

Contribution to European Commission's Rule of Law report

2025



UNITED NATIONS
HUMAN RIGHTS
Regional Office Europe

RULE OF LAW & HUMAN RIGHTS

The 'rule of law' is a concept at the heart of the United Nations' mission. It refers to a principle of governance which is consistent with international human rights standards ([S/2004/616](#)). There is no rule of law within societies if human rights are not protected and human rights cannot be protected in societies without a strong rule of law. This interlinkage is reiterated by the UN Secretary-General in his [New Vision for the Rule of Law](#): *"Human rights and the rule of law are mutually reinforcing – the advancement of the rule of law is essential for the protection of all human rights, and human rights are central to the rule of law."*

The Office of the UN High Commissioner for Human Rights (OHCHR), also known as UN Human Rights Office, is mandated by the UN General Assembly to promote and protect the enjoyment and full realization, by all people, of all human rights. As part of its mandate, OHCHR works to mainstream human rights to strengthen the rule of law ([Management Plan 2024 - 2027](#)).

Established in 2009, OHCHR Regional Office for Europe (ROE) aims to advance the protection and promotion of human rights in the European Union and its member States. ROE works to mainstream international human rights standards to strengthen the rule of law in the EU by engaging in and contributing to the European Commission's Rule of Law Report. ROE furthermore promotes the UN human rights mechanisms and processes by giving their work visibility at the regional level.

OHCHR ROE'S CONTRIBUTION

The contribution by OHCHR Regional Office for Europe (ROE) is grounded in the Universal Declaration of Human Rights and nine international human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child (CAT)
- Convention on the Rights of Persons with Disabilities (CERD)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED)

The current submission consists of a compilation of findings and recommendations contained in reports of UN international human rights mechanisms including human rights treaty bodies, special procedures and the Universal Periodic Review of the UN Human Rights Council. It also includes statements and reports by the UN High Commissioner for Human Rights and his Office.

UN HUMAN RIGHTS MECHANISM

Each of the nine international human rights treaties creates a **human rights treaty body or committee of independent experts** to monitor the implementation of the provisions of the treaty. With the support from OHCHR, the treaty bodies:

- consider reports submitted by State parties detailing how they are implementing the treaty;
- adopt general comments interpreting the treaty provisions, and organize discussions on themes related to the treaties; and
- consider complaints (communications) from individuals alleging that their rights have been violated by a State party, provided that the State has accepted the complaints procedure.

The **UN Human Rights Council (HRC)** is a subsidiary body of the UN General Assembly and the main intergovernmental body within the UN responsible for human rights. It meets at the UN Office at Geneva in three regular sessions each year, and may convene special sessions to respond to urgent human rights situations. The HRC benefits from substantive, technical, and secretariat support from OHCHR.

The **special procedures of the UN Human Rights Council** are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. As of November 2024, there are 46 thematic and 14 country mandates. With the support of OHCHR, special procedures undertake country visits, act on individual cases of alleged violations and concerns of a broader nature by sending communications (letters of allegation) to States and other entities; contribute to the development of international human rights standards; and engage in advocacy.

The **Universal Periodic Review (UPR) of the UN Human Rights Council** is a State-led mechanism that conducts a peer review of the human rights situation of each UN Member State once every 4.5 years. It is carried out by the UPR Working Group of the Human Rights Council. In each review, the State under review reports on the actions it has taken to improve its human rights situation and overcome challenges to the enjoyment of human rights. It also receives recommendations from UN Member States for improvement. In addition to the national reports of States under review, the UPR is informed by compilations of stakeholder information and United Nations system reports.

In recent years, States have established **National Mechanisms for Implementation, Reporting and Follow-up (NMIRF)**, some of whom with the technical assistance of UN Office of the High Commissioner for Human Rights (OHCHR). This mechanism, which is often based within the ministry of foreign affairs, has a mandate which includes following-up on all treaty body obligations, UPR recommendations, as well as recommendations from other international and regional human rights mechanisms, and generally works closely with government ministries, national human rights institutions and civil society organizations. (See: [National Mechanisms for Reporting and Follow-up: A Study of State engagement with International Human Rights Mechanisms](#); [A Practical Guide to Effective State Engagement with International Human Rights Mechanisms](#))

The **Office of the UN High Commissioner for Human Rights (OHCHR)** also known as **UN Human Rights Office** is the main human rights entity of the UN to protect and promote all human rights for everyone everywhere. The High Commissioner for Human Rights leads OHCHR. He is the principal human rights official of the United Nations.

