

## **ANALYSIS**

### **of the Draft Law “On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights” (reg. No. 13181 of 17.04.2025)**

In April 2025, the Verkhovna Rada of Ukraine registered the Draft Law “On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights”, reg. No. 13181 of 17.04.2025 (hereinafter — Draft No. 13181, the Draft Law).

According to the explanatory note, the purpose of the Draft Law is to improve the legal framework for the activities of the Ukrainian Parliament Commissioner for Human Rights (hereinafter — the Commissioner) and to enhance his institutional capacity in line with international human rights standards in order to improve the level of observance of human rights and freedoms in Ukraine.

The Draft Law proposes a new version of the Law of Ukraine “On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights” and amendments to the Laws of Ukraine “On State Secrets”, “On Citizens’ Appeals”, “On the Protection of Childhood”, “On International Treaties of Ukraine”, “On the State Register of Voters”, “On the Basic Principles of State Supervision (Control) in the Sphere of Economic Activity”, “On Prevention of Corruption”, “On Civil Service”, as well as to the Rules of Procedure of the Verkhovna Rada of Ukraine.

Later, in May 2025, three more draft laws were registered in Parliament, substantively related to Draft No. 13181, namely:

- [Draft Law](#) “On Amendments to the Budget Code of Ukraine on Improving the Legal Framework for the Activities of the Ukrainian Parliament Commissioner for Human Rights” (reg. No. 13248 of 01.05.2025);
- [Draft Law](#) “On Amendments to the Civil Procedure Code of Ukraine and the Law of Ukraine “On Court Fee” on Improving the Legal Framework for the Activities of the Ukrainian Parliament Commissioner for Human Rights” (reg. No. 13249 of 01.05.2025);
- [Draft Law](#) “On Amendments to the Code of Ukraine on Administrative Offences, the Criminal Code and the Criminal Procedure Code of Ukraine on Improving the Legal Basis for the Activities of the Ukrainian Parliament Commissioner for Human Rights” (reg. No. 13250 of 01.05.2025).

All the registered draft laws, taken together, are intended to enhance the effectiveness of the Commissioner’s activities and strengthen their influence on the human rights situation in Ukraine.

The new version of the Law of Ukraine “On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights” provides for such positive steps as lowering the age limit for candidates for the position of Commissioner from 40 to 35 years, introducing an appointment procedure with clearly defined deadlines for each stage, and specifying the list of documents a candidate must submit. It is also proposed to grant the Commissioner the right to submit proposals regarding the ratification of international

human rights treaties. The Draft Law provides the Commissioner with the following powers: to assist in documenting war crimes and gross human rights violations; to facilitate the return of Ukrainian citizens from the territory of the aggressor state and their departure from the temporarily occupied territory; to submit proposals to Parliament for the establishment of a temporary investigative or special commission; to monitor the observance of human rights and freedoms; etc. The proposed legislative changes set out conditions and enhanced safeguards for the implementation of the national preventive mechanism. In particular, Draft Law No. 13250 proposes to supplement the Criminal Code of Ukraine with Article 351-3, which will establish liability for failure to comply with the lawful demands of the Commissioner or the Commissioner's representative in the exercise of their functions as the national preventive mechanism.

It is worth noting that the new version of the Law of Ukraine "On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights" was developed over a long period of time by a working group established under the Advisory Council of the Ukrainian Parliament Commissioner for Human Rights. The Draft Law was [presented](#) to Members of the Ukrainian Parliament and representatives of civil society human rights organisations in April 2024. Since then, the text was revised by the Secretariat of the Commissioner in cooperation with Members of Parliament — the initiators of the legislation. Ultimately, some of the proposals submitted by representatives of national human rights organisations, which had also received positive feedback from experts from the Council of Europe and the European Network of National Human Rights Institutions (ENNHRI), were not taken into account and were not included in the Draft Law registered in the Verkhovna Rada of Ukraine (in particular, this concerns the procedures for nominating and appointing the Commissioner).

