

Ombudsman Institutions in Southeast Europe: EU Accession and the Universal Periodic Review



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INTERNATIONAL WORKSHOP REPORT



International Workshop

Ombudsman Institutions
in Southeast Europe:
EU Accession
and the Universal Periodic Review

*Organized jointly by the United Nations Development Programme
and the Croatian People's Ombudsman*

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REPORT

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1 Introduction

Since the adoption of the ‘Principles Relating to the Status of National Institutions’¹, commonly referred to as ‘Paris Principles’, over 100 National Human Rights Institutions (NHRIs) in different forms and models have been established worldwide. NHRIs, including Ombudsman institutions, are central to a strong national human rights system along with an independent judiciary, effective parliamentary oversight mechanisms, fair administration of justice, dynamic civil society, and free and responsible media. Significantly, through their mandate to advance human rights, NHRIs are also instrumental in supporting democratic governance and strengthening the rule of law with particular emphasis on the most marginalized and the vulnerable groups.

The EU Accession Agenda

Compliance with EU and international human rights standards embedded in international human rights instruments is a core requirement for countries seeking to join the EU. In negotiations on EU accession, these requirements are contained in Chapter 23 [Judiciary and fundamental rights] of the *acquis communautaire*². Benchmarks set for this chapter are among the most difficult for candidate and potential candidate countries

from Southeast Europe to meet, and much effort needs to be devoted to strengthening the rule of law and judicial reform. Clearly, a strong national human rights system in each country would benefit the reform process further.

In addition, Chapter 19 of the *acquis communautaire* [Social and Employment Policy] which deals with legislation harmonisation in interdependent areas of labour legislation; employment policy, social cohesion, social protection, position of persons with disabilities, antidiscrimination and equal opportunities is directly linked with mandate of National Human Rights and Ombudsman Institutions.

The experience of new EU Member States has led the European Commission to apply increasingly rigorous standards to countries seeking membership. This approach was articulated in the Enlargement Strategy and Main Challenges 2012-2013³, a document presented by the Commission to the European Parliament and the Council, which gives a central place in the enlargement process to strengthening the rule of law and democratic governance. The document rightly points out the need to strengthen ‘the practical realisation of the values on which the Union is based at all stages of the accession process’. This can be interpreted, using for example, the Croatian

¹ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

² Accumulated legislation, legal acts, and court decisions which constitute the body of European Union law.

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0600:FIN:EN:PDF>

Table 1: NHRIs and Ombudsman institutions in Southeast European Countries

Country	Ombudsman institution/ NHRI	Status ⁴
Albania	Republic of Albania People's Advocate	A
Bulgaria	Commission for Protection against Discrimination of the Republic of Bulgaria	B
Bulgaria	Ombudsman of the Republic of Bulgaria	B
Bosnia and Herzegovina	Institute of Human Rights Ombudsmen of Bosnia and Herzegovina	A
Croatia	Ombudsman of the Republic of Croatia	A
FYR Macedonia	Ombudsman of the Republic of Macedonia	B
Kosovo⁵	Ombudsperson Institution of Kosovo	-
Montenegro	Human Rights Protector of Montenegro	-
Romania	Romanian Institute for Human Rights	C
Romania	The People's Advocate	-
Serbia	Protector of Citizens of the Republic of Serbia	A
Slovenia	Republic of Slovenia Human Rights Ombudsman	B

experience, that the legislation harmonisation is not the point at which the work is completed. Rather, it is the starting point: its implementation, reflection in national strategic framework and in policy governance in day to day functioning form a crucial part of European integration.

Role of National Human Rights and Ombudsman Institutions

In many Europe and CIS countries, the office of Ombudsman plays an important role in defending fundamental rights in accordance with international/UN and European standards. Almost all Southeast European countries introduced Ombudsman institutions during their transition to democracy in the early 1990s, although Turkey first created the institution in 2012.

The structure of Ombudsman institutions varies from country to country reflecting various approaches to rights protection of different groups of population. The examples include, among others, Ombudsman with the general mandate and specialised mechanisms often with thematic mandate i.e., gender, children, persons with disabilities etc. Regardless of an institutional set up, they are all enshrined in the Constitution and/or legislative framework. Crucially all share a common mission as independent and impartial institutions designed to hold the state administration (in all of its manifestations) accountable to its citizens. These institutions serve three important purposes:

- I. They play the role of internal watchdog bodies for other government agencies, often imbued with true peer review role for legislative and policy reforms;

⁴ Accreditation status as of 19 July 2013, *Chart of the Status of National Institutions, accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.*

⁵ Hereinafter referred to in the context of the UN Security Council Resolution 1244 (1999)

- II. They contribute to the strengthening of national human rights system and accountability mechanisms; and,
- III. They deepen the civic engagements with national and sub-national partners on national development agenda.

Challenges and Opportunities

Despite their relative longevity in Southeast Europe, Ombudsman institutions face a number of challenges from the popular perceptions that they are the complaints body only, through resources available and the place they occupy in the hierarchy of state bodies to reporting under diverse human rights treaties and Universal Periodic Review [UPR]⁶ process. Mandates of such institutions often overlap with newly created executive and oversight bodies and NHRIs typically get bypassed. Lack of internal capacity and resources plays an important limiting role in fulfilling the mandate establishing the institution. Ombudsman institutions in transition and accession countries run the risk of being irrelevant unless they play effective roles in reforming governance in three areas: first, engaging and responding to citizen complaints about human rights violations or lack of legal protection of human rights; second, scrutinizing the behaviour of state institutions and providing recommendations to improve both practice and legislation; and third, empowering citizens to expect and demand respect for their rights in line with domestic and international human rights mechanisms.

Ombudsman institutions function in complex political, social and economic situations and in order to consolidate or raise their status and place in the State hierarchy they need to win public support and legitimacy. In rapidly

changing legislation and policy landscape during EU approximation, NHRIs/Ombudsman institutions, even in cases when their societal status is high, need to re-invigorate their mandate and further anchor its position of impartiality.

UNDP's relationships with NHRIs and Ombudsman institutions flow from its core mission of human development. Human development is about expanding the choices people have to lead lives which they value, the resources which would make those choices meaningful, and the security to ensure that those choices can be exercised in peace. Without institutional protection of human rights at the national level, none of these are possible to achieve. In Europe and the CIS region, UNDP's Regional Centre for Europe and the CIS has been working with these institutions to strengthen the abilities to influence these processes. The UPR Follow-up Facility [UPRF]⁷, a regional business service offered by UNDP, has already been in operation to support engagements of Ombudsman offices and NHRIs with international human rights mechanisms, the UPR follow-up in particular.

International Workshop

The most effective Ombudsman institutions are generally those that adopt an active and systemic approach to human rights issues rather than merely responding to public pressure and external events. Such offices are usually also strong offices. A strong Ombudsman can serve as a vital mechanism for fostering good governance through: facilitation of consultative processes with civil society, public and business sector; legislation impact assessment including ex ante legislation impact

⁶ <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>

⁷ <http://undp.akvoapp.org/en/project/926/>



assessment and promotion of accountability mechanisms at all levels of society.

To compare experience across the region and recommend improvements to strengthen Ombudsman institutions, the United Nations Development Programme [UNDP] organized an International Workshop on 7-8 November 2013 to focus on the role of Ombudsman institutions in implementing agreed human rights recommendations, particularly in the EU accession context. In order to draw upon Croatia's recent success in achieving EU standards, the workshop was held in Zagreb, Croatia. It was organized in partnership with the office of the Croatian People's Ombudsman and the UNDP Croatia. UNDP's Regional Centre for Europe and Central Asia has joined and supported the initiative as one of the co-hosts to ensure integration of global discourse and regional good practices and lessons learned to strengthen such national institutions especially in light of ongoing post-2015 discussion on new development goals and increased importance of rule of law and human rights agenda.

"Ombudsman Institutions in Southeast Europe: EU Accession and the Universal Periodic Review" was a forward-looking workshop focused on sharing peer-to-peer advice and practical experience among the participants from SEE. Participation of 8 Ombudspersons from Southeast Europe, representatives of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, European Network of NHRIs, OHCHR, and UNDP along with representatives from Croatian government, civil society and youth organizations provided a platform for sharing peer-to-peer advice and cross-sector practical experiences from the region and beyond. The workshop also introduced a new measurement framework, developed by UNDP BRC, which will be, after incorporating feedback received from the workshop participants, shared with representatives of NHRIs and their partners with the view to applying it on the ground.

The workshop was opened by the distinguished panel of high officials.



“Complying with human rights is crucial for EU membership, its role in the negotiation process grows in accordance with the number of new members” stated Resident Representative of the UNDP office in Croatia, **Louisa Vinton**. “The UNDP sees the Universal Periodic Review of Human Rights and the accession to the EU as completely complementary processes which are mutually reinforcing; efforts in one field result in success in the other. For example, the recommendations brought by the Review can serve as a good preparation for EU screening and vice versa.”

