



Twinning project “Implementation of the best European practices with the aim of strengthening the institutional capacity of the apparatus of the Ukrainian Parliament Commissioner for human rights to protect human rights and freedoms (apparatus)”

No. EuropeAid/137673/DD/ACT/UA

Activity 2.1.4. Developing new or improving the existing methodologies and procedures to carry out a monitoring of the observance of human rights, ensuring activities of the Ombudsperson in preventing such violations

Document	General Instrument: Framework for Implementation of Monitoring Functions
Short description of the document	The General Instrument offers a step-by-step scheme, supported with explanatory examples, insights and tips, to carry out human rights monitoring activities in a planned and systematic way. It aims to assist in understanding the concepts and components needed to implement monitoring functions effectively and to structure human rights monitoring exercise in accordance with guiding principles.
Author	Kristina Brazevič
Date	December 2017, Kyiv

TABLE OF CONTENT

INTRODUCTION	2
THE CYCLE OF MONITORING	2
1. PLANNING AND PREPARATION STAGE	3
STEP 1 BUILDING MONITORING CONCEPT	3
① Outline the focus area	3
② Decide on the scope of monitoring you are capable to cover.....	4
③ Set priorities	5
④ Make analysis of legal regulations	6
⑤ Formulate monitoring task	7
⑥ Identify monitoring issues and pose research questions.....	8
⑦ Determine a general timeframe for a monitoring study	13
STEP 2 SELECTING CONCRETE MONITORING OBJECTS	14
STEP 3 CONSIDERING THE INVOLVEMENT OF OTHER ACTORS	14
① Enhance information exchanges with the stakeholders.....	14
② Have recourse to participatory monitoring.....	15
③ Consider ways to mobilise additional resources	15
④ Train / instruct monitoring team.....	16
2. OBSERVATION AND COLLECTION OF DATA STAGE	16
STEP 4 CHOOSING SOURCES AND METHODS	16
① Choose several data sources	16
② Determine the right mix of monitoring tools.....	19
③ Ensure eligibility of collected information.....	21
3. PROCESSING DATA STAGE	22
STEP 5 ORGANISING, CLASSIFYING AND DOCUMENTING DATA	22
STEP 6 ANALYSING DATA	23
4. REPORTING STAGE	24
STEP 7 WRITING AND DISTRIBUTING THE REPORT	24
① When writing the report	24
② When distributing the report.....	25
5. FOLLOW UP STAGE	26
STEP 8 MONITORING IMPLEMENTATION OF RECOMMENDATIONS	26
① Monitor given recommendations.....	26
② Evaluate the success of the monitoring process	26
GUIDING PRINCIPLES THROUGHOUT ALL MONITORING EXERCISE	27
① Do no harm.....	28
② Maintain your role	28
③ Ensure high quality.....	28
CONCLUDING REMARKS	28
LIST OF SOURCES	28

INTRODUCTION

One of the important instruments, which help to guarantee that states meet the human rights obligations and also prevent violations of rights or solve potentially difficult human rights issues, is monitoring.

As human rights monitoring system brings in the human rights perspective through recognition of the stakeholders – the rights holders and the duty bearers – it necessitates a focus on relevant data that embody and reflect implementing and enjoying human rights. To do that, human rights monitoring requires a number of tools to facilitate credible assessment of human rights implementation: focusing on issues, prioritising efforts, setting up indicators, ensuring comparability, objectivity and reliability of data, placing effective data management system, etc.

This General Instrument describes monitoring as a 5-stage cyclical process (planning, observation, processing, reporting and follow up). It suggests 8 composing steps scheme introducing practical human rights monitoring tools. The scheme is supported by explanatory examples, as well as insights and tips placed into blue rectangles on the right side. The instrument also provides the list of guiding principles to be respected throughout all monitoring exercise.

THE CYCLE OF MONITORING

Monitoring comprises of a range of stages, from planning and preparation, to observation, collection of information, to legal and collected data analysis, reporting and corrective action, and follow-up. These activities are interlinked in what is called the monitoring cycle. Having completed the last monitoring stage, further action might be taken if an authority is unable to demonstrate an improvement within a specified timescale, and the results of each action may inform the next monitoring round, refocusing on other issue, raising new questions, requiring additional information and analysis.



1. PLANNING AND PREPARATION STAGE

This stage involves building monitoring concept (defining focus, scope, and priorities, outlining tasks, issues and questions related to monitoring topic and a timeframe, as well as analysing various levels of legal regulations), selecting concrete monitoring objects / facilities and considering the involvement of actors in the monitoring study.

Planning and preparation is of great importance and contributes to the overall success of the monitoring exercise. Without proper planning and preparation, it is not clear what should be monitored and how

STEP 1

BUILDING MONITORING CONCEPT

Building monitoring concept consists of 7 following activities carried out simultaneously.

① OUTLINE THE FOCUS AREA

The focus area of human rights monitoring can be:

- Good practices of proper implementation of laws¹;
- Possible violations of human rights and reasons for violations;
- Analysis of draft legislative acts;
- Assessment of government actions;
- Preventive monitoring to identify issues which could lead to violations of human rights;
- Follow-up the implementation process of recommendations issued by the United Nations or regional bodies²;

Make sure the issue falls under your mandate and you do not duplicate functions that are the responsibility of local or national authorities

¹ For example, see a study on national practices with regard to the accessibility of court documents by European Parliament (Directorate General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs, Committee on Legal Affairs) in 2013, one of the objectives of which was to present good practices on the right to access court documents in national legislations ([http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474406/IPOL-JURI_ET\(2013\)474406_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474406/IPOL-JURI_ET(2013)474406_EN.pdf)).

² In the United Nations (UN) human rights system: Universal periodic review, Special Procedures' reports, reports by the UN Secretary-General, High Commissioner for Human Rights and Secretariat and concluding observations of human rights treaty bodies (Human Rights Committee, Committee on the Elimination of Discrimination against Women, Committee on the Elimination of Racial Discrimination, Committee on the Rights of Persons with Disabilities, Committee against Torture and Sub-committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Committee on Economic, Social and Cultural Rights, Committee on the Rights of the Child (reports and other documents available at <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/UAIndex.aspx> or http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en;

- Realization of human rights, i.e. periodic evaluations of government efforts towards the realisation of rights, and comparing the progress made during each period.

