

THE ROLE OF NATIONAL OMBUDSMEN IN RISK ASSESSMENT AND PREVENTION OF VIOLATIONS RELATED TO AI-DRIVEN MIGRATION GOVERNANCE¹

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ABSTRACT

The article focuses on the role of National Human Rights Bodies in protecting the rights of third-country nationals in the context of new threats emerging from the use of AI technology. It covers the basic tasks of national Ombudsmen within their mandates. Findings from research interviews conducted in June 2026 with the offices of the Polish and Greek Ombudsmen are also presented, as well as actual actions taken at both national and European levels regarding cooperation in implementing artificial intelligence in migration law and reflecting the protection of fundamental rights.

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1. Introduction

Following the adoption of the Asylum and Migration Pact and the reform of the Common European Asylum System², issues related to the use of artificial intelligence have been incorporated into European migration law. Although the legal provisions of the Pact do not expressly state this (the regulations refer to the digitalization of procedures and the use of biometric data), the provisions governing large-scale systems, such as Eurodac, create a regulatory environment in which advanced biometric and analytical tools can be used. The adoption and entry into force of the EU AI Act, which establishes a legal framework for the use of artificial intelligence, represents a significant development in this area and has sparked a wide-ranging discussion. Most concerns regarding the compliance of the adopted solutions with fundamental rights protection standards have been raised primarily by non-governmental organizations³, but the issue has also been addressed in legal scholarship.⁴

This study analyzes the steps taken by national Ombudsmen to assess

² [Pact on Migration and Asylum - Migration and Home Affairs](#) (access: 1.09.2026). See: E. TSOURDI, A-H. NEIDHARDT, H. HAHN (eds.), *From Compromise to Implementation: A New Era for EU Migration Policy?*, European Policy Centre and Odysseus Network, December 2024, available at: [From Compromise to Implementation: A New Era for EU Migration Policy?](#) (access: 5.09.2026).

³ See for example: ECRE Statement on Pact Implementation, available at: [ECRE Statement on Pact Implementation | European Council on Refugees and Exiles \(ECRE\)](#) (access: 5.09.2026).

the risk of potential human rights violations in connection with new migration management tools. For the purposes of this publication, interviews were conducted with the offices of the Polish and Greek Ombudsmen. The results of these interviews provide a basis for comparing the different challenges faced by these countries in the context of migration movements. Moreover, because there are, to date, no cases concerning the use of AI in migration matters that could be considered by national Ombudsmen, the analysis also examines actions taken by entities operating within the European Union that are responsible for protecting fundamental rights, including the basic rights of migrants.

2. The special role of the Ombudsman as a defender of human rights

The idea of the Ombudsman originated in Scandinavia. The history of the office dates back to Sweden, where it was established in 1809 as an official to whom people could turn after exhausting all available appeal options.⁵ The Swedish Ombudsperson was intended to strengthen legislative

⁴ See for example: L.S. STEWART, *The regulation of AI-based migration technologies under the EU AI Act: (Still) operating in the shadows?*, in *Review of European Law in Context*, Vol. 30, 2024, pp.122–135;

A. RINALDI, S.A. TEO, *The Use of Artificial Intelligence Technologies in Border and Migration Control and the Subtle Erosion of Human Rights*, in *International and Comparative Law Quarterly*, Vol. 74, 2025, pp.61–89;

M. FORTI, *Addressing Algorithmic Errors in Data-Driven Border Control Procedures*, in *German Law Journal*, Vol. 25, 2024, Issue 4, pp. 1–11.

⁵ S. SYKUNA, *Ombudsman*, in M. BALCERZAK, S. SYKUNA (eds.), *Leksykon ochrony praw człowieka*, Warszawa, 2010, p. 305.

oversight of government officials.⁶ Subsequent Ombudsman offices were established in the Scandinavian countries in 1919 in Finland, in 1952 in Norway, and in 1954 in Denmark.⁷ Through Denmark, the institution subsequently spread to other European countries. The idea of appointing an Ombudsman began to spread more widely in the 1960s, and by the 1980s the institution had become commonly associated with the protection of individual rights.⁸ Both the name and the form of the office differ across countries: in France, for example, the spokesperson focuses on conducting mediation and is referred to as a mediator; in Austria, the spokesperson is a collegiate body.⁹ In Poland, the Office of the Ombudsman was established under the Act on the Ombudsman of 15 July 1987¹⁰; and in Greece, the Greek Ombudsman (Synigoros) was established in 1998.¹¹

Regardless of differences in powers or institutional structure, the Ombudsman is an institution whose role is to protect individual rights in the vertical relationship between the individual and the state. In addition

⁶ H. GAMMELTOFT-HANSEN, *Trends Leading to the Establishment of a European Ombudsman*, in OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES, *The European Ombudsman: Origins, Establishment, Evolution*, Luxembourg, 2005, p.14.

