

CDDH-INST(2019)R6  
19/03/2020

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

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**DRAFTING GROUP ON CIVIL SOCIETY  
AND NATIONAL HUMAN RIGHTS INSTITUTIONS  
(CDDH-INST)**

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**REPORT**

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6<sup>th</sup> meeting  
4 – 6 March 2020

**Item 1: Opening of the meeting and adoption of the draft agenda**

1. The CDDH Drafting Group on Civil Society and National Human Rights Institutions (CDDH-INST) held its sixth meeting in Strasbourg from 4 to 6 March 2020. The meeting was chaired by Ms Krista OINONEN (Finland), except on the first day when the Vice-Chair of the Group, Mr Grigory LUKIYANTSEV (Russian Federation) chaired as she was prevented from attending the meeting on that day. The list of participants appears in Appendix I. The agenda as adopted appears in Appendix II.

2. The Group was welcomed by Mr Alfonso DE SALAS, Head of Division, Secretary of the CDDH who noted that the Group had produced impressive work on civil society and national human rights institutions (NHRIs). The present meeting was devoted to the drafting of a new revised recommendation on NHRIs and to this end he expressed gratitude to the European Network of National Human Rights Institutions (ENNHRI) for having organised a high-level consultation in Brussels on 6 February 2020.

**Item 2: Exchange of views**

3. Ms Debbie KOHNER, Secretary General of ENNHRI, presented the outcome of the recent consultation in Brussels. She explained that ENNHRI had consulted all its members on the revision of the Council of Europe recommendation on NHRIs, including through online consultation, in-person discussions at its General Assembly in November 2019, and at its high-level consultation meeting in February with participation of the CDDH-INST Chair and Secretariat (see Appendix III).

4. Mr Vladen STEFANOV, Chief of the National Institutions and Regional Mechanisms Section, Field Operations and Technical Cooperation Division, Office of the United Nations High Commissioner for Human Rights (OHCHR) presented the implementation of the existing standards and recommendations at the international level. Mr Stefanov referred to Paris Principles adopted by the United Nations Commission on Human Rights in Resolution 1992/54 of 3 March 1992 and endorsed by the United Nations General Assembly in Resolution 48/134 of 20 December 1993. These principles had further been interpreted by the Sub-Committee on Accreditation of the Global Alliance of NHRIs (GANHRI) in General Observations.

5. Mr Pavel CHACUK, Acting Deputy Head of the Human Rights Department OSCE Office for Democratic Institutions and Human Rights (ODIHR) presented his Organisation's work on the implementation of the existing standards and recommendations at the regional level. ODIHR had for many years supported and promoted the development of NHRIs which were already mentioned in the Copenhagen Declaration from 1990.

6. Ms Géraldine MATTIOLI-ZELTNER, Adviser at the Office of the Council of Europe Commissioner for Human Rights mentioned that the Commissioner followed closely the current work of the CDDH-INST and referred, in particular, to the Human Rights Comment published by the Commissioner's Office, in December 2018 on the 'Paris Principles at 25: Strong National Human Rights Institutions Needed More Than Ever'.

7. Ms Eva SOBOTKA, Programme Officer - Independent Human Rights Bodies, Institutional Cooperation & Networks, European Union Agency for Fundamental Rights (FRA) explained that the FRA report on building effective national human rights institutions would cover EU member States, North Macedonia, Serbia and United Kingdom; and as it is expected to be published in May. FRA would welcome cooperation with the Council of Europe in this regard.

8. Mr Antoine BUYSE, representing the Conference of INGOs of the Council of Europe, stressed the important role of NHRIs in ensuring the link between Governments and civil society, in so far as they help bridge the protection gap between the rights of individuals and the responsibilities of the State. He also stressed the need to create a safe and enabling space for civil society and NHRs.

9. Finally Mr Peter TYNDALL, President of the International Ombudsman Institute, referred to the Recommendation on the Ombudsman institution recently adopted by Committee of Ministers and which the Drafting Group had elaborated at its last meeting. He noted that there was sometimes an overlap in the mandates of the Ombudsman institution and NHRIs.

**Item 3: Examination of the preliminary draft of the revised recommendation No. (97)14 on the establishment of independent national institutions for the promotion and protection of human rights**

10. The Group examined the preliminary draft Recommendation prepared by the Chair of CDDH-INST in cooperation with the Secretariat in the light of the contributions received from CDDH participants and observers. A first reading took place, examining the text paragraph by paragraph. A second reading of the text followed with the paragraphs that were amended during the first reading. A final third reading took place in the morning of the last day focusing on paragraphs that needed improvement (see Appendix IV).