Progressive realisation – the comparison between levels of implementation over time – is one of the key focus areas of monitoring. It gives the opportunity to track the situation where the country is now and how it keeps moving forward with the rights agenda

② DECIDE ON THE SCOPE OF MONITORING YOU ARE CAPABLE TO COVER

The monitoring scope narrows the focus of monitoring by setting the boundaries for what the monitoring activities will and will not cover in meeting its purpose, i.e. to guarantee that human rights obligations are met and to prevent human rights violations. The scope of monitoring can be broad or narrow, with variations in terms of:

- **RIGHTS**
 - Broad scope, e.g., in pursuance to prepare a report on the performance of the government in regard of civil and political rights;
 - Particular right, e.g., for preparing a report on the access to public information, personal data protection or installation of barrier-free facilities meeting the needs of persons with disabilities;
 - How rights are respected during specific procedures, e.g., employment procedures (discrimination issues), examination of information requests (access to information issues), provision of electronic communication services to the public (data protection and privacy issues);
 - How rights are respected during events (elections, assemblies, demonstrations, etc.).
- **TARGET GROUPS**

In Council of Europe (CoE): European Committee of Social Rights (<https://rm.coe.int/16805ac112>), European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT; <https://www.coe.int/en/web/cpt/ukraine>), European Commission against Racism and Intolerance (https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ukraine/Ukraine_CBC_en.asp), Advisory Committee to the Convention for the Protection of National Minorities ([https://www.coe.int/en/web/european-charter-regional-or-minority-languages/reports-and-recommendations#%2228993157%22:\[231\]](https://www.coe.int/en/web/european-charter-regional-or-minority-languages/reports-and-recommendations#%2228993157%22:[231])), Group of Experts on Action against Trafficking in Human Beings (GRETA)(<https://www.coe.int/en/web/anti-human-trafficking/ukraine>), European Commission for the Efficiency of Justice (CEPEJ)(https://www.coe.int/t/dghl/cooperation/cepej/profiles/ukraine_EN.asp?)(more information on the action of the Council of Europe in Ukraine is available at <https://www.coe.int/en/web/portal/ukraine>).

- Whole population;
- Members of vulnerable groups (women, children, elderly, people with disabilities, social aid recipients, persons living with HIV/AIDS, drug dependant, homeless, etc.);
- Members of social minorities (ethnic minorities, linguistic and cultural minorities, gender and sexual minorities, religious minorities, etc.);
- Members of specific groups (pupils, students, patients, workers, consumers, carers, prisoners, etc.).

- **GEOGRAPHICAL SCOPE**

- Country-wide;
- Urban areas;
- Rural areas;
- Local regions;
- Parts of the country.

- **COMBINATION OF SEVERAL OF THE ABOVE FORMS**

Combination of several scopes can be employed, for example: monitoring and reporting on restriction in access to employment of women in rural areas, or on disability-related human rights violations in areas of education, healthcare, employment, rehabilitation, accessibility, transport or information, in a particular region based on the assessment of the geographical distribution of the target group (largest populations, highest densities).

③ SET PRIORITIES

- Consider:
 - What rights should be the principal focus since it is not possible to deal with all rights equally;
 - What are the most critical human rights problems;
 - What groups or individuals appear to be the most vulnerable and need protection most urgently;
 - What are the expected capacities in terms of numbers of personnel, skills and expertise, time and resources;

Prioritising helps to thoroughly concentrate on specific fields and not to exhaust the limited resources

- Which kinds of monitored cases would have the greatest impact, i.e. visible, clear with regard to the facts, representative of the problems and likely to have a positive result in a relatively short period.
- Be selective as to what to monitor based on:
 - Issues raised in petitions by citizens;
 - Priorities set in the framework of international reporting obligations or lined out by international conventions;
 - Specific urgent events or situations;
 - Places of compact residence of certain population groups (for example, Roma, internally displaced persons);
 - Requests by civil society organisations and non-governmental organizations;
 - Internal strategic action plans or work programs in specific fields (e.g. in the field of anti-discrimination or access to information).

Specific institutions could be chosen to monitor as a priority (for example local government agencies, or the ministries etc.)

④ MAKE ANALYSIS OF LEGAL REGULATIONS

The research on legal regulations:

- Defines the nature and content of rights;
- Identifies, who has the responsibility for which areas of the government's response;
- Provides with a number of potential monitoring tasks;
- Provides with a critical context for interviews and a “road map” for creating interview questions;
- Provides for a framework for the report.

If the scope of the project has been defined narrowly, research on particular aspects of the legal system can proceed in a more targeted way

List of activities to identify and understand the laws and policies:

- Compare human rights standards established by domestic law with the standards ensured by international law;
- Identify if domestic provisions are compatible with international standards;
- Identify whether domestic legal provisions are internally consistent;
- Make a detailed description of human rights standards in a selected

Start analysing various levels of legal regulations as soon as you start developing monitoring concept and continue all the way until the monitoring report (one of the final stages of monitoring) is finished

field to know exactly what to look for during data collection;

- Analyse national and international soft law for interpretation of standards, including recommendations made by the United Nations and regional bodies;
- Analyse related decisions of domestic courts and of European Court of Human Rights;
- Analyse government expenditures (its adequateness) on the implementation of laws, policies, programs and strategic plans related to monitoring subject to gain insight into governmental priorities;
- Determine the existence of concrete periods for implementing the latter;
- Determine which governmental body is keeping statistics on monitoring subject and if the statistics are good indicators (disaggregated by gender and relationship).

⑤ FORMULATE MONITORING TASK

The key objectives of monitoring could be:

- To ascertain, if a draft law is compatible with human rights standards;
- To ascertain, if a legal regulation is compatible with human rights standards;
- To ascertain, if the implementation of a law is consistent with human rights standards and assess the extent of implementation;
- To ascertain, if a certain law or policy is having the human rights impact that it is supposed to have;
- To ascertain, if there was a human rights violation in the context of a specific event and build objective, independent and reliable evidence of it;
- To ascertain, if the situation of a specific group, for example the internally displaced persons or a minority group, is meeting human rights standards.