“This year in which Croatia became the 28th member of the Union, and today, when the demanding negotiations related to the judiciary system and fundamental rights are over, we can say that a lot has been achieved” pointed out Ombudswoman **Lora Vidović**. “The role of the Ombudsman has been strengthened, as a central body for fighting discrimination and for promoting human rights. The UN’s Universal Periodic Review goes hand in hand with EU accession. Through cooperation, we can learn from each other in order to improve the human rights situation since the topics we are dealing with are similar, although placed in a different context.”



“From the perspective of executive bodies we often see the Ombudspersons as a ‘nuisance.’ It is easy to write laws, but when it comes to their implementation we encounter difficulties,” said Minister of Justice **Orsat Miljenić**. “The question becomes the budget, where should the money go, especially now, in a time of crisis. Human rights are often not our priority. Here is where I see the role of the Ombudspersons, to point us to the right priorities, to put pressure on the executive branch and familiarize us with what is going on, because they are dealing with people whose rights should not be compromised. In this way, you aid us in making informed decisions. As a result, we create a better society.”

Monjurul Kabir, Policy Adviser and Team Leader for Rule of Law, Justice and Human Rights, “The work of human rights protection is always a work in progress – long-term, intense, at times frustrating due to lack of visible progress. Therefore, it is important to position the work of Ombudsman and National Human Rights Institutions strategically, at the heart of both national and international policy processes.”



Mr. Kabir further stressed that implementing agreed human rights recommendations from the Universal Periodic Review of the UN Human Rights Council within the framework of the EU Accession is a solid step in the right direction, especially in Southeast Europe. Many of these recommendations highlighted the importance of national human rights institutions and their adherence to the Paris Principles. The extent to which an NHRI meets the minimum standards set out in the Paris Principles is reflected by its accreditation status. This status, while important for an NHRI’s European and international

credibility, is crucial to its national-level credibility. UNDP through its NHRIs Plus and UPR Follow-up Facility (UPRF) have been partnering with national institutions offering a menu of technical and advisory services to the governments, Ombudsman institutions, and CSOs across Europe and the CIS region. “As part of the NHRIs Plus, we are also launching a new initiative to measure development impact and development effectiveness of National Human Rights Institutions. This will go a long way to influence and technical assistance in support of these national institutions,” said Mr. Kabir.

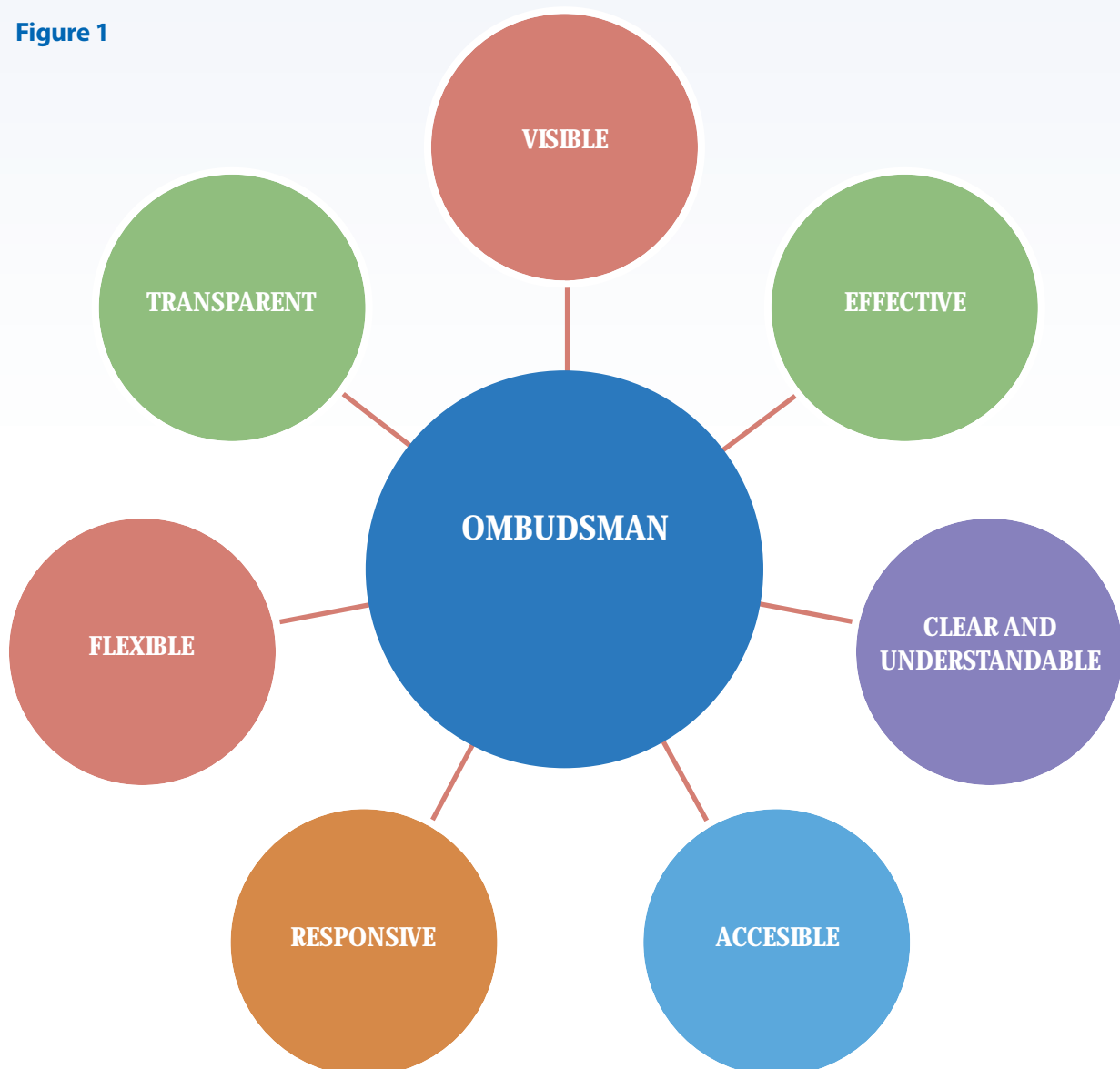
2 National Human Rights Institutions and EU Accession

Introduction

Specific role of the Ombudsman is to identify the deficiencies (systemic and particular), recommend the improvements, and act for a resolution of individual grievances. It is important

to note, however, that the Ombudsman does not replace the ordinary system of legal remedies and does not decide by changing or repealing the decisions of the competent bodies. Ombudsman is not a panacea, but can make a difference. Main prerequisites for the Ombudsman are:

Figure 1



- **Independency:** personal, institutional, functional with clearly defined mandate
- **Sufficient resources:** staff, budget, premises, information system
- **Public confidence:** difficult to obtain, easy to lose.

Dealing with complaints requires from an Ombudsman (see Figure 1):

- **Accessibility** – It is important to: make possible for the people to contact Ombudsman in most suitable way for them; have available staff member to receive written and oral complaints, free telephone line, possibility of personal interviews across the country. It is also very important to secure the presence in the institutions with limited freedom of movement.
- **Responsiveness** – It is essential that Ombudsman has a quick reaction stating the understanding of the problem (could differ from that of the petitioner), the missing information and/or document, and the intended action, and, if appropriate, a clear indication of lack of jurisdiction through advice, by phone, or as a first written reply.
- **Flexibility** – It is important not to request any unnecessary documents, to see the broad picture – the subject of complaint could be the tip of an iceberg, and to provide every possible advice.
- **Effectiveness** – It is also important not to be “stubborn” against the authorities and bare in mind that criticism is the last resort – it will not help in a particular case (but can prevent some further ones).
- **Clarity** – It is essential to stick to the plain language on jurisdiction and procedure, to produce clear statement on findings and, if appropriate, expected redress, and to provide advice.

When receiving a complaint Ombudsman should be aware that the person complaining may be shocked by the acts of the authorities and may not be aware of his/her rights and remedies

(even a law school professor), and should not underestimate the value of an advice. Ombudsman should identify the (real) problem, urgency, check the jurisdiction, identify the relevant authority and legislation, plan necessary activities, and provide a feed back as soon as possible. In terms of procedure, preference should be given to enquiry, intervention and revision of files. It is needed to request reports, internal investigation within the body concerned, and formal investigation in specific cases. Communication with the public is of highest importance. The public is Ombudsman’s main ally. It is essential to present successfully resolved cases to the media and by means of annual reports (explicitly).

Three Waves of EU Accession: New Roles, Mandates and Powers for NHRIs

Slovenia

When talking about EU accession process from the perspective of rule of law, human rights and access to justice, the essential chapters of the *acquis communautaire* are Chapter 23 “Judiciary and fundamental rights” and Chapter 24 – “Justice, freedom and security”. The Chapter 23 aims to maintain and further develop the EU as an area of freedom, security and justice especially in the following areas: independent, impartial and efficient judiciary; safeguarding the rule of law; legal guarantees for fair trial procedures; solid legal framework and reliable institutions for fighting corruption; and respect for fundamental rights and EU citizens’ rights.

