annual Report 2022*, pp. 15-16; **Norway**'s NPM operates through a separate preventive unit within the Parliamentary Ombuds and its reporting distinguishes preventive monitoring from individual complaints (see *Norwegian Parliamentary Ombuds*, "Mandate and method"; Norway NPM, *Report to OHCHR*, 2020); **The Netherlands**' NPM reporting states that the NPM visits places of detention to prevent degrading treatment or punishment and does not handle complaints or investigate incidents (Netherlands NPM, *Annual report*, 2022; Public Defender of Rights of Czechia, NPM *information* submitted to OHCHR); **Czechia**'s approach indicates that complaints and references are used to identify prevention needs, as the Czech NPM material describes systematic visits as planned, regular and preventive, with facilities selected partly on the basis of ombuds experience and references from the public or persons in detention (see *Public Defender of Rights of Czechia*, NPM information submitted to OHCHR,.

80 Romania allows NPM visits ex officio, following a complaint or after the institution becomes aware in any way of possible torture or ill-treatment, and channels findings into confidential interviews, reports, recommendations, urgent preliminary reports and, where criminal indications exist, notification of judicial authorities (see *Romania, Law No. 35/1997 on the Organisation and Functioning of the People's Advocate*, Articles 33, 35, 39(3)-(4) and 41-47; The North Macedonian NPM states that individual complaints arising during visits are treated separately from the preventive visit (see North Macedonia, *OPCAT Ratification Law and Ombudsman NPM Methodology/Legal Regulations, provisions on interviews, reports and individual complaints*; Bulgaria's Ombudsman Act similarly links NPM work to reports and recommendations (see *Bulgaria, Ombudsman Act*, Articles 19(2), 28a, 28b and 28d.

81 APT, "What internal procedures should NPMs put in place to receive and handle complaints?"; APT, "What challenges do complaints raise for the NPM's preventive mandate?".

82 OPCAT, Article 21; APT, "What internal procedures should NPMs put in place to receive and handle complaints?"; Germany National Agency for the Prevention of Torture, *Annual Report 2022*, pp. 15-16.

NPM would then retain only the information needed for carrying out its preventive mandate. The complaints unit may share anonymized or appropriately protected detention related trends with the NPM for visit planning and systemic analysis. The NPM and complaints functions should have separate records, personnel and procedures where necessary to comply with the OPCAT standards.[83]

57. **If the complaint requires criminal investigation, disciplinary action, medical intervention, child protection action, equality adjudication, legal aid and/or judicial remedy, the NPM should inform the person about the competent body and, where appropriate and safe, refer the matter with consent. Referral back to the detaining authority should be approached with caution where the person remains under that authority's control and reprisals risk should be carefully assessed before any contact that could identify the complainant.[84] When the information does not require urgent intervention or individual transfer, it should be recorded and coded for use as part of the preventive mandate activities. Repeated complaints may justify a visit or other additional actions. Thus, NPM information that does not require individual adjudication or referral may provide early evidence of systemic risk and should inform visit planning, interview strategy, thematic reports and follow up recommendations.**[85]

[END OF TEXT]

83 SPT, *Guidelines on National Preventive Mechanisms*, para. 32; APT, "What challenges do complaints raise for the NPM's preventive mandate?".

84 OPCAT, Article 21; CPT, "Effective complaints mechanisms should be available to detainees across Europe"; *Nelson Mandela Rules*, Rules 56-57.

85 APT, "What internal procedures should NPMs put in place to receive and handle complaints?"; SPT, *Guidelines on National Preventive Mechanisms*, paras. 24-29 and 32; Council of Europe, *Guidelines for report writing for National Preventive Mechanisms*, 2025.