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Recommendation on
systematic work for implementing human rights
at the national level

by

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1. Introduction

There is a gap between the rights proclaimed in international and regional human rights instruments and how these rights are respected in individual countries. In fact, all states encounter challenges in their work towards complete fulfilment of human rights. Scarce resources are often invoked as the main obstacle. Corruption, internal tensions, racism and intolerance are other obstacles to real progress. Serious violations of human rights also take place in countries that are considered stable and non-corrupt. The illegal arrests, enforced transport of wrongfully detained people and brutal interrogation methods used in the struggle against terrorism are clear examples.

Council of Europe member states are increasingly showing an interest in methods for systematic human rights implementation and monitoring. Most countries have developed strategies or action plans targeting specific problems, such as gender inequalities, racism and discrimination, or trafficking in human beings. Azerbaijan, Croatia, Lithuania, Norway, Moldova, Sweden and several countries outside Europe have adopted comprehensive action plans seeking to address the human rights situation in a coherent manner. When anchored in a thorough baseline study, such plans have proved to be useful tools for clarifying the authorities' responsibilities and for identifying and addressing gaps in human rights protection.

These developments have been inspired by the UN World Conference on Human Rights which met in Vienna in 1993. The Conference declared that human rights are universal, indivisible, interdependent and interrelated and called on member states to fulfil their human rights obligations through systematic work, including the preparation of national plans of action. The Vienna Conference also highlighted the importance of human rights education in empowering people to exercise their rights. Moreover, systematic work for human rights implementation was the theme of the International Conference "Rights Work!" organised by the Swedish Chairmanship of the Council of Europe Committee of Ministers in Stockholm on 6-7 November 2008. The Conference took stock of the current efforts to systematise human rights implementation and identified the advantages of coherent human rights planning.¹

To develop an action plan openly presenting problems and corresponding activities is a signal of commitment to human rights. To have real impact, this must be followed through by coordinated efforts to ensure that all authorities have a rights-based approach to their work, that citizens have an understanding of their human rights and access to effective remedies when they are violated; that the judiciary is independent and functions well; that the political processes - including the budgetary process - take due consideration of international standards in their decision-making; that civil society can scrutinise and criticise decision-makers in a safe and enabling environment; and that national human rights institutions (NHRIs) are adequately mandated and resourced to monitor independently how national legislation, policies and administrative practices comply with international obligations.

In accordance with the mandate of the Commissioner for Human Rights to promote the awareness of and effective observance and full enjoyment of human rights in Council of Europe member states as well as to provide advice and information on the protection of human rights (Articles 3 and 8 of Resolution (99) 50 of the Committee of Ministers), the Commissioner issues this Recommendation on systematic work for implementing human rights at the national level.

¹ The report of the Conference – "Rights Work! Make them real!" – is available on the conference web-site: www.sweden.gov.se/rightswork.

2. Methods for systematic work

There is no universal formula for systematic human rights work. Different working methods have been developed over the last decade, such as the baseline study, national human rights action plans, mainstreaming, the rights-based approach and human rights indicators. These different methods are preferably used in combination with one another and form part of a continuous process.

The baseline study is a description of the current human rights situation in a country. It identifies shortcomings in human rights protection and provides the basis for human rights planning. National action plans may be comprehensive or specific. The idea of a comprehensive national action plan is to grasp the whole picture of the human rights situation and to approach policy and planning in a comprehensive and coherent manner.² The same attention is given to the implementation of economic, social and cultural rights as to civil and political rights. Indicators help governments to measure progress in their work.

Mainstreaming is a way of organising work within the government and local authorities so that human rights standards and obligations are integrated into all levels of policy and decision-making. Such working methods call for a rights-based approach, which means viewing everyone as rights-holders and identifying the duty-bearers who are responsible for the realisation of human rights.³ It seeks to empower rights-holders to claim their rights rather than wait for policies or legislation to change. The rights-based approach should be applied to work in all policy areas.