Chapter 24 is properly equipped to adequately implement the growing framework of common rules on border control, visas, external migration, asylum, Schengen area, police cooperation, the fight against organised crime and against terrorism, cooperation in the field of drugs policies, customs cooperation, and judicial cooperation in criminal and civil matters.

BOX 1: International Human Rights Instruments and NHRIs

The international human rights instruments give the Ombudsman grounds to request high standards of human rights protection in any country. In terms of international human rights standards due notice has to be paid to: *Universal Declaration on Human Rights* (UN, 10 December 1948) assuring equal human dignity of every person; *International Covenant on Civil and Political Rights* (ICESCR), adopted on 16 December 1966, and entered into force 23 March 1976; *Convention for the Protection of Human Rights and Fundamental Freedoms* (1950) accompanied with the abundant jurisprudence of the European Court of Human Rights (ECHR) and *Charter of Fundamental Rights of the EU*. Ombudsman refers to internationally recognized rights in case of violation in individual cases (justification of the opinion, recommendation), inappropriate legislation and societal/political developments that represent a threat.

Relevant provisions for an Ombudsman from the *Universal Declaration on Human Rights* (hereinafter: UD) and ECHR with Protocols⁸:

- Prohibition of abuse: Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention. (Article 17 ECHR)
- Right to life (Article 2 ECHR), liberty and security of person (Article 5 ECHR) - supervision of law enforcement agencies responsible to guaranty this right
- Prohibition of torture (or inhuman or degrading treatment or punishment) (Articles 3 ECHR, 5 UD)
- Prohibition of slavery and forced labour (Articles 4 ECHR, 4 UD)
- Recognition of legal personality for everyone (Article 6 UD)
- Right to liberty and security (Articles 5 ECHR, 3 and 9 UD)
- Deprivation of liberty only in the cases and in accordance with a procedure prescribed by law (Article 5 ECHR)
- Right to information (Article 10 ECHR)
- Right to be brought promptly before a judge (Articles 5 ECHR)
- Right to a fair trial within a reasonable time, presumption of innocence, right to defence, right to interpretation, translation (Articles 6 ECHR, 10, 11(1) UD)
- No punishment without law (Articles 7 ECHR, 11(2) UD)
- Right to respect for private and family life (home and correspondence) (Articles 8 ECHR, 12 UD)
- Freedom of thought, conscience and religion (Articles 9 ECHR, 18 UD)
- Freedom of opinion and expression (Articles 10 ECHR, 19 UD)
- Freedom of assembly and association – including trade unions (Articles 11 ECHR, 20 UD)
- Right to marry (Articles 12 ECHR, 16 UD)

⁸ Most rights are unconditional, but some can be restricted – e.g. Article 9(2) ECHR: “...such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

- Right to an effective remedy (Articles 13 ECHR, 8 UD) – review the effectiveness of legal remedies
- Prohibition of discrimination (Articles 14 ECHR, 2 UD) – fight racism, xenophobia, intolerance, hate speech; disclose and remove any discriminatory elements in legislation and functioning of the administration
- Right to freedom of movement and residence (Protocol 4 to the ECHR, Article 2)
- Right to own property alone as well as in association with others (Protocol 1 to the ECHR, Article 1, 17 UD)

Economic, social and cultural rights as coined in the *Universal Declaration on Human Rights*, Articles 22 -27

- right to social security and entitlement to realization of the economic, social and cultural rights indispensable for his dignity and the free development of his personality;
- right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; right to equal pay for equal work;
- right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection;
- right to form and to join trade unions;
- right to rest and leisure;
- right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control;
- right to education; free, at least in the elementary and fundamental stages; elementary education compulsory;
- right to freely participate in the cultural life of the community.

The definition of economic, social and cultural rights in the Universal Declaration was refined in the *International Covenant on Economic, Social and Cultural Rights (CESCR)* - adopted on 16 December 1966, entered into force on 3 January 1976. Economic, social and cultural rights are not defined in an absolute manner – “with a view to achieving progressively the full realization of the rights recognized” CESCR 2(1) – but guarantee for respecting some basic principles:

- human dignity: “Recognizing that these rights derive from the inherent dignity of the human person...” – CESCR preamble;
- non-discrimination: “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind...” – CESCR 2(2).

The *European Social Charter*, adopted in 1961 and revised in 1996, as a natural complement of ECHR guarantees social and economic human rights and establishes a supervisory mechanism guaranteeing their respect by the States Parties.

In the EU accession process, the candidates have to harmonize national legislation with the *acquis*, implement it and demonstrate administrative capacity and a good track record with benchmarks achieved. In doing so, protection of citizens must be assured by means of legislation (penal, civil, labour, social welfare, family, food safety, etc.), institutions (law enforcement / police, judiciary up to constitutional court, education, social security, culture, etc.) and through supervisory bodies – this is where the Ombudsman plays a special role.

Romania

Since passing of the Law on the Organisation and Functioning of the Institution of the Advocate of the People in 1997, the institution has been established and has operated in Romania with the purpose of protecting the rights and freedoms of physical entities in their relations with the authorities of the public administration, valuing the tradition and experience of the classic western-European Ombudsman. The People's Advocate is appointed at the joint session of the Chamber of Deputies and Senate. The People's Advocate operates either ex-officio or at the request of individuals whose rights and freedoms have been violated, within the boundaries established by the law. The Constitution compels the public authorities to grant the People's Advocate the support necessary for exercising his attributions. The People's Advocate is responsible only to the Parliament, being required to present regular reports to the Parliament. In these reports, the People's Advocate can also make recommendations related to the legislation or can adopt measures for the protection of citizens' rights and freedoms. Organizational structure of the Institution reflects specialization fields, as established by the law, namely:

- Human rights, equality of chances between men and women, religious groups and national minorities;

- Rights of children, family, youth, and persons with disabilities;
- Army, justice, police and penitentiaries;
- Property, labour, social security, duties and taxes.

The mission of the People's Advocate Institution is to serve the people, to help them to become familiarized with the rights and duties towards State institutions. Creation of such a mechanism defending the rights and freedoms of natural entities in their rapport with the public authorities contributes to humanization of the relationship between the individuals and the State institutions.

Croatia

Croatia applied for EU membership in 2003. Negotiations lasted from 2005 until 2011. On 9 December 2011 leaders from the EU and Croatia signed the Treaty of Accession and Croatia became the 28th EU member country on 1 July 2013. The Chapters of the *acquis communautaire* defining the obligations for the Country in the field of human rights were Chapter 23 "Judiciary and fundamental rights" and Chapter 19 "Social policy and employment". The EU accession process itself imposed the question: Does it stand for additional human rights hurdles or does it represent human rights opportunities?

Stages and procedures of the accession process included bilateral screening, EC Progress Reports and regular meetings. Ombudsman findings from the field of human rights were used in EC Progress Reports. The European Commission commended the strengthening of the Ombudsman, especially in the field of antidiscrimination and strengthening of the Ombudsman as a National Equality Body (NEB). Although there are two negotiations sides, issues covered required wider participation and transparency. Ombudsman Office was not directly included in negotiations but the

Table 2: Mandates of the Ombudsman institution in Croatia

Pre EU accession	Post EU accession
1) Ombudsman (1992)	1) Ombudsman (1992) 2) NHRI (2008) + (2012) (status “A” accredited in 2008 and “re-accredited in 2012”) 3) National Equality Body - NEB (2009) 4) National Preventive Mechanism - NPM⁹ (2011)

Ombudsman was invited to periodically present progress in human rights and institutional capacity building.

New legislation based on transposition of EU law (Anti-discrimination Act, Gender Equality Act etc.) brought numerous benefits for human rights situation in Croatia. These were reflected in adoption of strategies and action plans and general awareness rising on human rights issues. Wider systematic changes had an impact on independent and effective judiciary, fighting corruption, strategic planning and impact assessment. Benefits for the Ombudsman institution can be summed up in attribution of the new mandates (see Table 2).

National Equality Body mandate is a mandate directly linked to EU Accession. In this regard, new powers for the Ombudsman as the National Equality Body are represented in the following:

- Private sector
- Strategic litigation
 - Intervener role

- Actio popularis/collective complaints
- Misdemeanour proceedings
- Mediation
- Cooperation with civil society
- Reporting on occurrences of discrimination
- Public awareness

In addition to that, the EU Accession process led to wider strengthening and capacity building of the Ombudsman Office through adoption of 2011 Decree – Ombudsman’s Recommendations – which presents obligations for the Governmental Office for Human Rights and Rights of National Minorities, and 2012 Ombudsman Act (public awareness, judiciary, cooperation with specialised Ombudspersons and civil society etc.) which strengthened the Ombudsman’s mandate. Increase in human and other resources with the integration of the Centre for Human Rights also contributed to the strengthened position of the Ombudsman Office.

