

EVALUATION OF THE INSTITUTION OF THE COMMISSIONER FOR HUMAN RIGHTS



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Disclaimer

The evaluation was managed by a lead evaluator under the supervision of the Head of the Evaluation Division and implemented by Lattanzio KIBS. The views expressed in this report are those of the review team members from Lattanzio KIBS.

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Abbreviations

| | |
|------------|---|
| AI | Artificial intelligence |
| CPT | European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment |
| Convention | European Convention on Human Rights |
| Court | European Court of Human Rights |
| CSOs | Civil society organisations |
| DG I | Directorate General Human Rights and Rule of Law |
| DG II | Directorate General of Democracy and Human Dignity |
| DIO | Directorate for Internal Oversight |
| ECRI | European Commission against Racism and Intolerance |
| ENNHRI | European Network of National Human Rights Institutions |
| EQ | Evaluation questions |
| EU | European Union |
| EUSR HR | European Union Special Representative for Human Rights |
| FRA | EU Fundamental Rights Agency |
| HRDs | Human rights defenders |
| HRE | Human rights education |
| LGBTI | Lesbian, gay, bisexual, transgender and intersex persons |
| LIBE | Committee on Civil Liberties, Justice and Home Affairs |
| MAE | Major Administrative Entities of the Council of Europe |
| MoU | Memorandum of understanding |
| NGOs | Non-governmental organisations |
| NHRAPs | National Human Rights Action Plans |
| NHRIs | National human rights institutions |
| ODIHR | Office for Democratic Institutions and Human Rights |
| OECD-DAC | Organisation for Economic Co-operation and Development – Development Assistance Committee |
| Office | Office of the Commissioner for Human Rights of the Council of Europe |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| OSCE | Organization for Security and Co-operation in Europe |
| RBM | Results-based management |
| SMSG | Special Representative of the Secretary General |
| ToC | Theory of change |
| ToR | Terms of reference |
| UN | United Nations |
| UNDP | United Nations Development Programme |
| UNHCR | United Nations High Commissioner for Refugees |

Executive summary

1. This summary describes the objective, scope, conclusions and recommendations of the evaluation of the Commissioner for Human Rights (hereafter referred to as “the Commissioner”), commissioned by the Directorate of Internal Oversight (DIO) of the Council of Europe and undertaken during the latter half of 2023.

Purpose, objectives and scope

2. The evaluation aimed to assess the contribution of the Commissioner in terms of promotion and awareness of human rights, facilitation of rights-related institutions and reform measures at the national level in the member states, and advice and information on human rights. The evaluation scope focused on the period 2017-2023 covering the mandates of the third and fourth Commissioner for Human Rights (hereafter referred to as the “previous” and “current” Commissioners, respectively). The evaluation followed a theory-based and utilisation-focused approach to assess the relevance, effectiveness, efficiency and impact, as well as the internal and external coherence of the Commissioner’s work.

Methodology

3. The evaluation applied a mixed-methods approach to data collection and analysis. In addition to qualitative desk research, two surveys were carried out. One survey was for staff from the Office of the Commissioner (hereafter referred to as the “Office”) and a second survey was with external stakeholders for officials, civil society and individuals in member states, other Council of Europe institutions and international agencies, who had been involved with the Commissioner’s work either directly or indirectly during the period 2017-2023. Semi-structured interviews were conducted with 116 stakeholders in total. The evaluation team conducted two field missions to Italy and Poland and two remote country case studies of Slovenia and the United Kingdom. Case studies were developed for four themes: 1. migration; 2. women’s rights; 3. human rights defenders; and 4. artificial intelligence (AI).

Key findings

RELEVANCE

Key finding 1: the thematic priorities of the Commissioners during 2017-2023 varied over time in response to an evolving context, while retaining a long-term vision. The two Commissioners have addressed a total of over 30 different human rights themes since 2017. Many of the themes, notably migration, women’s rights, inclusion and LGBTI continued across the mandates. An important exception was AI, which the Commissioner started to prioritise in 2019. The planning and execution of activities by the Commissioners were consistent with their mandate.

Key finding 2: country prioritisation by the successive Commissioners shifted from emphasising coverage of member states to a focus on a rapid reaction to rapidly deteriorating human rights situations. Hence, the Commissioner’s choice of country visits and other actions was adjusted accordingly.

COHERENCE

Key finding 3: internally, the Commissioner has been engaging to a varying degree with other Council of Europe institutions while ensuring coherent messaging with the Secretary General, the Committee of Ministers, the Court and the Parliamentary Assembly. The Commissioner’s third-party interventions and Rule 9 submissions have been highly valued as an important contribution

to the evidence base. This relationship has been progressively strengthened during the current mandate.

Key finding 4: in terms of external coherence, the mandates are overall coherent with those international organisations that the Commissioner closely collaborates with. Similarly, interventions of the Commissioner are externally coherent in relation to NHRIs that enjoy a high level of independence and impartiality. However, there is a lack of coherence with NHRIs in member states that lack this independence.

EFFECTIVENESS

Key finding 5: the Commissioners have achieved most of their objectives described in successive Programme and Budget documents. Numbers of country visits and workshops/round tables were lower than anticipated due to a combination of travel restrictions due to the Covid-19 pandemic and prioritisation of rapid response. However, the Commissioner's Office has not invested in defining higher-level results and has limited capacity to monitor the implementation of recommendations by duty bearers. Internal secondments with the European Court of Human Rights and other institutions at the Council of Europe and in member states have emerged as good practices.

Key finding 6: the Commissioners have proven effective in communicating their actions across member states. The Commissioners' interventions helped in raising awareness for duty bearers. The independence, quality and thoroughness of the information gathered by the Commissioner's Office constitute key success factors for reputation and credibility and therefore effectiveness. There is emerging evidence that rapid response and third-party interventions, together with Rule 9 submissions, provided the most meaningful higher-level results.

EFFICIENCY

Key finding 7: the Office of the Commissioner is found to be efficient in view of the resources available and following major internal changes of priority and external shocks over the past years, which was mainly achieved because of a combination of adaptability, resilience and commitment of highly professional staff. A shift in focus to rapid response resulted in reduced capacity in other areas, which put pressure on the management of the Office. The internal structure, working culture and planning practices of the Commissioner's Office are not yet optimised for rapid response to human rights crises while continuing the Commissioner's important work in promoting member states' respect for the values and norms of the Council of Europe. Staff mobility and internal secondments are found to have had a positive effect on the efficiency of work.

IMPACT

Key finding 8: the Commissioner's work highlights the member states' need to fulfil their human rights obligations and raises public awareness of human rights issues. Third-party interventions and Rule 9 submissions are found to have contributed to raising the awareness of decision makers about certain judgments; however, the extent to which they contribute is not possible to establish.

Key finding 9: strategic alliances have proved instrumental to conveying the work of the Commissioner. The Commissioner provided support to human rights defenders and civil society and increased the chances of contributing to impact on rights holders. The Commissioner's advocacy of civil society organisations and human rights defenders has indirectly impacted NHRIs.

Conclusions and recommendations

4. The conclusions of findings for each of the criteria are listed below, followed by conclusions linked to specific recommendations.

5. The Commissioner has successfully developed a reputation as a credible and reliable source for member states, for both government institutions and civil society. The Commissioners have been viewed as a source of highly credible analysis based on an assessment of complex human rights issues in different contexts, thanks in large part to robust analyses by advisers, especially when these analyses were informed by country visits.

6. The shift of focus over recent years to rapid reaction country visits and increased use of third-party interventions and Rule 9 has been viewed positively, especially during times of crises. Because of the Commissioner's reputation, the evidence presented by the Commissioner is seen to have been highly relevant to advancing understanding of the human rights obligations of the member states and giving weight to the voice of the NHRIs and human rights defenders.

7. To ensure the internal coherence of the work that the Commissioner's Office does with the rest of the Organisation, assessing the co-ordination with the Council of Europe Secretary General, the Committee of Ministers and the Parliamentary Assembly remains crucial. The increased use of third-party interventions and Rule 9 submissions has further added to the overall coherence of the Organisation.

8. The work of the Commissioner is found to be coherent with and complementary to other international organisations with a similar mandate. However, these relationships in general were not prioritised and the institution of the Commissioner could gain additional leverage from developing them further.

9. In view of limited capacity and budget, along with the wide geographical and thematic scope, the Commissioners had to prioritise their interventions. They have been able to do this successfully by focusing on specific themes of interest while raising awareness around others.

10. The Commissioner's work has been effective in helping to raise awareness of human rights commitments among external stakeholders. At the same time, the evaluation found only isolated evidence of changes in legislation or behaviour of government institutions following the Commissioner's interventions. More positive results were seen among civil society, where the Commissioner's activities helped raise awareness of specific human rights issues and support advocacy.

11. While external stakeholders, including the Committee of Ministers, have viewed the Commissioner as a credible source of information related to the mandate, government representatives generally perceived communications as biased towards non-government stakeholders. They often expressed a desire to respect human rights but felt that it was difficult to implement the Commissioner's recommendations because of political pressures, lack of concrete guidance or other factors. NGOs and CSOs clearly feel supported by the Commissioner's communications but speak about the frustration at an apparent lack of positive progress in advancing the Commissioner's recommendations.

12. Efficiency has been reinforced by a flexible management and administrative system that can adapt relatively quickly to changed priorities with a greater focus on rapid reaction visits.

13. Future Commissioners and their Office should assess the possibility of redefining the intended higher-level results of their interventions and internally tracking achievements in a systematic way. The Commissioners were successful in raising awareness about Council of Europe

human rights standards. When it comes to improvement in the human rights situation in a broader sense – legislation, procedures, fulfilment of the obligations by the duty bearers – the contribution of the Commissioner is more difficult to discern. Defining outcomes specific to the Commissioner's Office is a complex and challenging task, yet crucial to ensuring to demonstrate results.

Recommendations

R1. Assess the option of defining higher-level objectives and indicators to demonstrate higher-level results.

R2. Conduct an internal functional analysis of the Office, in order to align the organisation of the Office with the priorities of the new Commissioner.

R3. Assess the options with regard to the level of regular structured dialogues with the Secretary General's Office, DG I and DG II in order to make informed decisions on the level of co-ordination that is beneficial and cost-effective.

R4. Assess ways to systematically track the implementation of the Commissioner's recommendations, while keeping in mind higher-level results in Recommendation 1.

R5. Assess the options for piloting an internal secondments scheme to promote coherence with other Council of Europe institutions, such as the Court, while addressing short-term capacity needs.

R6. Assess the level of priority on collaborating with international organisations with a view to increasing international leverage of the institution of the Commissioner.

1. Introduction

14. This is the final report of the evaluation of the institution of the Commissioner for Human Rights of the Council of Europe, commissioned by the Directorate of Internal Oversight (DIO) of the Council of Europe and implemented by Lattanzio KIBS during the second half of 2023. The evaluation aimed to assess to what extent the work of the Commissioner has contributed to encouraging reform measures in the member states and achieving tangible improvements in relation to awareness of and respect for human rights. The report first presents the object of the evaluation and then describes the purpose, objectives and scope of the evaluation. It goes on to outline the evaluation methodology, including a description of the limitations encountered. The following section describes the findings related to each evaluation criterion and main evaluation question and leads to the conclusions and recommendations section, which is followed by a section with the lessons learned identified along the evaluation process.

2. Description of the object of the evaluation

15. The Commissioner for Human Rights is one of the main institutions of the Council of Europe. The initiative for setting up the institution was taken by the Council of Europe's Heads of State and Government at their Second Summit in Strasbourg on 10 and 11 October 1997. On 7 May 1999, the Committee of Ministers adopted Resolution (99) 50,¹ which instituted the Office of the Commissioner and set out the Commissioner's mandate. As laid out in the resolution, the Commissioner is an independent and impartial non-judicial institution that is mandated to promote awareness of and respect for human rights in the 46 member states of the Council of Europe.

16. The Commissioner is elected by the Parliamentary Assembly of the Council of Europe from a shortlist of three candidates drawn up by the Committee of Ministers and serves a non-renewable term of office of six years. In January 2018, the Assembly elected the current Commissioner, Dunja Mijatović, whose mandate officially started on 1 April 2018. She is the fourth Commissioner, succeeding Nils Muižnieks (2012-2018), Thomas Hammarberg (2006-2012) and Alvaro Gil-Robles (1999-2006). Dunja Mijatović's term of office ended on 31 March 2024. The new Commissioner, Michael O'Flaherty, was elected by the Assembly during the January 2024 session and will serve until 31 March 2030.

17. As laid out in Resolution (99) 50,² the Commissioner is mandated to:

- foster the effective observance of human rights, and assist member states in the implementation of Council of Europe human rights standards;
- promote education in and awareness of human rights in Council of Europe member states;
- identify possible shortcomings in the law and practice concerning human rights;
- facilitate the activities of national ombudsperson institutions and other human rights structures;
- provide advice and information regarding the protection of human rights across the region.

18. With its work, the institution of the Commissioner is mandated to encourage reform measures to achieve tangible improvement in human rights promotion and protection. Being a non-judicial institution, the Office of the Commissioner cannot act upon individual complaints, but the

1. [Resolution \(99\) 50 on the Council of Europe Commissioner for Human Rights \(adopted by the Committee of Ministers on 7 May 1999 at its 104th Session\)](#).

2. Ibid.

Commissioner can draw conclusions and take wider initiatives based on reliable information regarding human rights violations suffered by individuals.

19. Given the mandate, the institution works closely with other parts of the Organisation, to avoid duplication and reinforce messages when useful and deemed appropriate. Similarly, it cooperates with a broad range of international and national institutions as well as human rights monitoring mechanisms, leading human rights NGOs, universities and think tanks.

2.1 Main activities of the Commissioner

20. To achieve its objectives, the Commissioner focuses on three main and closely related activities, as supported by the mandate.

- **Country work and dialogue with national authorities and civil society:** the Commissioner carries out visits to member states to monitor and evaluate the human rights situation. More specifically, the current Commissioner seems to choose the countries to be visited according to the most urgent and/or topical issues, taking the broader country contexts into account. During these visits, the Commissioner usually meets with the highest representatives of government such as Heads of State, heads and other members of government, speakers of parliament and presidents of judicial bodies, civil society and national human rights structures. Similarly, the Commissioner talks to individuals with human rights concerns and visits places of human rights relevance, including detention centres, border posts, reception centres for asylum seekers, makeshift settlements, shelters for victims of gender-based violence, institutions hosting persons with disabilities, care homes for older persons, shelters for homeless persons, hospitals, schools, etc. Following the visits, a report or memorandum (or other public document) is addressed to the authorities of the country concerned. These documents provide an assessment of the human rights situation and recommendations on how to overcome shortcomings in law and practice. To follow up on the recommendations made in these documents, the tools more frequently used are letters and meetings with the relevant ministers.
- **Thematic work and advising on the systematic implementation of human rights:** the Commissioner carries out thematic work on subjects central to the protection of human rights in Europe, highlighting emerging issues and setting out a human rights-compliant way to deal with them. This is typically done through the publication of Issue Papers and Recommendations.
- **Awareness-raising activities:** the Commissioner promotes awareness of human rights in member states, mainly by organising and taking part in seminars and events on various human rights themes. The Commissioner engages in permanent dialogue with governments, civil society organisations and educational institutions in order to improve public awareness of human rights standards and to contribute to the debate and the reflection on current and important human rights matters through contact with the media and the publication of periodic articles (Human Rights Comments).

21. In addition to the activities outlined above, the institution of the Commissioner also plays an important role in the Convention system, as well as with respect to supporting human rights defenders³ and national human rights structures.