Taking into account the objectives and analysis of legal regulations, the monitoring task could be specific provisions of the laws or particular practices of legal system officials, government agencies, or other actors whose activities are dictated by the laws.

For example, monitors may define the task of the monitoring study as:

- To assess responses to information requests by selected sector of public bodies;

The task should be realistic: it might have small, but tangible success, bringing small but concrete changes

- To assess protection of private data at work place;
- To assess municipal measures in solving issues faced by children with disabilities.

⑥ IDENTIFY MONITORING ISSUES AND POSE RESEARCH QUESTIONS

- Identifying monitoring issues within the selected tasks gives your research a direction. Narrowly defining the research issue enables to obtain more comprehensive and well-researched information;

Concentrate on one or several issues during monitoring study

- Research questions are specific questions that need to be asked to gauge the monitoring issue. Posing questions about the monitoring issues will translate the monitoring issue into concrete indicators;

Make it realistically possible to obtain answers and verify information

- An indicator is a specific type of information (data) in the form of numbers, concepts or standards, relevant to the observance or enjoyment of a specific right. Indicators are chosen based on a set of standards governing the rights, i.e. the access to information, the right to personal data protection, non-discrimination, etc.³ Indicators provide a more systematic and comprehensive picture of issues and help in evaluating collected data.

Useful indicators come from evidence-based data such as received complaints. You can prioritise indicators and identify, for example, top 3 indicators. Use same indicators over a longer period of time to determine changes and progress

³ There is a number of indicators developed by human rights organizations:

1) the Office of the UN High Commissioner for Human Rights has developed a framework of indicators that provides guidance for the identification of relevant and feasible indicators to measure progress in human rights in any state (<http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>);

2) indicators on the right of access to information (the Right to Information Rating) were developed by Access Info Europe (AIE, a human rights organisation dedicated to promoting and protecting the right of access to information in Europe) and the Centre for Law and Democracy (CLD, a non-profit corporation for human rights promotion, protection and developing, based in Canada)(<http://www.rti-rating.org/by-indicator/>);

3) European Union Agency for Fundamental Rights has developed human rights indicators for assessment of the fulfilment of the right to independent living (<http://fra.europa.eu/en/project/2014/rights-persons-disabilities-right-independent-living/indicators>) and of the right to political participation of persons with disabilities (<http://fra.europa.eu/en/publication/2014/right-political-participation-persons-disabilities-human-rights-indicators>);

4) Great Britain's national equality body the Equality and Human Rights Commission (EHRC) in partnership with the Scottish Human Rights Commission (both accredited with "A" status by the Sub-Committee on Accreditation of the International Coordinating Committee) developed a human rights measurement framework (HRMF) for England, Scotland and Wales – a set of indicators to measure human rights progress and help EHRC in fulfilling its monitoring and reporting mandate (EHRC, Human Rights Measurement Framework: Prototype Panels, Indicator Set and Evidence Base, research report 81 (2011), available from www.equalityhumanrights.com).

The following table presents a few examples of monitoring tasks, broken down to monitoring issues, questions and indicators.

FIELD	TASK	ISSUES	QUESTIONS	INDICATORS
Access to information	Monitoring responses to information requests by selected sector of public bodies ⁴	Compliance with law requirements on access to public information by providing responses to requests	<p>Are contacts for submission of request for information available?</p> <p>Does the response fulfil form requirements?</p> <p>Does the response fulfil content requirements?</p> <p>Is the answer given to all the questions?</p> <p>Is the refusal to provide information eligible?</p> <p>Is the response provided in time prescribed by law?</p>	<p>Openness and availability of contacts for submission of request</p> <p>Response contains official letterhead, reference number, date, signature, etc.</p> <p>Completeness of the information provided</p> <p>Fulfilment of requirements for refusal</p> <p>Timely provision of the response (within 5 working days)</p>
	Monitoring access to judicial information	Accessibility of courts documents (judicial proceedings and records) ⁶	<p>Is the right of access applies to the judicial branch with no bodies excluded?</p> <p>Is it possible to request / obtain information via email?</p> <p>Is filing a request free of charge?</p> <p>Do court officials assist requesters in formulating / clarifying the request or in case of special needs (illiterate, or</p>	<p>All courts organize access to public information</p> <p>Opportunity to submit requests / get a response via email</p> <p>Number of such requests submitted and satisfied</p> <p>Filing a request is free of charge</p> <p>Clear rules relating to access fees, set centrally</p> <p>Provision of assistance to requesters</p> <p>Provision of a receipt</p>

⁴ Currently carried out by the Department for the Observance of the Right of Access to Public Information of the Office of the Commissioner.

⁶ For a broader scope, see a study on national practices with regard to the accessibility of court documents carried out by European Parliament (Directorate General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs, Committee on Legal Affairs) in 2013 ([http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474406/IPOL-JURI_ET\(2013\)474406_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474406/IPOL-JURI_ET(2013)474406_EN.pdf)).

	<p>Monitoring of the procedure for appeals against denial of information or other actions or inactions of the processor in the field of access to information⁵</p>	<p>Accessibility and efficiency of appeal procedure</p>	<p>disabled) Is the requester provided with a receipt of logging a request? Is the refusal to provide information eligible? Is the response provided in time prescribed by law? Are there any complaints regarding examination of requests? Does the court report (annually) on the actions taken to implement disclosure obligations? Is information about appeals procedures given to requestors? Is internal appeal procedure simple, free of charge, completed within clear timelines? What are grounds for appeal to the oversight body? Does the oversight body have power to inspect the body appealed and order remedies? Are the decisions of the oversight body binding? What are the</p>	<p>of lodging a request Fulfilment of requirements for refusal Timely provision of the response Number of complaints Reporting actions on provision of information on the website Provision of information about appeals Simple, free of charge, clear timelines appeal procedure complying with the law requirements Grounds for appeal include not only refusals to provide information, but also refusals to provide it in the form requested, administrative silence and other breach of timelines, charging excessive fees, etc. Mandate to review classified documents,</p>
--	---	---	--	---