Furthermore, the EU instruments, such as TAIEX¹⁰, IPA¹¹ and PROGRESS¹² allowed funding for activities, which normally fall outside

9 *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) requires that States designate a ‘national preventive mechanism’ (NPM) to carry out visits to places of detention, to monitor the treatment of and conditions for detainees and to make recommendations regarding the prevention of ill-treatment. Croatia ratified the OPCAT in 2006.*

10 *Technical Assistance and Information Exchange instrument managed by the Directorate-General Enlargement of the European Commission. http://ec.europa.eu/enlargement/taix/what-is-taix/index_en.htm*

11 *Instrument for Pre-Accession Assistance (IPA) offering assistance to countries engaged in the accession process to the European Union (EU) for the period 2007-2013 (Western Balkan countries, Turkey and Iceland). http://ec.europa.eu/regional_policy/thefunds/ipa/index_en.cfm*

12 *Financial instrument supporting the development and coordination of EU policy in the areas of: Employment, Social inclusion and social protection, Working conditions, Anti-discrimination, and Gender equality. <http://ec.europa.eu/social/main.jsp?catId=327>*

Ombudsman's budgetary framework: nationwide campaigns, data bases, additional equipment, training for staff, and research. They also helped strengthening the links with civil society, particularly NGOs as partners (also non-discrimination contact points). Public awareness raising activities helped increasing visibility of the Institution itself. EU funds also allowed for training of staff, judges, and civil servants as well as strategic planning and impact assessment exercises as necessary components of EU projects.

Integrating UPR Follow-Up with the EU Accession Process: Country Case Studies

The Former Yugoslav Republic of Macedonia

Promotion and protection of human rights present a basis for reporting to UN Human Rights Council and are also central for the EU accession process. UPR is a unique reporting system and a way of reminding the countries of their obligation to respect freedoms and rights, and also to alarm if violations of those freedoms and rights occur in the country. First cycle of UPR reviewed FYROM in 2009, and 12th session of the Council adopted the conclusions and recommendations of the working group. In 2010, Macedonian Ombudsman in its capacity as NHRI submitted the Opinion regarding the implementation of the recommendations. Working group will review FYROM report and materials submitted by the Ombudsman and other stakeholders by 30 January 2014.

Inclusion of NHRIs in the UPR reporting is of great importance because it provides for

objective overview about the level of respect of international standards in both prevention of violation and protection of human rights. Macedonian Ombudsman, as a NHRI, contributes to the UPR process by submitting a special report including observations and conclusions regarding respective areas of promotion and protection of human rights. One of the UPR recommendations¹³ from 2009 was for the State to ensure the institution of the Ombudsman is fully in conformity with the Paris Principles, meaning that NHRI is established. At the same time, it was recommended that the role and mandate of the Ombudsman undergoes a revision, especially in the area of anti-discrimination and misuse of authority by the police, and it was advised to assure sufficient and independent financing of the institution. Ombudsman did all the necessary steps to obtain accreditation as NHRI and was attributed the status "B" soon after. Promotion of human rights is not a prescribed duty of Macedonian Ombudsman, but the institution makes efforts in that direction with support from international organizations.

Full compliance with Paris Principles and obtaining the status "A" NHRI is also one of the recommendations from the EC Progress Report¹⁴. Macedonian Ombudsman has taken measures in that direction by submitting the Opinion to the Ministry of Foreign Affairs and has prepared the draft of the legislative changes assuring the full compliance. Ombudsman has also established a special department for anti-discrimination and has secured small but significant budget for functioning of the National Preventive Mechanism¹⁵. Progress report has emphasised the need to strengthen the capacities of the Ombudsman but also to establish ways of state

¹³ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/139/80/PDF/G0913980.pdf?OpenElement>

¹⁴ http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/the_former_yugoslav_republic_of_macedonia_2013.pdf

¹⁵ See 9. Macedonia ratified the OPCAT in 2009 and made a declaration under Article 17 on the structure of the NPM. The Ombudsman's Office was designated as NPM. The NPM became operational in 2011 and a specific NPM department was established, with dedicated staff.



administration's response, according to the recommendations, in cases when violations of rights are committed by state bodies.

Based on the UPR findings, it was recommended that special attention has to be paid to improving the conditions in detention facilities and prisons, and that reported misconduct of the officers should be thoroughly investigated and appropriately sanctioned. That was complimentary with the EU Progress Report's recommendations stating that the conditions in detention facilities and prisons should be enhanced, and that there is an urge for additional staffing of prisons, implementation of the newly adopted health-care strategy, and pursuit of measures to decrease overcrowding and encourage education of juveniles in correctional institutions and prisons.

In the period from April 2011 to October 2013, NPM has carried out 54 preventive and unannounced visits to detention facilities and prisons. Apart from basic duty of conducting visits, Ombudsman has raised the issues concerning privacy in penitentiaries, the role of

judges for prisoners obtaining their rights, and the level of implementation of recommendations after visits, through open forums and workshops for stakeholders.

Remaining recommendations requiring integrated activities together with the accession process are: anti-discrimination issue; application of Convention on the Rights of Persons with Disabilities; continuation of harmonization of national human rights instruments with international instruments; and protection of vulnerable and marginalized groups.

One of the recommendations of the UPR is raising the awareness on fight against all forms of discrimination. Ombudsman has conducted campaigns, theatre productions and other events to raise the awareness of that issue.

Montenegro

Montenegro has adopted its second National Report on Human Rights in September 2012, as part of the second cycle of the UPR, and has

presented it at the 15th session of the Human Rights Council. Report is a product of cooperation of the state bodies and nongovernmental institutions. Ombudsman has decided to produce separate report. Ombudsman's special report was very well received and it in fact supported the findings of the national report. This meant that the national report presented the realistic overview of the human rights conditions in the country. Timing of the second cycle of the UPR was very beneficial for the adoption of amendments to the Ombudsman Act. Ombudsman participated in the pre-session in November 2012, and presented the recommendations to the representatives of the missions. The result was rather impressive as Montenegro got six recommendations reflecting the strengthening of the Ombudsman institution and has adopted all six of them. The Act is currently being prepared.

First cycle of UPR has brought recommendations mainly directed to adoption and harmonization of the new legislation. Second cycle is characterised by recommendations related to the implementation of new legislation. In January 2013, Montenegro received 124 recommendations, among which 96 recommendations were adopted, 13 were adopted as already implemented, and 15 put aside for further consideration.

It is important to note that political climate in Montenegro is changing. Implementation of the recommendations would not be easy, but all parties have to do their best in that process directly linked with the EU accession.

Albania

The topic of integrating UPR Follow-up with the EU accession process has a great research potential. UPR is a sort of an exercise, re-examination of democracy, with many parties

and stakeholders involved, and with the State being the main stakeholder. In this exercise government is analysing its work and is obliged to observe its own actions in a certain way. Ban Ki-moon has clearly stated that this process has a great potential of promoting human rights even in the most remote parts of the world.

In order to become an EU Member State, Albania has to reform public administration and judiciary, strengthen fight against corruption and organized crime, and has to improve human rights situation in the Country, especially concerning the rights of Roma community.

Role of the Ombudsman is to prevent, protect and promote human rights. Ombudsman has to advocate for the rule of law, reform of judiciary, and good governance. Ombudsman's tasks are coordinated with the principles of the UPR. Moreover, Ombudsman has to intensify its work even more, has to have better work capacities and researchers, and has to be completely independent and objective. In cases when Ombudsman's jurisdiction is limited, Ombudsman has to make recommendations to responsible bodies.

Bosnia and Herzegovina

During the period between 2005 and 2006 UN Committees have reviewed Bosnia and Herzegovina reports on application of UN Conventions and have adopted numerous recommendations. Implementation of those recommendations should have contributed to the enhancement of the human rights status in Bosnia and Herzegovina, but that did not happen to a full extent. In the Report prepared by the Ombudsman institution in consultation with NGOs, human rights activists and authorised officials from relevant institutions, based on complaints made to the Ombudsman institution, and on the three Special Reports made during 2009, the focus was put on:

- General observations
- Data collection
- Normative and institutional framework
- Equality and anti-discrimination
- Rule of law – application of law
- Torture
- Conditions in prisons, penitentiaries and psychiatric institutions
- Gender based violence
- Basic rights and freedoms (Employment; Pensioners; Environment and natural resources; Housing; Health protection; and Education)
- Return of refugees
- Children

Ombudsman's reports are a good source of information on a follow-up to the Universal Periodic review and on the status of implementation of received recommendations.

Although review process allows only limited participation of NGOs, activities conducted before and after the reviews are of key importance for implementation of recommendations from the previous review cycle. NGOs can:

- Be engaged in consultations with the Government
- Submit reports of interested parties
- Lobby
- Be present at UPR work group sessions
- Be present and take part in Human Rights Council sessions
- Implement relevant activities and promote recommendations

One of the successful examples is an example of the Justice Network¹⁶ – a network of 63 NGOs operating in the field of rule of law and human rights protection. They have recognized the importance of UPR and started being involved in the UPR process in April 2010. The

Network has prepared a summary of UPR recommendations for Bosnia and Herzegovina, and presented it at the 14th Session of UN Human Rights Council on 11 June 2010. Alongside with the preparation of a summary and presentation of the recommendations, the Justice Network trained the representatives of civil society and justice sector on UPR.