Role in the European Convention on Human Rights system

3. Human rights defenders – Commissioner for Human Rights (coe.int)

22. **Third-party interventions:** the Commissioner can submit written comments to the European Court of Human Rights and take part in a hearing in any case pending before the Court (this power was introduced under Article 36 § 3 of the Convention by Protocol No. 14, which entered into force in June 2010). The Commissioner's written comments can represent a source of information for the Court since they are based on his/her experience and analysis from his/her country and thematic work on the ground.

23. **Rule 9 submissions:** the Commissioner can address communications to the Committee of Ministers when the latter supervises the execution of the Court's judgments (this possibility was introduced in 2017 when the Committee of Ministers amended its Rules for the supervision of the execution of judgments and of the terms of friendly settlements).

Role of the Commissioner with respect to human rights defenders (HRDs)

24. Support for the work of HRDs, their protection and the development of an enabling environment for their activities lie at the core of the Commissioner's mandate. The Commissioner should assist member states in fulfilling their obligations in this regard by providing advice and recommendations. The Commissioner raises issues related to the working environment of HRDs and the cases of those who are at risk through his/her dialogue with authorities as well as publicly, including through the media. The Commissioner can intervene before the Court as a third party in cases concerning HRDs. Their specific role with regard to HRDs includes meeting them regularly; reporting publicly about their situation; acting on information they provide; intervening in cases where they face difficulties; and working in co-operation with other intergovernmental organisations and institutions for their protection. The Commissioner and his/her Office organise mutual thematic consultations on an annual basis. Close co-operation with UN agencies and regional mechanisms such as the OSCE/ODIHR in supporting HRDs is important.

Role of the Commissioner with respect to national human rights institutions (NHRIs)

25. NHRIs are key partners of the Commissioner who should receive regular information from them, follow their work and bring their problems to the attention of authorities. The Commissioner meets them during country visits and within the context of other activities (seminars, for instance), being regularly invited to take part in NHRIs events.

26. These institutions and their functions, as well as the level of independence vary in different member states, but they are generally called National Human Rights Institutions, Ombudsperson institutions or equality bodies. The Commissioner should have close working relationship with European-level networks of these institutions such as the European Network of National Human Rights Institutions (ENNHRI),⁴ European Network of Equality Bodies (EQUINET)⁵ and European Network of Ombudspersons for Children (ENOC).⁶

2.2 Co-operation with other Council of Europe bodies and entities

27. According to its mandate, the Commissioner co-operates closely with other bodies and entities as an integral part of the collective human rights protection system of the Council of Europe. Examples of interinstitutional relations are given below.

Committee of Ministers

28. The Commissioner holds regular exchanges with the Committee of Ministers (three or four times per year). These exchanges aim at sharing his/her country and thematic work or any other

4. [European Network of National Human Rights Institutions.](#)

5. [European Network of Equality Bodies.](#)

6. [European Network of Ombudspersons for Children.](#)

topical issue that the Commissioner deems appropriate and provide an opportunity for members of the Committee of Ministers to address questions to the Commissioner. The Commissioner also makes Rule 9 submissions to the Committee of Ministers (see above).

Parliamentary Assembly

29. The Commissioner is elected by the Assembly, presents his/her annual report to the Assembly (during its spring session) and holds regular exchanges with the different Assembly committees to address specific human rights issues or participate in side-events.

European Court of Human Rights (the Court)

30. The Commissioner appears before the Court as a third party in hearings held in cases for which written comments have been submitted and participates in the opening of the judicial year. Two Commissioners have so far delivered speeches at the Court's solemn hearings to convey their perspective on human rights issues as well as on the Court's role. The Commissioner maintains an active working relationship with the President of the Court and his/her Office meets regularly with the Court's Registry.

Monitoring bodies and other entities of the Council of Europe

31. The Commissioner meets regularly with monitoring and other bodies of the Council of Europe, such as the Venice Commission, European Commission against Racism and Intolerance (ECRI), European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) or Committee of Social Rights, or with intergovernmental committees, such as the Steering Committee on Media and Information Society (CDMSI), Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI), Steering Committee for Human Rights (CDDH), Gender Equality Commission (GEC) or Steering Committee on the Rights of the Child (CDENF). These meetings aim to help both these bodies and the Commissioner to obtain first-hand information on their respective work and to develop synergies.

Field offices

32. The Office maintains regular contact with the field offices with the aim of exchanging useful information. In addition, field offices support the Commissioner's visits in different ways, depending on the Commissioner's specific needs in the case in question.

Office-level co-operation with Council of Europe entities

33. Advisers and heads of divisions regularly follow the work of other Council of Europe entities, hold meetings with colleagues to share information and priorities, participate in committee meetings or events and exchange information on specific themes selected for country visits during the preparation phase with the aim of feeding into the Commissioner's work and preventing duplication.

2.3 Co-operation with international actors

34. The Commissioner co-operates with a broad range of international and national institutions as well as human rights monitoring mechanisms. The Office's most important intergovernmental partners include the United Nations and its specialised offices, the European Union and the OSCE/ODIHR. The Office also co-operates closely with leading human rights NGOs, universities and think tanks.

United Nations

35. The Commissioner and his/her Office are expected to closely co-operate with the UN institutions, including maintaining regular contact with the High Commissioner for Human Rights and the High Commissioner for Refugees, their offices, the United Nations High Commissioner for Refugees (UNHCR) Representation in Strasbourg and field missions in the Council of Europe member states. The Commissioner meets with the President of the Human Rights Council and has regular exchanges with the Special Procedures mandate holders, in the framework of his/her thematic work on topics such as protection of human rights defenders, freedom of expression and assembly, promotion and protection of human rights while countering terrorism, transitional justice, and sexual orientation and gender identity.

OSCE/ODIHR

36. The Organization for Security and Co-operation in Europe is a key partner and the Office maintains frequent contact with the Office for Democratic Institutions and Human Rights (ODIHR). There are regular interactions with the OSCE Representative on Freedom of the Media and the OSCE High Commissioner on National Minorities, as well as meetings with the Personal Representative of the OSCE Chairman-in-Office on Combating Anti-Semitism and with the Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions. The Commissioner and his/her Office regularly interact with the OSCE field missions in the framework of his/her country work and visits.

European Union

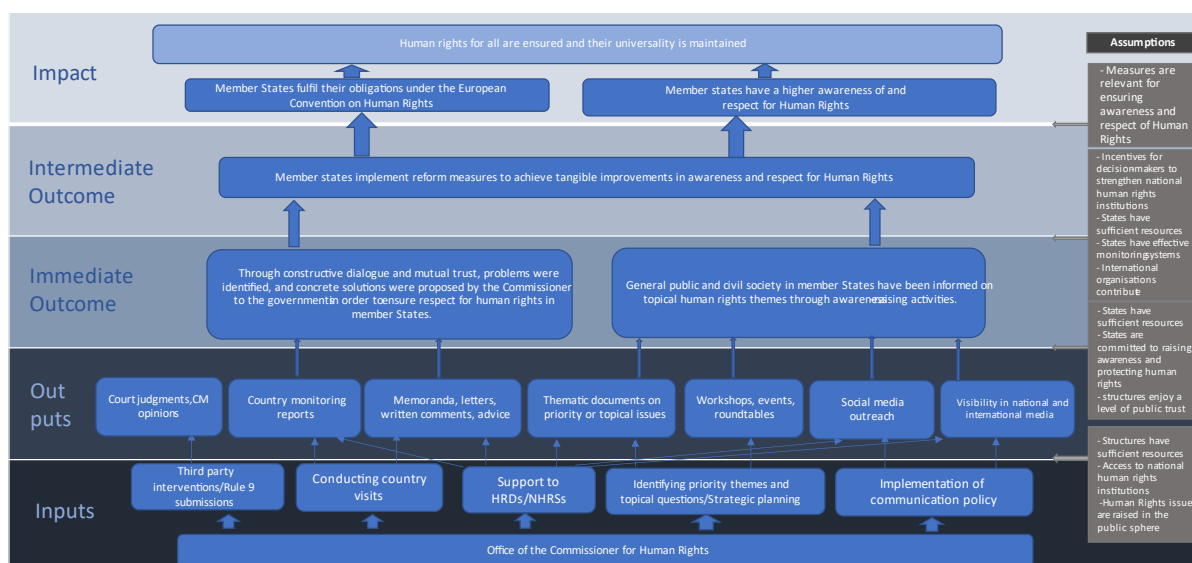
37. At the EU level, the Commissioner and his/her Office collaborate with the European Union Agency for Fundamental Rights (FRA), including through regular meetings between the Commissioner and the Director of the FRA, exchange of information on thematic and country-specific issues and participation in events. Furthermore, there are regular meetings with members of the European Parliament, the European Commission and the European Ombudsman.

2.4 Intervention logic and theory of change

38. There have been two outcome objectives in the Council of Europe Programme and Budget documents during 2018-2023.

- **Expected result 1.1:** through constructive dialogue and mutual trust, problems were identified and solutions were proposed by the Commissioner to governments in order to ensure respect for human rights in member states. The output indicators listed were: 1. country monitoring reports; and 2. memoranda and letters.
- **Expected result 1.2:** the general public and civil society in member states have been informed about topical human rights themes through awareness-raising activities. The output indicators were: 1. thematic documents on priority or topical issues; and 2. workshops, events and round tables.

39. The terms of reference (ToR) for this evaluation specified that the evaluation will be theory-driven using a theory of change (ToC). The Commissioner did not have a formal ToC, but the DIO drew up a draft ToC in the ToR, which was updated during the evaluation (Figure 1) for the purposes of this evaluation, based on the intervention logic described in the Programme and Budget documents covering the period 2018-2025.

Figure 1: Updated theory of change drawn up by the DIO⁷

3. Purpose, objectives and scope of the evaluation

40. The evaluation aims to assess the contribution of the Commissioner in promoting and raising awareness of human rights, facilitating the work of rights-related institutions (i.e., National Human Rights Institutions (NHRIs) or National Human Rights Structures (NHRs) and reform measures at the national level in member states, and providing advice to reinforce protection of human rights across the region.

41. Moreover, in view of the election of the new Commissioner in January 2024, this evaluation represents a valuable learning opportunity for the institution and for the Council of Europe overall, to inform its decision-making needs and provide recommendations for future action.

42. In terms of scope, during the inception phase the evaluation scope was increased to focus on the activities undertaken during the period 2017-2023, from the final year of the third Commissioner Nils Muižnieks (2017) until the penultimate year of the fourth Commissioner's mandate (Dunja Mijatović, 2023). All activities implemented by the Commissioners under the expected results as defined in four budgetary cycles⁸ were thus covered, in addition to reviewing the overall functioning of the Office of the Commissioner for Human Rights.

43. The evaluation aimed at enhancing synergies across the Council of Europe as a whole, while identifying the Commissioner's added value in the Organisation and in a broader international context.

44. The visibility of the Commissioner was another aspect that the team analysed, as well as their capacity to carry out policy dialogue with national authorities at the country level.

45. The specific aim of the evaluation was to assess the relevance, effectiveness and impact, as well as the internal and external coherence of the mandate of the Commissioner in relation to

7. This ToC was updated during the course of the evaluation to reflect elements that were omitted in the original version included in the ToR.

8. Programme and Budget 2016-2017 (starting from 2017), 2018-2019, 2020-2021 and 2022-2025 (up to 2023).

awareness of and respect for human rights in member states. Efficiency was subsequently added as a fifth criterion. The following evaluation questions were answered.

Table 1: Evaluation questions

| OECD/DAC criteria | Evaluation question |
|-------------------|--|
| Relevance | EQ 1. Is the work of the Commissioner relevant for the fulfilment of its mission? |
| Coherence | EQ 2. To what extent are the interventions of the Commissioner coherent (compatible and/or complementary) with the interventions of other internal and external actors in this area? |
| Effectiveness | EQ 3. To what extent has the Commissioner been effective in achieving, or making progress towards achieving, the objectives and expected results during the period 2017-2023? |
| Efficiency | EQ 4. To what extent has the Office of the Commissioner been efficient, that is, attained results in a timely and economic way? |
| Impact | EQ 5. What has been the impact of the work of the Commissioner on member states? |

4. Methodological approach

46. The evaluation was carried out in three phases, as shown in Figure 2 below.

Figure 2: Evaluation phases

| Phases | INCEPTION PHASE | DATA-COLLECTION PHASE | ANALYSIS AND REPORTING PHASE |
|---------------------|---|--|---|
| Tasks | <ul style="list-style-type: none"> • Online start-up meeting • Initial literature and desk review • Development of the evaluation methodology and workplan • Inception interviews (online) • Drafting of the Inception Report • First Reference group meeting | <ul style="list-style-type: none"> • In-depth desk review • Online surveys • Interviews with stakeholders in Strasbourg and online • In-country visits to Italy and Poland • Remote visits to Slovenia and UK • Direct observation • Presentation of preliminary findings | <ul style="list-style-type: none"> • Data analysis and triangulation • Drafting of the Evaluation Report • Second Reference Group Meeting • Finalisation of the Evaluation Report |
| Meetings | <ul style="list-style-type: none"> - Online start-up meeting - Reference group meeting for Inception Report presentation | <ul style="list-style-type: none"> - Regular update meetings | <ul style="list-style-type: none"> - Reference group meeting for evaluation report presentation - Presentation to the Committee of Ministers |
| Deliverables | Deliverable 1: inception report | Deliverable 2: preliminary findings report | Deliverable 3: final evaluation report |

47. The evaluation adopted a theory-based and utilisation-focused approach.⁹ Data collection adopted a mixed-methods approach to ensure relevant qualitative and quantitative data, which involved the following: desk review of relevant documents from the Council of Europe and other

9. A theory-based approach to evaluation uses an explicit theory of change to draw conclusions about whether and how an intervention contributed to observed results. Utilisation-focused evaluation is an approach based on the principle that an evaluation should be judged on its usefulness to its intended users.

stakeholders, key informant interviews, two online surveys, four case studies, a benchmarking exercise and direct observation. Further details are presented in the sections below.

48. Data and information collected were compiled and analysed using Nvivo12 software and organised in the evaluation matrix structured according to key evaluation questions. To guarantee data integrity and accuracy, the team used data validation and triangulation, also involving the reference group and other key stakeholders, to substantiate the analysis and cross-validation. The main data sources, key performance indicators and tools are presented in the evaluation matrix (Appendix 3) and specified for each evaluation sub-question.

49. Media coverage and social media resonance was measured during the latter half of the current Commissioner's mandate using TalkWalker¹⁰ to measure engagement following country visits, publications of thematic reports, resonance on social media, etc. These data were provided by the Office of the Commissioner.

50. Throughout the evaluation process, the team were committed to ensuring confidentiality and anonymity, respect and avoidance of any harm in line with the Council of Europe Code of Conduct for Evaluation. Full details are provided in Appendix 9.

4.1. Key informant interviews

51. A total of 74 individual and group interviews were conducted, involving 116 participants in total. Interviewees were purposively selected to represent the range of stakeholders where the Commissioner was engaging and/or covered by the mandate who had first-hand knowledge of the Commissioner. Interviewees were purposively selected to represent the range of stakeholders engaged by the Commissioner's mandate, as well as those with first-hand knowledge of the Commissioner's work. During country visits, the evaluation team tried as much as possible to meet the same stakeholders as the Commissioner had met during her visits.

52. The evaluation team developed two interview guides (Appendix 4) based on the criteria and sub-questions in the evaluation matrix, one for staff from the Office of the Commissioner and one for external key informants.

53. Table 2 provides a summary of the participants involved and interviews realised during the data collection by stakeholder groups. The total number of interviews conducted (74) exceed the target of 40-50 that was anticipated in the inception phase.