**A comprehensive analysis of legislative initiatives registered in parliament to improve the effectiveness of the Commissioner (reg. nos. 13181, 13248, 13249, 13250) leads to the conclusion that their adoption does not fully ensure the alignment of national legislation on the Commissioner with international standards and best practices of National Human Rights Institutions (NHRIs).**

**1. The procedure for nominating candidates for the position of Commissioner does not comply with international principles and standards.** According to the Principles on the Protection and Promotion of the Ombudsman Institution (the [Venice Principles](#) of the Council of Europe), paragraphs 6–8, the Ombudsman shall be elected or appointed according to procedures strengthening to the highest possible extent the authority, impartiality, independence and legitimacy of the Institution. The Ombudsman shall preferably be elected by Parliament by an appropriate qualified majority. The procedure for selection of candidates shall include a public call and be public, transparent, merit based, objective, and provided for by the law.

The Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the UN [Paris Principles](#)) also stipulate that the composition of the national institution (ombudsman) and the procedure for appointing its members should be through elections or by other means established in accordance with the

procedure. Such a procedure should provide all necessary guarantees for the pluralistic representation of civil society forces involved in the promotion and protection of human rights.

Guarantees of pluralism and openness in the selection of candidates for the position of Commissioner contribute to ensuring the independence of this institution from any influence (in particular political), trust in the Ombudsman on the part of all social groups, and the ability to effectively perform human rights protection functions in a democratic society. In a single-person model of the ombudsman institution, pluralism can also be ensured through the appointment procedure, consultations, openness and public participation.

The importance of having an expanded list of entities entitled to submit proposals for candidates for the position of Commissioner, as well as holding competitive elections for this position, is also emphasised in the Council of Europe Recommendation CM/Rec(2019)6 on the development of ombudsman institutions. However, Draft No. 13181 does not provide for such participation: the right to submit proposals for candidates for the position of Commissioner, in accordance with Part 1 of Article 6, is reserved for the Chairperson of the Verkhovna Rada of Ukraine or at least one quarter of the Members of the Verkhovna Rada of Ukraine from the constitutional composition of the Verkhovna Rada of Ukraine (according to Article 76 of the Constitution of Ukraine, the constitutional composition of the Verkhovna Rada of Ukraine is four hundred and fifty Members of Parliament).

Moreover, the Draft Law does not contain provisions on any involvement of representatives of civil society, human rights organisations, academics or the media in the selection process for the position of Commissioner through open consultations, public discussions or the provision for a wider range of entities to nominate candidates, which in turn does not ensure compliance with the principles of pluralism and openness at the stage of appointing the Ombudsman.

Therefore, the provisions of Draft Law No. 13181 directly contradict [the Rule of Law Roadmap](#), approved by the government on 14 May 2025, as it does not fully take into account the standards and principles listed in the Roadmap.

In accordance with Block 3.1, “Human Rights Framework”, one of the main measures for its implementation is the development and adoption of a new version of the Law of Ukraine “On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights” and amendments to other legislative acts that should contribute to ensuring the compliance of national legislation with EU Directives on equality bodies (Directive (EU) 2024/1499 of 7 May 2024, Directive (EU) 2024/1500 of 14 May 2024), as well as the “Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights” (the 1993 UN “Paris Principles” adopted by Resolution 48/134 of the UN General Assembly), the General Observations of the GANHRI Sub-Committee on Accreditation, and the “Principles for the Protection and Promotion of the Ombudsman Institution” (the Venice Principles of the Council of Europe).

It is important to implement Council of Europe Recommendation CM/Rec(2019)6 on the development of ombudsman institutions, aimed, in particular, at expanding the list of entities that can submit proposals for candidates for the position of Commissioner

and amending the electoral requirements to ensure that elections are held on a competitive basis.

**2. The Commissioner's control over the observance of constitutional rights and freedoms of individuals and citizens will extend to an unreasonably wide range of entities.** According to Article 22 of the Draft Law, the Commissioner's response to violations of the provisions of the Constitution of Ukraine, laws of Ukraine, and international treaties of Ukraine regarding human and civil rights and freedoms shall be the Commissioner's constitutional submission and Commissioner's submission.