INSIDE THE CONTRIBUTION

AUSTRIA

- Period of contribution: January - December 2024
- Contents of contribution:
 - The Committee against Torture (CAT) adopted its concluding observation on Austria ([CAT/C/AUT/CO/7](#)) on 1 May 2024 and the report was published on 12 June 2024.
- Forthcoming relevant information (January - May 2025): N/A
- Resources:
 - [Rule of Law in Europe | OHCHR](#)
 - OHCHR country page - [Austria](#)
 - [Universal Human Rights Index \(UHRI\)](#) allows you to explore over 230.000 observations and recommendations made by the international human rights protection system (treaty bodies, special procedures and the Universal Periodic Review)

Pillar I: JUSTICE SYSTEM

There is no true respect for the rule of law without a judicial power guaranteeing compliance therewith. Judges guarantee compliance with laws and with it the reality of democratic coexistence. The duty to promote equality among all persons, especially to ensure that everyone has the right to access justice on an equal basis with others, rests with the judiciary. Guaranteeing access to justice is indispensable to democratic governance and the rule of law, as well as to combating inequality and exclusion.

Respecting the rule of law through fostering the separation of powers and the independence of justice ensures protection of human rights. The judiciary is the ultimate guarantors of human rights. However, at the same time, judges, prosecutors and lawyers are subject to attacks and violations of their rights, including threats, intimidation, external interference in conducting their professional activities, arbitrary detention, prosecution, and killings. These attacks threaten the impartiality and independence of the judiciary and the legal profession and in turn, deter their role as guarantors of human rights and the rule of law.

For more info:

- [Basic Principles on the Independence of the Judiciary](#)
- [Human rights in the administration of justice: a manual on human rights for judges, prosecutors and lawyers](#)
- [International principles and guidelines on access to justice for persons with disabilities](#)
- [General Recommendation No. 33 on women's access to justice \(CEDAW/C/GC/33\)](#)
- [Special Rapporteur on the independence of judges and lawyers](#)

Quality of justice – accessibility of courts (legal aid)

- While taking into account the procedural safeguards set forth in domestic legislation and the revised internal instruction of the Federal Ministry of the Interior on executive and operational matters, criminal investigation and on-call legal services, which imposes an obligation on the police to delay questioning to allow a suspect's lawyer to arrive at the place of interrogation, the Committee against Torture is concerned about reports that, in practice, the presence of a lawyer during police questioning, free of charge, is still not available to all detained adults who cannot afford to pay for a lawyer themselves. ([CAT/C/AUT/CO/7, para. 14](#))
- The State party should ensure that all fundamental legal safeguards are guaranteed, in practice, for all detained persons from the outset of their deprivation of liberty, in particular the right to be assisted by a lawyer, including before and during the interrogation stages, and, if applicable, to be provided with free legal aid. The State party should continue to provide adequate and regular training for those involved in detention activities on legal safeguards and to monitor compliance and penalize any failure on the part of officials to comply. ([CAT/C/AUT/CO/7, para. 15](#))

Pillar II: ANTI-CORRUPTION

Corruption has a destructive effect on State institutions and it undermines the functioning and legitimacy of institutions and processes, the rule of law and ultimately the State itself. In particular, corruption effects on the capacity of States to respect, protect and fulfil human rights particularly of those persons and groups in situation of vulnerability and marginalization.

Corruption pose a major challenge to many societies as they divert public revenues and cripple public budgets that should provide healthcare, housing, education, and other essential services, they undermine States' ability to meet their minimum core obligations and their pre-existing legal obligations to maximize all available resources to respect, protect and fulfil human rights.

