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Workshop on Ombudsperson Institutions and National Human Rights Institutions:
Implementation of Committee of Ministers Recommendations and Other International Standards

103rd meeting of Steering Committee for Human Rights (CDDH)

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Thank you for inviting me to this meeting of the Council of Europe Steering Committee on Human Rights.

I appreciate the opportunity to contribute to this workshop dedicated to the review of implementation by member states of the Committee of Ministers' Recommendations on Ombudsperson institutions and National Human Rights Institutions (NHRIs).

The review you are embarking on today is an important task. It is not just homework. Ombudsperson institutions and NHRIs are crucial elements of a state's human rights and democratic architecture. Ensuring that they operate independently, effectively and in line with international standards is critical to ensuring respect for human rights.

Allow me to start with a few reflections based on my extensive engagement with NHRIs over my career.

I started my international human rights work at the beginning of the 90s with the United Nations. That was a special moment in NHRI history, because in 1993 there were two significant developments. First, the Paris Agreement that adopted the Paris Principles, which are a set of minimum standards for NHRIs, and then the Vienna World Conference on Human Rights, which recommended that all states create a NHRI. These two events created energy in the 1990s around NHRIs which was remarkable. What I remember most was the way in which that energy, for the first time ever, got governments to mainstream attention to human rights across ministries. It was the energy and push of the NHRIs that I think played an essential role in finally inserting human rights in national discourse.

At the end of the decade I went to Sierra Leone during the war, and I was involved in setting up its Paris Principles compliant NHRI. The one takeaway I want to mention to you today from that experience was the extraordinary role that the NHRI played in preparing the human rights community to be actors in the peace process.

Moving on, in the 2000s I was active in what the UN calls the Asia-Pacific region I draw a few takeaways relevant to the story of NHRIs.

The first is the importance of an NHRI when it is brave.

I saw this repeatedly. I think of the then Indonesian National Human Rights Institution, and how it challenged the state to very good effect in standing up for human well-being.

I also saw how an NHRI, when it's innovative, can do remarkable things for a society. The New Zealand NHRI, for example, transformed attention to old people in institutions in that country through its highly innovative work.

And I saw the role of the Australian Federal Human Rights Institution in confronting the state around the treatment of refugees. It was thanks to the Human Rights Commissioner that the issue triggered a global debate.

Moving on a bit, I went to Northern Ireland where for the first time I had the honour of leading a National Human Rights Institution, the Northern Ireland Human Rights Commission, and there are some very important takeaways from that as well. The first one is that, although the NHRI did not set up the peace process, it was central to it. I saw how a well-functioning NHRI can help consolidate a peace after a very complex and painful conflict.

I saw how the NHRI can overcome blockages in government, in moments when it is frozen because of difficult politics, and how an NHRI, in its independent way, can stimulate movement. Finally, a very important reflection for today, I saw the complementarity but the difference of NHRIs and Ombudsperson institutions in my work in Northern Ireland. There is a fantastic scope for cooperation between the two, but ultimately there are different types of entity which work in a complementarity. Such complementarity must always be acknowledged, recognised, honoured and built from.

I have nearly finished with reflections based on my personal experience. One last point: just before I became Commissioner for Human Rights, I was Director of the EU Fundamental Rights Agency, and I took on that role in a remarkable moment of realisation of how important NHRIs are.

I saw, for example, this awareness acknowledged in the UN Sustainable Development Goals. It was an extraordinary negotiation achievement to obtain that the establishment and the effective and independent functioning of an NHRI be recognised as an indicator for the delivery of SDG number 16. I also saw the emergence into EU policy and discourse of a recognition of the importance of NHRIs and of their central position with regard to delivery of the rule of law. And again I think these were very important steps.

And of course, from the outside, I saw the Council of Europe Reykjavik summit of heads of states with the explicit acknowledgement of the role of NHRIs, as further reflected in the Reykjavik Declaration and the law and practice of the Council of Europe.

And then today, and I am finally finished with biography, everyday close co-operation with NHRIs and Ombudsperson institutions is critical to my work. When I engage at the country level, I come first to the NHRI or to the Ombudsperson institution because they are my nearest

relatives at the national level. I could not function, the Commissioner would be empty handed were it not for the intimate relationship with and co-operation with NHRIs and Ombudsperson institutions.

Let me this morning give you four suggestions that I think are essential to the future in terms of the vital role these institutions play in the national architecture.

The first is that we need them, we have got to fill the gaps. I find it untenable, deeply problematic that there are still member states of the Council of Europe that do not have a NHRI. We have ten Council of Europe member states that do not have an NHRI. Now I acknowledge that within that ten there is some important progress being made. A number of the ten are on the way. A number of the ten are applying to the Global Alliance of NHRIs, and are looking for accreditation of an institution. I commend that. But within that ten there are some where I am not aware of progress. I have to mention Italy and San Marino. I am not aware of any major initiative towards the establishment of NHRIs in those countries and I find that regrettable.

Second point, once we have an NHRI it is important that we work on avoiding and repairing when they face backsliding. It is unacceptable anywhere that an NHRI moves from A – meaning fully compliant with the UN Paris Principles - to B status. That is a matter of embarrassment for our member states. Where it happens, and it has happened in a number of places in the Council of Europe, it is a matter of real regret and a challenge.

Third of my four points, I think it is vital that you as representatives of the member states recognise your protective role with regard to NHRIs and Ombudsperson institutions. They are coming under threat to a degree that is quite notable.

Still civil society is the brave holder of the dam, holding the waters back and facing acute danger, sometimes death and persecution. But those pressures are moving like a contagion also to impact independent NHRIs and Ombudsperson institutions and I hope that the CDDH will be alert to that in its review.

I am thinking of political attacks, I am thinking of the demonising of the leadership of the NHRIs or the Ombudsperson institutions. I am thinking of how very often it is deeply misogynistic. When an NHRI or an Ombudsperson institution is led by a woman, that woman will commonly be subject to outrageous attacks based on their gender. This is entirely unacceptable and I think this gender dimension of persecution needs to be captured in any guidance on the implementation of the CM Recommendations that you may consider.

We have to acknowledge the way some governments interfere with the autonomy, the functioning of their institutions through the control over the budgets. It is all very well to give independence and acknowledge independence, but if you control and play with the budget you can compromise that independence. And one way in which it is compromised I am afraid too often is by overloading the institution with mandates without due resources. We have seen this for years now. Every time another important mandate comes up through an international agreement or a treaty or whatever else, this is given to the NHRI or the

Ombudsperson institution, but with no additional resources. What do you do? You actually weaken the institution because it is expected to do more with less. This also needs attention.

One more of a by no means inclusive list of the pressures under which NHRIs and Ombudsperson institutions can be placed is when there are excessive delays in the appointment of the leadership. There are some institutions that go without the leader or have the old leader continuing for years in a way that really impedes the effectiveness of the institution.

Now the last of my four points that I would encourage for your consideration is your support for the manner by which NHRIs and Ombudsperson institutions in their different roles can be enabled to be more active partners within the Council of Europe.

I mean active partners in the sense that it is not just about giving information or taking information from them, it is about recognising their essential role in the architecture and engaging with that quality, recognising that none of us can do our work without a close engagement with them. I would strongly encourage you to get beyond the point we all reach easily of information sharing and engage the more difficult one of some kind of co-equal discussions with these institutions.

And finally, to wrap up, I offer you my continuing close co-operation around the issues that are for your discussion this morning, but much more generally.

Thank you very much.