3. The baseline study

A baseline study provides the foundation for any systematic human rights work. We need to know where we stand in order to develop strategies and plans for future improvements. The first step is to collect information from different sources on the human rights situation in the country in question. Whilst a human rights plan or strategy might focus on certain pressing problems and leave others outside, a baseline study needs to cover all relevant human rights challenges. Whether such a study is presented in a separate document or as a part of an action plan is something for each country to decide. It is necessary to obtain information from various parts of society in order to get a thorough and comprehensive picture of the situation.

3.1 Inclusive and participatory dialogue

Participation is a key principle for human rights work. While it is usually the national authorities who initiate the baseline study, all stakeholders should be invited to contribute to it. These include politicians from the ruling parties and the opposition, representatives from public authorities at different levels, NHRIs, academia and civil society in a broad sense, including trade unions, immigrant and minority associations, the disability movement, advocates for refugee rights and associations of older persons. The business sector should also be involved, particularly regarding issues on labour rights, discrimination and corporate responsibility. The government should engage in dialogue with each of these groups to discuss human rights concerns in an open and constructive manner. This requires a self-critical approach on the governmental side. The dialogue is not a forum for defending current policies but an opportunity for the government to listen to others' perceptions and experiences of the current system for the protection of human rights, including its weaknesses. If well managed, such dialogue has proven to contribute to a common understanding of the given

² For detailed guidance on the preparation, implementation, follow-up and evaluation of national action plans for human rights see, Office of the United Nations High Commissioner for Human Rights, The United Nations Handbook on National Human Rights Plans of Action, Professional training series No. 10, 29 August 2002.

³ For further reading about the rights-based approach see, Office of the United Nations High Commissioner for Human Rights, Frequently asked questions on a human rights approach to development and cooperation, 2006.

human rights problems and generate support for future strategies and/or action plans as well as their implementation. The participants also create a valuable network that can be consulted and involved in implementation, follow-up and evaluation of the work.

If consultations are conducted through meetings it is advisable to hold some of them outside the capital to reach those based elsewhere in the country. Written submissions could serve as a complement. To reach certain parts of the population, information has to be available in minority languages and in accessible formats for persons with disabilities.

3.2 The content of the baseline study

To give a correct description of the situation, it is important that the baseline study is comprehensive. Indeed all human rights violations are a serious concern. The idea of a baseline study is, however, not to list all individual violations that have taken place in a country but to focus on problems that are recurring or reveal structural problems. A baseline study should:

1. Review the status of ratification of and reservations to international and regional human rights treaties and take note of the findings and recommendations of treaty and other monitoring bodies including the judgments of the European Court of Human Rights.
2. Assess the functioning of the judiciary and the law enforcement system. Corruption is a real problem in some member states. Excessive delays in the administration of justice is another concern often brought before the European Court of Human Rights.
3. Evaluate efforts to provide human rights education. Many governments are not giving enough attention and resources to ensure that people know their rights and understand how to claim them.
4. Analyse the conditions for NHRIs and other human rights complaints mechanisms to verify whether their mandates are adequate in terms of competences, resources and independence in accordance with the Paris Principles⁴.
5. Map out how responsibility for human rights implementation is distributed between the national, regional and local authorities and review existing mechanisms for dialogue, cooperation and coordination.
6. Identify obstacles faced by civil society and human rights defenders in their working environment and opportunities for constructive dialogue with decision-makers.
7. Scrutinise places where people are deprived of their liberty, including police detention cells, prisons, detention centres for irregular migrants and psychiatric institutions. Effective complaints procedures and independent monitoring visits are essential safeguards in these settings.
8. Identify discriminatory practices in the labour market, education and other sectors of society and review legislation for the effectiveness of its provisions prohibiting discrimination based on gender, gender identity, ethnicity, religion, sexual orientation, disability, age and other such grounds.

⁴ United Nations General Assembly, *Principles relating to the status and functioning of national institutions for the protection and promotion of human rights* (Paris Principles) annexed to UN General Assembly Resolution on national institutions for the promotion and protection of human rights (A/RES/48/134, 85th Plenary Meeting on 20 December 1993).