Serbia

The Protector of Citizens was accredited status „A” NHRI in March 2010. The Protector of Citizens has an important role to play in supporting follow-up on the UPR and implementation of UPR recommendations. This role is different from, yet complementary to the roles performed by the Government and civil society. The role of the Protector of Citizens in the NHRI capacity includes, among others: acting as a link between the national and international human rights systems; providing independent and authoritative information about situation on the ground; sharing best practice examples and lessons learned; providing advice to the Government on the implementation of UPR recommendations; monitoring follow-up, and preparing special reports.

In 2011, the Protector of Citizens prepared and sent to the UN Committee on the Elimination of Racial Discrimination (CERD) the Observations on certain issues concerning the laws and regulations governing the status of national minorities in relation to implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. In the same year, the Protector of Citizens submitted to the UN Human Rights Committee (CCPR) his Observations on the Implementation of the International Covenant on Civil and Political Rights in the second reporting period for

¹⁶ <http://www.mrezapravde.ba/mpbh/english/index.php>

Serbia, and verbally explained them at the Committee session in New York. The Protector of Citizens participated in the presentation of the Draft Alternative Report on the Situation of Persons with Disabilities, which was presented before the Committee for monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities.

In 2013, during the adoption of the UPR report for Serbia in the Human Rights Council's 23rd session, the Protector of Citizens used the opportunity to address the Council through pre-recorded video statement. Later in 2013, the Protector of Citizens submitted to the UN Committee on Economic, Social and Cultural Rights (CESCR) his Observations on the Implementation of the International Covenant on Economic, Social and Cultural Rights in the second reporting period for Serbia. As part of regular activities in the field of international cooperation, primarily in its capacity as NHRI, the Protector of Citizens regularly prepares and sends replies to various queries from the OHCHR and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) about the role of prevention in promoting and protecting human rights, the rights of persons with disabilities, the elderly, gender equality and women's rights (including violence against women and girls) and child begging, the relationship between NHRIs and human rights defenders, children's rights to an adequate health care standard, and so on.

Seeking to raise the institution's capacity to meet obligations arising from the NHRI status, the Protector of Citizens participates in various

trainings devoted to monitoring the results of the UPR and recommendations of other mechanisms for protection and promotion of human rights. Serbia underwent the first cycle of the UPR in December 2008, and the second one in January 2013. In the second UPR cycle, the UN Member States made 144 recommendations to Serbia, of which Serbia accepted almost all - 139. The general assessment is that Serbia has mainly completed legal framework for the protection and promotion of human rights, institutions necessary for the protection and promotion of human rights are now up and running, and they are currently building and strengthening their capacities.

However, in Serbia there is no synchronized approach to follow-up on the UPR recommendations and recommendations of UN treaty bodies, so it would be necessary in the coming period to establish a uniform mechanism for their follow-up at the national level. The need for establishing such a mechanism was also pointed out in the UPR second cycle, in the recommendations No.144.4 and 144.5 made by Ukraine and Columbia.

Acting in the spirit of UPR recommendations, as well as upon citizens' complaints, the Protector of Citizens itself made recommendations to the public authorities, sometimes more than once. The implementation of both UPR and Ombudsman's recommendations resulted in improvement of the existing situation and was a turning point in acting of the public authorities. Ultimately, that was very significant for Serbia.

3 NHRIs and Universal Periodic Review (UPR)



“Established in 2006, UPR is something new. We all are too impatient and we have to be more realistic. UPR is focused on activities in the field. We all are too focused on the laws and regulations and tend to forget the importance of working in the field. 193 countries are included in the process. We have to work closely; we have to cooperate in order to assure the robust accreditation system. What is the main lesson learned from the first cycle? We cannot do everything perfectly. We tend to put pressure on ourselves and on UN institutions. The key is to analyse and draw conclusions.”

Bruce Adamson,
Scottish Human Rights Commission

NHRIs’ engagement with the Universal Periodic Review (UPR)

The UPR is a mechanism established by the Human Rights Council (HRC), which aims to improve the human rights situation on the ground and address human rights violations wherever they occur. It was adopted on 15 March 2006 through resolution 60/251,

which established the HRC. This resolution decided that the HRC shall “...undertake a Universal Periodic Review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States; the review shall be a cooperative mechanism, based on an interactive dialogue, with the full involvement of the country concerned and with consideration given to its capacity-building needs...”.

The UPR review is conducted through an interactive dialogue between the State under Review (SuR) and the HRC, which takes place in a working group of the 47 members of the HRC. The working group is an intergovernmental meeting, which UN entities, NHRIs and NGOs can attend. A group of three rapporteurs (troika) selected from different regional groups facilitates each country review. The review is based on three documents: a report prepared by the State and two reports prepared by OHCHR (a compilation of UN information and a summary of stakeholders). After the working group session, the HRC meets in a plenary session to consider and adopt the outcome of the UPR; a one-hour meeting is devoted to each SuR. At the HRC plenary session, the SuR, Member States, Observers including UN entities, as well as stakeholders, including A-status NHRIs and NGOs with ECOSOC status, have the opportunity to make interventions. A-status NHRIs can take the floor right after the State’s intervention.

According to resolution 5/1, the review process is directed towards facilitating an outcome consisting of a summary of the proceedings, conclusions and/or recommendations, and the voluntary pledges and commitments of the State concerned. The outcome could include:

- An assessment of the human rights situation in the country, including positive developments and challenges faced by the country;
- Sharing of best practices, emphasis on enhancing cooperation for the promotion and protection of human rights;
- Provision of technical assistance and capacity building in consultation with and with the consent of the country concerned
- Voluntary commitments and pledges made by the country reviewed.

The review is based on three documents:

- 1) Information prepared by the State concerned, which can take the form of a national report, for the preparation of which, NHRIs should be involved;
- 2) A compilation prepared by the OHCHR of the information contained in the reports of Treaty Bodies, Special Procedures, including observations and comments by the State concerned, and other relevant official United Nations documents, which shall not exceed 10 pages;
- 3) Additional, credible and reliable information provided by other relevant stakeholders (NHRIs included) to the UPR review which should also be taken into consideration by the Council in the review.

The OHCHR will prepare a summary of such information which shall not exceed 10 pages. Information provided by A-status NHRIs will be reflected in a separate section. All other information submitted by other NHRIs will be placed in the general stakeholder's section.

According to HRC resolution 16/21, the 2nd cycle started in 2012. It will be completed by

2016. The 2nd and subsequent cycles of the review should focus, inter alia, on the implementation of the accepted recommendations and the developments of the human rights situation in the State under review since its last UPR. The 2nd cycle review will look at the recommendations accepted by the State during its first review and any changes since then. However, it does not limit NHRIs and other stakeholders to only refer to those recommendations. They are encouraged to include in their contributions information on the follow-up to the preceding review. In their reports, NHRIs are therefore encouraged to also refer to those recommendations that were not accepted by the State and any other human rights issues of concern that may not be reflected in the accepted recommendations.

All NHRIs are encouraged to submit reports to the UPR process to ensure that the information about the human rights situations in Member States is as comprehensive, accurate and as robust as possible. NHRI submissions are essential as they provide an independent analysis of the situation on the ground, across a wide range of human rights. Although the formal part of the UPR process only takes place every 4 ½ years, NHRIs are important partners and can play an essential role during the formal process, through submitting reports, as well as in the pre-reporting phase and the follow-up. As independent organizations with a mandate to promote and protect human rights, NHRIs can participate in all phases of the UPR process. They are central to ensuring that the recommendations made are followed-up and real change in the human rights situation in the State Party is seen on the ground.

As enshrined in paragraph 33 of the HRC Resolution 5/1 "the outcome of the UPR, as a cooperative mechanism, should be implemented primarily by the State concerned and, as appropriate, by other relevant stakeholders".

Table 3: The role of NHRIs in the UPR process

Before the UPR	During the UPR	After the UPR
<p>Participate actively in the UPR national consultations: Engaging on an independent footing, with the formal government consultation process leading up to the drafting of their national report will ensure that the NHRI's experience and perspective is reflected in the national report.</p> <p>Consult with civil society organizations: The NHRIs are encouraged to consult with civil society organizations on key human rights issues and recommendations.</p>	<p>Take the floor during the interactive dialogue with the SuR: "A" status NHRIs are entitled to intervene immediately after the SuR during the adoption of the outcome of the review by the Council plenary. If an NHRI cannot travel to Geneva, it can instead deliver a statement through an accredited regional NHRI coordinating committee or the Geneva representative of the ICC, who can present the statement on their behalf.</p>	<p>Publicize and disseminate the outcomes of the UPR in the country: By acting as a link between the international system and the national stakeholders, NHRIs can help implementation to gain momentum at the country level. They can disseminate the UPR outcomes and conduct awareness raising campaigns on the human rights issues raised through the UPR, thus engaging civil society stakeholders both in the issues and the UPR process.</p> <p>Mainstream UPR recommendations into their work: The work of NHRIs does not stop after the formal UPR session. In order to encourage progress on the human rights concerns raised by the UPR process, NHRIs may wish to include UPR recommendations into their internal work plans and draw up an action plan or strategy to contribute to the implementation of the various recommendations.</p> <p>Work with government to implement the recommendations: NHRIs, as independent from government, can play an important role in exerting pressure on government to ensure that the UPR recommendations are acted on. They can: Engage in a dialogue with governments for the follow-up to recommendations specifically addressing issues regarding the status, mandate and activities of national human rights institutions, as well as on human rights issues of concern; Contribute to the development of legislation, institutional frameworks, policies and programmes by the SuR, geared towards implementing the outcomes and addressing key human rights issues of concern.</p>

- Examples of implementation mechanisms: National Action Plan for Human Rights.
- Implementation by the Executive: Ministry of Foreign Affairs, Ministry of Justice, Secretariat for Human Rights.
- Implementing partners: NHRIs, thematic network of civil society.