Table 2: Summary of participants and interviews by stakeholder groups

| Stakeholder groups | Number of participants | | | Number of interviews | | |
|---|------------------------|-----------|------------|----------------------|-----------|-----------|
| | Men | Women | Total | In-person | Online | Total |
| Commissioners | 1 | 1 | 2 | 0 | 2 | 2 |
| Office of the Commissioner for Human Rights staff | 9 | 9 | 18 | 8 | 7 | 15 |
| Other Council of Europe staff | 7 | 15 | 22 | 9 | 10 | 19 |
| Permanent representations | 4 | 0 | 4 | 3 | 0 | 3 |
| National authorities | 13 | 13 | 26 | 10 | 3 | 13 |
| International organisations | 6 | 7 | 13 | 5 | 4 | 9 |
| NGOs | 0 | 26 | 26 | 9 | 0 | 9 |
| Media | 1 | 2 | 3 | 2 | 0 | 2 |
| Academia | 0 | 1 | 1 | 1 | 0 | 1 |
| Private sector | 1 | 0 | 1 | 0 | 1 | 1 |
| Total | 42 | 74 | 116 | 47 | 27 | 74 |

10. <https://www.talkwalker.com/>

4.2. Survey

54. Two online surveys were conducted as an opportunity to engage with a wider number of internal and external stakeholders. The first survey (Survey 1) targeted the staff of the Office of the Commissioner, while the second survey (Survey 2) aimed at a broader spectrum of stakeholders collaborating with the Commissioner. The objective was to gather additional insights into key issues explored in the evaluation and ensure coverage of several stakeholders' groups. The relevant questionnaires can be seen in Appendix 4. The surveys were administered through SurveyMonkey and were open for three weeks from 4 to 27 October 2023. After the surveys were closed, the data were treated adhering to the Council of Europe data-protection rules.¹¹

55. Survey 1 collected 24 responses from the Office of the Commissioner staff, a 92% response rate. Of the respondents, 71% had over five years of experience, out of which a quarter (25%) had been staff for over a decade.

56. Survey 2 received a total of 209 entries, but the usable responses for analysis (complete responses) varied depending on the question. The survey was circulated to 593 individuals on the contact list maintained by the Office, representing a range of stakeholders. Nearly half (49%) of Survey 2 respondents were representatives of NGOs, with NHRIs (18%), CSOs (10%), academics (6%), international organisations, journalists, Council of Europe staff (4%) and others constituting the rest. With a 39% response rate, the target reached for Survey 2 responses was judged to be satisfactory for the analysis.

57. Respondents came from 41 countries, with four countries (France, Italy, Serbia and the Czech Republic) representing 31% of the responses. The surveys were available in English and French, but the vast majority (94%) answered the questionnaire in English.

4.3. Thematic case studies supported by country visits

58. Four thematic case studies were undertaken as part of the evaluation to provide concrete examples of different aspects of the Commissioner's work in more depth. The aim of the proposed selection was to choose a representative sample of the initiatives of the institution of the Commissioner for Human Rights during the scoping period (2017-2023). The evaluation aimed to strike a balance to arrive at a representative sample capturing the successes and challenges faced by the Commissioners while identifying lessons learned, trends and emerging issues as appropriate. The case studies focused on: 1. migration; 2. artificial intelligence; 3. protection of Human Rights Defenders; 4. women's rights and gender equality. Three of those selected were proposed based on themes that emerged from preliminary research as priority issues during the scoping period that captured the attention of the two Commissioners. The fourth, AI, was a priority for the current Commissioner and was selected because of its increasing importance in human rights dialogues. Data for case studies were collected through the different tools, including the country visits, which provided concrete examples of relevant activities implemented at country level, in addition to several studies and reports, as well as the Commissioner's newsletter, press review and activity reports. Full case studies are provided in Appendix 1.

59. The evaluators developed a long list of countries to be studied more in depth, either remotely or in person, to support the four thematic case studies above, based on the following selection criteria.

- Thematic issues highlighted by the Commissioner.
- The number of visits and activities conducted by the Commissioner in the country.

11. Full details available here:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680684608>.

- Regional representation.
- Visibility and media presence from the Commissioner’s perspective.
- Profile and modus operandi of the country’s NHRI.
- Logistics constraints, as well as security issues or politically sensitive situations possibly hindering evaluators’ access (as in Ukraine, for example).
- The added value of an in-person field visit over a remote visit.

60. Based on discussions with the reference group considering these criteria, the selection of countries indicated in the table below was agreed upon. In-person country visits were undertaken to Italy and Poland. These trips lasted four days each and involved face-to-face meetings with representatives of the national authorities in the two countries, NGOs and other stakeholders from civil society. The two other case studies were realised remotely for the UK and Slovenia.

Table 3: Selection of countries and related details

| Type of visit | Country | Number of country-specific activities ¹² | Specific themes |
|---------------|----------|---|--|
| In-person | Poland | 10 | Migration, rule of law, women’s sexual and reproductive rights, gender equality, violence against women, LGBTI. |
| | Italy | 7 | Migration and human rights of refugees, asylum seekers and migrants, women’s rights and gender equality, freedom of expression and the safety of journalists, LGBTI (registration and birth certificates of children of same-sex couples). |
| Remote | Slovenia | 3 | Freedom of expression and media freedom, stigmatisation of civil society. |
| | UK | 8 | Weakened human rights protections, children’s rights, Northern Ireland, migration. |

4.4. Direct observation

61. Direct observation on two occasions when the Commissioner appeared in person (an exchange of views with the Committee of Ministers on 4 October 2023 and an exchange of views on the situation of human rights defenders in Europe as part of a presentation to the Parliamentary Assembly Committee on Legal Affairs and Human Rights on 12 October 2023) – which was made possible through the in-person participation of the DIO’s evaluation manager – was equally useful and informative.

4.5. Benchmarking

62. A benchmarking exercise was carried out to help illustrate how the institution of the Commissioner is positioned in comparison to three other international organisations focused on human rights. The criteria for selecting institutions for benchmarking included the mandate of the institution, geographical coverage, membership and size of the institution and the nature of their co-operation and dialogue with national authorities, HRDs and NHRIs.

63. Based on the criteria above, the three institutions chosen were: 1. the European Union including the EU Agency for Fundamental Rights (FRA) and the EU’s Special Representative for

12. Number of specific activities (meetings with high-level officials, country visits and/or missions, country reports, memoranda, letters and statements, as well as third-party interventions and Rule 9 submissions) to the country by the Commissioner during the scoping period.

Human Rights (EUSR HR); 2. the OSCE Office for Democratic Institutions and Human Rights (ODIHR); 3. the United Nations High Commissioner for Refugees (UNHCR).

4.6. Constraints and limitations

64. Throughout the evaluation, a number of methodological limitations or constraints were encountered, which the team aimed to minimise to the greatest extent possible. In fact, many of the challenges listed below had already been identified during the inception phase and steps were taken to mitigate these where feasible. The active support of the DIO in carrying out this evaluation helped to minimise the difficulties that were or could have been encountered.

Table 4: Constraints and their status

| Constraints | Status |
|--|--|
| Complex and multilayered environment. | Satisfactory: efforts to find an appropriate balance of detail to maintain conciseness. |
| Limited observation of internal and external functioning of the Commissioners' work. Diverse stakeholders. | Good: selection of key informants and good response rate to surveys helped the team understand different perspectives. |
| Small size of evaluation team and time constraints. | Satisfactory: adapting as required. Small team size limits in-depth analysis of themes, which resulted in the need to manage expectations. |
| Delayed reception of contact lists. | Good: delayed launch of the two surveys; however, when the survey was closed on 27 October 2023, a satisfactory response rate was achieved. |

5. Key findings

65. This section presents findings related to each of the five evaluation questions.

5.1. EQ1: Relevance

EQ 1.

Was the work of the Commissioner relevant for the fulfilment of the mission?

66. This question examined to what extent the approach was consistent with the mandate and the priorities identified by the Commissioners were relevant to the achievement of the mission.

Finding 1. The thematic priorities of the Commissioners during the period 2017-2023 have varied over time in response to the evolving context, while retaining a long-term vision.

67. The mandate and objectives of the Commissioner are laid out in Resolution (99) 50¹³. With a mandate as a non-judicial institution with the role of promoting education in, awareness of and respect for human rights, as embodied in the human rights instruments of the Council of Europe, the Commissioners have addressed a broad range of human rights themes within this mandate. Since 2017 the two Commissioners have addressed over 30 different human rights themes in their issue papers, speeches, press releases, statements, recommendations, country reports, third-party interventions and Rule 9 submissions and comments.

68. Prioritisation among these themes has been addressed differently by each Commissioner, with the previous Commissioner selecting priority themes based on the analysis of their advisers to identify the most urgent human rights issues across member states, while the current Commissioner

13. [Resolution \(99\) 50 on the Council of Europe Commissioner for Human Rights \(adopted by the Committee of Ministers on 7 May 1999 at its 104th Session\)](#).

has prioritised emerging human rights crises (such as migration), which is also largely due to a rapidly changing political and social landscape in Europe.

69. A review of annual activity reports confirmed that many of the themes addressed by the Commissioners have continued throughout the last two mandates and, in most cases, the mandates of preceding Commissioners. For instance, both Commissioners have continued to raise specific issues on multiple occasions on migration, women's rights, inclusion and LGBTI issues. Of the four themes chosen for the thematic case studies attached as an appendix, only one, artificial intelligence, was not a focus of the previous Commissioner.

70. While there has been continuity in the themes, the hierarchy among these themes has evolved. The previous Commissioner devoted particular attention to persons with disabilities, including persons with intellectual and psychosocial disabilities, addressing their rights to live in the community, legal capacity, inclusive education and treatment in psychiatry.¹⁴

71. A review of activity reports¹⁵ and of country reports¹⁶ showed that the current Commissioner has given more priority to responding to developing human rights crises, notably migration (as the evaluation team observed during their visits to Italy and Poland) and conflict situations while still maintaining awareness of longer-term challenges, ranging from women's rights in eastern Europe to justice and peace issues such as those affecting Crimean Tatars¹⁷ and reconciliation in the region of the former Yugoslavia.¹⁸ In addition, the current Commissioner has repeatedly made efforts to raise awareness about the human rights implications of artificial intelligence.¹⁹ Staff from the Office noted, and this opinion is corroborated by the review of issued recommendations (Figure 3), that certain issues, notably migration, women's rights, AI, LGBTI and environmental issues, took on such important proportions that other themes received less focus. This choice was seen as appropriate by the Commissioner. Staff responses to the survey showed that 18 out of 21 (86%) either strongly agreed (10) or mostly agreed (8) that the Commissioner had identified priorities relevant to their mission.

14. Nils Muižnieks (2017), [Human rights in Europe: from crisis to renewal?](#)

15. Commissioner for Human Rights of the Council of Europe (2023), [Annual activity report 2022](#).

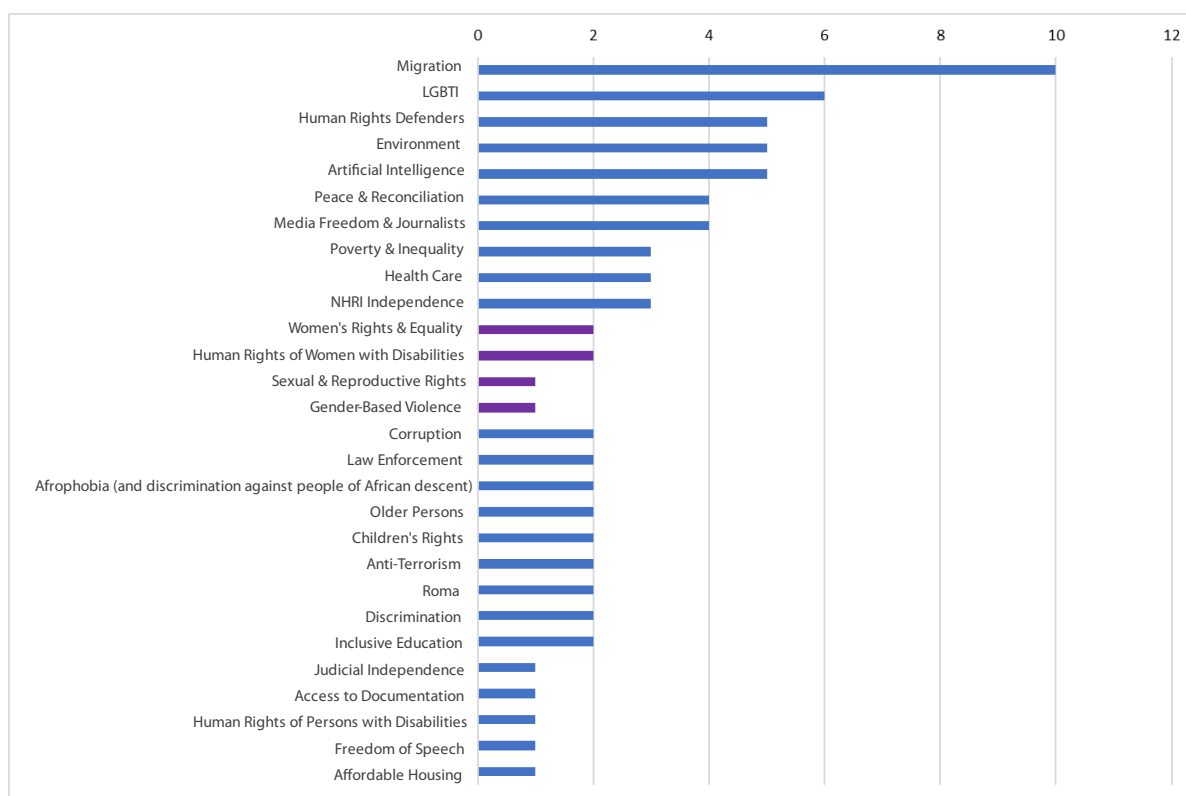
16. See Appendix 12.

17. Commissioner for Human Rights (2023), [Crimean Tatars' struggle for human rights](#).

18. Commissioner for Human Rights (2023), [Dealing with the past for a better future – Achieving justice, peace and social cohesion in the region of the former Yugoslavia](#).

19. Commissioner for Human Rights (2019), [Unboxing artificial intelligence: 10 steps to protect human rights](#); Council of Europe and Commissioner for Human Rights (2023), [Human rights by design – future-proofing human rights protection in the era of AI: Follow-up recommendation](#). Each of the Commissioner's publications was followed up on with a workshop/round table for NHRIs.

Figure 3: Published Recommendations, issue papers and comments by theme (2017-2023)



Source: [Commissioner's website](#), accessed December 2023

72. Promoting human rights education (HRE) is one subject contained within the Commissioner's mandate; however, this has been deprioritised by the Commissioners, probably due to the fact that other parts of the Council of Europe have developed capacities in this area and are now directly tasked with this issue. However, the Commissioner deals with HRE indirectly as a sub-part of awareness raising that supports the broader objective of promoting respect for human rights by member states.