⁵ See, for example, Access Info Europe Anti-Corruption Transparency Monitoring Methodology. A practical guide to using the right of access to information for preventing and exposing corruption, 2011 (<https://www.access-info.org/uncategorized/14835>).

			reviews of the requestors about the procedure?	inspect the premises, order appropriate remedies, including the declassification of information Level of satisfaction with the way the complaint was handled
Personal data protection	Assessing protection of private data at work place ⁷	Recruitment process, managing staff records, records of phone calls, emails and internet use, searches, CCTV	Is the internal procedure for data collection legitimate? Is collected data on staff kept secure? Is sensitive information stored separately? Disposed securely? Who can see staff records? Are employees aware that they are monitored? How the right of an employee to ask for a copy of the information about him is respected?	Existing policies and rules are clear and readily accessible Monitoring means are proportionate response to the risks faced by an employer Secure storage and disposition of records Temporary storage for the minimum amount of time (with specified retention period) Separate storage of sensitive information Access to records only by designated trained staff Effective communication provided to staff about monitoring purpose, type of data stored, entities to which the data are regularly communicated and the purpose and legal basis of such communications) Employee's

⁷ See, for example, monitoring carried out by Information Commissioner's office of the United Kingdom (<https://ico.org.uk/for-organisations/guide-to-data-protection/employment/>); also Opinion 2/2017 on data processing at work, adopted by Working Party, an independent European advisory body on data protection and privacy, on 8 June 2017 (https://www.google.lt/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjoxK2WkYDYAhViCZoKHRQGC5MQFggyMAA&url=http%3A%2F%2Fec.europa.eu%2Fnewsroom%2Fdocument%2Fdocument.cfm%3Fdoc_id%3D45631&usg=AOvVaw0eIauaaIz6dAgIG73AWPw).

	Monitoring rights of persons subjected to video surveillance in public places ⁸	Right to be informed	Are there on-the-spot notices informing about video-surveillance? Visible? Positioned at a reasonable distance from the monitored places? Do they contain title/name, surname of the data controller and contact details? Is detailed data protection notice (DDPN) posted on the data controller's website? Is it available upon request of the data subject?	opportunity to submit requests in accordance with an approved procedure Visible notices, positioned at a reasonable distance Notices contain necessary the requisites (title/name, surname of the data controller and effective contact details) Additional notices in locations with heightened expectation of privacy DDPN is posted on the controller's internet site DDPN is instantly available upon request from the data subject
Equal opportunities	Monitoring discrimination levels in Ukraine ⁹ Assessing possible	Possible remedies to observe basic non-discrimination principles Content of job adverts	How prejudiced are Ukrainians during job interviews? Regarding the possibility of electing someone as President from a group at risk of discrimination, etc.? Are there indicated requirements giving	Survey-based indicators in selected areas based on protected grounds: sex, race, skin colour, beliefs, age, disability, origin, nationality, family and property status, place of residence, linguistic or other There are no preferences based on

⁸ See Guidelines and checklist on video surveillance for data controllers of public and private sector by Dijana Šinkūnienė, Activity 2.1.4. II mission report.

⁹ Currently carried out by the Department of Non-Discrimination of the Office of the Commissioner. See also a survey on discrimination in access to employment on grounds of foreign origin in France by the International Labour Office (http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_201429.pdf).

	discriminative intentions in job advertisements		<p>preference to a certain candidate based on his/her sex, race, skin colour, etc.?</p> <p>Is there a request for a job applicant to provide information on personal life, plans for the birth of children?</p> <p>Are job titles expressed in neutral form applicable for both genders where possible?</p>	<p>protected grounds</p> <p>The special requirements set are necessary to perform job properly or are foreseen by law as an exception</p> <p>There are no requests for personal life information</p> <p>Job titles are gender-neutral</p>
	Monitoring municipal measures to solve issues faced by children with disabilities ¹⁰	Education, social services, social rehabilitation, mentoring, family support, social integration and cooperation with NGOs	<p>Are needs of pre-school education satisfactory?</p> <p>Are there children not going to school?</p> <p>Are educational facilities adapted to the needs?</p> <p>What other problems of access to education services exist, etc.</p>	<p>Provision of comprehensive and effective educational assistance</p> <p>Integration into general education groups</p> <p>Class formation</p> <p>Adaptation of the educational process</p> <p>Adaptation of physical environment</p> <p>Educational support specialists assistants, speech therapists, special educators, psychologists) involved, etc.</p>

⑦ DETERMINE A GENERAL TIMEFRAME FOR A MONITORING STUDY

¹⁰ Such research was carried out by Institution of the Ombudsperson for Children's Rights of Lithuania, in 2016 (<http://www3.lrs.lt/docs2/DFFLQRXU.PDF>).

According to the defined monitoring concept it has to be decided if the monitoring is done constantly, repeatedly, a certain period of time, e.g. a three month period, or only once.

STEP 2

SELECTING CONCRETE MONITORING OBJECTS

The next step is to choose concrete objects (facilities or institutional sectors) to monitor, for example local government agencies, or the ministries etc. This step might have been already done while building monitoring concept during priority setting if particular institutions were selected to be monitored as a priority.

Transparent and comprehensible selection criteria¹¹ for monitoring objects could be:

- Big, or, at the opposite, inexplicably low number of complaints;
- Alleged human rights violations named in the complaints;
- Human rights problems, known from last reports, media, civil society organisations, especially from regions, also phone calls from persons themselves, their relatives, representatives, etc.;
- Potential risks;
- Concentration of vulnerable groups (minorities, migrants, women, juveniles, elderly, persons with disabilities, etc.);
- Geographical location (distance to central cities), type of institution, its size (capacity and number of staff) and establisher.

STEP 3

CONSIDERING THE INVOLVEMENT OF OTHER ACTORS

This step includes information exchange, participatory monitoring, additional resource mobilisation and training of monitoring team.