OHCHR perspective

Discussions on strategies to follow-up on UPR outcomes have led to the elaboration of compre-

hensive national road maps or action plans reviewing UPR recommendations and voluntary pledges/commitments together with those from other UN human rights mechanisms; identifying priorities amongst all recommendations; identifying immediate and priority actions; identifying resources available/necessary; and identifying the State lead agency and the relevant national and international partners.

The follow-up to UPR outcomes has further facilitated OHCHR's engagement with countries on specific thematic issues/areas, such as:

BOX 2: Country example – Human Rights Commission of Malaysia (SUHAKAM)¹⁷ – Malaysian A-status NHRI

SUHAKAM's has prepared and presented interim report on the UPR Implementation¹⁸ in the 18th session of the Human Rights Council. The report comments on the progress of the UPR recommendations' implementation in eight key areas as clustered below:

- I. Ratification of international human rights treaties
- II. Legislative reforms and judicial system
- III. Human rights and vulnerable groups
- IV. Economic, social and cultural rights
- V. Trafficking in persons
- VI. The right to education
- VII. National strategies and policies on human rights
- VIII. Engagement with various stakeholders

SUHAKAM has undertaken several steps to follow-up and monitor the UPR recommendations:

- Establishment of an Internal UPR Follow-up and Monitoring Committee comprising of focal officers of various Working Groups/Divisions within the Commission;
- Awareness raising on the importance of UPR mechanism and Malaysia's obligations under the international human rights mechanism;
- Engagement with Government agencies and other stakeholders through consultation meetings and briefing sessions;
- Promotion of the integrated monitoring system by the Government;
- Capacity building programmes;
- Engagement with regional and international human rights bodies through information exchange and delivery of statements.

ratification of international human rights instruments; meeting reporting obligations to treaty bodies; issuance of open and standing invitations/acceptance of country visits by special procedures mandate-holders; establishment/strengthening of national human rights institutions in line with the Paris Principles; elaboration of human rights action plans; cooperation with OHCHR; and other key human rights issues.

Challenges and lessons learned:

- Funding to the UPR Trust Fund and other OHCHR field activities remained modest;
- OHCHR might be in a better position to assist countries in which it has a country/regional presence;
- The Human Rights Council still needs to define its modalities to effectively assess the implementation of all UPR outcomes.

¹⁷ <http://www.suhakam.org.my/>

¹⁸ http://www.suhakam.org.my/wp-content/uploads/2013/11/2-SUHAKAM_UPR-Interim-Report_-_to-_HRC-18.pdf

4 Cooperation with Civil Society and Youth Organizations – Opportunities and Good Practices

Deepening Civic Engagement in UPR Follow-up, and Advocacy for Policy Changes and Human Rights Dialogue

According to the recommendations of the International Coordinating Committee for National Human Rights Institutions (ICC NHRI) given to the Croatian Ombudsman while accrediting “A” status, the Ombudsman should enhance cooperation with civil society in the protection and promotion of human rights. NGOs offer a range of skills and contacts, as well as resources that can be a useful supplement to enhance the efforts of the Ombudsman. In this regard, the Ombudsman participates in a number of projects, initiatives and events jointly with NGOs.

In 2009 six Croatian NGOs founded the **Human Rights House** (HRH)¹⁹, today’s member of the Human Rights House Network. Parallel with the process of establishment of HRH, the member NGOs started preparing a shadow report for the 1st cycle UPR, which proved to be a very beneficial exercise for the organisation itself. The 2009 UPR shadow reporting was also the beginning of cooperation with the Ombudsman Office. More intense cooperation with the Croatian Ombudsman started with the adoption of the Anti-discrimination Act. The Anti-discrimination Act further stressed the obligation for the Ombudsman to cooperate more closely with the civil society (Article 15).

HRH took the opportunity to work with the Ombudsman Office within the framework of the project “Supporting the implementation of the Anti-discrimination Act”, funded through the EU PROGRESS programme. The project aimed to support the implementation of Anti-discrimination Act through increasing awareness and knowledge on the existence and implementation of the EU and national policies and legislation in anti-discrimination field. HRH member organizations were responsible for capacity building activities (training of Ombudsman Office staff, judiciary, police, lawyers, NGOs, media, etc), and the Ombudsman Office has worked on the public awareness campaign. Equipped with that practical experience, HRH was able to prepare the report on human rights for 2012. The report provides an overview of the human rights situation in the Republic of Croatia with regard to political context, economic and social situation in the Country, civil society and civic activism. The human rights situation is demonstrated through 17 case studies related to the different grounds of discrimination. The case studies served as a direct way of describing the presence of discrimination in various forms in Croatian society. In addition, HRH has initiated the so called “Platform 112”, gathering 69 civil society organizations active in the areas of human rights protection, democratization, peace-building, and tackling corruption. Voice of civil society in Croatia is now much more articulated and heard.

¹⁹ <http://www.kucaljudskihprava.hr/> (in Croatian only)



According to HRH, key human rights issues today concern national minorities, LGBT community, and misuse of psychiatric treatment. The issue that requires special attention is the need to unify the discrimination monitoring system. That would be very helpful in determining discrimination tendencies in the society. Another problem is the accessibility of the Ombudsman. Contact points have been established across the Country, but that issue has to be addressed even more seriously. In this regard, presence of the Ombudsman in the media is also very important. People have to know about the institution in order to feel protected.

Deepening Civic and Youth Engagement for Protection of Human Rights

Croatian Youth Network (MMH)²⁰ is an alliance of 64 non-governmental youth organizations acting as the National Youth Council in Croatia. MMH reaches its goals through networking, advocacy, dialogue and partnerships, information, non-formal education, research and publishing. It was founded on the principles and values of

inclusion, openness, participation, solidarity, tolerance and equality, rule of law, autonomy and independence.

Main goals of MMH as a resource organization:

- Raises awareness of young people about active and responsible participation in society through networking and empowering youth organizations and individuals;
- Co-creates and advocates quality youth policies at local, national and international levels and places youth rights on the social agenda;
- Contributes to the development of civil society through participation in shaping and implementing policies related to the development of civil society.

MMH is democratic, representative and inclusive, and has national and international recognition as such. It gathers national and local non-governmental youth organizations in Croatia which have voluntarily joined the Network. MMH was established out of the need for cooperation and improved communication among youth organizations, regardless of their programme identifications, organizational structure, and in full respect of their political, world-view, racial, national, sexual, religious

²⁰ <http://www.mmh.hr/en>

and cultural identifications and identifications of young people which they represent or advocate for, for the purpose of effective and efficient advocating of interests and needs of young people in Croatia and building partnerships with governmental institutions in creating and implementing youth policy.

Unemployment of young people

Young people in Croatia and other European countries which are facing growing economic, social and political problems are finding it increasingly difficult to become independent from their families and to actively get involved in social and economic processes. Difficult social conditions young people live in today call for youth policies which will recognize the need for participation of young people in the form of a structured dialogue, in all areas related to their self-actualization. The EU Youth Strategy (2010-2018), entitled "Youth - Investing and Empowering"²¹, defines several fields of action which mandate more and better financing, youth empowerment and the promotion of the potential of young people for building societies and contributing to European goals and values. The structured dialogue, conducted with the purpose of solving problems and coordinating action, is mentioned for the first time in a resolution adopted by the Council of Ministers in 2005. The resolution addresses the European Commission and Member States and calls for the development of a structured dialogue with young people, youth organizations, researchers and decision-makers. The need for a structured dialogue with youth is further underlined in the Communication from the European Commission on "Promoting young people's full participation in education, employment and society"²² from 2007, and in the Council Resolution from 2006. The Council Resolution on a Renewed

Framework for European Cooperation in the Youth Field²³ (2010-2018) adopted in 2009 states that the structured dialogue at the European level is conducted with the European Commission, Member States, national youth councils and the European Youth Forum, during the European Youth Week, EU Presidency youth conferences and unofficial forum organized at the margins of Council meetings. At the national level, Member States are invited to form national working groups made up of representatives of ministries relevant for youth issues, national youth councils, local and regional youth councils, youth organizations, youth workers, young people and researchers in the field of youth. It is strongly recommended, whenever possible, that Member States assign to national youth councils the leading role in working groups whose task is to organise consultations on previously agreed topics of the structured dialogue.