9. Examine the situation of vulnerable or disadvantaged groups of people to identify possible obstacles in their ability to exercise fully their human rights. Among others, such groups of people include children, older persons, persons with disabilities, migrants, Roma and other ethnic minorities.
10. Review measures, including data collection, taken in response to violence against women and trafficking in human beings. Assess the legal framework for bringing perpetrators to justice and the availability of shelters, health care and support to all victims.
11. Assess the incidence of and measures taken against racism, islamophobia, anti-semitism, homophobia, and other such intolerance including hate-crimes.
12. Carry out a critical review of counter-terrorism measures, including legislation, to ascertain their compliance with human rights such as the absolute prohibition against torture, the right to a fair trial and the protection of privacy.

3.3 Human rights indicators as a tool

Human rights indicators are designed to assess the level of the observance of human rights in a given situation and could be helpful tools during the development of a baseline study. Since it is often not easy to measure the enjoyment of human rights, indicators must be able to assess both quantitative and qualitative aspects. For example, girls' enrolment in school gives an indication of their access to education. If statistics provide disaggregated information they can also give an indication of the school enrolment of Roma girls or girls from other disadvantaged groups. But such figures do not say anything about the quality of the education or the ability of the school, for example, to meet the needs of girls with disabilities.

Human rights indicators are based on international standards. The content of each human right is analysed and translated into claims and corresponding obligations. One series of indicators builds on a state's obligation to respect, protect and fulfil human rights.⁵ Its indicators measure how well the state has succeeded in implementing these three basic elements of human rights obligations. Another scheme focuses on four features - availability, accessibility, acceptability and adaptability - that any right should incorporate to be fully realised.⁶ All rights should be available, meaning that the legal system must comply with international standards and provide effective remedies for human rights violations. Indicators on accessibility measure the protection against discrimination as well as geographical, physical and economical accessibility. Acceptability indicators relate to the quality and cultural appropriateness of implementation efforts, and adaptability refers to how well the system is able to meet different needs and to adjust to a change of circumstances. A third scheme has been developed to take stock of a government's commitment to human rights, its efforts to implement the rights and the results.⁷ Indicators within this scheme look at which international treaties the government has ratified, if reservations are made, what status human rights have in the national legal system, how complaints of human rights violations are handled and whether policies for human rights promotion exist. Statistics and other information indicating the prevalence of human rights violations are added to the analysis.

⁵ See e.g. Office of the High Commissioner for Human Rights, Report on indicators for monitoring compliance with international human rights instruments: a conceptual and methodological framework, 11 May 2006, HRI/MC/2006/7.

⁶ K. Tomasevski, Human Rights Obligations in Education - The 4-A Scheme, 2006.

⁷ Office of the High Commissioner for Human Rights, Report on indicators for promoting and monitoring the implementation of human rights, 6 June 2008, HRI/MC/2008/3

Indeed, information collected and analysed through such methods can be politically sensitive, since it reveals both positive and negative aspects of policies and decisions. Indicators are, however, not primarily aimed at blaming and shaming but rather designed to provide the data needed for an objective and thorough evaluation of the state of affairs and to assist in finding effective measures of increasing the protection of human rights.

3.4 Data collection

Relevant and reliable data is a pre-condition to using human rights indicators as an assessment tool. Different types of data are necessary in order to get a comprehensive and valid picture of the situation. Official statistical systems could provide information related to school enrolment, employment rates, access to social services and health care, for example. Preferably such statistics should be disaggregated based on sex, ethnicity, sexual orientation, disability, and age, to reveal discriminatory practices. Collection of disaggregated data is, however, a complex task. People might, for good reasons, be unwilling to disclose their ethnic background or sexual orientation. Such data should be collected on a voluntary basis and coupled with proper safeguards to prevent the identification of individuals belonging to a particular group.

Statistical surveys which reflect perceptions of the human rights situation can be a useful complement to official statistics. Other methods are needed to collect information on certain marginalised groups such as homeless people or irregular migrants. The whole collection process must comply with data protection standards to ensure confidentiality and respect the privacy of the persons concerned.

