

Committee of Ministers  
Council of Europe

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## Civil Society Response to and Additional Recommendations on the Evaluation of the Institution of the Commissioner for Human Rights

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The Commissioner for Human Rights of the Council of Europe (CoE) is uniquely placed to provide expertise-based human rights guidance on severe, forgotten and urgent issues where other bodies of the organisation cannot (yet) step in, or where the voice of those other bodies requires persistent repetition. In spring 2025, the Committee of Ministers (CM) will consider the Directorate of Internal Oversight (DIO)'s Evaluation of the Institution of the Commissioner for Human Rights<sup>1</sup> and the Management Response to the Evaluation<sup>2</sup>. CURE supports the recommendations made by the evaluation and is using this opportunity to present a number of additional considerations and recommendations that could further increase the effectiveness and impact of the Commissioner's work. The additional recommendations are primarily addressed to the Committee of Ministers<sup>3</sup>.

In the May 2023 Reykjavik Declaration, the Heads of State and Government of the Council of Europe member states committed 'to strengthening the institution of the Council of Europe's Commissioner for Human Rights, particularly in light of the need for principled and swift action to address backsliding and other evolving human rights challenges'<sup>4</sup>. The priorities the current Commissioner has set<sup>5</sup> are in line with this statement; 'backsliding' is not mentioned explicitly but could undoubtedly be considered one of the 'great issues of our time' that he wants to engage on (see Priority 2).

The Reykjavik commitment was followed by a modest increase in the budget allocation made for the Office of the Commissioner<sup>6</sup>. However, the need to address human rights protection issues across Europe and resist backsliding require further reflection about ways of maximising the strength and impact of the Commissioner's work.

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<sup>1</sup> See DIO-EVA(2024)45, September 2024, <https://rm.coe.int/dio-2024-45-commhr-evaluation-report-en/1680b27b7e>

<sup>2</sup> See DIO-EVA(2024)45, November 2024, <https://rm.coe.int/dio-2024-45-commdh-mrap-en-final/1680b27b34>

<sup>3</sup> These civil society recommendations are submitted not in the framework of the formalised follow-up to the recommendations' process at the Council of Europe and have not been officially added to the recommendations mentioned in the DIO evaluation.

<sup>4</sup> See CM(2023)57-final, <https://search.coe.int/cm?i=0900001680ab364c>, para. 41

<sup>5</sup> See 2<sup>nd</sup> periodic activity report 2024, CommHR(2024)52, <https://search.coe.int/commissioner?i=0900001680b252d2>; more details to be found in the Commissioner's News Roundup of January 2025, <https://nl.commissioner.coe.int/nl3/FrUgIVpZWMpMwzr5azv0A>

<sup>6</sup> See Programme and Budget 2024-2027 CM(2024)1, <https://search.coe.int/cm?i=0900001680adec99>, point 27: 'As regards the Commissioner for Human Rights, the additional resources (+ € 0.4 M) will primarily be used to enhance the Commissioner's work in three priority areas: (1) extending the rapid reaction capacity; (2) reinforcing its work with civil society, human rights defenders and national Human Rights structures; (3) strengthening its role in securing better implementation of the Court's judgements.'

The Evaluation of the Institution of the Commissioner has served as a useful starting point for a discussion on this issue from the civil society perspective. An online workshop organised by CURE on 7 February 2025<sup>7</sup>, as well as additional exchanges with human rights defenders and academic experts have led to four more recommendations in addition to the six ones made by the Directorate of Internal Oversight.

### **Reporting by the Commissioner and the Committee of Ministers**

The Commissioner's mandate allows for human rights action along a range of vectors, re-enforcing other work streams of the Council of Europe (such as the third-party interventions at the European Court of Human Rights (ECtHR), Rule 9 submissions on the execution of ECtHR judgements and following up on the implementation of recommendations by other CoE bodies, such as the Venice Commission; European Commission for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment, CPT or the European Commission against Racism and Intolerance, ECRI), as well as including activities carried out uniquely by this institution using the flexibility that its mandate provides for, often aimed at addressing human rights crises and emerging issues.

Both aspects of the Commissioner's mandate are valuable, as is demonstrated by the evaluation. The Commissioner states that he *'will use the full toolbox at [his] disposal, including ongoing engagement with states and civil society, extensive visits in the field, issuing of reports and recommendations, interventions at the European Court of Human Rights (the Court) and close cooperation within the Council of Europe and across the international, regional and national human rights systems.'*<sup>8</sup>

We especially welcome the DIO evaluation's recommendations 1 and 4, which both point at the importance of strategic goal setting and of recording the progress in working towards these goals. It is important that the tracking of the follow-up to the Commissioner's interventions is not only performed internally – his periodic reports presented to the CM should include such an analysis, and the CM should closely consider and discuss with the Commissioner obstacles hindering progress towards implementing his recommendations.

Situations in which the work of the Commissioner is being hampered by a lack of cooperation with member states' authorities should also be highlighted in his reports and be properly addressed by the CM.