① ENHANCE INFORMATION EXCHANGES WITH THE STAKEHOLDERS:

¹¹ The following selection criteria are applied by the NPM unit of the Office of the Commissioner when selecting places to be visited (see Activity 2.1.1. Mission Report, para. 3.1.7).

- Local civil society organizations, which investigate and analyse human rights violations;
- Victims or witnesses of human rights violations;
- Persons in threatened communities and organizations;
- Community and religious leaders;
- Organizations representing minorities, persons with disabilities and other grass-roots organizations;
- Lawyers, journalists and other professionals;
- Academic institutions and research centres;
- Trusted government contacts, at both local and national level;
- Other national and international actors; for example, maintain contacts with other ombudsperson institutions with a view to sharing information, experiences and reinforcing effectiveness.

Explore possibilities of unification of and access to data gathered by state and municipality institutions while registering complaints with alleged issues of discrimination, access to information and data protection, also strengthening the cooperation with courts in order to receive information on decided cases of these

② HAVE RECOURSE TO PARTICIPATORY MONITORING

Implementation of monitoring activities under the platform Ombudsman+, i. e. jointly with the representatives of civil society or by the latter independently, facilitates holistic data collection and the collation of evidence that surfaces human rights violations based on individual's own experiences and perceptions.

As one of the fundamentals of the UN Convention on the Rights of Persons with Disabilities is that persons with disabilities should be involved in all aspects of its implementation, participatory monitoring is essential in monitoring of rights of persons with disabilities. Persons with disabilities themselves involved in carrying out monitoring activities and being the central authors of the report that result from the monitoring.

③ CONSIDER WAYS TO MOBILISE ADDITIONAL RESOURCES TO FILL RESOURCE GAPS AND COLLABORATE WITH OTHER ORGANIZATIONS

For example, volunteers can be used to leverage limited resources; university students can offer assistance in return for research experience.

④ TRAIN / INSTRUCT MONITORING TEAM

Training the monitoring team is an important stage in the monitoring process. Training should sensitize team members to selected human rights issue, build their understanding of related national and international human rights standards, monitoring mandate, methodology, interviewing procedures and other practical instructions, including respect of confidentiality, as well as develop a sense of team and motivation among team members.

Mock interviews are a good preparation tool, which illustrates interviewing protocol and demonstrates unexpected challenges and how to respond to them. One method is for the trainer to develop a set of interview questions and allow the “interviewee” to ad-lib answers or read prepared responses. Another way is to involve professional actors as “interviewees”. The mock interview should also conclude with evaluation and questions from team members

2. OBSERVATION AND COLLECTION OF DATA STAGE

This stage is for choosing sources for data collection and convenient methods and techniques for obtaining data as well as ensuring the quality of collected data.

STEP 4 CHOOSING SOURCES AND METHODS

① CHOOSE SEVERAL DATA SOURCES

- **Written sources:**
 - Internal documents of institutions:
 - * Legal: rules, instructions, methods and practices;
 - * Records: journals, registers, files, annual reports;
 - * Information on their websites and in the premises: posted announcements, schedules, orders, etc.;
 - Data collected by international organisations, national human rights bodies, universities, scholars, other administrative departments, NGOs, press and other media, treaty-monitoring bodies, etc.;

It is useful to compose a list of all different types of documents of interest (whether with exact names or with the description of the content of information which might be of interest)

- Findings of other inspections carried out by state, municipal, nongovernmental or international institutions;
- Expert or scientific studies and researches conducted by different institutions and universities;
- Other evidentiary materials;
- Correspondence;
- Official statistics and indexes, including from international organizations, e.g. ILGA-Europe Rainbow map;
- Articles in press and other media information;
- Pictures and audio-visuals (e.g. of the victim's wounds, of the scene of the incident, carry a camera to capture audio-visual evidence).

Media is a useful first source of information to know more about the issues, also when it is difficult to access other sources of information. Pay attention what information is systematically left unmentioned in various media sources

- **Interviews with stakeholders:**

- Victims;
- Eyewitnesses;
- Relatives;
- Community, traditional or religious leaders;
- Other human rights activists;
- Focus groups;
- Heads of institutions and staff;
- Medical personnel;
- Security personnel;
- Service providers;
- Policymakers;
- Country representatives in international organisations (SPT, CPT, etc.).
- Experts (scientists, specialists from NGOs or other persons who deal with the issue);¹²
- Journalists.

Effective monitoring involves regular contacts with sources in the community: authorities, journalists, teachers, chair of the community, etc.

Potential informants who can draw attention to problematic points could be:

- Persons, filing complaints;
- Persons, who have certain issues, such as health, social security, etc.;
- Persons, who do not speak national language;
- Persons, belonging to separate national and ethnic groups;
- Persons, belonging to some societies;
- Representatives of small religious groups, etc.

¹² For example, when implementing national torture prevention by the Office of the Commissioner, expert discussions for good and bad practices are organised (Activity 2.1.1. mission report, para. 3.1.7).

Ensure access to persons / groups subjected to exclusion, discrimination or in a vulnerable situation by:

- Organizing meetings with representative organisations;
- Undertaking monitoring visits to groups or communities;
- Visibly observing demonstrations by social movements claiming their rights;
- Attending meetings and conferences on these issues;
- Encouraging the High Commissioner for Human Rights or United Nations special procedures mandate holders to issue statements of support on specific occasions;
- Inviting stigmatized or marginalized organizations to meetings attended by actors that tend to exclude them in order to promote their inclusion;
- Visibly associating with or accompanying prominent leaders of movements or organizations associated with them.

- **Observations by on-site presence:**

- Of individuals (their appearance, state of clothes, state of health, behaviour, etc.);
- Of sites (state of the building, condition of premises, supply and security system, etc.);
- Of objects (vehicles, means of restraints, etc.);
- Of events, procedures, activities and services (elections, demonstrations, assemblies, how arrests are made, arrangements for detention, organisation of health care services in a detention place, how authorities respond to natural disasters, etc.).

- **Public participation:**

- Encourage the public to report cases of discrimination and other human rights violations through awareness raising events;
- Establish a simple, accessible and confidential procedure through which the public might provide you with relevant information. Use online and wireless technology (web, SMS, MMS, Tweets, mapping) to solicit data from the public. For example:
 - * Posting a section on the website “Report a concern” and encouraging society to use it;¹³

¹³ For example, as on the website of Information Commissioner’s office of the United Kingdom: <https://ico.org.uk/concerns/>.