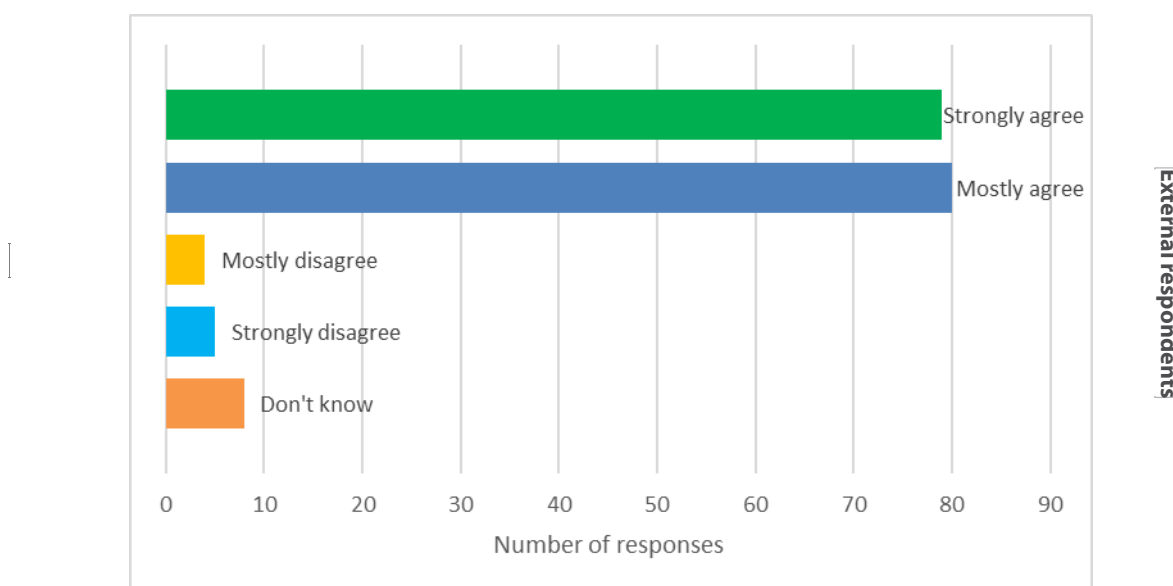
73. The Commissioners further adapted their priorities to the most pressing and structural problems contemporary to their mandate. During the Covid-19 pandemic, the Commissioner switched to focus on the health and isolation risks faced by vulnerable groups. One example of this was to make recommendations on how to make health systems more resilient against pandemics, addressing health inequalities, investing in sustainable public healthcare systems, prioritisation of patients' rights and appropriate treatment of health professionals.²⁰

74. During country visits, the Commissioners mainly prioritised migration and women's rights as human rights themes, which together accounted for over a third of the themes addressed during 2017-2023. Additional details are provided in Appendix 12.

75. Key informants and survey respondents generally viewed the different prioritisation approaches by each Commissioner as appropriate. The results of the surveys showed that 150 out of 166 (90%) external respondents either strongly agreed (73) or mostly agreed (77) that the Commissioner had correctly identified priorities relevant to the mission. Reasons given by respondents who gave lower scores included acknowledging the difficulty of covering multiple human rights themes, and with limited resources, and the shift to focus more on immediate responses to developing human rights crises.

20. Statement by the Commissioner on World Health Day (2022), [Inclusive and resilient health care for all – are we closer?](#)

Figure 4: Priorities identified by the Commissioner were relevant to the mission



Source: survey data

Finding 2. Geographical prioritisation by the successive Commissioners has shifted from emphasising coverage of member states through country visits to a focus on a rapid reaction to rapidly deteriorating human rights situations.

76. While the themes addressed by the two Commissioners were similar, the approach to prioritisation of countries differed. The previous Commissioner made a point of visiting each member state during his mandate. This would have been close to impossible to achieve during the current Commissioner's mandate due to the travel restrictions in place during the Covid-19 pandemic. The Commissioner and her Office adapted to online dialogues fairly quickly.

77. Following Russia's military attack against Ukraine, almost 40% of the Commissioner's country visits were to Ukraine or bordering countries. At the same time, the Commissioner has emphasised that the attention given to Ukraine should not translate into a loss of focus, and she highlighted the need to continue working on the member states' respect for the values and norms of the Council of Europe.²¹

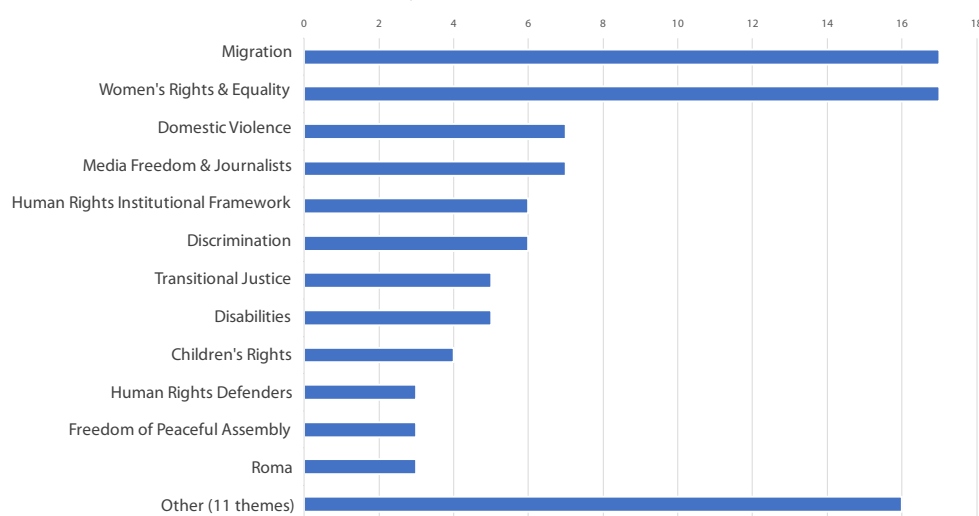
78. Under both Commissioners, visits to member states focused on themes that were relevant to the context of the country while also reflecting overall thematic priorities. A review of the Commissioners' 23 visits to member states²² during the period 2017-2023 found that two themes, migration and women's rights, were a primary focus area during country visits, accounting for over a third of the almost 100 human rights themes addressed during country visits (Figure 5).

21. 4th Summit of Heads of State and Government of the Council of Europe (Reykjavik, Iceland, 16-17 May 2023) – [Follow-up – Input from the President of the European Court of Human Rights, the Commissioner for Human Rights, the Secretary General of the Parliamentary Assembly and the Secretary General of the Congress of Local and Regional Authorities.](#)

22. These were mostly specific country visits and do not include dialogues that the Commissioners arranged on the margins of human rights events the Commissioners attended. The 2020 "visit" to Portugal consisted of a series of online dialogues with concerned stakeholders because of travel restrictions due to the pandemic.

Approximately half of the country visits were organised as rapid response visits, almost all focused on migration.

Figure 5: Thematic focus areas during country visits during the period 2017-2020²³



79. The Commissioner and their staff were always perceived as ready to listen to concerns falling outside of the priorities and to act, when deemed necessary. The rapid reaction by the Commissioner demonstrates her involvement and motivation, but it meant going into difficult environments where sensitivity is critical, so that all parties feel that they are treated equitably, with governments requiring special attention.

Finding 3. Within the mandate, the types of actions chosen by the Commissioners were consistent with their thematic priorities.

80. **The planning and execution of activities by the Commissioners have been consistent with their mandate.** The current Commissioner has increasingly resorted to corresponding specific types of action during her mandate: extending the rapid reaction capacity of her Office; and strengthening the Office's role in securing implementation of the Court's judgments. This is a direct consequence of her choice of thematic priorities (Finding 1), which responded to a fluid environment.

81. **Rapid reaction.** As a result of successive major crises, in practice, priorities were constantly changing. Adjusting the type of action to this situation, rapid reaction visits that were organised at short notice to assess and mitigate developing human rights crises were frequently mentioned by informants as an increasingly important feature during the current Commissioner's tenure. Many rapid reaction visits were made in response to the Russian Federation's military attack on Ukraine that resulted in serious and extensive violations of human rights and international humanitarian law. The visits to Poland's border region with Belarus, related to the human rights of migrants, further exemplifies this trend.²⁴ Yet another example is the visit to Lampedusa in Italy,²⁵ and more

23. Commissioner for Human Rights of the Council of Europe, [Annual activity reports 2017-2022, Quarterly reports for the first three quarters of 2023](#) and press release dated 26 October 2023, [Council of Europe Commissioner for Human Rights concludes her visit to Armenia and Azerbaijan with a focus on the human rights situation of people affected by the conflict in and around the Karabakh region](#).

24. [Commissioner calls for immediate access of international and national human rights actors and media to Poland's border with Belarus to end human suffering and violations of human rights](#), November 2021.

25. Commissioner's statement following her country visit to Italy (2023), [Time for a sharp change in migration policies and effective advancement of women's rights and gender equality](#).

recently to Armenia and Azerbaijan to raise the profile of the human rights situation of people affected by the conflict in and around the Karabakh region.²⁶

82. **Court judgments.** The modified Rule 9 has allowed the current Commissioner to be the first to engage formally in the process of supervising the execution of judgments, and during the period 2020-2023 she submitted eight “Rule 9 submissions” to the Committee of Ministers.

5.2. EQ2: Coherence

EQ 2.

To what extent are the interventions of the Commissioner coherent (compatible and/or complementary) with the interventions of other internal and external actors in this area?

83. The coherence chapter examines how the institution of the Commissioner engages with other Council of Europe entities, and how its external role compares to other international bodies with similar mandates as well as NHRIs.

5.2.1 Internal coherence

Finding 4. The Commissioner has engaged to a varying degree with other Council of Europe institutions while ensuring coherent messaging with the Secretary General, the Committee of Ministers, the Court and the Parliamentary Assembly.

84. The Office of the Commissioner is part of the Organisation, albeit with a high level of autonomy. The mandate of the Office of the Commissioner “takes into consideration in all its activities, as appropriate, the importance of internal and external communication, in close collaboration with the different MAEs concerned”.²⁷

85. Survey results showed that 80% of the staff of the Commissioner’s Office and 85% of external respondents either strongly agreed (33 and 41% respectively) or mostly agreed (44 and 57%) that the work of the Commissioner to address human rights concerns complemented the work of other Council of Europe bodies/entities.

86. The mandate requires the Commissioner to remind member states of their human rights obligations, which gives the Commissioner’s statements a different perspective to the statements of the Secretary General. There are two areas of work where both the Secretary General and the Commissioner have been very active. First, the protection of HRDs is a key responsibility of the Commissioner’s mandate.²⁸ The Commissioner also maintains very close relations with HRDs and advocates on their behalf. The Secretary General also has a mandate to protect HRDs,²⁹ whereby a special mechanism has been set up for HRDs to allow for direct reporting in cases where there have been alleged reprisals against HRDs as a consequence of their interaction with the Council of Europe. Second, following the Helsinki declaration³⁰ in 2019, the Secretary General created a framework for co-operation with civil society.³¹ Recently, a road map document was presented by

26. Council of Europe Commissioner for Human Rights concludes her visit to Armenia and Azerbaijan with a focus on the human rights situation of people affected by the conflict in and around the Karabakh region.

27. Organisation and Mandates of the Secretariat – Organisation (coe.int).

28. Human rights defenders – Commissioner for Human Rights (coe.int).

29. Private Office procedure on human rights defenders interacting with the Council of Europe – Secretary General (coe.int).

30. Declaration marking the 70th anniversary of the Council of Europe.

31. Follow-up to the Helsinki decisions on civil society.

the Secretary General³² and a meeting with civil society was organised in September 2023,³³ which was attended by representatives from the Office of the Commissioner.³⁴ The Commissioner also works closely with civil society and is one of the main points of contact for NGOs in the Organisation, especially those that are subject to persecution.

87. The Reykjavik Summit's conclusions state that member states recommit to the Convention system also by "recognis[ing] the role of the Council of Europe Commissioner for Human Rights and of national human rights institutions and civil society organisations in monitoring compliance with the Convention and the Court's judgments".³⁵

88. The relationship between the Commissioner and the Court has varied considerably over time, from a clear separation of functions to increasing interactions.³⁶ The mandate of the Commissioner in relation to the Court is clear and states that "the Commissioner shall respect the competence of, and perform functions other than those fulfilled by, the supervisory bodies set up under the European Convention on Human Rights or under other human rights instruments of the Council of Europe. The Commissioner shall not take up individual complaints".³⁷

89. The Commissioners have often relied on the Convention standards and the case law of the Court. In some instances, however, recommendations made by the Commissioner have relied on broader standards to go further than some judgments issued by the Court. In the area of migration for instance, the Commissioner has differentiated him/herself from the Court regarding the detention of migrant children.³⁸

90. The Court has frequently made references to the work of the Commissioner. Cross-references between the Commissioner and the Court provide evidence that the two institutions complement each other's work, contributing to judicial dialogue, also reinforcing the findings of the Commissioner in a judicial decision, and in so doing helping the Court to make the Convention a "living instrument".³⁹

91. Considering the Commissioner's third-party interventions before the Court, of which there have been 22 since 2017, the Commissioner's work supports and complements that of the Court. The Commissioner's Office has a thematic adviser dealing with the preparation of third-party interventions, as well as the Court and the Convention in general, but the Court does not have a focal point for the Commissioner's Office. Currently, the channels of communication between the Court and the Commissioner's Office are kept at a formal level, rather than on an operational level.

92. In the Committee of Ministers, the Commissioner can intervene directly by applying Rule 9 submissions, but the Council of Europe Secretariat also takes into account what the Commissioner does outside of Rule 9 submissions. The Commissioner has continuously reminded member states that the non-implementation of court judgments is a shared responsibility. However, in terms of advocating the execution of judgments in member states, the Commissioner is perceived as more

32. [Secretary General's Roadmap on the Council of Europe's Engagement with Civil Society 2024-2027](#).

33. [International Day of Democracy: Secretary General opens the first exchange of views with Civil Society – Portal \(coe.int\)](#).

34. [Opening of the First regular Exchange of views with Civil Society on the occasion of International Day of Democracy – Secretary General \(coe.int\)](#).

35. [Reykjavik Declaration, The 4th Summit of Heads of State and Government of the Council of Europe](#), Appendix IV.

36. Mijatović D. and Weber A. (2020), "The Council of Europe Commissioner for Human Rights and the European Court of Human Rights: an ever-closer relationship", *Quebec Journal of International Law*, 79-97. <https://doi.org/10.7202/1078530ar>.

37. [Resolution \(99\) 50 on the Council of Europe Commissioner for Human Rights](#).

38. *A.M. and Others v. France*, Application no. 24587/12 (12 July 2016).

39. Mijatović D. and Weber A. (2020), "The Council of Europe Commissioner for Human Rights and the European Court of Human Rights: An ever-closer relationship", *Quebec Journal of International Law*, 79-97. <https://doi.org/10.7202/1078530ar>, p. 86.

effective when the arguments made are based primarily on legal grounds, which makes it more difficult to dismiss them on the grounds of being politicised. Others argue that while legal arguments can also come from other parties, the Commissioner is often the only institution that can provide contextual information in an authoritative manner, which is seen as adding value to the submissions.

Table 5: Mandates in relation to the Committee of Ministers and the Parliamentary Assembly

| Criteria | Commissioner for Human Rights | Secretary General |
|---|---|---|
| Mandates in relation to the Committee of Ministers and the Parliamentary Assembly | Address a report concerning a specific matter to the Committee of Ministers or to the Parliamentary Assembly and the Committee of Ministers; 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; submit an annual report to the Committee of Ministers and the Parliamentary Assembly. The Commissioner shall take into account views expressed by the Committee of Ministers and the Parliamentary Assembly of the Council of Europe concerning the Commissioner's activities. The Commissioner may directly contact governments of member states of the Council of Europe; | The Secretary General is responsible to the Committee of Ministers for the work of the Secretariat. Among other things, he shall ... provide such secretariat and other assistance as the Consultative Assembly may require. The budget of the Council of Europe shall be submitted annually by the Secretary General for adoption by the Committee of Ministers. The Secretary General shall refer to the Committee of Ministers requests from the Assembly which involve expenditure exceeding the amount already allocated in the budget for the Assembly and its activities. The Secretary General shall also submit to the Committee of Ministers an estimate of the expenditure to which the implementation of each of the recommendations presented to the Committee of Ministers would give rise. |

93. The Commissioner's added value is being able to react rapidly to emerging human rights violations, compared to the response of larger entities such as the Parliamentary Assembly. Also, another advantage of the Commissioner compared to members of the Assembly is the independence of the mandate, which allows the Commissioner to speak freely with authorities.