For more info:

- [Corruption and human rights | OHCHR](#)
- [OHCHR Key messages on the negative impact of corruption in the enjoyment of human rights](#)

There is no relevant information under this pillar for the coverage period.

Pillar III: MEDIA FREEDOM

Free, independent, plural and diverse media are a core component of the right to freedom of expression, a cornerstone of democratic societies and plays an essential role in strengthening the rule of law. Journalists and the media are crucial to ensure transparency and accountability for public and governmental authorities.

For more info:

- [OHCHR and the safety of journalists and the issue of impunity](#)
- [Special Rapporteur on freedom of opinion and expression](#)
- [General comment No.34 on Article 19: Freedoms of opinion and expression \(CCPR/C/GC/34\)](#)

There is no relevant information under this pillar for the coverage period.

Pillar IV: CHECKS AND BALANCES

Civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including by: (1) accessing information; (2) engaging in dialogue; (3) expressing dissent or disagreement, and (4) joining together to express their views. An open and pluralistic civic space that guarantees freedom of expression and opinion as well as freedom of assembly and association, is a prerequisite for making development and peace sustainable.

For more info:

- [OHCHR and protecting and expanding civic space](#)
- [Special Rapporteur on human rights defenders](#)
- [The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#)

Independent authorities – Austrian Ombudsman Board

- While noting with appreciation that the Austrian Ombudsman Board was granted A status by the Global Alliance of National Human Rights Institutions Subcommittee on Accreditation in 2022, the Committee notes reports that the selection and appointment of Board members by the three main political parties in the Parliament are not sufficiently inclusive and transparent and do not allow for formal public consultation with and the meaningful participation of civil society (art. 2 (1)). ([CAT/C/AUT/CO/7, para. 16](#))
- The State party should consider reviewing the procedure for the selection and appointment of members of the Austrian Ombudsman Board to ensure the full transparency and political independence of the Board.” ([CAT/C/AUT/CO/7, para. 17](#))

SPECIAL THEME - Law enforcement

In his [New Vision for the Rule of Law](#), the UN Secretary-General noted that we need to move urgently and collectively towards more transparent, inclusive and responsive justice systems. Individuals and groups facing systemic prejudice, bias and stereotypes must be afforded fair treatment in criminal and civil justice systems. As part of the criminal justice system, law enforcement enforces laws and maintains order. In doing so, law enforcement officials have the authority to use force to maintain public order, and to ensure human rights and the rule of law. However, this force can be misused. To prevent the abusive use of force and

violation of human rights in law enforcement, States should follow a legislative framework, combined with guidance and training. International human rights law is the international legal framework regulating the use of force by law enforcement, and is designed to prevent arbitrary, excessive or discriminatory uses of force, and to ensure accountability in cases of abuse.

For more info:

- [Law enforcement and human rights | OHCHR](#)
- [General recommendation No. 36 \(2020\) on preventing and combating racial profiling by law enforcement officials \(CERD/C/GC/36\)](#)