- * Encouraging society to respond to human rights violations using suggested hashtags (words or multi-word phrases preceded by the # symbol), that can be easily tracked on Facebook and other social media platforms¹⁴;
- * Inviting members of public, who had certain experience (of a particular human rights issue, of nursing home care, etc.) to use a Freephone line established for this purpose for a specific time period and advertised through media interviews, sending posters to institutions, etc.;
- * Inviting society to apply visual story telling – a participatory method that enables people to capture significant stories through photography and accompanying written captions¹⁵ or videos (for example, about the importance of obtaining information).

② DETERMINE THE RIGHT MIX OF MONITORING TOOLS

- Use convenient methods and techniques for obtaining data:
 - Investigation of records;
 - Case studying;
 - Fact-finding or field missions;
 - Spot-checks;
 - Direct observation;
 - Comparative analysis of statistical data;
 - Survey measuring experiences, perceptions and attitudes regarding monitored issues or situation-testing survey to measure issues directly;
 - Analysis of expert studies;
 - Event reconstruction and analysis;
 - Imitation or modelling of various situations¹⁶;
 - Practice tests¹⁷.

The more research methods combined are complementing each other, the more objective and promising results are

¹⁴ For example, Equal Opportunities Ombudsperson of the Republic of Lithuania has carried out an awareness raising campaign targeting discriminatory job advertisements: employers were invited to select employees according to their competence, and the public – to respond to discriminatory job advertisements and to report them to the Office. For this purpose, a special hashtag “#forcompetency” was created to mark discriminative job ads, initiate discussions, provide information on the employers' obligation to implement equal opportunities at work, and share good examples.

¹⁵ See, for example, PhotoVoice at <https://photovoice.org/>.

¹⁶ For example, attempting to obtain information from the authorities or demand that a particular right be exercised by modelling a situation.

- Use instrumental tools:
 - Standard format, i.e. an empty form (on paper, a layout on a word processor, or an entry layout within a database program), consisting of fields, on which information can be entered; it has a definite number of fields, arranged in a pre-determined way, with prescribed notes for the entry of data in each field:
 - * questionnaires¹⁸ in surveys;
 - * observation cards and protocols;
 - * inspections notes, minutes;
 - * recording formats in the documentation of information on victims, violations they suffered and other related information, etc.;
 - Interview methods (direct, questionnaire-based, focus groups), tools (interview outline, tactics for conducting a conversation, list of questions) and techniques (identification of individuals for interviewing, selection of time and place for interview to secure the highest possible degree of convenience, confidentiality and safety for the interviewee, decision on individual or group interviews, number of interviewers, the need of an interpreter, preparation of introductory statement, getting free and informed consent for the interview, testing the internal consistency and coherence of the testimony, computer-assisted personal / telephone interviewing, recording, etc.);
 - Plans, checklists, instructions.

Observations help to create a holistic picture of situation, expose obstacles and problems for rights implementation in reality, and use it as a basis for recommending additional training of government personnel and/or advocacy to press for reforms.

It is helpful to use observation cards or have an observations section in other monitoring tools. For example, an interviewer's observations section in questionnaire, concerning the setting of the interview (e.g. presence of other people, language of the interview, respondent's fluency, interest in the topics of the interview, etc.)

It is useful to adopt interview protocol on basic methods, tools and techniques of preparing for, initiating and conducting the interview, including handling difficult interviewees

¹⁷ For example, measuring discriminatory treatment by employers through persons posing as job-seekers whose characteristics are carefully matched except for selected protected characteristics. See a report by E. Cediey and F. Foroni "Discrimination in access to employment on grounds of foreign origin in France: a national survey of discrimination based on the testing methodology of the International Labour Office".

¹⁸ For example, see questionnaire, developed by European Union Agency for Fundamental Rights in a survey on minorities and discrimination (fra.europa.eu/sites/default/files/fra_uploads/fra-2017-eu-midis-ii-questionnaire_en.pdf), on women's well-being and safety in Europe (fra.europa.eu/sites/default/files/fra-violence-against-women-survey-questionnaire-1_en.pdf).

③ ENSURE ELIGIBILITY OF COLLECTED INFORMATION

When carrying out monitoring, ensure that collected information is:

- **Objective and impartial**, i.e. based on scientific and/or professional principles, methods and procedures, differentiate facts from researcher's own opinion, suspicion or hypothesis;
- **Reliable**, i.e. methods and procedures used in collecting, processing and disseminating data are selected according to established professional standards, scientific methods and principles of professional ethics so that the monitoring output reflects the observed phenomena as accurate as possible;
- **Valid and corroborating**, i.e. logical and comparable with other known facts (fitting into the context), consistent with material collected from at least three different independent sources (triangulation of data), as well as fitting in with other materials which have been collected yielding a credible story;
- **Comparable**, i.e. meeting the criteria of consistency in terms of content, terminology, procedures and period of time;
- **Collected on a regular basis**, i.e. it is necessary to collect data on a regular basis and from the same sources to enable the development of time-series, comparability and trend analysis;
- Whenever possible, **disaggregated by sex, age, population and any other relevant factor**¹⁹, e.g. including questions during

Evidence-based decision making requires high quality data

Skilful comparing of data from different internal documents about the same event / situation, but from different perspectives gives a great deal about the event itself and, for example, what the authorities are trying to hide

Debrief collected information with the representatives of the institution / authority

Disaggregation is crucial in monitoring discrimination: disaggregate according to protected characteristics (i.e. race, colour of skin, political, religious and other belief, sex, age, disability, etc.). it is also possible to disaggregate further, for example, disability data into categories of impairment type

¹⁹ Committee on the Elimination of Discrimination against Women recommends ensuring collection of data, disaggregated by sex and other relevant factors, necessary to assess the impact and effectiveness of policies and programmes aimed at mainstreaming gender equality and enhancing women's enjoyment of their human rights (CEDAW/C/UKR/CO/8). The Committee on the Rights of Persons with Disabilities recommends ensuring data collection on the situation of persons with disabilities disaggregated by age and gender, particularly persons with disabilities from marginalized communities, across all sectors, including health, education, employment, political participation, access to justice, social protection, violence, migration and internal displacement (CRPD/C/UKR/CO/1).

interviews on how particular situations may affect women, men, girls and boys differently.