Non-governmental organisations (NGOs), NHRIs and the media are valuable sources of information. Official statistics and surveys tend to present human rights violations in numbers and percentages. It is therefore important to combine such figures with more detailed information about the events resulting in human rights violations. Collecting information from civil society and NHRIs is further required to balance the information mainly provided by the public administration.

4. Action plans

4.1 Comprehensive and specific action plans

There are several ways to proceed after the baseline study has been completed. One method is to develop a national human rights action plan or strategy where the main human rights concerns are identified and suitable measures to address these problems are set. The baseline study provides the basis for this work. Other considerations are financial and human resource constraints, which can make it impossible to address all of the human rights problems at once. This is why priorities and solutions to human rights problems must be discussed in an open and inclusive way. If an area is not given priority status even though the baseline study reveals real concerns, the plan or strategy needs to explain clearly the reasons behind such decisions. Any attempts to describe the real situation in flattering terms or to include measures that lack substance in reality will seriously undermine the credibility of the procedure.

Another approach is to develop action plans targeting one or several human rights concerns, such as racism, discrimination, gender equality or children's rights. Specialised plans can be valuable for raising awareness about a specific problem and obtaining agreement on the action needed. They can facilitate coordinated measures involving several authorities working in different areas. Plans to combat trafficking in human beings, for example, often involve the police, the prosecutor's office, the courts, the immigration agencies as well as social workers and health care personnel.

A common question is how comprehensive and sector-based plans should relate to each other. A number of governments working with comprehensive plans also have specialised ones. If coordinated in substance and timing, the plans can reinforce each other rather than overlap or ignore one another. The comprehensive approach is intended to ensure that no important human

rights are disregarded and that a clear human rights perspective is included in sector-based measures. Once the problematic areas are identified, an activity in the comprehensive plan could be developed into a specific plan for an area that requires special attention and action.

National action plans for human rights should be viewed as part of a continuous, participatory and transparent process. They start with a baseline study which has been carried out in dialogue with the authorities, civil society, NHRIs and other stakeholders. The government's priorities are then openly presented in an action plan setting concrete measures to address previously identified concerns. Progress and set-backs are regularly followed-up during the implementation of the plan. Towards the end, both the process and the results of the plan should be subjected to an independent evaluation. Based on these findings the whole process starts over again by identifying remaining and new human rights concerns using equally inclusive and participatory working methods.

4.2 Planning concrete activities and mainstreaming

The participatory approach should be followed through during the planning phase. While it is important that the drafting of a national action plan is coordinated by a dedicated unit or mechanism identified by the government, all activities should be formulated in close cooperation with those departments, agencies, institutions and other authorities who will carry out the activities. This will also create shared ownership for the action plan among the authorities and helps to identify the duty bearers for the implementation phase. NGOs and NHRIs have knowledge, not only on human rights violations, but also on what needs to be done to prevent future violations. Therefore, the government should invite them to communicate such information without compromising their integrity and independence. The public authorities are normally the main actors for implementation. It is therefore particularly useful to engage the heads of authorities during planning to ensure that the planned activities will be given priority and attention by their respective departments.

To avoid ambiguity during implementation, time and effort should be invested in formulating concrete activities corresponding to the problems identified in the baseline study. Such activities should be tailored to meet the needs of the relevant authority and coupled with realistic time-frames and benchmarks. In this way, human rights obligations can be integrated into the public authorities' ordinary work and coordinated with other requirements, such as security, economic and environmental concerns.

The full mainstreaming of human rights into day-to-day work may require the re-organisation of certain working methods and decision-making procedures within the government and public administration. In addition, capacity building and training should be systematised to ensure that national and local authorities are aware of the effect of international obligations on their work. Management is an important target group for such training.

4.3 International reporting obligations

Several national authorities are usually responsible for reporting to international and European treaty bodies and other monitoring mechanisms on the national human rights situation. The universal periodic review (UPR) carried out by the UN Human Rights Council is one of the most recent mechanisms in this respect. Due to the number of current monitoring mechanisms, national authorities have to put considerable effort and resources into fulfilling their reporting obligations and avoiding overlap in these activities.