11. The Group recalled that the Paris Principles represented minimum standards and that it was important to avoid creating double standards.

12. A French translation of the draft Recommendation would be prepared as soon as possible and circulated. For the draft Recommendation's consideration and adoption by the CDDH at its meeting in June 2020, the Group recommended that delegations be invited to comment in writing before the meeting.

13. Finally, the Group considered it useful that the Council of Europe strengthen its cooperation with ENNHRI to ensure knowledge-sharing among NHRIs and in order to strengthen their contribution to the effective implementation of the European Convention on Human Rights and other relevant instruments. New means and ways to strengthen the role and meaningful participation of NHRIs and ENNHRI within the Council of Europe should be sought for enhancing the protection and promotion of rule of law, democracy and human rights. An illustration discussed was the participatory status granted by the Committee of Ministers to INGOs.

**Item 4: Adoption of the meeting report**

14. The Group adopted the present meeting report in English and a French translation would be circulated after the meeting.

**Item 5: Other business**

15. With the approval of the draft Recommendation on the development and strengthening of effective, pluralist and independent national human rights institutions, the Group considered that it had fulfilled its terms of reference. It expressed its appreciation for the constructive approach shown by all the participants throughout its work and thanked the Chairperson as well as the Vice-Chair for the way in which the meetings had been conducted. The Group also paid tribute to the work of its Secretariat throughout its deliberations.

## Appendix I

**List of participants****MEMBER STATES / ÉTATS MEMBRES****ARMENIA / ARMÉNIE (*Apologised*)****AZERBAIJAN / AZERBAÏDZAN**

Mr Ismayil ASADOV, Deputy Head, Department of International Law and Treaties, Ministry of Foreign Affairs

**FINLAND / FINLANDE**

Ms Krista OINONEN (Chair/Présidente), Director, Unit for Human Rights Courts and Conventions, Agent of the Government before the European Court of Human Rights, Legal Service, Ministry for Foreign Affairs

**GEORGIA / GÉORGIE**

Mr Beka DZAMASHVILI, Head of the Department of the State Representation to the International Courts, Ministry of Justice

**IRELAND / IRLANDE (*Apologised*)****MONTÉNÉGRE / MONTENEGRO**

Ms Vanja RADEVIC, Advisor of the Representative of Montenegro before the European Court of Human Rights

**NORTH MACEDONIA / MACÉDOINE DU NORD**

Ms Svetlana GELEVA, Head of Department for Multilateral affairs, Ministry of Foreign Affairs

**POLAND / POLOGNE**

Ms Agata ROGALSKA-PIECHOTA, Co-Agent of the Government of Poland in cases and proceedings before the European Court of Human Rights, Head of Criminal Proceedings Section, Legal and Treaty Department, Ministry of Foreign Affairs

**ROMANIA / ROUMANIE**

Mr Dragoș HOTEA, Director, Department for Human Rights, Protection of Minorities and CoE, Ministry of Foreign Affairs

**RUSSIAN FEDERATION / FÉDÉRATION DE RUSSIE**

Mr Grigory LUKIYANTSEV, Deputy Director, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs

**SLOVENIA / SLOVÉNIE (*Apologised*)****SPAIN / ESPAGNE**

Mr José Antonio JURADO RIPOLL, Ministry of Justice

**SWITZERLAND / SUISSE**

Mme Cordelia EHRICH, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction droit public, Unité Protection internationale des droits de l'homme

**TURKEY / TURQUIE**

Mme Günseli GÜVEN, Adjointe au Représentant Permanent, Représentation permanente de la Turquie auprès du Conseil de l'Europe

Mme Ayşen EMÜLER, Experte juridique, Ministère des Affaires Etrangères, Représentation Permanente de la Turquie auprès du Conseil de l'Europe

## **OBSERVERS / OBSERVATEURS**

### **OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS**

Ms Géraldine MATTIOLI-ZELTNER, Adviser / Conseillère, Office of the Commissioner for Human Rights Council of Europe

### **CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / CONFÉRENCE DES ONG DU CONSEIL DE L'EUROPE**

Mr Antoine BUYSE, Professor of Human Rights and Director of SIM, Netherlands Institute of Human Rights (SIM), Utrecht University Law School

Mr Jean-Bernard MARIE

### **UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR) / BUREAU DU HAUT COMMISSARIAT AUX DROITS DE L'HOMME DES NATIONS UNIES (HCDH)**

Mr Vladlen STEFANOV, Chief, National Institutions and Regional Mechanisms Section, Field Operations and Technical Cooperation Division