3. PROCESSING DATA STAGE

This stage involves two steps: first, organisation, classification and document of data, and after, analysis of this data.

STEP 5 ORGANISING, CLASSIFYING AND DOCUMENTING DATA

Put in place an effective data management system:

- Systematically record the results of any process of data collection, e.g. interviews, surveys, collection of petitions or complaints, fact-finding missions, case studies etc. (using recording tools such as plans, cards, instructions, outlines, list of questions, notes, sound and video records, etc.);
- Document concrete cases of violations (signed statements from witnesses or victims, copies of records, etc.);
- Standardise the recording of incidents or human rights violations in a format adopted to each monitoring task to ensure greater accuracy;
- Use templates like the Interview checklist or mission / site visit report template to ensure consistency in how incidents are documented;
- Tabulate, establish database or catalogue where necessary;
- Use a mobile platform, where every monitor can put in his / her part and a united report is promptly produced;²⁰
- Create closed social media group to clarify issues, share news and tips;²¹
- Keep a track of what records, documents are missing;
- Ensure documentation of the data to be transparent and understandable, properly registered.

Preliminary reports on each monitoring issue / situation / site help to better document the data and make it easier to compile a final report

Database facilitates searching for a particular record or a set of records, or for particular data contained in those records. A good database allows to produce varying types of outputs, in terms of contents (from minimal to comprehensive data) and in terms of

²⁰ Such a platform is used by NPM team of the Commissioner's Office (Activity 2.1.1 mission report, para. 3.1.7).

²¹ Also used by NPM team: there is a closed Facebook group where information on alleged violations as well as suggestions of visits to particular places are shared among the monitors.

- Repetitively read the interview notes and documents to gain familiarity with the findings (data immersion):
 - Back check interviews where necessary;
 - Cross check, test and assess observations;
 - Look for patterns that reflect critical issues, exceptions to patterns, and extremes in either direction;
 - Look at connections, such as the relationships between events, victims, perpetrators, the information source, and the response;
 - Read for relationships, analysing whether violations tend to occur in a certain location or point in time;
 - Identify trends whether the situation worsening or is it actually improving;
 - Read through documents reviewing one theme at a time;
- If necessary, adopt guidelines that lay down how and with which methods the collected data are assessed and analysed including:
 - Assessment of the acquired data according to specific national or international standards, which entail human rights obligations and commitments of the state;
 - Standardised approaches with respect to definitions, classifications, categorization and indicators;
 - Defining types of analysis (statistical analysis, descriptive analysis, sociological analysis and interpretation of interviews, document analysis, discursive analysis etc.) and deciding which to apply;
 - Interpreting the findings and drawing conclusions;
- Examine all of the data collected and compare it with human rights standards to determine if a clearly defined right was infringed upon;
- Follow separate analysis tools, e.g. for assessment of legal acts and draft law, checklist for implementing field monitoring visits on antidiscrimination, etc.;
- Study the problem from the standpoint of all interested parties;
- Consider if the violation is part of a trend, i.e., several cases of this type of violation identified, violations occurring in a particular area or location, there is a pattern in the identity of the victim (religion, ethnicity, political affiliation), there is a pattern in the identity of the

perpetrator (from a particular security force, another armed group, or an individual), there is a pattern in how authorities respond (victims are detained, cases are ignored, perpetrators have not been questioned or arrested), etc.

4. REPORTING STAGE

This stage involves writing monitoring findings in the form of a report (sometimes – addressing letter) and distributing it to stakeholders in order to maximize the impact.

STEP 7

WRITING AND DISTRIBUTING THE REPORT

① WHEN WRITING THE REPORT :

- Besides presenting relevant international human rights obligations and domestic legislation related to monitoring topic and giving analysis of monitoring findings in relation to those standards (or assessing development), you may also include the mandate and professional details of the monitoring team, key information on general situation within the monitoring topic, as well as monitoring objectives, period of time covered, methodology used, accounts of site visits and other investigation, also methods of verification of information;
- Check and double check processed data and conclusions; one single slip-up, a little mistake can undermine the credibility of the entire report and the reliability of the collected data and conclusions made;
- State clearly the sources of information;
- Code confidential information (leave out the names of implicated persons, disguise cases by omitting details);
- Keep the language as concise, concrete, clear, factual and neutral as possible;
- Include positive developments, if there are any;
- Give feedback, even if the infringements are not substantial;
- Develop recommendations including specific legal and policy advice, proposals concerning positive action and administrative measures:

- Base them on rigorous analysis and make sure they are factually well grounded, reflecting relevant national and international norms and practices;
- Weigh effective alternatives, policy, funding priorities and so on within a broader context;
- Formulate it in a focused, precise and non-complex way that will facilitate evaluation of its implementation;
- Make it realistic, i.e. feasible in practice;
- Clearly identify its target group and stipulate the recommended action and rationale;
- Some sources suggest holding a roundtable prior to the formal release of the report to present the findings to key stakeholders to give them the opportunity to react to it and engage in dialogue before its release to the public:
 - participation of officials and leaders might contribute to legitimizing the process, they might want to announce a new policy to improve their response to issues;
 - participation of outside stakeholders may contribute to the overall accuracy and integrity of the report;
 - members of the community or affected population who shared their experiences may have suggestions regarding translated and/or simplified language versions of the report;
- Make sure the report is prompt.

② WHEN DISTRIBUTING THE REPORT:

- Submit the report to relevant official bodies and the Government;
- Upload it on your website;
- Use of a broad range of media to publicise the findings (press-release, Facebook, Twitter, etc.);
- Publish it in newsletters, bulletins, annual report;
- Email an announcement to the list of supporters and partners;
- Publish an article for an academic journal based on the findings or present a paper at a conference related to monitoring subject area;
- Have copies of the reports at organizational events;
- Present findings at meetings with interested stakeholders;
- Share findings and recommendations at training sessions and workshops, for example, develop a training tool based on the report;

- Develop a brochure for activities and accomplishments in a particular field, i.e. access to information, personal data protection or non-discrimination;
- Inform the UN and regional bodies.