Part three of Article 22 of Draft Law No. 13181 stipulates that the Commissioner shall submit reports not only to state authorities and local self-government bodies, but also to public associations, enterprises, institutions and organisations, regardless of their organisational and legal form and form of ownership, their officials and civil servants for the purpose of taking appropriate measures to eliminate the identified violations of human and civil rights and freedoms.

According to paragraphs 8 (a) and 8 (c) of Section II of [the Council of Europe Recommendation CM/Rec\(2019\)6](#), Member States should ensure that the mandate given to ombudsman institutions empowers them, in particular, to take action upon complaints received or on their own initiative, in order to protect any person or group of persons against maladministration, violations of rights, unfairness, abuse, corruption or any injustice caused by providers of public services, public or private.

Despite the fact that Council of Europe standards do not provide for a direct prohibition on the ombudsman exercising control over private entities and civil society organisations, we believe that the provisions of part three of Article 22 of Draft Law No. 13181 are not justified, as they exceed the scope of the Commissioner's mandate and contradict the Constitution of Ukraine.

The Commissioner shall, first and foremost, examine complaints from any person concerning human rights violations by public authorities, their officials or employees, including in the provision of public services (e.g. education or health services, which may also be provided by private institutions), and monitor the observance of human rights in the public administration system. However, as the Main Scientific and Expert Department of the Secretariat of the Verkhovna Rada of Ukraine (MSED) rightly points out in its conclusion, the proposed Draft Law contains provisions which imply that the object of control by the Commissioner (i.e., basically, parliamentary control) is not only the activities of public authorities, but also those of public associations, enterprises, institutions, organisations, regardless of their organisational and legal form and form of ownership, as well as their officials and employees, in relation to whom the Commissioner is granted a wide range of rights, the enforcement of which imposes obligations on the aforementioned entities.

In addition to the direct provision allowing the Commissioner to request, through submissions, to require measures to eliminate identified violations of human and civil rights and freedoms by a wide range of entities, including public associations, the Draft Law stipulates that public associations, enterprises, institutions and organisations, regardless of their organisational and legal form and form of ownership, *are obliged to*

*cooperate with the Commissioner and provide him with the necessary assistance* (Article 28 of the Draft), in particular:

1) to ensure access to materials and documents, in particular, on the basis defined by legislative acts regarding the protection of information with restricted access;

2) to provide information and explanations regarding the factual and legal grounds of their actions and decisions;

3) to consider the Commissioner's proposals to improve their activities in the field of protecting human and civil rights and freedoms and, within one month of receiving the proposals, provide a reasoned written response to them.

The Draft Law contains an obligation to provide the Commissioner with the requested information within ten working days of receiving the Commissioner's request, and also provides for liability for failure to provide the requested information.

However, by their nature, public associations are not entities responsible for ensuring human and civil rights and freedoms. That is why, as the MSER notes in its conclusion, the obligation of public associations to cooperate with the Commissioner can only exist within the framework of the latter's parliamentary control over the protection of human and civil rights and freedoms — and exclusively for the purpose of monitoring the observance of human and civil rights and freedoms by public authorities.

**Overall, the submitted Draft Law No. 13181 proposes to significantly strengthen the institution of the Ukrainian Parliament Commissioner for Human Rights while simultaneously maintaining the existing non-transparent and non-inclusive procedure for electing and appointing the Commissioner. The mechanisms for election and appointment proposed in the Draft Law reinforce the current practice, which does not meet international standards, is not sufficiently protected from political influence, and does not comply with the Rule of Law Roadmap adopted by the Ukrainian government. In addition, Draft Law No. 13181 unjustifiably expands the list of entities subject to the Commissioner's control (including civil society organisations), which is inappropriate for the institution and will not contribute to the fulfilment of its main function — parliamentary control over the observance of constitutional rights and freedoms of individuals and citizens.**

**We believe that Draft Law No. 13181, after its adoption by the Verkhovna Rada in the first reading, should be revised taking into account the comments expressed.**