94. In addition to the Commissioner's annual activity report, the Commissioner's thematic reports and statements are found by Assembly members to be of added value to their work, such as the reports on the Crimean Tatars in Ukraine⁴⁰ and migration, as well as the statement on the situation in the Lachin corridor.⁴¹ Similarly, during direct observation of the Commissioner's presentation to one of the Assembly committees, the evaluators found that the Commissioner enjoys from Assembly members a high level of respect, interest and appreciation.

95. The Secretariat of the Assembly talks to the staff of the Office of the Commissioner to keep up to date on themes and reports they are working on. In addition, when country visits are planned, the Office of the Commissioner is found to be helpful in exchanging information. However, the process is seen as one-sided by some MAEs, and the view is that the Office of the Commissioner rarely reaches out to other parts of the Council of Europe.

5.2.2 External coherence

Finding 5. Overall, mandates are coherent with those of organisations that the Commissioner closely collaborates with.

96. One of the methods used by the evaluation team to assess external coherence was a light benchmarking exercise focusing on other international organisations with a similar mandate,

40. [Commissioner draws attention to Crimean Tatars' struggle for human rights – Commissioner for Human Rights \(coe.int\)](#).

41. [Restore free movement along the Lachin Corridor and ensure the rapid and unimpeded delivery of humanitarian assistance in Nagorno-Karabakh – Commissioner for Human Rights \(coe.int\)](#).

namely the EU (represented by two institutions – the FRA and EUSR on Human Rights), the OSCE/ODIHR and the UNHCR.⁴² For the purpose of this evaluation, the scope of the exercise is limited to these three organisations only.

97. The mandate of the Commissioner is also to co-operate with other international institutions for the promotion and protection of human rights while avoiding unnecessary duplication of activities. Survey results showed that 90% of the staff of the Commissioner’s Office and 85% of external respondents either strongly agreed (48 and 52%) or mostly agreed (33 and 37%) that the interventions of the Commissioner were externally coherent compared to other international human rights organisations.

Table 6: Mandates of the selected institutions

| Criteria | Commissioner for Human Rights | ODIHR | FRA | EUSR HR | UNHCR |
|--------------------------------|--|---|---|---|--|
| The mandate of the institution | Foster the effective observance of human rights, and assist member states in the implementation of human rights standards; promote education in and awareness of human rights in member states; identify possible shortcomings in the law and practice concerning human rights; provide advice and information regarding the protection of human rights across the region. | Assist OSCE participating states to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society. | Provide independent evidence-based assistance and expertise relating to fundamental rights in the domain of EU law. | Enhance the effectiveness and visibility of EU human rights policy. EUSR HR works on democracy and institution building, rule of law, good governance, human rights and fundamental freedoms worldwide. | Provide international protection to refugees and seek permanent solutions for the problem of refugees. |

98. **The European Union Agency for Fundamental Rights (FRA)** is mandated to provide independent evidence-based assistance and expertise relating to fundamental rights in the domain of EU law. The Commissioner meets regularly with the FRA Director. The FRA has established focal points at both operational and political level within various institutions of the Council of Europe, including the Secretary General, the Court, the Parliamentary Assembly and the Commissioner for Human Rights. The FRA is also an observer on the Committee on Artificial Intelligence (CAI), as is the Commissioner.

99. **The EU Special Representative (EUSR) for Human Rights** has a broad, flexible mandate. The tasks of the Special Representative for Human Rights are to enhance the effectiveness and visibility of EU human rights policy. The main difference in the mandates of the EUSR and the Commissioner is the geographical coverage – EUSR focuses on non-EU member states, while the Commissioner only focuses on Council of Europe member states (see Table 7: Geographical coverage).

100. The **UNHCR** mandate is to provide international protection to refugees and displaced persons seeking permanent solutions for the problem of refugees. In terms of coherence of the

42. The UNHCR was selected later on, as it was originally planned to benchmark the OHCHR. However, because of a low response to a request for interviews by the OHCHR, the evaluation team decided to change the focus of the UN agency to the UNHCR.

mandate with the Commissioner, this is just one of many topics that the Commissioner deals with (see Table 8: Thematic coherence between the organisations). In terms of geographical coverage, the UNHCR differs greatly to the Commissioner in that it operates in most of the countries in the world.

Table 7: Geographical coverage

| | EU | Eastern Partnership | Western Balkans and Türkiye | Central Asia | Rest of the world |
|-------------------------------|----|---------------------|-----------------------------|--------------|-------------------|
| ODIHR | x | x | x | x | |
| FRA | x | | | | |
| EUSR HR | | x | x | x | x |
| UNHCR | x | x | x | x | x |
| Commissioner for Human Rights | x | x | x | | |

101. Co-ordination with the work of the UNHCR at the Council of Europe mostly happens through the office of the UNHCR representative in Strasbourg. When speaking of the main counterparts at the Council of Europe, the UNHCR works more closely with the SRSO on migration when it comes to operational matters, but also with the Office of the Commissioner. In terms of added value, the UNHCR highlights the Commissioners' third-party interventions before the Court as most useful. The UNHCR co-ordinates third-party Interventions with the Commissioner. However, they are always submitted separately.⁴³

102. The **ODIHR** is mandated to assist OSCE participating states to "ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and ... to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society".⁴⁴ In terms of mandate, it is coherent with that of the Commissioner, except that a large focus of the ODIHR is on election observation, which is not within the scope of the Commissioner's work. In terms of membership and geographical coverage, the ODIHR is most similar to the Commissioner. In terms of themes, the ODIHR is also increasingly interested in the work on AI and Human Rights Defenders,⁴⁵ which is in line with the priorities of the Commissioner.

Table 8: Thematic coherence between the organisations

| | Democracy and rule of law | Elections | Non-discrimination and racism and minorities | Roma and Travellers | Children's rights | Migration and refugees | Justice | Freedom of expression and media |
|-------------------------------|---------------------------|-----------|--|---------------------|-------------------|------------------------|---------|---------------------------------|
| ODIHR | x | x | x | x | | x | | |
| FRA | | | x | x | x | x | x | |
| EUSR HR | x | | | | | | | |
| UNHCR | | | | | | x | | |
| Commissioner for Human Rights | x | | x | x | x | x | x | x |

43. Examples of this are the cases *M.A. v. Denmark* on family reunification in 2019 – judgment in July 2021 – and *S.S v. Italy*, on intersection and push back and rescue operations at sea in 2019 – case still pending.

44. Source: Helsinki Document, 1992.

45. [Border Management and Human Rights, OSCE](#).

Finding 6. Interventions of the Commissioner are externally coherent in relation to NHRIs that enjoy a high level of independence and impartiality. However, there is a lack of coherence with NHRIs in member states that lack this independence.

103. The Commissioner's mandate related to NHRIs is to:

- a. provide advice and information on the protection of human rights and prevention of human rights violations. When dealing with the public, the Commissioner shall, wherever possible, make use of and co-operate with human rights structures in the member states. Where such structures do not exist, the Commissioner will encourage their establishment;
- b. facilitate the activities of national ombudsmen or similar institutions in the field of human rights.⁴⁶

104. During the field visits, evidence was found that the issues the Commissioner chooses to focus on are largely the same issues that the NHRIs are focusing on in their respective states. Therefore, the Commissioner's voice is coherent with NHRIs and adds value as a result of the political leverage the Commissioner's role has.

105. The Commissioner is not always seen by NHRIs as their main counterpart owing to the fact that the Commissioner does not deal with individual complaints nor has the mandate to investigate. The Commissioner's actions in relation to NHRIs are therefore more coherent with the work carried out by the ENNHRI. A positive example of joint efforts with the ENNHRI is the third-party intervention in the case of *Duarte Agostinho and Others v. Portugal and 32 other states*.⁴⁷

106. The Commissioner takes into consideration the information produced by NHRIs when reacting to urgent situations with implications for human rights. Both Commissioners saw NHRIs, including ombudsman institutions, human rights commissions and equality bodies, as essential partners in fulfilling the Commissioner's mandate in the dialogue with member states.⁴⁸

107. The survey results showed that a large majority either strongly agreed or mostly agreed that the interventions of the Commissioner were externally coherent with NHRIs. The result was consistent for both the staff of the Office of the Commissioner and for the external respondents. Survey respondents supported this by stating that the Commissioner frequently consults those NHRIs that are perceived as independent and effective and relies on their position/recommendations about specific human rights developments in a given country.

Table 9: Overview of mandates

| Overview of mandates | |
|-------------------------------|---|
| Commissioner for Human Rights | Provide advice and information on the protection of human rights and prevention of human rights violations. The Commissioner shall, wherever possible, make use of and co-operate with human rights structures in the member states. Where such structures do not exist, the Commissioner will encourage their establishment and will facilitate the activities of national ombudsmen or similar institutions in the field of human rights. |
| NHRI Poland ⁴⁹ | The Polish Commissioner for Human Rights has a mandate to safeguard human and civil freedoms and rights, including the implementation of the principle of equal treatment. The Commissioner may carry out an investigation independently, request the examination of a case by competent |

46. Result details (coe.int).

47. <https://ennhri.org/news-and-blog/notice/ennhri-oral-intervention-grand-chamber-of-the-european-court-of-human-rights-duarte-agostinho-others-vs-portugal-others/>.

48. See Commissioners' Annual activity reports for 2017-2022.

49. NHRI chosen as an example following the field visits as part of the thematic case studies.

| | |
|-----------------------------|--|
| | authorities or request the Sejm (lower house of the Polish Parliament) to order the Supreme Audit Office to examine a case. The Commissioner for Human Rights can also approach relevant authorities with proposals for legislative initiatives or for issuing or amending legal acts concerning human and civil freedoms and rights. The Commissioner for Human Rights may also submit motions to the Supreme Court for adopting resolutions to explain legal provisions which, in practice, raise doubts or whose application has resulted in conflicting judicial decisions. Moreover, the Commissioner regularly draws the attention of the Polish Government to international standards for the protection of fundamental rights and for the need of ratification by the state of international instruments. |
| NHRI Slovenia ⁵⁰ | Contributes to the protection and promotion of human rights and fundamental freedoms in Slovenia through the investigation of complaints , submission of opinions and recommendations to any authority, addressing pressing human rights issues, conducting on-sight inspections , conducting human rights education, research, through co-operation with civil society and through its own initiatives and statements on legislative proposals. |
| ENNHRI | Promotes and protects human rights by strengthening, supporting and connecting European NHRIs, leading to more and stronger NHRIs that comply with the Paris Principles , ⁵¹ more effective promotion and protection of human rights and the rule of law; and a stronger and more sustainable network. |

5.3. EQ3: Effectiveness

| | |
|--------------|--|
| EQ 3. | To what extent has the Commissioner been effective in achieving, or making progress towards achieving, the objectives and expected results during the period 2017-2023? |
|--------------|--|

108. As described above, there were two outcome objectives in the Programme and Budget documents during the period 2018-2023.

- **Expected result 1.1:** through constructive dialogue and mutual trust, problems were identified and concrete solutions were proposed by the Commissioner to the governments in order to ensure respect for human rights in member states. The output indicators listed were: 1. country monitoring reports; and 2. memoranda and letters.
- **Expected result 1.2:** the general public and civil society in member states have been informed about topical human rights themes through awareness-raising activities. The output indicators were: 1. thematic documents on priority or topical issues; and 2. workshops, events and round tables.

109. Indicators for the targets, baselines and milestones in the Programme and Budget documents are shown below in Table 10.

50. NHRI chosen as an example following the field visits as part of the thematic case studies.

51. [UN Paris Principles & Accreditation – ENNHRI](#)

Table 10: Programme and Budget targets, baselines and milestones for the Commissioner's Office 2016-2025⁵²

| Indicators | Target 2018-2019 | Baseline 2016 | Target 2020-2021 | Baseline 2019 | Target 2025 | Milestone 2023 | Baseline 2020 | Target 2027 | Milestone 2025 | Baseline 2022 |
|--|------------------|---------------|------------------|---------------|-------------|----------------|---------------|-------------|----------------|---------------|
| Outcome 1 – Through constructive dialogue and mutual trust, problems were identified and concrete solutions were proposed by the Commissioner to the governments in order to ensure respect for human rights in member states | | | | | | | | | | |
| Number of focused Commissioner visits and missions organised in member states | >10 | N/A | 10 | 11 | 30 | 15 | 10 | 36 | 18 | 10 |
| Number of written follow-ups prepared (country monitoring reports, memoranda or letters) | >10 | N/A | 10 | 9 | 30 | 15 | 10 | 36 | 18 | 10 |
| Number of letters sent to member state governments | 5 | N/A | | | | | | | | |
| Outcome 2 – General public, civil society and human rights actors in member states have been informed about topical human rights issues through awareness-raising activities | | | | | | | | | | |
| Number of thematic documents on priority or topical issues published (such as Issue Paper, Recommendation, Human Rights Comment, thematic statement) | >10 | N/A | 10 | 7 | 30 | 15 | 10 | 36 | 18 | 11 |
| Number of activities on topical questions organised (workshops, events or round tables) | ≥ 2 | 2 | 2 | 2 | 8 | 4 | 2 | 12 | 6 | 3 |
| Evidence of articles and interviews published in major and international media | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 4,800 | 2,400 | 1,000 |
| Percentage increase in the number of followers on Twitter | ≥+33 % | 33% | 33% | 43% | | | | | | |
| Number of followers on Twitter | | | | | 115K | 90K | 55K | | | |
| Average Twitter engagement rate | | | | | 1% | 1% | 1% | 120% | 120% | 340% |
| Number of unique monthly visitors to the Commissioner's website | | | | | | | | 35K | 30K | 25K |

Finding 7. The Commissioners have achieved most of their objectives outlined in successive Programme and Budget documents.

110. The targets, baselines and milestones for the Commissioner's Office in the Programme and Budget are presented in Table 11. The Commissioners have achieved most of their targets outlined in successive Programme and Budget documents. Numbers of country visits and workshops/round tables were lower than anticipated as a result of a combination of travel restrictions during the Covid-19 pandemic and the prioritisation of rapid response.

111. This is a great achievement, considering the challenges faced by the institution during the period under consideration: the Covid-19 pandemic curtailed in-person events like country visits for more than two years. The Commissioner and her staff reported that they were able to transition relatively quickly to remote dialogues with member states, and target rates for publication indicators were largely met. By 2023, travel restrictions had been lifted and the evaluation team attributed the non-achievement of some targets for country visits and workshops/round tables⁵³ to

52. Council of Europe Programme and Budget reports covering the period 2016-2027. The shading signify a given indicator did not exist for the given period.

53. It is noted that the Commissioner regularly sat on panels and gave speeches during meetings and workshops organised by other actors. An example was a workshop organised by the Council of Europe on the safety of journalists and media freedom, where the Commissioner expressed support for journalists in Belarus facing repression for their

a combination of the priority given to rapid reaction without a fit-for-purpose structure and protocols to suit a new way of working, as described in more detail in the following section.