⁷ S. SYKUNA, *Ombudsman*, p. 305.

⁸ H. GAMMELTOFT-HANSEN, *Trends Leading to the Establishment of a European Ombudsman*, p. 14.

⁹ Ibidem.

to general Ombudsman institutions, some European countries have Ombudsmen responsible for protecting specific categories of individual rights, such as the Commissioner for Children's Rights in Poland.¹²

The Ombudsman protects the rights guaranteed by the Constitution and, in response to increased migration in European countries, is also tasked with protecting the rights of third-country nationals, including protection against arbitrary detention or refoulement.

3. Migration and Artificial Intelligence – Challenges for Human Rights Protection

Incorporating artificial intelligence into legal frameworks creates challenges for human rights protection both at the national and international levels, particularly at the regional level within the European Union. Sue Anne Teo captures this issue well in the title of her work

¹⁰ Act of July 15, 1987 on the Commissioner for Human Rights, Journal of Laws 2024 item 1264, consolidated text.

¹¹ See also: A.M. KOSIŃSKA, *The Ombudsman's Actions to Protect Migrants' Rights – do we need an Ombudsman for Migrants at the national level?*, in *Przegląd Sejmowy*, Vol. 34, 2026, Issue 2, pp. 225-242; A.M. KOSIŃSKA, *The Ombudsman's Role in Protecting the Rights of Refugees and Irregular Migrants – Poland's Experience in Comparison to Sweden and Greece Law and Practice*, in *Review of European and Comparative Law*, Vol. 62, 2025, Issue 3, pp. 39-58.

¹² Act of January 6, 2000 on the Ombudsman for Children, Journal of Laws 2023 item 292, consolidated text.

“Artificial Intelligence and Its ‘Slow Violence’ to Human Rights”.¹³ The author primarily highlights the broader problem of bias in the use of artificial intelligence in relation to minority and vulnerable populations, particularly in the context of facial recognition. In the context of datafication, individuals may remain on the sidelines of the process.¹⁴ The use of artificial intelligence may therefore create risk of violations of human rights, including the right to privacy, the right to freedom of expression, and the right to freedom of thought.¹⁵ Notably, the European Court of Human Rights has already addressed fundamental-rights concerns arising from the retention and technological use of biometric data, including in *Gaughran v United Kingdom*. Although the case did not concern artificial intelligence as such, it illustrates the broader human-rights implications of increasingly sophisticated technologies for the storage and analysis of personal data.¹⁶

Despite these risks, the use of artificial intelligence should not be regarded as inherently negative. In particular, data-driven decision-

¹³ S.A. TEO, *Artificial Intelligence and Its “Slow Violence” to Human Rights*, in *AI and Ethics*, Issue 5, 2025, p. 2267.

¹⁴ *Ibidem*, p. 2269.

¹⁵ *Ibidem*, pp. 2270-2272.

¹⁶ See ECtHR, judgment of 13 February 2020, *Gaughran v. UK*, no. 45245/15. See also: A. WIŚNIEWSKI, *Artificial Intelligence and Human Rights in the Context of International Law*,

making can reduce the time required to process applications.¹⁷

The introduction of artificial intelligence into EU migration law raises significant concerns among human rights defenders. This is primarily related to the concept of double vulnerability. Migrants may find themselves in a particular vulnerable position during the migration process, which may be involuntary and may be associated with trauma experienced in their country of origin. They may also be unfamiliar with the legal system of the host country and, for this reason, may be in a weaker position in administrative and judicial proceedings than citizens of the host country. The trauma and stress associated with potential inhumane treatment in their country of origin and during the migration process may further contribute to their vulnerability. In addition, migrants may belong to groups traditionally regarded as vulnerable, such as persons with disabilities or pregnant women, resulting in a situation of double vulnerability. The use of dehumanized large-scale systems may further exacerbate this vulnerability. Human rights organizations have already identified the risks associated with the use of AI in migration law in a joint statement issued in 2022.¹⁸ The statement was signed by leading non-governmental organizations, including PICUM, Amnesty International, and State Watch.

in *Prawo i Więzy*, Issue 4/2023, pp. 29-52.