Baseline studies and national action plans can substantially facilitate the reporting process both when state party reports are submitted to monitoring bodies and when findings and recommendations of such bodies are dealt with. The integration of reporting obligations into the systematic work for human rights improves the coordination of reporting and renders it more efficient and cost effective.

4.4 Financing the plans

Several states hesitate to develop national human rights action plans because the process is costly, requiring significant human and financial resources. But systematic work has its benefits compared to ad-hoc approaches. A systematic approach increases the likelihood of sustainable results. It makes it possible to foresee and plan costs and ensure that resources are allocated to the areas most in need.

The systematic work described above has to be coordinated with national and local budgets to secure proper funding for the activities. The ministry of finance has a central role and should be involved from the start of the process. National action plans for human rights often have no separate budget, instead each ministry and authority has to finance these activities out of their ordinary budgets. Nevertheless, all of the activities included in the plans and strategies need to be adequately financed so as not to undermine the credibility of the whole process.

Choosing which human rights concerns to include in a plan is a delicate task. It is not uncommon for politicians to be faced with the dilemma of having to choose between different legitimate claims for priority. Analysis of budget proposals from a human rights perspective can assist politicians to prioritise fairly and in a non-discriminatory manner. How do the proposed policies and decisions affect human rights protection? What are the consequences for disadvantaged groups of people? Does the budget provide the “maximum extent of available resources” for the implementation of human rights standards? A baseline study will help politicians to answer these questions and allocate resources where they are needed the most.

4.5 Human rights education and awareness raising

Human rights education is a catalyst to achieve real and sustainable change in a country and, therefore, an essential part of any human rights strategy or action plan. It includes all forms of education and ensures that individuals have an understanding of their human rights and those of others, thereby promoting critical thinking and mutual respect. It connects human rights standards with people’s real-life experiences, empowering them to identify and demand their human rights in their daily lives. For a thorough understanding, teaching has to focus not only on what is being taught, but also on how it is being taught. It is important that teaching methods convey human rights values by encouraging participation and critical thinking and promote a learning environment free from discrimination and intolerance.

Effective mainstreaming and implementation of the rights-based approach requires competent public officials to identify and address human rights issues. Particular attention should therefore be paid to students in higher education, who in their future work will have influence over the human rights of others. For example, police officers, judges, teachers, social workers, doctors, civil servants and journalists need a solid human rights education based on concrete and practical situations which may arise in their future professional lives. In addition, working professionals need regular training to update their knowledge. This is especially true for people in leading positions within government agencies, who should develop their competence in human rights. Such persons have a major influence over whether human rights can be integrated successfully into their respective departments. Such training needs to be tailored to each specific situation. To be effective in daily work, training programmes cannot be voluntary *ad hoc* initiatives, but should be part of an ongoing training system.

Efforts directed at the general public to enhance their awareness of their rights, and thus empower them to make use of and safeguard their rights, are equally important in creating a culture where human rights are recognised and respected. Language is a central issue here. To permit a real understanding of human rights the language used needs to be concrete and accessible. It should link international standards to everyday life and provide information in minority languages as well as accessible formats for persons with disabilities. Baseline studies and national action plans should also be used as vehicles for creating greater awareness of human rights. Strategies for their dissemination should be considered early on in the planning process.

5. Implementation

The purpose of systematic work is to make continuous progress in all areas of human rights. This calls for a result-oriented approach to implementation. Experience shows that the implementation phase poses the greatest challenge to countries working with action plans. The reasons why differ. An overly ambitious plan may lack funding or high level support within the government and the public administration, or simply attempt to do more than is realistically possible in the time stipulated. Proper mechanisms for coordination and follow-up may not be in place, making it difficult even for those committed to the plan to implement it effectively.

5.1 High-level and long-term support

One of the purposes of actively involving politicians and representatives from public authorities in the whole process is to create support and ownership for the planned activities. The government and the ministers, including the prime minister, should demonstrate their commitment to the work. This could manifest itself through public statements or similar activities. The shared ownership should also extend to different government departments and agencies while the implementation of human rights action plans or similar strategies should form part of governmental management and control over their agencies.