Table 11: Progress against Programme and Budget targets 2017-2023⁵⁴

| Indicators | 2017 | | Programme and Budget 2018-2019 | | | Programme and Budget 2020-2021 | | | Programme and Budget 2022-2025 | | |
|---|------------------|-------------|--------------------------------|-------------|-------------|--------------------------------|-------------|-------------|--------------------------------|-------------|-------------|
| | Target 2016-2017 | Actual 2017 | Target 2018-2019 | Actual 2018 | Actual 2019 | Target 2020-2021 | Actual 2020 | Actual 2021 | 2022-2023 milestones | Actual 2022 | Actual 2023 |
| Number of focused Commissioner visits and missions organised each year in member states | | 17 | > 10 | 11 | 11 | 10 | 4 | 7 | 15 | 11 | 8 |
| Number of written follow-ups prepared (country monitoring reports, memoranda, letters, etc.) | | 5 | > 10 | 5 | 6 | 10 | 17 | 23 | 15 | 18 | 18 |
| Number of letters sent to member state governments | | 19 | 5 | 11 | 14 | | | | | | |
| Number of thematic documents on priority or topical issues published (such as issue Paper, Recommendation, Human Rights Comment, thematic statements) | | 21 | >10 | 22 | 24 | 10 | 22 | 20 | 15 | 13 | 18 |
| Number of activities on topical questions organised (workshops, events or round tables) | | 4 | ≥ 2 | 2 | 5 | 2 | 3 | 4 | 4 | 6 | 0 |
| Percentage increase in the number of followers on Twitter | | | ≥ +33% | | | 33% | | | | | |
| Number of followers on Twitter | | | | | | | | | 90 000 | 68 128 | N/A |
| Average Twitter engagement rate | | | | | | | | | 1% | 3.4 | N/A |

112. However, the indicators in the Programme and Budget mainly measure outputs, documents and events, although including the indicators on the Twitter engagement rate has introduced some higher-level indicators.

Finding 8. The Commissioners have proven effective in communicating the identified human rights issues through their actions across member states.

113. By publishing a variety of document types, supplemented by speeches, panel interventions and convening round tables/workshops, the Commissioners have identified, in consultation with a broad range of stakeholders in the member states, recurring and emerging human rights issues, as envisaged in the immediate outcomes of the ToC. Furthermore, the Commissioners have tailored their communication on these human rights issues to different audiences. The diverse range of documents allow for flexibility in responding to evolving human rights situations and engaging with different stakeholders: the Commissioner publishes outputs in different formats to address diverse

work and called for increased support from member states. Source: Commissioner for Human Rights (2023) [33_2nd Quarterly Activity Report 2023](#).

54. Council of Europe Programme and Budget reports covering the period 2016-2027. Green highlights indicate that the target/milestone was met or exceeded; red indicates the target/milestone was not met. Gray signify a given indicator did not exist for the particular period.

aspects of human rights protection and promotion according to the purpose and audience (Table 12).

Table 12: Outputs of the Commissioner 2017-2023

| Outputs | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023* | Total |
|----------------------------------|------|------|------|------|------|------|-------|------------|
| Country visits | 17 | 11 | 11 | 4 | 7 | 11 | 7 | 68 |
| Country report | 4 | 5 | 5 | 1 | 2 | 3 | 4 | 24 |
| Memorandum | 1 | 0 | 1 | 2 | 2 | 2 | 0 | 8 |
| Letters | 19 | 11 | 14 | 14 | 19 | 13 | 14 | 104 |
| Issue papers | 3 | 1 | 0 | 1 | 2 | 0 | 2 | 9 |
| Recommendations | 0 | 0 | 2 | 0 | 0 | 1 | 1 | 4 |
| Human rights comments | 10 | 7 | 7 | 6 | 6 | 5 | 3 | 44 |
| Speeches | 8 | 14 | 15 | 15 | 12 | 7 | 12 | 83 |
| Events | 4 | 2 | 5 | 3 | 4 | 6 | 1 | 25 |
| Third-party interventions | 5 | 4 | 4 | 3 | 4 | 2 | 0 | 22 |
| Rule 9 submissions | 0 | 0 | 0 | 5 | 0 | 2 | 2 | 9 |

Source: evaluation team's analysis based on Council of Europe reports. Note that 2023 data are not final, but as of December 2023.

114. The Commissioner's messages within the Council of Europe and externally, in both formal and informal settings, after these visits were reported to be effective as the Commissioner was able to draw upon multiple sources to describe the situation illustrated with concrete examples. One of the main bodies with which the Commissioners have had regular exchanges is the Committee of Ministers.

115. Communication and visibility are seen as a positive development. The fact that the Commissioner and the staff of the Office were able to communicate effectively at different levels – with senior government officials, NHRIs, academics, regional bodies and NGOs/CSOs – was a notable achievement. This was not one-way communication – the Commissioner and staff of the Office initiated dialogue already equipped with a good understanding of the situation and spent a significant amount of time listening to their counterparts.

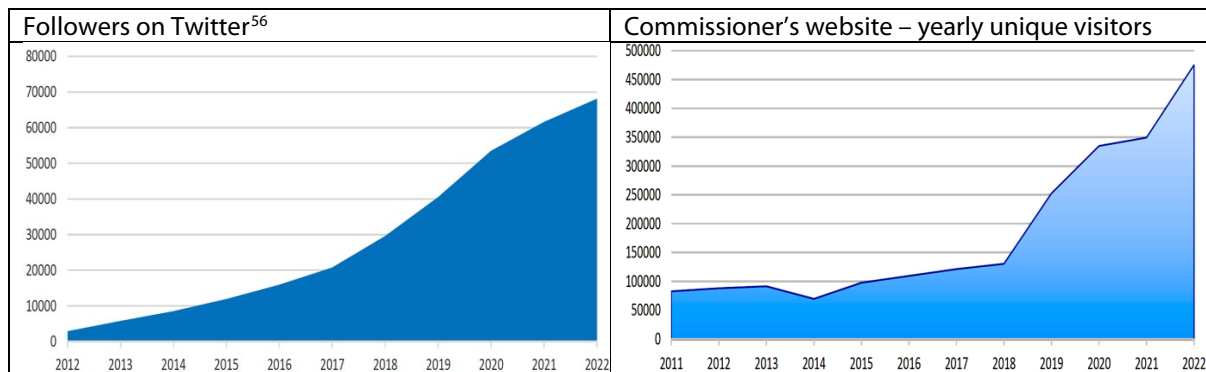
116. As observed in several case study countries, the identification of human rights issues directly contributed to placing, promoting or maintaining new or recurring human rights issue on the agenda of both human rights advocates and decision makers. This was sometimes seen as amplifying the existing attention given by key stakeholders to a human rights issue (rather than triggering this attention). An example was the emphasis placed on the human rights of migrants and asylum seekers in Poland and at the border with Belarus: the interventions of the Commissioner contributed to greater and better-informed attention among human rights advocates, duty bearers and the general public about specific human rights issues affecting migrants and asylum seekers.

117. The survey suggests that the Commissioner's outputs were used to support advocacy work by NHRIs and civil society. One example of this was the round tables organised by the Commissioner during 2019 that highlighted the human rights implications of the growth of AI. Interviews with members of NHRIs and civil society in member states noted that this had helped draw this issue to their attention and led them to understand the need to address AI more systematically to address human rights issues. Interviews and the survey results confirm that the support to NHRIs from the Commissioner received widespread appreciation overall.

Finding 9. Based on the data collected, the Commissioners’ interventions contributed to raising the awareness of duty bearers.

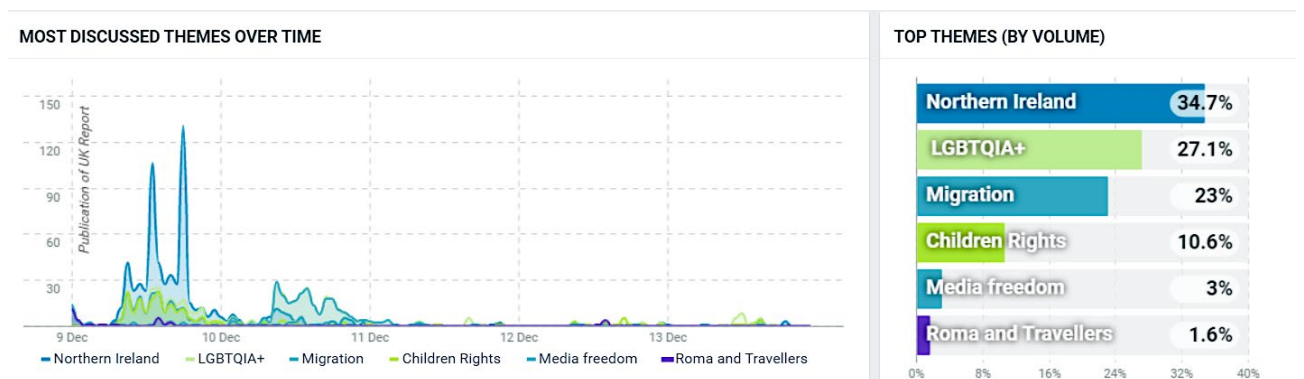
118. The current Commissioner has a media and communications background and was well positioned to expand the Commissioner’s presence on social media to raise visibility of human rights issues. According to the Commissioner’s Office, in 2022 more than 420 000 unique users visited the Commissioner’s website, a record number and an increase of 17% compared with the total number of unique users for 2021 (Figure 6: Commissioner’s social media trends 2011-2022).

Figure 6: Commissioner’s social media trends 2011-2022⁵⁵



119. An example of resonance following the publication of the report covering the Commissioner’s visit to the UK between 9 and 13 December 2022 is shown below in Figure 7. The report collectively generated more than 2 000 comments and reactions, of which almost 9% were in online media and more than 80% on Twitter. Resonance sometimes converted into results, thanks to other actors such as NHRIs an NGOs acting as conduits for the Commissioner’s message.

Figure 7: Example of measurement of resonance following a country visit



Source: Office of the Commissioner

120. However, the culture of the Office can be very legalistic, which does not often translate easily to the general public. A few external respondents to the survey noted the difficulty of getting human rights messages across in public media.

Finding 10. The Commissioner’s Office has not invested in defining higher-level results and has limited capacity to monitor the implementation of recommendations by duty bearers.

55. Source: Commissioner’s Office.

56. The 183 tweets published earned a reach of 2.6 million impressions and 6 519 new followers with a total of 68 128 followers (an increase of 10.5% compared to 2021). The average engagement rate is 3.4%.

121. Due to the nature of the work of the Commissioner, the Office of the Commissioner has not clearly defined higher-level results such as outcomes and impacts. Therefore, the focus has been on outputs and the understanding that producing a statement or a report was often viewed as the end result by the Commissioner, rather than the start of a process of change. Parts of civil society have expectations that recommendations should be systematically followed up by the Commissioner's Office despite the Office not having a monitoring function.

122. Without the clear definition of higher-level results and suitable indicators, it has been impossible to systematically identify which activities have been effective in which contexts and which have not. A 2021 evaluation of results-based management (RBM)⁵⁷ within the Council of Europe agreed that the Office is positioned to measure the results of the Commissioner's activities, concluding that RBM is relevant and applicable for the Commissioner given that expected results (in this case the intermediate outcomes of the ToC) and their contribution to specific intermediate outcomes can be defined *ex ante*. To assess the outcomes of their work, the Commissioner would need to monitor higher-level indicators on human rights obligations or possibly the implementation of its recommendations in the respective member states, for each theme addressed in the Commissioner's reports.

123. However, the Commissioner's mandate does not include a monitoring function and, as described in the following section covering efficiency, the Commissioner's Office as a non-statutory body has limited capacity to follow up their activities on their own. These factors have curtailed the ability of the Office to continuously assess whether the Commissioner's interventions have contributed to any changes in terms of duty bearers' corrective or preventive measures. Since other institutions in the Council of Europe and in member states do have monitoring mandates and, in many cases, a vested interest in monitoring follow-up on recommendations, there is potential for more systematic co-operation.

Finding 11. There is emerging evidence that rapid response and third-party interventions, together with Rule 9 submissions, provided the most meaningful contributions to intermediate outcomes in terms of measures taken by duty bearers.

124. While it was challenging for the evaluation team to assess the contributions of the Commissioners in member states, there is some evidence from narrative contributions to the survey, and from interviews with NGOs and government officials, about which types of actions have yielded results most often.

125. Both Commissioners have emphasised the key role of the effective protection of human rights at national level requiring compliant legislation and effective judicial systems, along with strong independent NHRIs and civil society, with member states remaining the duty bearers under the applicable human rights instruments. Civil society stakeholders' interviews and narrative responses to the survey confirmed that the Commissioners' publications had supported their advocacy efforts, although the same informants found it difficult to provide much evidence to demonstrate that this support had resulted in any change of attitude or practice by duty bearers.

126. External stakeholders were mostly very positive about the increased number of rapid reaction visits, viewing this as added value of the Commissioner's role in promoting human rights. The visits were seen as shedding light on situations where there might be significant risks of human rights violations, thus creating a deterrent to such violations by the duty bearers.

57. DIO (2021), [Evaluation of results-based management in the Council of Europe](#) (coe.int).

127. This perception needs to be analysed in the fluid, difficult context that characterised the period under review. Both Commissioners have had to face major crises that absorbed considerable amounts of energy and resources. The previous Commissioner had to deal with the impacts on human rights of the Syrian refugee reception crisis.⁵⁸ At the end of his mandate, the previous Commissioner highlighted various factors that had affected human rights,⁵⁹ including the impact of the economic crisis on social and economic rights and its effect on conditions of detention, access to justice, the situation of vulnerable groups, and policies and attitudes towards minorities and migrants. Migration movements became increasingly politicised: this politicisation was fuelled by news coverage of tragedies at sea where people drowned and boats sank, putting a spotlight on the lack of European co-operation in search-and-rescue operations and the failure to share responsibility.⁶⁰

128. The current Commissioner has had to deal with the Covid-19 pandemic and the war in Ukraine, which led to the expulsion of the Russian Federation from the Council of Europe. Both crises severely restricted the Commissioner's ability to undertake country visits and confronted the Office with major human rights challenges.⁶¹ Another challenge highlighted by staff from the Office was not having sufficient government support to visit areas in person at the optimal time, an example being the Karabakh region, which the Commissioner was only able to visit in October 2023,⁶² long after the region had been identified as a "grey zone"⁶³ and despite calls for the Council of Europe "not to be blind to the egregious human rights violations actively occurring in the region".⁶⁴

129. Third-party interventions before the Court and use of Rule 9⁶⁵ submitted to the Committee of Ministers were viewed as highly appropriate. Third-party interventions and Rule 9 submissions were found to reinforce the evidence base for human rights cases in the Court, even though the extent to which they contributed to a judgment going in the same direction as the Commissioner's intervention was not assessed. As described in detail below in the findings under impact, another area where the Commissioners have improved outcomes is in their contributions of third-party interventions and, during the current Commissioner's mandate, Rule 9 submissions that have resulted in a relatively high proportion of judgments aligning with the intervention by the Commissioner. The amendment of its Rules for the supervision of the execution of judgments and terms of friendly settlements by the Committee of Ministers in 2017 was a key factor that increased the success of third-party interventions.⁶⁶ Interviewees provided examples of how the Committee of Ministers has used the Commissioners' communications in its assessments on the state of execution of cases and its decisions adopted in those cases. Although not currently systematically documented by the Office, the clearest examples of outcomes were seen from the increased number of third-party interventions and Rule 9 submissions, described in more detail under EQ5. This feedback largely validated the current Commissioner's prioritised modes of action: the

58. [Commissioner for Human Rights of the Council of Europe – Following his visit to Slovenia from 20 to 23 March 2017](#).

59. Nils Muižnieks (2017), [Human rights in Europe: from crisis to renewal?](#) Council of Europe.

60. Commissioner for Human Rights of the Council of Europe (2019), [A distress call for human rights – The widening gap in migrant protection in the Mediterranean: follow-up report](#).

61. Commissioner for Human Rights of the Council of Europe (2022), [Annual activity report 2021](#).

62. [Council of Europe Commissioner for Human Rights concludes her visit to Armenia and Azerbaijan with a focus on the human rights situation of people affected by the conflict in and around the Karabakh region](#).

63. "Grey zones" are blind spots which heighten the risk of human rights violations without the possibility of an independent review or access to effective remedies, limiting the ability of the Council of Europe to ensure member states are fulfilling their obligations.

64. Andrew Forde (2021), [Nagorno Karabakh – stark reminder of the Council of Europe's operational "grey zones"](#), *Opinio Juris*.