- While taking note of the internal instruction of the Federal Ministry of Justice on the handling of allegations of ill-treatment by law enforcement officers and prison officers, the Committee against Torture is concerned that, despite the relatively high number of allegations of ill-treatment of detainees by public officials, the number of prosecutions and convictions resulting from such allegations remains low. In that regard, it regrets that the State party has not provided comprehensive information on the number of cases that have resulted in investigations and prosecutions of or disciplinary action against officials or on the penalties and disciplinary measures imposed upon persons convicted of acts of ill-treatment during the period under review. While noting the establishment of the new Investigation and Complaints Office for Allegations of Police Ill-Treatment, the Committee is concerned that, despite the legal safeguards in place and the creation of an independent advisory board responsible for monitoring its activities, the Office is formally placed under the authority of the Federal Ministry of the Interior. Furthermore, the Committee regrets the absence of information on whether public officials under criminal or disciplinary investigation for allegedly having committed a crime of torture or ill-treatment are immediately suspended from their duties and remain so throughout the corresponding investigation. ([CAT/C/AUT/CO/7, para. 34](#))
- The State party should:
 - (a) Ensure that all complaints of torture and ill-treatment are investigated in a prompt and impartial manner by an independent body and that there is no institutional or hierarchical relationship between that body's investigators and the suspected perpetrators of such acts;
 - (b) Ensure that the authorities open an investigation ex officio whenever there are reasonable grounds for believing that an act of torture or ill-treatment has been committed;
 - (c) Ensure that, in cases of torture or ill-treatment, suspected perpetrators are immediately suspended from duty for the duration of the investigation, in particular when there is a risk that they might otherwise be in a position to repeat the alleged act, take reprisals against the alleged victim or obstruct the investigation;
 - (d) Ensure that the suspected perpetrators of acts of torture and ill-treatment and the superior officers responsible for ordering or tolerating the acts are duly tried and, if found guilty, punished in a manner commensurate with the gravity of their acts, and that victims are provided with effective remedies;
 - (e) Compile and publish statistics on the number of investigations and prosecutions carried out, convictions handed down and penalties imposed in cases of torture or ill-treatment.([CAT/C/AUT/CO/7, para. 35](#))

SPECIAL THEME - Counter terrorism

Terrorism aims at the very destruction of human rights, democracy and the rule of law. It attacks the values that lie at the heart of the Charter of the United Nations and other international instruments: respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among peoples and nations; and the peaceful resolution of conflict. In addition to direct impact on human rights, terrorism can destabilize Governments, undermine civil society, jeopardize peace and security, and threaten

social and economic development. In recent years, the measures adopted by States to counter terrorism have themselves often posed serious challenges to human rights and the rule of law. The independence of the judiciary has been undermined, in some places, while the use of exceptional courts to try civilians has had an impact on the effectiveness of regular court systems. Repressive measures have been used to stifle the voices of human rights defenders, journalists, minorities, indigenous groups and civil society.

States have an obligation to conduct any transfer of individuals suspected of terrorist activity in a manner which is transparent and consistent with human rights and the rule of law, including the right to respect for a person's inherent dignity, the right of everyone to recognition before the law and the right to due process. The transfer of an individual which takes place outside the rule of law and without due process may lead to a number of human rights violations, notably infringements of the right to liberty and security of the person, the prohibition of torture and other cruel, inhuman or degrading treatment and punishment, the right to recognition everywhere as an individual before the law, the right to a fair trial, the right to private and family life, and the right to an effective remedy.

For more info:

- [Fact Sheet No. 32 Human Rights, Terrorism and Counter-terrorism](#)
- [Special Rapporteur on counter-terrorism and human rights](#)
- [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#)

- While acknowledging the State party's need to adopt measures to respond to the risk of terrorism, including by implementing the Austrian Strategy for Extremism Prevention and Deradicalization, the Committee against Torture is concerned that the State party's counter-terrorism legislation, in particular the amendments made to the Counter-Terrorism Act, which introduced "religiously motivated extremist association" as a basis for criminalization and provided for the implementation of a new electronic surveillance system for individuals on conditional release, still provides for potentially excessive restrictions on the rights of persons suspected or accused of involvement in terrorist acts, including the rights to liberty and security of person and to due process and a fair trial. The Committee regrets the lack of information on persons convicted under counter-terrorism legislation, the legal safeguards and remedies available to persons subjected to counter-terrorism measures in law and in practice, and whether there have been complaints of the non-observance of international standards in this regard and, if there have, the outcomes of those complaints (arts. 2, 11, 12 and 16). ([CAT/C/AUT/CO/7, para. 44](#))
- The State party should take all measures necessary to ensure that its counter-terrorism and national security legislation, policies and practices are fully in line with the Convention and that adequate and effective legal safeguards against torture and ill-treatment and arbitrary detention are in place. Furthermore, the State party should carry out prompt, impartial and effective investigations into all allegations of human rights violations, including acts of torture and ill-treatment, committed in the context of counter-terrorism operations, prosecute and punish those responsible and ensure that victims have access to effective remedies and full reparation. ([CAT/C/AUT/CO/7, para. 45](#))