To get the public authorities 'on board', they must perceive the process as relevant to their work. Often local authorities have been reluctant to engage in planning processes for human rights implementation. Some have seen it as an intrusion on their right to self-governance. In practice, however, the implementation of human rights plans must be shared between the national, regional and local authorities. Although this does not imply any redistribution of power between the different authorities, it may provide an opportunity to tackle structural deficiencies within the public administration in the interest of improving the authorities' ability to meet their respective human rights obligations.

National human rights action plans and strategies are long-term commitments, often stretching over national and local elections. Broad political consensus and commitment is required to ensure sustainability. Having the action plan adopted by the parliament or the municipal council is one way of ensuring that it is not interrupted if the government changes. Active participation by representatives from the opposition during the drafting process would also contribute to the continuity of the work.

5.2 Cooperation and coordination

The implementation of human rights plans involve many, or most, public authorities in the country. Coordination and cooperation between different authorities is thus essential. One tested method is to establish a coordinating body consisting of representatives from all relevant ministries - including the ministry of finance – governmental agencies and other authorities to follow the progress of the work and deal with challenges that arise during implementation. Such a mechanism provides a forum for an exchange of experiences and information, discussions and cooperation. Regular contacts can prevent misunderstandings about expected performance and results and help deal with requests for training or other support measures.

6. Follow-up and evaluation

The results of the efforts to systematise human rights work should be regularly followed-up and evaluated. National human rights action plans cover a period of several years and need regular review during the implementation phase, both among the authorities reporting back to the government and within the government itself. It is important to publish information regularly on the progress of the implementation. This will also enable more active involvement of NHRIs and civil society in supporting the plan and pushing for its implementation. When informing of progress, focus should be placed on the results and not merely on whether planned activities have been carried out or not. If the expected result does not materialise, the reasons for this should be investigated and new measures prepared. Changing conditions in society may call for adjustments to the planned activities. Commitment to specific performance standards and continuous follow-up increase the likelihood of positive results.

Towards the end of an action plan, an independent evaluation assessing the overall results of the plan should be carried out. It is equally important to assess the process, in terms of participation, inclusiveness and transparency, as it is to evaluate the end result. The conclusions should be presented openly and a debate should be encouraged about the advantages and disadvantages of the process and how it could be improved. All stakeholders who have participated in the process should be able to contribute to the evaluation. The evaluation will provide the foundation for the continuing process, whereby a new baseline study is developed with an equally transparent and participatory approach.

If well designed, benchmarks and human rights indicators can be valuable tools for follow-up and evaluation, taking both quantitative and qualitative aspects into consideration. Benchmarks are the standards set by the government or an agency for their human rights work during a set time-frame. States who have worked with indicators during the baseline study could use them during this phase as well to identify progress and setbacks.

7. The role of regional and local authorities

Regional and local authorities have a key role and a great responsibility for implementing human rights. Education, housing, health care, social services and policing are examples of areas where local decision-making may have a direct effect on people's human rights. Still, only some local and regional agencies explicitly apply the rights-based approach to their work. This does not mean that most local and regional authorities fail to live up to their human rights obligations. But there is an added value in treating persons as holders of rights instead of merely trying to meet their needs. The human rights approach empowers patients, pupils, the elderly, the homeless and everybody else to claim their rights and, thereby, improve their situation. This in turn requires adequate procedures for claiming rights and addressing violations to be put in place.

7.1 Local action plans

Municipalities and regional authorities should participate in the national process for systematic implementation, including the development of baseline studies, plans and strategy documents. So far, these actors have shown limited interest, probably thinking that participation would intrude on their autonomy. One way of responding to this reaction is to encourage the development of regional and local action plans or strategies tailored to their needs, resources and priorities. Several local agencies have already developed sector-based action plans to protect children's rights, promote gender equality or to build a society that is also accessible for persons with disabilities. Local and regional authorities should also consider developing comprehensive plans or similar documents covering the human rights situation as a whole. That way the work of promoting human rights could be run in a more systematic and coordinated manner. The local human rights situation would be

regularly reviewed and analysed. Problems as well as solutions would be discussed directly with civil society, the public and other stakeholders. The experience gained at the local level should also contribute to human rights planning at the national level.