¹⁷ *Artificial intelligence in asylum procedures in the EU. European Parliament Briefing*, C. DUMBRAVA, Member's Research Service, July 2025, available at: [Artificial intelligence in asylum procedures in the EU](#) (access: 16.09.2026).

¹⁸ [Joint Statement: The EU AI Act must protect people on the move - European Civic Forum](#) (access: 16.09.2026).

The risks associated with the use of AI in migration law overlap with the general human rights risks outlined above, but they also have some specific dimensions resulting from their connection with large-scale systems used in asylum law. Notable examples include risks associated with biometric recognition and language analysis. A European Parliament Briefing from July 2025 identified the following risks: “(i) inaccuracies, bias and discrimination; (ii) undermining fairness and due process; and (iii) unlawful interference with privacy and data protection”.¹⁹

As noted above, although the integration of AI into immigration law may offer significant advantages, it requires authorities responsible for implementing the relevant legal provisions to exercise particular caution and diligence.²⁰

4. The use of artificial intelligence and the protection of human rights at the national level of member states.

For the purposes of this study, as noted above, two research interviews were conducted with representatives of the Ombudsman’s offices. The first one took place on June 10, 2026, with Marcin Kusy, Head of the

¹⁹ *Artificial intelligence in asylum procedures in the EU. European Parliament Briefing*, op. cit.

²⁰ On the topic of the added value see M. I. CIGER, *Artificial Intelligence and Resettlement of Refugees: Implications for Fundamental Rights*, Working Paper, RSC 2023/44, Robert Schuman Policy Centre, p. 17.

Migrants' Rights Team. Importantly, the team was established within the Ombudsman's office only in January 2026 and consists of four officers responsible for handling cases involving foreigners. As of the date of the interview, the team had handled 523 migration-related cases in 2026. At the time of the interview, the use of AI had not yet been the subject of complaints submitted to the office, and it was difficult to predict which issue would become part of the team's work in the future. It is worth noting, however, that under Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, Member States are required to provide for an independent monitoring mechanism for the screening process at the EU's external borders. Under Article 10 of the Regulation, national Ombudspersons shall participate in the mechanism.²¹

According to Article 10 of the above-mentioned Regulation, national Ombudspersons and other entities operating within the framework of OPCAT shall participate in the monitoring of screening with regard to potential violations of fundamental rights. At the time of the meeting, preparatory work was underway in Poland to establish such a

²¹ Regulation (EU) 2024/1356 of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, Official Journal L 2024/1356, 22.5.2024. Article 10 states:

Monitoring of fundamental rights

1. Member States shall adopt relevant provisions to investigate allegations of failure to respect fundamental rights in relation to the screening.

(...)

2. Each Member State shall provide for an independent monitoring mechanism in accordance with the requirements set out in this Article (...)

(...)

National Ombudspersons and national human rights institutions, including national preventive mechanisms established under the OPCAT, shall participate in the operation of the independent monitoring mechanism and may be appointed to carry out all or part of the tasks of the independent monitoring mechanism

mechanism. Another relevant issue concerning the oversight of using artificial intelligence is the provisions of the Act on Artificial Intelligence Systems adopted in Poland on July 3, 2026.²² According to Article 5, the newly established Commission for the Development and Security of Artificial Intelligence acts as a single point of contact. Candidates for the Commission may be nominated, among others, by the Polish Ombudsman. The Commission's task is to initiate proceedings in cases of potential violations on the basis of submitted complaints or materials collected on its own initiative. It should be noted that the Ombudsman or their representative declined to seek membership of the Commission, as this could create a conflict of interest if the Commission were to handle complaints concerning the Ombudsman's actions and could undermine the Ombudsman's independence.

In June 2026, a research interview was also conducted with an employee of the Greek Ombudsman's office. Notably, Greece has only one Ombudsperson, without specialized mandates, supported by six Deputy Ombudspersons responsible for different areas. There is no department dedicated specifically to migrants' rights, cases are referred either to the discrimination department or to the human rights department. Current migration-related complaints concern, among other matters, push-backs and lack of access to international protection.