### **OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS (ODIHR) / BUREAU DE L'OSCE POUR LES INSTITUTIONS DÉMOCRATIQUES ET LES DROITS DE L'HOMME (BIDDH)**

Mr Pavel CHACUK, Acting Deputy Head of the Human Rights Department, Human Rights Department

### **EUROPEAN NETWORK OF NATIONAL HUMAN RIGHTS INSTITUTIONS / RÉSEAU EUROPÉEN DES INSTITUTIONS NATIONALES DES DROITS DE L'HOMME (ENNHRI)**

Ms Debbie KOHNER, Secretary General

Ms Katrien MEUWISSEN, Senior Human Rights Officer, Permanent Secretariat

### **EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS / AGENCE DES DROITS FONDAMENTAUX DE L'UNION EUROPÉENNE**

Ms Eva SOBOTKA, Programme Officer - Independent Human Rights Bodies, Institutional Cooperation & Networks

### **EUROPEAN COMMISSION / COMMISSION EUROPÉENNE**

Ms Alessia VALENTINO, Policy Assistant, Directorate General for Justice and Consumers

## **PARTICIPANTS**

Mr Peter TYNDALL, President of the International Ombudsman Institute

## **SECRETARIAT**

### **DG I – HUMAN RIGHTS AND RULE OF LAW / DROITS DE L'HOMME ET ÉTAT DE DROIT**

Mr Alfonso DE SALAS, Head of the Human Rights Intergovernmental Cooperation Division / Secretary of the CDDH

Ms Merete BJERREGAARD, Secretary of the CDDH-INST, Human Rights Intergovernmental Cooperation Division

Ms Corinne GAVRILOVIC, Assistant, Human Rights Intergovernmental Cooperation Division

Ms Louise HOWE, Assistant, Human Rights Intergovernmental Cooperation Division

#### **INTERPRETERS / INTERPRÈTES**

Ms Gillian WAKENHUT  
Ms Clarissa WORSDALE  
Ms Isabelle MARCHINI

## Appendix II

**Draft agenda**

	<b>ITEM 1: OPENING OF THE MEETING, ADOPTION OF THE AGENDA</b>
CDDH-INST(2019)OJ1	Draft agenda
<a href="#">CDDH-INST(2019)R5</a>	Report of the 5 <sup>th</sup> CDDH-INST meeting (27 February–1 March 2019)
<a href="#">CDDH-INST(2020)02</a>	Extract of the terms of reference given by the Committee of Ministers to the CDDH regarding the work of the CDDH-INST during the 2020-2021 biennium and relevant extracts of the 92 <sup>nd</sup> CDDH meeting report (26–29 November 2019)
	<b>ITEM 2: EXCHANGE OF VIEWS</b>
	Outcome of the consultation meeting in Brussels on 5-6 February 2020 organised by the European Network of National Human Rights Institutions (ENNHRI) - Ms Debbie Kohner, Secretary-General of ENNHRI
	Implementation of the existing standards and recommendations at the international and regional level - Mr Vladlen Stefanov, Chief, National Institutions and Regional Mechanisms Section, Field Operations and Technical Cooperation Division, Office of the United Nations High Commissioner for Human Rights (OHCHR) - Mr Pavel Chacuk, Acting Deputy Head of the Human Rights Department OSCE Office for Democratic Institutions and Human Rights
	<b>ITEM 3: EXAMINATION OF THE PRELIMINARY DRAFT OF THE REVISED RECOMMENDATION NO. R(97)14 ON THE ESTABLISHMENT OF INDEPENDENT NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS</b>
<a href="#">Recommendation R(97)14</a>	Recommendation No. R(97)14 of the Committee of Ministers to member States on the establishment of independent national institutions for the promotion and protection of human rights
<a href="#">CDDH-INST(2020)01</a>	Preliminary draft text of the revised Recommendation No. R(97)14 on the establishment of independent national institutions for the promotion and protection of human rights <i>Working document prepared in the light of the comments received by the CDDH participants and the results of the consultation meeting organised by ENNHRI</i>
<a href="#">CDDH-INST(2020)03</a>	Compilation of proposed changes and comments received from member States



	<a href="#">ENNHRl submission to CDDH-INST on the revision of the Council of Europe Committee of Ministers Recommendation on NHRIs</a>
	Council of Europe Commissioner for Human Rights - <a href="#">Human Rights Comment on National Human Rights Institutions</a> , issued on 18 December 2018
	<a href="#">OSCE ODIHR feedback to the preliminary draft text of the revised Recommendation No. R(97)14</a>
	<b>ITEM 4: ADOPTION OF THE MEETING REPORT</b>
	<b>ITEM 5: OTHER BUSINESS</b>

## Appendix III

**Presentation by Ms Debbie Kohner, Secretary-General of ENNHRI  
at the CDDH-INST meeting on 4 March 2020**

***Outcome of the high-level consultation meeting – Brussels, 6 February 2020***

## **1. Introduction**

Chair, colleagues, it is a great pleasure to address you today in preparation for the Drafting Group meeting of CDDH-INST to update the Committee of Ministers Recommendation on NHRIs. As you can imagine, this is an important moment for all 45 members of ENNHRI, each an accredited NHRI – or seeking accreditation – within the Council of Europe region.