The geographical and personal proximity between inhabitants and local decision-makers has advantages. Local decision-makers are often more accessible and local politicians can have updated knowledge of the human rights needs and challenges in their region. Dialogue with inhabitants and NGOs can be more direct and inclusive at the local level than at the national level. Complementary efforts might, however, be needed to establish a constructive and respectful dialogue with disadvantaged groups of people.

7.2 Regional and local human rights institutions

Ombudsmen and similar human rights institutions need to be well known and easy to approach by the general public. Particularly in larger countries, this may call for the establishment of additional offices outside metropolitan areas. Another solution is to set up local or regional ombudsmen. Experiences in Italy, Russia, Spain and in other countries with regional ombudsmen are positive. Their geographical proximity to people makes them more available and accessible to people whose rights have been violated.

7.3 Privatisation of local government services

Privatisation of the provision of education, health care or social services is a common feature of local administration today. The responsibility for implementing the international standards can, however, never be delegated to the private sector. This rests with the regional and local authorities. Consequently, a system of accountability within the respective agencies as well as monitoring the quality of the services provided has to be established. Integrating human rights standards in the procurement procedures is an additional method to increase private collaborators' commitment to the standards and improve the follow-up to the services provided.

7.4 The budgetary process

The local budget is usually a good indicator of politicians' commitment to human rights. Budget review from a human rights perspective is a tool for making elected representatives and officials better informed of the consequences of their decisions. Such review needs to examine how budget proposals affect, for example, gender equality, children's rights and the situation of migrants and disadvantaged groups. A local baseline study would give valuable input into the analysis.

To follow-up on results, local and regional authorities may consider integrating a human rights perspective into local governance auditing. A well-functioning system of audits competent to assess human rights implementation would contribute to transparency and accountability in addition to giving the public authorities valuable information regarding efficiency.

8. The role of civil society

A vibrant civil society that scrutinises, criticises and stimulates public debate on human rights problems is indispensable for the protection of human rights. Human rights organisations and individual human rights defenders are among the main actors contributing to the enjoyment of human rights in Europe. They possess expertise on and experience of human rights violations, which is why a dialogue between the government, local authorities and civil society should be central to all human rights strategies.

The importance of inviting representatives from civil society in a broad sense to national and local planning processes has already been underlined. Civil society has a role to play during the implementation and evaluation phases as well. By using national and local action plans or

strategies in their advocacy and awareness raising activities they can put pressure on the government and the authorities to move forward and carry out the activities to which they have committed themselves. Civil society representatives are also valuable partners for those entrusted to evaluate plans and strategies. Furthermore, NGOs may cooperate with public authorities in implementing certain activities in human rights action plans even if the overall responsibility for implementing the plans remains with the government.

For civil society to be able to fulfil their role as human rights guardians, states need to create an environment where they can operate freely without risking reprisals, threats or attacks. The UN Declaration on human rights defenders⁸ and the Council of Europe Committee of Ministers' recommendation and declaration on the same topic⁹ give guidance to member states as for the type of action to take. States should ensure that their legislation on freedom of association, peaceful assembly and expression as well as its implementation comply with internationally recognised human rights standards.

9. The role of National Human Rights Institutions

Independent NHRIs such as ombudsmen or human rights commissions have proven to be valuable institutions for independent monitoring of human rights and maladministration.¹⁰ According to the Paris Principles which lay down the responsibilities and competencies for NHRIs, such institutions should be mandated to submit reports, opinions and recommendations on any human rights matter to the government or the authorities, or to decide to publish such information. Several NHRIs are also authorised to receive complaints from individuals and may mediate between the citizen and the authority or bring cases to court. When given proper mandates and adequate funding to ensure their independence, such national human rights structures have proven competent to monitor continuously how national policies and administrative practices comply with international standards.