To date, no training has been provided to the office staff, although experts from the human rights department have been preparing legal opinions concerning the use of AI in migration management. At the time of the interview, no complaints had been filed by third- country nationals concerning the use of artificial intelligence in migration processes. A specific concern for the office is the use of algorithms in accelerated border procedures, which are also to be applied to vulnerable persons, with the exception of minors. Potential risk may concern the new

²² Act from July 3, 2026 on artificial intelligence systems, Journal of Laws 2026, item 1003.

Eurodac environment and the correct application of its rules with regard to data protection.

Notably, the monitoring function in Greece concerning the supervision of the borders, is currently entrusted to a government dependent agency, the National Transparency Agency²³, while the Greek Ombudsman retains its constitutional role of investigating relevant complaints. From the perspective of the implementation of the Migration Pact, an interesting question is whether Greece will change the model based on the National Transparency Authority to fully comply with Article 10 of Regulation 2024/1356 and to formally include the Greek Ombudsman as a national human rights institution. The supervision over AI systems at the borders in June 2026 was entrusted to the Data Protection Authority, an authority that is independent under the Greek Constitution. In connection with the adoption of Law 5321/2026, the Hellenic Data Protection Authority (HDPa) is the competent body for certain high-risk systems.²⁴

The two offices have not yet received any complaints concerning the use of AI in migration law, and the issue therefore remains largely hypothetical at present. Although both countries are located at the external borders of the European Union, their institutional arrangements differ. In Poland, a specialized team dedicated exclusively to migrant cases was established within the Ombudsman's office. In Greece, by contrast, the absence of specialized Ombudsperson mandates means that cases are classified according to broader criteria.

In Greece, it was ultimately decided not to include the Ombudsman in the mechanism for monitoring screening at the external borders, whereas in Poland, work is underway to establish such a mechanism.

Taken together, these findings suggest that it remains too early to determine what role national Ombudsmen will play in addressing potential abuses related to the use of artificial intelligence following the entry into application of the Asylum and Migration Pact.²⁵

From the perspective of ensuring the protection of migrants'

²³ See: [Greece IBMM Report final.pdf](#) (access: 5.09.2026).

²⁴ See: [Hellenic DPA takes a leading role in implementing the EU AI Act in Greece | Hellenic Data Protection Authority](#) (access: 5.09.2026).

fundamental rights, the national Ombudsman has the potential to play an important role as an institutional safeguard in the era of artificial intelligence. This follows from the nature of the office, which in recent years, particularly in Poland, has played an important role in preventing violations. The characteristics of the office – including its accessibility, free services, flexibility, and broad range of available measures, from intervention before administrative authorities to participation in court proceedings – provide a basis for assigning the Ombudsman a particularly important role in the system of guarantees for the protection of migrants' rights.

5. Challenges for the European Union institutions responsible for protecting fundamental rights in relation to the use of artificial intelligence

More concrete evidence is available regarding the activities of EU bodies addressing abuses related to the use of artificial intelligence.

One such body is the European Ombudsman, whose mission is to protect the right to good administration, guaranteed by Article 41 of the Charter of Fundamental Rights.²⁶ From 2021 to mid-2026, there were 29

²⁵ It is worth adding that general issues regarding the use of artificial intelligence are of interest to national Ombudsmen, as exemplified by a meeting that took place in October 2024 in Estonia, which was attended by 18 national Ombudsmen. See: [Ombudspersons and their advisers from 18 Countries Gather in Estonia to Discuss AI and Human Rights](#) (access: 5.09.2026).

²⁶ Charter of Fundamental Rights of the European Union, Official Journal C 202, 7.06.2016, pp. 389 - 405.

cases concerning the use of AI.²⁷ The Ombudsman has also published standards governing the use of artificial intelligence in the Ombudsman's Office on its website.²⁸ In its 2025 annual report, Ombudsperson Teresa Anjinho emphasized that AI is not used in decision-making, in preparing recommendations, in admissibility assessments, or in prioritizing complaints.²⁹ In addition, an AI Officer and an AI Task Force were appointed to streamline the handling of incoming cases and reduce the number of complaints that go beyond the Ombudsman's authority³⁰.