Civic education in Croatian schools

Almost all countries in the region integrated some form of education for human rights and democracy in their education systems, as an immediate answer to the challenges of transition and war legacy. For the past two decades Croatia has witnessed a public debate on the need for the introduction of civic education in schools. However, despite clearly articulated needs and a degree of political consensus, the integration of this content has been at best sporadic and dependent on motivation and good will of individual teachers and schools. For this reason, many civil society organizations, including a number of youth organizations, have formed the *Initiative for Quality Integration of Education for Human Rights and Democratic Citizenship*²⁴. They have initiated an ongoing advocacy process based on the understanding that active citizenship does not

21 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0200:FIN:EN:PDF>

22 http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0498en01.pdf

23 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:311:0001:0011:EN:PDF>

24 <http://mmh.hr/en/our-work/new-era-of-human-rights-and-democracy-in-croatian-schools>

happen on its own and that the awareness of citizens should be raised. One of the outcomes of this cooperation is the project „New Era of Human Rights and Democracy in Croatian Schools“. It represents the answer of civil society to the need which has been present in Croatian society for many years: the need to foster knowledge and skills of young people which will help them become active and responsible citizens who participate in decision-making processes in their communities. The project was financed within the framework of the IPA 2009. Its main goal is to contribute to the introduction and full integration of education for human rights and active citizenship through cooperation of civil society and public institutions. Specific goals are: to strengthen

advocacy capacities of civil society organizations, particularly youth organizations, and experts in the field of education for human rights, active citizenship, peace and political literacy of young people in the areas of special state concern; to create sustainable conditions for quality implementation of education for human rights and active citizenship; and to raise awareness among young people in local communities, and among decision-makers in the education field.

Although all stakeholders emphasise the importance of civic education, that is on a more declarative level. It remains to be seen how this concept will be implemented and more important to what extent.

5 Measuring the Impact and Development Effectiveness of National Human Rights Institutions

The past decade has witnessed increasing attention to the characteristics of effective NHRIs and the questions of how to develop their capacity and also, to a much lesser extent, how to measure their impact. However, research carried out so far has mostly focused on measuring the effectiveness of specific activities and features of NHRIs, not their overall impact. With this in mind, UNDP Regional Centre for Europe and the CIS has launched an exercise to develop practical tool for measuring the impact and development effectiveness of NHRIs.

The effectiveness evaluation framework has been designed with two purposes in mind. Firstly, it is intended for use as an evaluation tool by NHRIs themselves or for others (such as UNDP) as an aid to capacity assessment. For this purpose the framework can simply be used as a checklist, with the aim being for the institution to score as highly as possible and to identify areas requiring improvement. Secondly, when used over a range of different countries, the effectiveness framework becomes a research tool to test the impact of a series of explanatory variables on the effectiveness of national institutions. It is in this use that its originality lies.

In summary, the effectiveness evaluation framework consists of two sets of variables. First set contains a number of dependent variables which measure the first-order effectiveness of a national human rights institution in five key areas: human rights promotion; complaints handling; review of

legislation; monitoring human rights violations; and engagement with the international human rights system. A score is assigned for each of these areas based upon the presence or absence of certain activities. The scores are then aggregated with the higher score representing the most effective institution.

The other set of variables seeks to explain whether or not the institution has a variety of attributes or characteristics that research has shown to be associated with effective institutions. These make up a lengthier list, organized into four groupings or clusters: independence, resources, diversity and powers. The general assumption would be that the higher an institution scored on these explanatory or independent variables (see Figure 2), the higher it would also score on the first set of effectiveness variables.

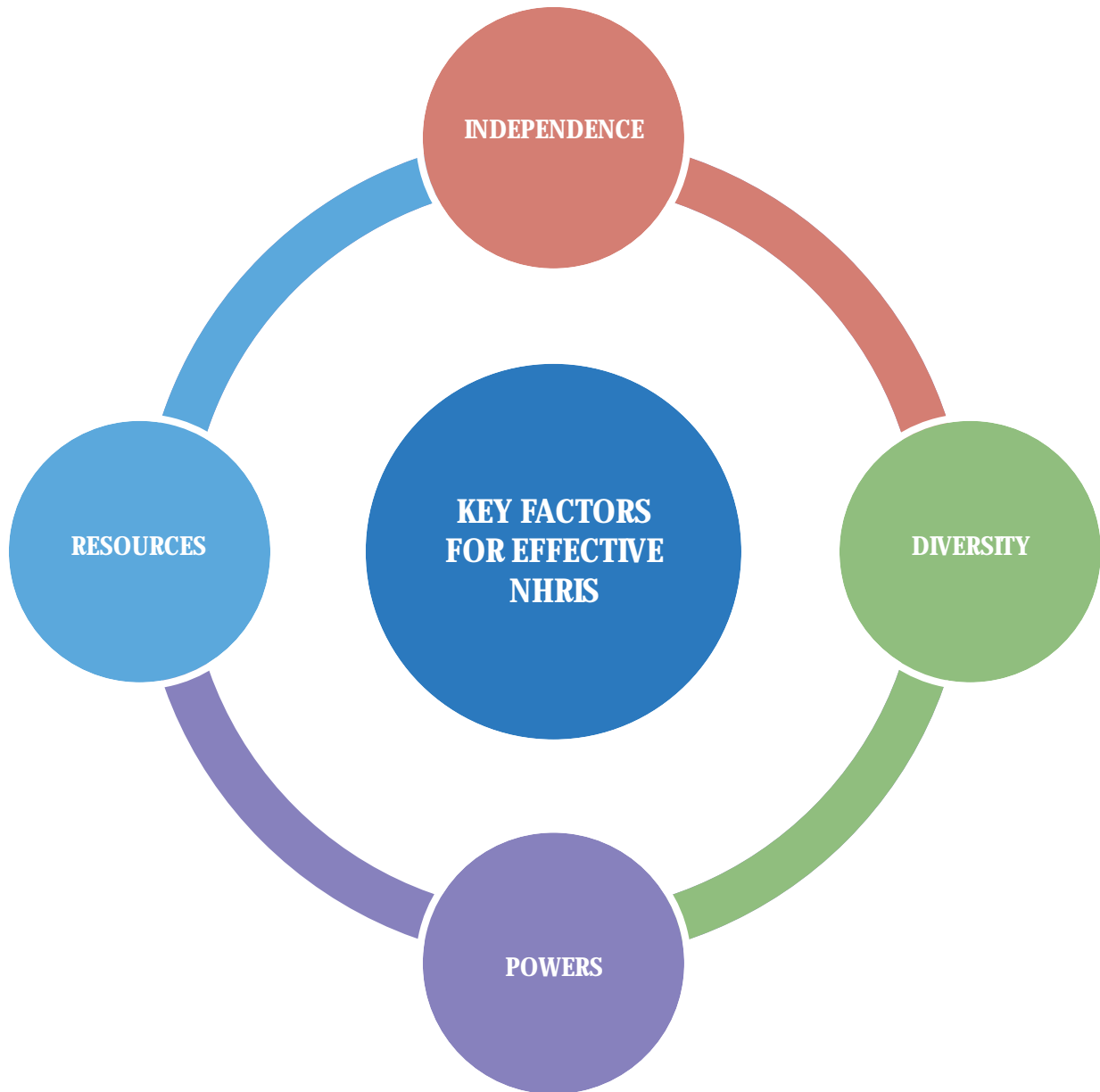
The presentation was followed by the exercise “Measuring the Effectiveness of NHRIs: Draft Codebook”, where the Ombudspersons from the SEE region had the opportunity to test the evaluation tool. The exercise also served as a point for further fine-tuning and validation of the tool.

In order for the framework to be used in the way intended, to identify the key factors contributing to NHRI effectiveness, a substantial dataset is needed. This requires the participation of a reasonable number of institutions from Central and Eastern Europe. It will be important to be able to supply data

for several years, both in order to analyse developments over time and to supply sufficient data points to perform a robust

statistical analysis. Ideally, data should be gathered for every five years, ie. 1993, 1998, 2003, 2008, and 2013.

Figure 2: Independent variables for measuring NHRI effectiveness



6 Conclusion

EU Accession brings benefits to the entire legal, economic and political system, including the area of human rights. It has to be noted, however, that protection of human rights/fundamental rights is a never-accomplished mission and that human rights can be best protected in a democratic state governed by the rule of law where democratic accountability of politics and public administration, independent and efficient judiciary and media and civil society have an important role. Risks for violation of individual's rights can be found in vague constitutional provisions, inappropriate legislation, inefficient remedies, arbitrary functioning of public authorities, abuse of power and maladministration. Newly restored democracies and post conflict environments are characterized by unstable, changing legal system, lack of efficient public administration and weak awareness of the population on their rights, remedies, and on the law at large. In such environment there is even more need for an efficient Ombudsman.