65. This possibility was introduced in 2017 when the Committee of Ministers amended its rules for the supervision of the execution of judgments and of the terms of friendly settlements.

66. Amendment 9/4 to the [Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements](#) that authorises the Commissioner to intervene in a procedure before the Court.

Commissioner indeed justified her prioritisation by the anticipated results of rapid reaction and third-party interventions or Rule 9 submissions.

Finding 12. Independence, quality and thoroughness of the information gathered by the Commissioner’s Office constitute key success factors for reputation and credibility, which constitute the necessary conditions for achieving effectiveness at outcome level.

130. The independent mandate and reputation for solid analyses from advisers have reinforced the credibility of the Commissioner and the Office. Independence was one of two areas specifically consistently mentioned as being particularly relevant to the Commissioner’s role. As pointed out by the current Commissioner herself: “This is the uniqueness and the beauty of the mandate. You can examine in detail and make visible a human rights issue. There has never been any attempt whatsoever to influence or interfere with my work.”

131. There was a broad consensus among respondents that the Commissioners have effectively used their independent mandate to benefit from a range of knowledge and experience of the issues among academics, government and civil society to gain a deep understanding of the status of human rights issues in a specific context. This has included consulting with human rights defenders, who are often marginalised and under persecution. Those who had met the Commissioner and their staff during country visits to Italy and Poland noted that, unlike many other visiting missions, the Commissioner had arrived with a sound understanding of human rights issues and the local context. These visits helped to deepen the Commissioner’s knowledge and understanding by listening to different perspectives which were often supplemented by personal observations in the field. This helped to ensure that the Commissioner was viewed as a credible and knowledgeable voice, including during exchanges on human rights crises with the Committee of Ministers.

132. As pointed out by government officials during country visits to Poland and the UK, debriefing sessions with the Commissioner were frank and were concluded with a common understanding of the challenges authorities faced in implementing human rights standards.

133. However, while officials were satisfied that the Commissioner had a good understanding of the context, there was less satisfaction with the published outputs, which they felt were at times biased towards the perspectives of civil society organisations and included recommendations that did not necessarily take into consideration political obstacles to their implementation.

5.4. EQ4: Efficiency

EQ 4.

To what extent has the Office of the Commissioner been efficient, that is, attained results in a timely and economical way?

134. The nature of the work of the Commissioner limits the efficiency question to how well the Office has addressed challenges and bottlenecks.

Finding 13. The Office of the Commissioner showed a high level of adaptability, resilience and staff commitment following major internal changes of priority and external shocks.

135. At the end of 2023, the Office had 27 positions (19 A-grade and 8 B-grade) and a total budget of €3 869 200 (including €331 400 for operational costs) to fulfil the Commissioner’s mandate across 46 (originally 47) member states.⁶⁷

67. The number of member states was reduced from 47 to 46 after the [expulsion of the Russian Federation from the Council of Europe in March 2022](#).

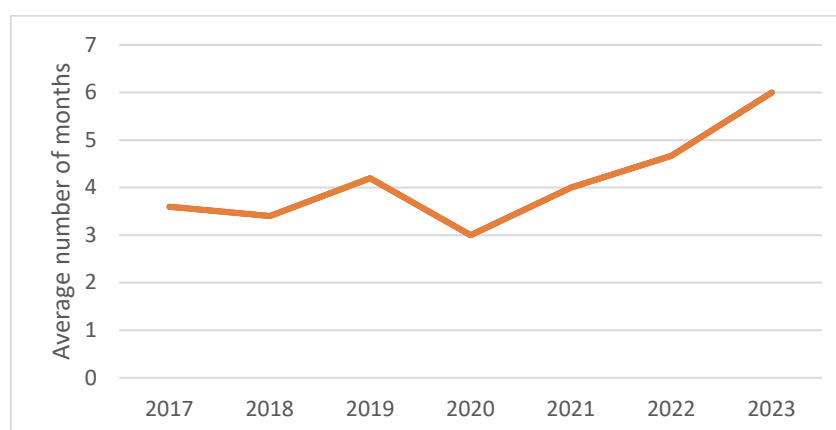
136. During the evaluation period, the Office of the Commissioner underwent several major shifts. Internal factors that affected efficiency were the appointments of a new Commissioner and a new Director of the Office of the Commissioner. External factors included the Covid-19 pandemic and the war in Ukraine. Taking these factors into account, the Office of the Commissioner adapted to shifting priorities successfully.

137. With the arrival of the new Commissioner in 2018, changes were noted in priorities and working methods, specifically resulting in a shift to more rapid response actions and a focus on communication outputs and visibility tools. The changes required the Office to adapt quickly. This has resulted in an increase in the Commissioner's visibility and additional tools for measuring the Commissioner's media presence. However, the shift has also meant that outputs in other areas (such as regular country monitoring and events with human rights defenders and national human rights structures) have been reduced.

138. As an example, the time needed to publish reports following the country visits of the Commissioner has increased progressively since 2020 from an average of four months to over six months during 2023 (see Figure 8: Average time to publish country visit reports 2017-2023). In part, this is also due to the fact that the advisers needed to continue to work on several thematic and country areas, whereas in the past, the country visit reports took priority over other tasks until finalised. Another potential issue to consider is the length of the reports, which raises a question about the added value of lengthy reports and staff time spent on them.

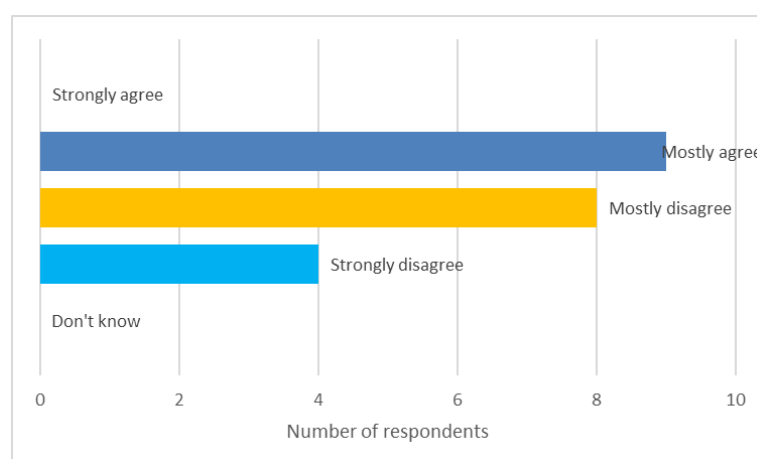
139. Strategic planning is currently not a regular activity of the Office. Some activity planning takes place during annual retreats where staff gather to discuss priorities and plan for the year ahead. These discussions do not seem to have been translated to structural and functional changes that may be required for more efficient adaptation following the shift to rapid reaction activities.

Figure 8: Average time to publish country visit reports 2017-2023



Source: Office of the Commissioner; evaluation team's own calculation.

Figure 9: Survey results: were the resources and capacity sufficient to fulfil the Commissioner's mandate?



Survey 1 Respondents from the Office of the Commissioner for Human Rights

Source: survey data

140. Much of the Commissioner's ability to deal with challenges stems from the independent role underpinned by a flexible administrative system, which allows the Commissioner to rapidly reallocate resources to address emerging human rights crises, for example by arranging country visits at short notice, which is a notable difference compared to the rest of the Organisation. The Office staff reported that this helped adapt to the Covid-19 pandemic, by, for example, setting up procedures to work and consult online.

141. Feedback from interviews and survey respondents in the Office noted the value of having a small team to remain flexible. However, this results in reduced coverage of themes, including those that may be at the top of the Commissioner's priority list. Thus, the benefits of a small, flexible team tend to be negated by the difficulties in sharing the workload, which had an adverse effect on efficiency.

142. Although resources were limited, the delivery of the mandate of the Commissioner's Office has been possible due to the commitment and competence of the staff, who remained adaptable and responsive to changing priorities while also showing considerable resilience.

Finding 14. Staff mobility and secondments improve efficiency of work.

143. Efforts were made to ensure sufficient human resources, through engaging temporary staff who performed to a high standard. However, advisers noted that work with external consultants often created more work rather than help reduce the strain on Office staff, since they lacked familiarity with the Office's functions. Therefore, outsourcing work was not found to improve efficiency.

144. The Office also reported that the procedures for filling vacancies were too slow, resulting in an over-reliance on temporary staff. Yet, positive experiences were reported with internal secondments and transfers of staff from different parts of the Council of Europe, such as the Court, an experience that can be considered as a positive lesson learned.

145. Council of Europe staff described how those who had worked in both the Court and the Office of the Commissioner had helped with selecting the cases in which to intervene, providing guidance on procedures and facilitating processes using their networks, as well as using their knowledge of the structure and ways of working. Similarly, staff who have worked in the Office of the Commissioner and/or other Council of Europe institutions, notably ECRI and the CPT, described how their networks, knowledge of the structure and ways of working of the other institution, as well

as informal exchanges of information, had helped with strengthening their analysis. There was a similar finding concerning NHRIs, where some of the staff had worked before joining the Office. The NHRIs were also a useful source of information for both assessments and monitoring.

5.5. EQ5: Impact

EQ 5.

What has been the impact of the work of the Commissioner on member states?

146. The question examined to what extent the work of the Commissioner has contributed to raised awareness, facilitated the work of the NHRIs and supported the fulfilment of member states' obligations under the European Convention on Human Rights.

Finding 15. Third-party interventions before the Court and Rule 9 submissions to the Committee of Ministers have contributed to judgments delivered in line with the intervention by the Commissioner, as well as their execution; however, the extent to which they contribute is not possible to establish.

147. One of the most visible examples of potential contributions to outcomes and impact is an examination of the results of judgments by the Court in cases where the Commissioner decided to support the evidence base. Almost 60% of cases recorded during the evaluation period where the Commissioner submitted a third-party intervention ("TPI" in the table below) or Rule 9 submission led to a judgment going in the same direction as the intervention by the Commissioner, as well as its execution.

Table 13: Status of the Commissioner's third-party interventions before the Court and Rule 9 submissions to the Committee of Ministers: 2017-2023

| Year: Type | Status of ruling (as of December 2023) | | | | |
|--------------|---|--------------|------------------|----------|-----------|
| | Judgments delivered in line with the position of the Commissioner | Inadmissible | Judgment against | Pending | Total |
| 2017: TPI | 3 | 1 | 1 | | 5 |
| 2018: TPI | 2 | | 2 | | 4 |
| 2019: TPI | 1 | 1 | | 2 | 4 |
| 2020: Rule 9 | 5 | | | | 5 |
| 2020: TPI | 1 | | | 2 | 3 |
| 2021: TPI | 1 | | | 3 | 4 |
| 2022: Rule 9 | 2 | | | | 2 |
| 2022: TPI | 1 | | | 1 | 2 |
| 2023: Rule 9 | 2 | | | | 2 |
| Total | 18 | 2 | 3 | 8 | 31 |

Source: [European Court of Human Rights HUDOC](#); evaluation team's own calculation.

148. An example of a third-party intervention by the Commissioner to the Court is shown below. As noted in this example, it was difficult to assess with certainty which piece of evidence had most influence on the Court's decision. However, the fact that the Commissioner's reports were cited as evidence in the judgment indicates that these pieces contributed to shaping the reasoning of the Court. Its consistency with the Commissioner's analysis suggests that the contribution was significant.

Kovačević v. Bosnia and Herzegovina judgment (Application no. 43651/22)

- On 29 August 2023 the European Court of Human Rights issued a Chamber judgment in the case of *Kovačević v. Bosnia and Herzegovina*, holding by six votes to one that there had been violations of Article 1 of Protocol No. 12 (general prohibition of discrimination) of the European Convention on Human Rights in respect of the applicant's complaints that he could not exercise his active right to vote in elections (Article 3 of Protocol No. 1 to the Convention) for the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina and in elections for the Presidency of Bosnia and Herzegovina. Section President Judge Gabriele Kucsko Stadlmayer issued a dissenting opinion.
- The judgment drew, *inter alia*, from the submission by the Commissioner for Human Rights to the Council of Europe.
- **The Commissioner's work contributed to the finding of the prima facie existence of indirect discrimination leading to a reversal of the burden of proof along with other works cited in support of this conclusion.** It was difficult to assess which interventions had most influence on the Court. However, the fact that the Commissioner's reports are not only cited among the elements on which the applicants rely and the relevant international documents but also in the part of the judgment devoted to the merits indicates that these pieces of work contributed to shaping the reasoning of the Court. Given that the Court's finding is consistent with the Commissioner's analysis, the Commissioner's work was not only considered relevant by the Court but was also likely to have had an impact on the conclusions.

Source: Commissioner's Office

149. At the level of member states and concerning one of the decrees issued by the Civil Court of Florence regarding the case of a Tunisian asylum seeker⁶⁸, the Commissioner's statement⁶⁹ on the MoU is referenced as one of the sources supporting the position that Tunisia's inclusion in the list of safe third countries should be reassessed.

150. Council of Europe staff saw considerable added value in the third-party interventions and Rule 9 submissions by the current Commissioner. As a result of the depth of her understanding of specific contexts and the strong analytical support from her advisers, which often included personally collecting information at the field level during country visits, the Commissioner's contributions were seen as highly credible additions to the evidence base for cases.

151. Other examples included awareness raising that not only informed attitudes but also in some cases was observed to have contributed to changing attitudes. The AI round table in 2019 cited above under EQ4 was one example of this. The Commissioner's contributions were also seen to be a key factor that contributed to changing attitudes towards LGBTI in some member states.

Finding 16. The Commissioner's work highlights the duty bearers' need to fulfil their human rights obligations and raises public awareness of human rights issues.

152. As part of the mandate, the Commissioners have carried out visits to Council of Europe member states to monitor and evaluate the human rights situation.⁷⁰ As described in the relevance section, the Commissioner focuses on various themes based on the specific country context and has assisted member states in fulfilling their obligations in this regard by providing advice and recommendations. The Commissioners have highlighted positive achievements such as progress on meeting women's rights commitments in Europe,⁷¹ including the progress of the Istanbul

68. Safe country of origin - Asylum Information Database | European Council on Refugees and Exiles (asylumineurope.org)

69. European states' migration co-operation with Tunisia should be subject to clear human rights safeguards - Commissioner for Human Rights (coe.int)

70. According to Article 1(2) of the mandate, "the Commissioner shall not take up individual complaints", but the Commissioner can draw conclusions based on human rights violations in individual cases.

71. Commissioner for Human Rights of the Council of Europe (2023), [Annual activity report 2022](#).

Convention and the Council of Europe Gender Equality Strategy.⁷² Despite these success stories, the Commissioners have drawn attention to deteriorating patterns of human rights abuses drawing upon concrete examples from their country visits.⁷³

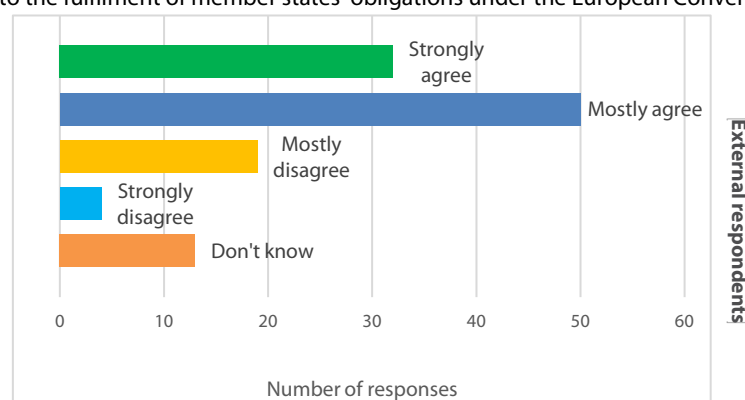
153. Feedback on the degree to which the Commissioner contributed to the member states' fulfilment of their obligations under the Convention was less positive. The Commissioner's role is non-judicial and it has no enforcement mandate.⁷⁴ While the Commissioner can advocate and raise awareness, the actual implementation of recommendations depends on the willingness of member states. During interviews it was often said that the Commissioner's recommendations were not acted upon. A common reflection heard during interviews was: "The Commissioner was a strong voice in affirming views of human rights stakeholders but unfortunately member states do not necessarily follow the Commissioner's advice". NHRIs staff and government officials in member states said that there was little expectation that the Commissioner's meetings with officials during field visits or subsequent statements and reports would have a substantive impact on policies and practices.