The Petitions Committee of the European Parliament also regularly receives petitions related to the use of artificial intelligence.³¹ One notable example is Petition No. 2459/2025, submitted by Noa María Río Cambón (Spain), concerning the regulation of the use of artificial intelligence at the EU level to manage migration flows.³²

The European Union Agency for Fundamental Rights, which is

²⁷ See: [Search inquiries | Page 1 | European Ombudsman](#) (access: 5.09.2026).

²⁸ [Use of Artificial Intelligence in the European Ombudsman's Office | European Ombudsman](#) (access: 5.09.2026).

²⁹ [Annual Report 2025 | Annual Report | European Ombudsman](#) (access: 5.09.2026).
As the report indicates, in 2025 there were 54% more complaints than in 2024. There were 19% more proceedings started (492).

³⁰ See: [AI-driven complaints swamp EU ombudsman](#) (access: 5.09.2026).

³¹ See: [Show petitions | PETI | Committees | European Parliament](#) (access: 5.09.2026).
There are currently over 100 petitions just about artificial intelligence.

responsible for monitoring compliance with the rights guaranteed by the Charter of Fundamental Rights, in turn launched a large-scale study in January 2026 titled “Use of artificial intelligence in asylum and immigration procedures – fundamental rights implications”.³³

A notable case currently pending before the Court of Justice arose from a request for a preliminary ruling submitted by the Belgian Cour constitutionnelle, with Ligue des droits humains ASBL initiating the proceedings at the national level.³⁴ The case concerns the definition of a security risk in the ETIAS Regulation and the compatibility of these rules with Article 16 of the Treaty on the functioning of the European Union and Articles 7 and 8 of the Charter, in particular in relation to the protection of individuals in the processing of personal data and concerns regarding the lack of precision in the relevant provision.³⁵ Although the referred question does not explicitly concern artificial intelligence, the referral demonstrates that the use of large-scale systems and implementation of AI in their operation may raise significant issues

³² [Home | PETI | Committees | European Parliament](#) (access: 5.09.2026).

³³ [Use of artificial intelligence in asylum and immigration procedures – fundamental rights implications | European Union Agency for Fundamental Rights](#) (access: 5.09.2026). It's worth adding that the Agency already prepared a report in 2025 *Assessing High-risk Artificial Intelligence: Fundamental Rights Risks* - [Assessing High-risk Artificial Intelligence: Fundamental Rights Risks | European Union Agency for Fundamental Rights](#) (access: 5.09.2026).

³⁴ Request for a preliminary ruling from the Cour constitutionnelle (Belgium) lodged on 17 December 2025 – Ligue des droits humains ASBL v Premier ministre (Case C-846/25,

relating to the protection of fundamental rights.³⁶

6. Concluding remarks

At present, it is difficult to assess the scale of actions that national Ombudsmen will undertake to address violations related to the use of artificial intelligence in migration processes. It will take at least several months to assess the role of the Ombudsman. However, there is no doubt that the existence of a legal framework governing the use of AI will require both national and EU-level authorities responsible for human rights protection to respond flexibly. Although administrative complaints are likely to arise, some delay is to be expected given that the new rules introduced by the Pact on Migration and Asylum only entered into application on 12 June 2026.

As Alberto Rinaldi and Sue Anne Teo rightly point out, the use of AI systems within the field of border control and migration management is challenging human rights in novel ways, going beyond the oft-cited concerns of privacy, data protection and non-discrimination.³⁷ Hence, it should be emphasized that human rights institutions, particularly

Ligue des droits humains), Official Journal 2018 L 236, p. 1.

³⁵ Treaty on the Functioning of the European Union, consolidated version, Official Journal C 202, 7.06.2016, p. 47 ff.

³⁶ See: C. I. VELASCO RICO, M. LAUKYTE, *ETIAS system and new proposals to advance the use of AI in public services*, in *Computer Law & Security Review: The International Journal of Technology Law and Practice*, Vol. 54, 2024, pp.1-9.

national Ombudsmen, face a new institutional challenge: ensuring an effective role in addressing violations involving AI. In addition, lawmakers should ensure that the Ombudsman has an appropriate place within the system of fundamental rights protection, including a role in coordinating efforts to prevent AI-related violations, while safeguarding the full independence of the Ombudsman and respecting the roles of other entities involved in such protection.

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³⁷ A. RINALDI, S.A. TEO, *The Use of Artificial Intelligence Technologies in Border and Migration Control and the Subtle Erosion of Human Rights*, op. cit, p. 89.

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