Fostering of a regular cooperation with civil society organizations and respective governmental institutions should be at the heart of Ombudsman's work in performing its

regular functions of protecting and promoting human rights in the country. Moreover, it should be one of the Ombudsman's priorities while acting as a national central equality body. Fostering of a formal cooperation is very important for expert analysis of more complex discrimination cases, as well as detecting specific types of discriminative occurrences in order to develop strategies to resolve problems.

The discussion during the event has identified further areas of cross-regional cooperation of NHRIs from Southeast Europe and set ground for further strengthening of these institutions as the essential part of national human rights protection systems. The measurement framework presented at the workshop is only a pilot version. It can (and should) be improved by the addition and removal of variables and perhaps other changes. This would be best achieved by the collective expertise of a number of Ombudsman institutions and other experts. Once finalized it will not only equip NHRIs with a tool to evaluate their own effectiveness and probable impact but also show how to further develop them. As such, it will serve UNDP country offices and the ECIS regional centre to devise effective policy and programming support for future.

7 Annex 1: Workshop Agenda

International Workshop: Ombudsman Institutions in Southeast Europe: EU Accession and the Universal Periodic Review

7-8 November 2013, Zagreb, Croatia

AGENDA

Day One: 7 November 2013

08:30-09:00 **Registration of Participants**

09:00-09:30 **Welcome Remarks**

Louisa Vinton, UN Resident Coordinator/UNDP Resident Representative in Croatia

Lora Vidović, Croatian People's Ombudsman

Orsat Miljenić, Minister of Justice of the Republic of Croatia

Monjurul Kabir, Team Leader and Policy Adviser, Rule of Law, Justice and Human Rights,
UNDP Regional Centre for Europe and the CIS (Chair)

Part I: NHRIs and EU Accession

Moderator: A.H. Monjurul Kabir, UNDP Regional Centre for Europe and the CIS

09:30-11:00 **Three Waves of EU Accession: New Roles, Mandates and Powers for NHRIs**

Slovenia – Ivan Bizjak, Former Minister of Justice and Ombudsman, Slovenia

Romania – Luiza Portase, Counsellor in the Romanian Ombudsman Office

Croatia – Tena Šimonović Einwalter, Croatian People's Deputy Ombudsman

11:00-11:30 Networking Coffee & Group Picture

11:30-12:30 **Integrating UPR follow-up with the EU Accession Process:
Country Case Studies – part 1**

Moderator: A.H. Monjurul Kabir, UNDP Regional Centre for Europe and the CIS

- Idjet Memeti, Ombudsman, the Former Yugoslav Republic of Macedonia
- Šučko Baković, Ombudsman, Montenegro

12:30-13:30 Lunch

13:30-14:30 **Integrating UPR follow-up with the EU Accession Process: Country Case Studies – part 2**

- Igli Totozani, Ombudsman, Albania
- Ljubomir Sandić, Ombudsman, Bosnia and Herzegovina
- Ljerka Ećimović, Advisor to the Ombudsman, Serbia

14:30-15:00 **Open Forum:** Discussion, Questions & Answers

15:00-15:30 Coffee Break

Part II: NHRIs and Universal Periodic Review (UPR)

Moderator: Bruce Adamson, The European Network of NHRIs [ENNHRI]

- 15:30-17:00
- 15:30 – 15:50 **UPR and NHRIs - Towards the 2nd cycle: lessons learned and challenges ahead** – Bruce Adamson, Scottish Human Rights Commission
 - 15:50-16:20 **Experiences of Ombuds Institutions in UPR Follow-up** – Cynthia Radert, Associate Human Rights Officer, National Institutions and Regional Mechanisms Section, OHCHR
 - 16:20-16:40 **UPR Follow-up Facility – Lessons Learned and the Way Forward** – A.H. Monjurul Kabir, UNDP Regional Centre for Europe and the CIS

16:40-17:00 **Open Forum:** Discussion, Questions & Answers

17:15 Light reception

Day Two: 8 November 2013

09:00-09:15 **Summary of Day 1 and Outline of Day 2** - Jasmina Mujkanović, Rule of Law, Human Rights and Justice Consultant, UNDP Regional Centre for Europe and the CIS

Part III: Cooperation with Civil Society and Youth Organizations – Opportunities and Good Practices

Moderator: Sami Kurteshi, Ombudsman, Kosovo²⁵

09:15 – 10:45 **Plenary session**

- **Deepening Civic Engagement in UPR Follow-up and Other HR Mechanisms** – Sanja Sarnavka, Human Rights House
- **Advocacy for Policy Changes and Human Rights Dialogue** – Sandra Benčić, Human Rights House
- **Deepening Civic and Youth Engagement for Protection of Human Rights** – Mirela Travar, Youth Network Croatia

²⁵ hereinafter referred to in the context of the UN Security Council Resolution 1244 (1999)

10:45-11:15 **Open Forum:** Discussion, Questions and Answers

11:15-11:45 Coffee

Part IV: Measuring the Impact and Development Effectiveness of National Human Rights Institutions

Opening Remarks:

Connecting Development with National Human Rights System-the Challenges

of Effectiveness: A.H. Monjurul Kabir, UNDP Regional Centre for Europe and the CIS

11:45-12:30 **Effectiveness Measurement Framework, Part 1**, plenary session – Richard Carver, Senior Lecturer in Human Rights and Governance, Oxford Brookes University, United Kingdom & Lisa Handley, Expert on methodology and statistics

12:30-14:00 Lunch

14:00-15:30 **Effectiveness Measurement Framework, Part 2**, working groups

Facilitators: Richard Carver & Lisa Handley

Coffee will be served during working groups session

15:30-16:00 **Open Forum:** Discussion, Questions and Answers

16:00-16:15 **Closing Remarks**

UNDP and Office of Croatian People's Ombudsman

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Annex 2:
Workshop Participants

ALBANIA	
Igli Totozani	Ombudsman, Albania
Mimoza Gjika	Advisor, Albanian Ombudsman's Office
BOSNIA AND HERZEGOVINA	
Ljubomir Sandić	Ombudsman, BiH
Nives Jukić	Ombudsman, BiH
Lejla Hadzimesic	Human Rights Advisor, Office of the UN Resident Coordinator in BiH
Amela Cosovic-Medic	Sector Coordinator, Justice and Human Security, UNDP BiH
Susanna Vuorinen	Human Rights Officer, Office of the UN Resident Coordinator in BiH
CROATIA	
Orsat Miljenić	Minister of Justice
Lora Vidović	Ombudsman, Croatia Jagoda Novak Deputy Ombudsman
Tena Šimonović	Einwalter Deputy Ombudsman
Lidija Lukina Kezić	Deputy Ombudsman
Mila Jelavić	Ombudsman for children
Anka Slonjšak	Ombudsman for PWDs
Boris-Jakov Gerčić	Deputy Ombudsman for PWDs
Branka Meić	Advisor, Office of the Ombudsman for PWDs
Romana Kuzmanić	Oluić Ministry of Foreign Affairs
Sandra Batlak	Ministry of Social Policy and Youth
Louisa Vinton	UN Resident Coordinator/UNDP Resident Representative in Croatia
Vitalie Vremis	Deputy Resident Representative, UNDP Croatia
Violeta Liović	Justice Project Coordinator, UNDP Croatia
KOSOVO	
Sami Kurteshi	Ombudsman
Isa Hasani	Deputy Ombudsman
Dren Rogova	Project Officer, UNDP Kosovo

FYROM MACEDONIA	
Idjet Memeti	Ombudsman
MONTENEGRO	
Šučko Baković	Ombudsman
Zdenka Perović	Advisor, Montenegro Ombudsman Office
SERBIA	
Saša Janković	Ombudsman
Ljerkica Ećimović	Head of Department for Reports and Publications, Serbian Ombudsman's Office
Snežana Trkulja	Advisor, Department for Human Rights, Office for human and minority rights, Government of Republic of Serbia
UNDP BRC	
A. H. Monjurul Kabir	Policy Adviser & Regional Project Manager - Rule of Law, Human Rights and Justice, UNDP Regional Centre for Europe and the CIS
Jasmina Mujkanović	Consultant - Rule of Law, Human Rights and Justice, UNDP Regional Centre for Europe and the CIS
Zuzana Zalanova	Consultant - Rule of Law, Human Rights and Justice, UNDP Regional Centre for Europe and the CIS
RESOURCE PERSONS	
Ivan Bizjak	Former Minister of Justice and Ombudsman, Slovenia
Richard Carver	Senior Lecturer in Human Rights and Governance, Oxford Brookes University, United Kingdom
Lisa Handley	Expert on methodology and statistics
Luiza Portaze	Counsellor in the Romanian Ombudsman Office
Bruce Adamson	Advisor, Scottish Human Rights Commission
Cynthia Radert	Associate Human Rights Officer, National Institutions and Regional Mechanisms Section, OHCHR
Sanja Sarnavka	President of the NGO B.a.b.e., Human Rights House
Sandra Benčić	Programme Coordinator, Human Rights House
Mirela Travar	Secretary General, NGO Mreža mladih



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Lessons Learned Series: Rule of Law, Justice & Human Rights