**Additional Recommendation 1:** *The CM should invite the Commissioner to include in his periodic reports the analysis of the extent to which his interventions and recommendations have been followed up by those who they were aimed at and/ or have had other results. Once this practice is started, the CM should actively address the gaps in epy follow-up and use relevant tools at its disposal to stimulate member states and other actors to step up efforts towards meaningful follow-up.*

### **The Commissioner's Toolbox – Activating provisions 3(f) and 3(g) of the Mandate**

As mentioned above, the current Commissioner has announced his intention to *'use the full toolbox at [his] disposal.'* However, several potential tools seem to have hardly ever been used. Thus, the CM resolution on the mandate of the Commissioner says that *'the Commissioner shall [...]*

*3.f. address, whenever the Commissioner deems it appropriate, a report concerning a specific matter to the Committee of Ministers or to the Parliamentary Assembly and the Committee of Ministers;*

*3.g. respond, in the manner the Commissioner deems appropriate, to requests made by the Committee of Ministers or the Parliamentary Assembly, in the context of their task of ensuring compliance with the human rights standards of the Council of Europe.'*<sup>9</sup>

In line with our Additional Recommendation 1, the active use of these provisions should be explored. Unfortunately, there are sufficient urgent and critical developments that merit being highlighted and

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<sup>7</sup> See a brief report on the outcomes of the workshop in the "CURE Matters" newsletter, January – February 2025, <https://mailchi.mp/csf-ev.org/janfeb2025final>

<sup>8</sup> See Commissioner's News Roundup of January 2025, <https://nl.commissioner.coe.int/nl3/FrIUgIVpZWMpMwzr5azv0A>

<sup>9</sup> See Res(99)50, <https://search.coe.int/cm/?i=09000016805e305a>

discussed by the CM on the basis of expert views that the Commissioner can provide. While provision 3.f lays the initiative in the hands of the Commissioner, the CM can obviously express the view that it would welcome its use and set aside time and resources for dealing with the Commissioner's input under this provision. The use of point 3.g can also play a role in discussions on both urgent and chronic human rights issues that are in an unsatisfactory state of solution.

***Additional Recommendation 2:*** *The Committee of Ministers should invite the Commissioner to make use of the provision 3.f of his mandate and establish a procedure for accommodating the Commissioner's requests under it, as well as consider starting to make use of the provision 3.g.*

### ***Civil society input on the follow-up to Commissioner's recommendations***

Contacts with civil society actors working on human rights issues play an important role in the work of the Commissioner. However, these are mostly focused on the preparation of and during interventions by the Commissioner (country visits, production of documents, etc.). At the same time, civil society's potential in supporting the follow-up and implementation of the Commissioner's recommendations stays largely unused. We urge the Committee of Ministers to underline the importance of the latter type of engagement with civil society by creating an avenue for the civil society's input in its discussions on the results of the Commissioner's work. Creating a standard opportunity for civil society to make written submissions before the Commissioner's reports are discussed by the CM could be one way to do this. Another possibility would be to use (some of) the informal exchanges of the CM's Rapporteur Group on Human Rights with civil society for this purpose.

***Additional Recommendation 3:*** *Ways should be created to give civil society actors a voice in discussing the follow-up to the Commissioner's communications and recommendations.*

### ***Resources***

As mentioned above, after the Reykjavík Summit, a modest increase of the budget for the Commissioner was agreed. This was a welcome development, but, in our view, a significant further upgrade of the institution is needed. The current situation of human rights on our continent does not allow for a "business as usual" approach. In addition to more explicit political support by the Committee of Ministers (covered by Additional Recommendations 1 and 2), a further increase in budgetary support should again be on the table during the 2025 CM discussions on the CoE budget for 2026–2027.

The central question to be asked here is which resources would be needed for the maximum deployment of the Commissioner's toolbox. This question can be broken down into smaller ones, including whether the demands for the Commissioner to be as much as possible in the field (traveling to member states) can be combined with a need for an increased engagement with other CoE bodies and institutions based in Strasbourg. The limitations resulting from many roles being combined in one person should possibly lead to considering the option of introducing a post of a senior official who would be able to deputise for the Commissioner in his absence.

Besides, the possible role of the Commissioner advocating for and contributing to implementing a rights-based future for Ukraine and its citizens should be factored in, in line with the Reykjavík Declaration and with his own priorities and set out in some detail in his recent speech "*Standing up for the human rights of the people of Ukraine.*"<sup>10</sup>

***Additional Recommendation 4:*** *A substantial increase of funding for the Commissioner's Office should be discussed in the development of the new two-year budget for 2026–2027, taking as a starting point the optimal deployment of the full toolbox of the Institution and the requirements of the current human rights situation on our continent.*

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<sup>10</sup> See [www.coe.int/en/web/commissioner/-/the-role-of-the-council-of-europe-in-the-pursuit-of-peace-justice-and-accountability-in-ukraine](https://www.coe.int/en/web/commissioner/-/the-role-of-the-council-of-europe-in-the-pursuit-of-peace-justice-and-accountability-in-ukraine)