NHRIs play an important role in systematising human rights work. Apart from the responsibilities described above, NHRIs often provide human rights education and training to government officials, judges and police officers thus contributing to the mainstreaming of human rights. In some countries NHRIs regularly follow-up on what measures the state has taken to implement the recommendations from different international monitoring bodies. They also carry out studies and inquiries on human rights issues. In relation to the methods for systematic work described in this paper, NHRIs can make a significant contribution to the development of baseline studies. Their reports and recommendations give valuable information for identifying problems and setting priorities. Even if their independence may prevent them from playing a direct role in the development and implementation of action plans or strategy documents, NHRIs can be more involved during follow-up and the evaluation of the plans' implementation.

10. Recommendations

In their systematic work for implementing human rights member states should:

1. Carry out a baseline study giving a broad and accurate picture of the current human rights situation. A thorough evaluation of existing policies and practices and recognition of problematic areas is key to effective human rights implementation.

⁸ UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 8 March 1999, A/RES/53/144.

⁹ Recommendation Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, 10 October 2007; and Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, 6 February 2008.

¹⁰ While the concept of "national human rights institutions" (NHRIs) has been developed mainly in the UN context and with reference to the Paris Principles, the Commissioner also uses the term "national human rights structures" to denote ombudsman institutions as well as human rights commissions or institutes set up with reference to the Paris Principles.

2. Develop national human rights action plans or strategies to address the human rights challenges identified in the baseline study. Such plans should contain concrete activities and indicate the authorities responsible for their implementation. The activities should be coupled with time-frames and benchmarks for follow-up and evaluation. International reporting obligations should be integrated into the process.
3. Involve all stakeholders during the entire process, including NHRIs, civil society and representatives from disadvantaged groups of people. Such an inclusive and participatory approach will contribute to the legitimacy of the plan, create shared ownership and make implementation effective. All communication with NHRIs and civil society representatives must be conducted with full respect for their integrity and independence.
4. Review the implementation of action plans in a regular way and carry out an independent evaluation upon their completion. It is equally important to assess the process, in terms of participation, inclusiveness and transparency, as it is to evaluate the end result.
5. Ensure high-level and long-term support for the action plan by the active involvement of politicians and the leadership of the authorities and agencies responsible for the plan's implementation. Action plans stretching over national and local elections should be discussed and/or adopted by the parliament to ensure continuity.
6. Coordinate human rights planning with the budgetary process to secure proper funding for human rights work. Review budget proposals from a human rights perspective to inform politicians of the consequences of their decisions and to hold them accountable.
7. Integrate human rights into the ordinary work of the public administration and ensure effective coordination and cooperation between the authorities at all levels by setting up networks or other fora for the exchange of experiences and information, discussions and planning.
8. Foster a human rights culture through the full integration of human rights in education and training as well as through awareness-raising using concrete and accessible language. Review curricula and teaching materials and apply participatory learning methods to this effect. Assess and address the needs of public officials and other professionals who deal with the human rights of others to ensure that they have a thorough and up-to-date knowledge of the international standards relevant to their field of competence.
9. Set up adequate systems for data collection and analysis, including data on disadvantaged groups of people. Collection of sensitive data should be voluntary and coupled with proper safeguards to prevent the identification of individuals belonging to a particular group. Complement official data with relevant information from NHRIs and NGOs.
10. Encourage local authorities to develop comprehensive local baseline studies, action plans or similar documents ensuring regular review of the local situation and coordinated efforts to address human rights challenges. Adequate systems should be established for monitoring the provision of health care, education or social services, whether provided by private or public actors, using the rights-based approach.
11. Take concrete action towards creating an enabling environment for civil society, including human rights defenders, and make consultation with civil society a common practice when drafting policies and action plans at the national, regional and local level.
12. Review the mandates of NHRIs to make sure that they comply with the Paris Principles. Ensure that NHRIs have adequate resources to fulfil their role in systematising human rights work. Consider establishing such institutions at the regional or local level to facilitate easy access for those whose rights have been violated.