154. As there is no system in place to follow up on the Commissioner's actions, there is also limited capacity of the Office to understand and measure impact over time, to gain insights into the impact of different approaches in individual member states and to inform the Commissioner's approach for future activities.

155. When stating their views on this matter in the survey, 81% of the staff of the Commissioner's Office and 90% of external respondents either strongly agreed (25 and 43%) or mostly agreed (38 and 44%) that the Commissioner had contributed to the fulfilment of member states' obligations under the Convention. Conversely, 10% of the staff of the Commissioner's Office and external respondents either strongly disagreed or mostly disagreed. A significant proportion, 10% of the staff of the Commissioner's Office and 30% of external respondents, said they did not know whether the Commissioner had contributed.

156. Narrative comments on the survey and interviews confirmed that the Commissioners reminded member states of their human rights obligations and provided them with recommendations to implement them. However, they acknowledged the limitations of the Commissioner's mandate and noted that member states were usually not willing to act upon recommendations.

Figure 10: Contribution to the fulfilment of member states' obligations under the European Convention on Human Rights



Source: survey data

72. Nils Muižnieks (2017), [Human Rights in Europe: from crisis to renewal?](#) Council of Europe.

73. Commissioner for Human Rights of the Council of Europe (2023), Annual activity report 2022.

74. [Resolution \(99\) 50](#), Article 1, Article 5.2.

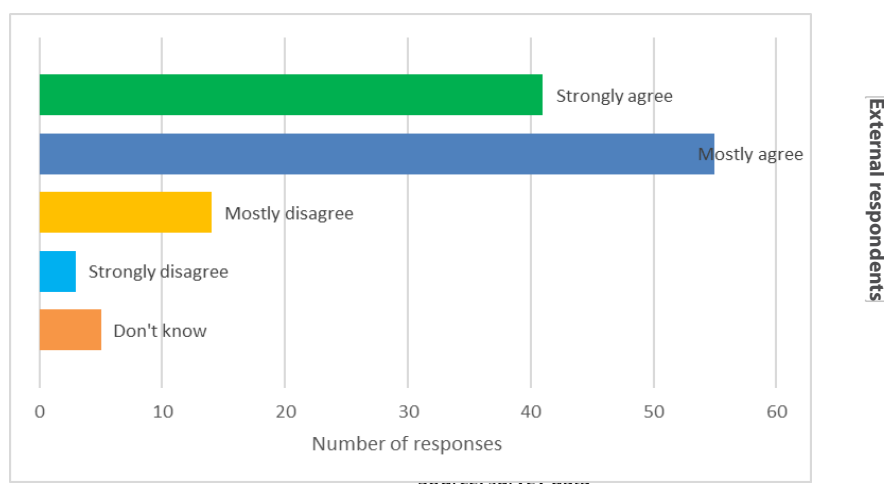
Detailed studies: Slovenia and Poland

Slovenia has advanced in fulfilling Convention obligations in the country following the election of a new government in 2022, including passing legislation to allow greater freedom of association and assembly and freedom of the press.⁷⁵ The changes in legislation were consistent with the Commissioner’s recommendations in her 2021 memorandum on these issues.⁷⁶

Civil society in **Poland** were cautiously optimistic about the results of their national election in October 2023 and were hoping to see a similar positive trend to changing legislation and attitudes so that the country could meet its Convention obligations in line with the recommendations made by the Commissioners in their reports, third-party interventions, letters, press releases and memoranda. The Commissioner was among other institutions, including the EU and the UN, also calling for these changes, so it is not possible to assess their direct influence. At the same time, such examples may become useful references when the political context becomes more open to advice.

157. One of the impact objectives in the draft ToC in the ToR for this evaluation is that “member states have a higher awareness and respect for human rights”. The independent status of the Commissioner was seen by external stakeholders as particular added value in raising awareness, notably in being able to speak out to highlight the shortcomings of national policies and structures that circumvented their international and regional obligations to protect human rights. In terms of impact, however, this increased awareness did not necessarily translate into observable change. At the same time, many civil society stakeholders did acknowledge that they found the Commissioners’ outputs useful in supporting their own advocacy to try and influence change.

Figure 11: Contribution to raised awareness of human rights in member states



158. For awareness raising, responses were relatively positive. When stating their views on whether the Commissioner contributed to respect for human rights in member states, the survey found that 16 out of 21 (76%) of the staff of the Commissioner’s Office and of external respondents either strongly agreed (43 and 47%) or mostly agreed (33 and 52%) (see Figure 11).

75. Global State of Democracy Initiative (2023), [The state of democracy in Europe](#).

76. Council of Europe Commissioner for Human Rights (2021), [Memorandum on freedom of expression and media freedom in Slovenia](#), CommHR (2021)17, 4 June 2021.

Finding 17. The Commissioner provided support to human rights defenders and civil society and increased the chances of contributing to impact on the rights holders.

159. Not having a judicial and monitoring mandate, the Commissioners have relied on other organisations and individuals to voice their support for recommendations in order to fulfil the obligations of member states and promote the Convention standards.

160. Both Commissioners have viewed Human Rights Defenders as critical in persuading member states to uphold and fulfil their obligations. The Commissioners actively engaged with Human Rights Defenders during their country visits while also facilitating their work by highlighting the personal risks they faced and the constraints on their working environments through dialogue and through the media.⁷⁷ Civil society organisations were generally satisfied with the Commissioner's outputs and willingness to listen when they voiced their concerns. They felt that the resulting reports and statements validated their work and provided not just additional evidence for their advocacy work but also a degree of moral support.

Finding 18. The Commissioner's advocacy of civil society organisations and human rights defenders has had an indirect impact on NHRIs.

161. It is not possible to determine the impact that the Commissioner's work has had on strengthening the capacity of NHRIs, despite some evidence which suggests a positive trend. An evaluation of the Council of Europe's support for the Convention at a national level found that when the Commissioner's recommendations were taken up by civil society this provided political support to the ombudsperson's offices and other national human rights structures.⁷⁸

162. When asked to state their views on whether the Commissioner contributed to building the capacity of NHRIs, including the provision of advice, tools and guidance, 64 out of 110 external respondents to the survey either strongly agreed (22) or mostly agreed (42). Ratings of their own contribution by staff from the Commissioner's Office were slightly higher, with 17 out of 21 of the staff from the Commissioner's Office agreeing.⁷⁹

163. Several examples of such a contribution, provided in narrative responses to the survey and during interviews, included providing evidence in order to reshape the approach of the national human rights structures and raising awareness of NHRIs that helped position them to participate in an informed dialogue on AI.

164. The statistic that stands out in the figure 11 is the relatively high proportion of those that "don't know" what the impact of the Commissioner's work with NHRIs has been. A significant proportion – 33 out of 110 external respondents, and three out of 21 staff in the Commissioner's Office – said they did not know whether the Commissioner had contributed. The evaluation team's judgment was that this indicated a lack of internal and external visibility of the Commissioner's impact.

165. The survey also found that 58 out of 88 external respondents either strongly agreed or mostly agreed that the Commissioner has been building the capacity of human rights defenders.

166. Interviews with long-serving Council of Europe staff noted that in the early years Commissioners had given more priority to NHRIs but this had since evolved to more focus on civil

77. Commissioner for Human Rights of the Council of Europe (2022), [Annual activity report 2021](#).

78. DIO (2017) [Evaluation of the effectiveness of the Council of Europe support to the implementation of the ECHR at national level](#).

79. Note that a perception bias by respondents about the contribution of their own work is possible. It would be a concern if there were significant differences between staff of the Office and external respondents' responses but there were no substantive differences in response rates in this case.

society. While this is understandable, particularly in member states where NHRIs are disempowered or non-existent, NHRIs need to be nevertheless adequately recognised as an important stakeholder in strategising capacity building. This need was articulated in a 2017 workshop convened by the Commissioner described in the text box below.

Missed opportunity for impact? – NHRAPs

The previous Commissioner had convened a workshop on national human rights action plans (NHRAPs).⁸⁰ While participants welcomed the support for NHRAPs by international organisations such as the OHCHR, FRA, Council of Europe and UNDP, they noted during the workshop that existing guidance was outdated and did not fully consider learning that was emerging from the implementation of NHRAPs. It was suggested that further peer-to-peer exchanges of experience, such as that facilitated through the Commissioner's workshop, be organised every two years. While the Commissioners for Human Rights had resolutely promoted NHRAPs from 2007 to 2017, the focus on NHRAPs had not been continued. The FRA has since established a dedicated working party on NHRAPs.⁸¹

6. Lessons learned

167. The following are the main lessons learned that have emerged from this evaluation and that may be useful to the staff of the Office of the Commissioner for Human Rights and the next Commissioner.

- 1) Feedback from key informants and analysis of internal coherence highlighted the importance of maintaining a relationship of trust and effective communication between the Secretary General, the Committee of Ministers and the Parliamentary Assembly and the Commissioner.
- 2) The added value of rapid reaction visits to address emerging human rights crises was widely acknowledged as one of the two main advantages of the Commissioner (the other being independence). However, as rapid reaction was prioritised, other areas of the Commissioner's work were delayed. Given that rapid reaction is likely to continue to be a core area of the Commissioner's work, it will be important to adapt the structure, modus operandi and measurement of results accordingly.

7. Conclusions

168. The conclusions of findings for each criterion are listed below, followed by conclusions linked to specific recommendations.

169. The Commissioner has successfully developed a reputation as a **credible and reliable source for member states**, for both government institutions and civil society. The Commissioners have been viewed as a source of highly credible analysis based on an assessment of complex human

80. Commissioner for Human Rights (2017) Workshop on the Implementation and Impact of National Human Rights Action Plans. Council of Europe, 2 June 2017. Conclusions.

81. Sébastien Lorion (2022), National human rights action plans: an inventory, part 1: norm diffusion and state practice, the Danish Institute for Human Rights.

rights issues in different contexts, thanks in large part to robust analyses by advisers, especially when these analyses were informed by field visits.

170. The shift of focus over recent years to **rapid reaction country visits and increased use of third-party interventions and Rule 9** has been viewed positively, especially during times of crises. Because of the Commissioner's reputation, the evidence presented by the Commissioner is seen to have been highly relevant to advancing the understanding of the human rights obligations of the member states and giving weight to the voice of the NHRIs and human rights defenders.

171. To ensure the **internal coherence** of the work that the Commissioner's Office does with the rest of the Organisation, assessing the **co-ordination with the Council of Europe's Secretary General, Committee of Ministers and Parliamentary Assembly** remains crucial. The increased use of third-party interventions and Rule 9 submissions has further added to the overall coherence of the Organisation.

172. The work of the Commissioner is found to be **coherent and complementary** with other international organisations with a similar mandate. However, these relationships in general were not prioritised, and the institution of the Commissioner could gain additional leverage from developing them further.

173. In view of **limited capacity and budget** along with the wide geographical and thematic scope, the **Commissioners needed to prioritise** their interventions. They have been able to do this successfully by focusing on specific themes of interest while raising awareness around others.

174. The Commissioner's work has been effective in **helping to raise awareness of human rights commitments** among external stakeholders. At the same time, the evaluation found only isolated evidence of changes in legislation or behaviour of government institutions following the Commissioner's interventions. More positive results were seen among civil society, where the Commissioner's activities helped raise awareness of specific human rights issues and support advocacy.

175. While external stakeholders, including the Committee of Ministers, have viewed the Commissioner as a credible source of information related to the mandate, government representatives generally perceived communications as biased towards non-government stakeholders. They often expressed a desire to respect human rights but felt that it was difficult to implement the Commissioner's recommendations owing to political pressures, lack of specific guidance or other factors. NGOs and CSOs clearly feel supported by the Commissioner's communications but speak about the frustration with an apparent lack of positive progress in advancing the Commissioner's recommendations.

176. **Efficiency** has been reinforced by a flexible management and administrative system that can **adapt relatively quickly to changed priorities** and places greater focus on rapid reaction visits.

177. Future Commissioners and their Office should consider **better defining the intended higher-level results of their third-party interventions** and internally track the achievements in a systematic way. The Commissioners were successful in **raising awareness** about the Council of Europe's human rights standards. When it comes to improvement in the human rights situation in a broader sense – legislation, procedures, fulfilment of the obligations by the duty bearers – the contribution of the Commissioner is more difficult to discern. Defining outcomes specific to the

Commissioner's Office is a complex and challenging task, yet crucial to ensure the demonstration of results.

8. Recommendations

| No. | Level | Recommendations | Addressees | Timeline | Benefit |
|-----|-------------|--|-----------------------|-------------|--|
| 1 | Strategic | Assess the option of defining higher-level objectives and indicators to demonstrate higher-level results. | Commissioner's Office | Mid 2025 | Ability to demonstrate higher-level results and possibly the impact of the work of the Commissioner. |
| 2 | Strategic | Conduct an internal functional analysis of the Office, in order to align the organisation of the Office with the priorities of the new Commissioner. | Commissioner's Office | Mid 2025 | Office structure matches the priorities of the Commissioner. |
| 3 | Operational | Assess the options with regard to the level of regular structured dialogues with the Private Office of the Secretary General, DG I and DG II in order to make informed decisions on the level of co-ordination that is beneficial and cost-effective. | Commissioner's Office | Mid 2025 | Improved coherence through internal communication and co-ordination. |
| 4 | Operational | Assess ways to systematically track the implementation of the Commissioner's recommendations, while keeping in mind the higher-level results in Recommendation 1. | Commissioner's Office | End of 2025 | Ability to demonstrate higher-level results and possibly the impact of the work of the Commissioner. |
| 5 | Operational | Assess the options for piloting an internal secondments scheme to promote coherence with other Council of Europe institutions, such as the Court, while addressing short-term capacity needs. | Commissioner's Office | End of 2025 | Building on the established best practice, enhancing interoperability and coherence. |
| 6 | Strategic | Assess the level of priority on collaborating with international organisations with a view to increasing the international influence of the institution of the Commissioner. | Commissioner's Office | End of 2025 | Increasing the visibility and impact of the Commissioner; sharing good practices; mutual learning. |

Appendices

Link to Volume II – Appendices: <https://rm.coe.int/native/1680b1963f>

This evaluation examines the contribution of the institution of the Council of Europe Commissioner for Human Rights to promoting human rights, supporting reforms, and providing advice in member states during the period from 2017 to 2023, encompassing the mandates of the third and fourth Commissioners.

As a key institution of the Council of Europe, the Commissioner is mandated to promote the observance of human rights, assist member states in implementing Council of Europe standards, facilitate national human rights institutions, and provide guidance on human rights protection.

The evaluation has found that the Commissioner has established a strong reputation as a strong voice and a credible source of analysis for both member states and civil society, particularly through country visits and third-party interventions before the European Court of Justice. The recent shift toward rapid reaction visits and an increased number of submitted communications before the Committee of Ministers has been positively received, enhancing the Commissioner's impact in times of crisis. While there has been success in raising awareness of human rights issues, particularly among civil society, evidence of legislative or institutional change remains limited. The evaluation suggests that future Commissioners should re-assess intended high-level results and focus on systematic tracking of achievements to achieve a greater impact.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.