5. FOLLOW UP STAGE

Follow-up activities aim at ensuring that recommendations in the monitoring report are implemented so as to improve respect, protection and fulfilment of all human rights. It involves not only monitoring government compliance with given advice and recommendations, but also evaluation of the whole monitoring process.

STEP 8

MONITORING IMPLEMENTATION OF RECOMMENDATIONS

① MONITOR THE GOVERNMENT COMPLIANCE WITH GIVEN RECOMMENDATIONS

- Verify implementation through continuous contacts and, if necessary, follow-up visits;
- Verify implementation based on other relevant information from, e.g., other human rights bodies, governmental institutions and civil society;
- Put in place a clear ‘impact-orientated’ follow-up strategy and develop practices and tools necessary to implement it;
- Maintain a constructive dialogue with the relevant governmental authorities / institutions regarding the implementation of recommendations;
- Consider sanctions or other forms of intervention in case of non-compliance with recommendations (visibility and publicity, referrals of the reports to regional and international human rights bodies).

② EVALUATE THE SUCCESS OF THE MONITORING PROCESS

- Evaluate the quality, the comprehensiveness and the validity of the data collected to point out shortcomings or gaps in the data and necessity for improvement of the internal information system;
- Identify lessons and good practices in regards to:
 - Challenges;
 - Undertaken activities;
 - Criteria for the selection of planned activities;
 - Criteria for the composition, of working groups, visiting and outreach teams;
 - Criteria for the involvement of specific forms of professional expertise or other input from national/international stakeholders;
 - Cooperation with other actors;
 - Strategies and working methods adopted when implementing activities;
 - The need to develop alternative strategies or approaches, etc.;
- Assess the effectiveness of steps that have been taken to improve a situation, including recommendations submitted to authorities, follow-up actions implementation of recommendations;
- Assess the necessity for further steps, i.e. communication to various stakeholders in forms of reports, recommendations, awareness raising and educational activities and different kinds of interventions (policy change, community mobilization, improving service delivery and response, use of domestic remedies, etc.).

GUIDING PRINCIPLES THROUGHOUT ALL MONITORING EXERCISE

① DO NO HARM

- Keep strict confidentiality;
- Ensure informed consent;
- Show sensitivity;
- Respect security standards;

② MAINTAIN YOUR ROLE

- Follow your mandate;
- Know the standards;
- Respect the authorities;
- Maintain credibility;

③ ENSURE HIGH QUALITY

- Exercise good judgement and common sense;
- Seek consultation;
- Maintain impartiality and objectivity;
- Ensure accuracy, transparency and be abide by research ethics.

CONCLUDING REMARKS

Incorporating elements, presented in this instrument, into monitoring systems strengthens them and makes them more appropriate for human rights measurement and implementation.

It is hoped that this general instrument proves helpful for not only the monitoring that is being carried out, but also as a practical reference when developing concrete monitoring studies on human rights issues, improving the design of future studies and surveys, as well as a helpful resource in strategic planning of Commissioner's Office activities (approving monitoring activities, organizations for inspections in the coming year).

LIST OF SOURCES

Sources, used to compile the General Instrument:

1. Activity 2.1.1 and activity 2.1.3. mission reports;
2. Boyko, A., K. Beardsley, and C. Wild. Designing an HIV Discrimination Monitoring, Reporting, and Referral System—International best practices and current policy, practice, and opportunities in Ukraine, 2012;
3. Discrimination in access to employment on grounds of foreign origin in France : a national survey of discrimination based on the testing methodology of the International Labour Office / E. Cediey and F. Foroni; International Labour Office, International Migration Programme, 2008;
4. Documenting the Implementation of Domestic Violence Laws: A Human Rights Monitoring Methodology. Advocates for Human Rights, 2011;
5. Guzman, M., Verstappen, B. What is monitoring. Human rights monitoring and documentation series, 2003;
6. Handbook on Planning, Monitoring and Evaluating for Development Results, United Nations Development Program, 2009;
7. Human Rights Monitoring. A Field Mission Manual. Martinus Nijhoff Publishers, 2008;
8. Human Rights Monitoring. Helsinki Foundation for Human Rights, 2001;
9. Human Rights Monitoring Circle. Power point presentation during National Human Rights Institutions Academy, 2016;
10. Manual on Human Rights Monitoring. An Introduction for Human Rights Field Officers, Norwegian Resource Bank for Democracy and Human Rights (NORDEM), 2011;
11. Manual on human rights monitoring. UN Office of the High Commissioner of Human Rights, 2011;
12. Measurement Framework for Equality and Human Rights. Equality and Human Rights Commission, 2017;
13. Monitoring the Convention on the Rights of Persons with Disabilities. Guidance for human Rights Monitors. Professional training series No. 17. UN Office of the High Commissioner of Human Rights, 2010;
14. Monitoring, Evaluation, Accountability and Learning (MEAL). Six Methods of data collection and analysis. Save the Children and The Open University, 2014;
15. National practices with regard to the accessibility of court documents. Study. European Parliament's Directorate General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs, Committee on Legal Affairs, 2013.

16. NPM Assessment matrix for NPMs, established by OPCAT, the SPT Guidelines on NPMs, and the Self-assessment tool for NPMs, 2017;
17. Rioux, M., Pinto P., Parekh G. Disability, Rights Monitoring and Social Change. Building Power out of Evidence, 2015;
18. Six methods of data collection and analysis. Save the Children - Monitoring, Evaluation, Accountability and Learning (MEAL) material. The Open University, 2014;
19. The methodology to estimate the level of provision of access to public information by public authorities. Centre of political studies and analysis “Eidos”, 2016;
20. Training Manual on Human Rights Monitoring. Professional Training Series No. 7. UN Office of the High Commissioner for Human Rights, 2001.