Each of these NHRIs is working towards the Council of Europe objectives to protect human rights, pluralist democracy and the rule of law. As such, and as the only state mandated institution that requires a broad mandate to promote and protect human rights, NHRIs provide a national counterbalance to Council of Europe processes.

They have been identified in the Brighton, Brussels and Copenhagen Declarations as being important actors for supporting the implementation of the European Convention of Human Rights. They help to bring human rights home, as local actors with a close understanding of the national context, while engaging in the essential multi-lateral processes.

ENNHRI, representing all NHRIs across the Council of Europe, has permanent observer status at CDDH and its subsidiary bodies. We take this privilege and opportunity very seriously, and we have contributed to several Drafting Groups. However, for our membership, this Drafting group is without doubt the most important for their ongoing work. It is an opportunity to make a real difference to the effectiveness and impacts of NHRIs, as they work within the Convention system and other human rights standards.

Indeed, the 1997 Recommendation on NHRIs was adopted so soon after the global recognition of the Paris Principles, when so few NHRIs existed, that it simply addressed the possibility of establishing an NHRI. Twenty three years later, with the Paris Principles clarified through General Observations, with over 100 NHRIs across the globe, and with the extraordinary potential of NHRIs recognised at the Council of Europe and beyond, this is a pivotal opportunity for the Council of Europe to lead the way in ensuring that NHRIs fulfil their potential, and the objectives of the Council of Europe, to build a culture of respect for human rights.

## **2. The Consultation**

As a membership network, all ENNHRI members have been consulted on which content would be most impactful in making NHRIs effective in fulfilling their mandate to promote and protect human rights. Over six months, we have consulted at our General Assembly meeting, through a survey, by email, and at a dedicated High-level Consultation Meeting in February 2020. We have checked each proposal across the broader membership and, at the Secretariat, we have ensured that all proposals have a backing in prior international agreements. I will not provide all references now, but they are included in our written submission.

The feedback from 45 NHRIs across the Council of Europe region showed three core areas where the Recommendation could make a real difference in the promotion and protection of human rights, and the implementation of the Convention system:

- Establishment and strengthening of an NHRI in each Member State
- Effective cooperation of NHRIs with national state actors; and
- Effective cooperation of NHRIs with the Council of Europe

## **2.1 First, this process could show political commitment for the establishment and strengthening of NHRIs across Europe.**

This commitment has already been reflected in the Sustainable Development Goals, where a Paris Principles-compliant NHRI is a global indicator under Goal 16, and of course the Committee of Ministers Recommendation 2018/11 on civil society space, which began in this very Drafting Group. Almost every Council of Europe Member State is already working towards this goal, and a strong Recommendation in this regard would raise the standards across the region, and also provide global leadership.

The 1997 Recommendation already refers to NHRI establishment and the Paris Principles. This Recommendation must go further to consider:

- Not only establishment, but also strengthening, by reference to the Paris Principles, the related General Observations, and specific recommendations of GANHRI's Subcommittee on Accreditation.
- Certain essential characteristics of NHRIs, including a constitutional or legal basis, broad functions to promote and protect human rights, access to information, pluralism, and autonomy from government.

I would like to pause to underline the last two points:

- In order to ensure public trust, and understand the full societal context, NHRIs should represent all sections of society within their jurisdiction, through effective selection and appointment procedures, and cooperation with civil society. This is a key difference between NHRIs and Ombuds without an NHRI mandate.
- Most critically, independence from government must be assured in form and in function, through:
  - o An open, transparent and merit-based appointment process, with a clear tenure for members;
  - o Clear and transparent dismissal procedures;
  - o Adequate resources, with a separate budget line,
  - o Freedom to address any human rights issue, recruit its own staff, and allocate its budget within its own strategic priorities;
  - o Reporting annually on the human rights situation to Parliament; and
  - o Protection from civil and criminal liability for actions taken in good faith.

By committing to strong NHRIs, Member States are showing commitment to the further realisation of all human rights standards, through taking national responsibility on their implementation through local advice. While the strengthening of NHRIs is a continuous process. NHRIs and other stakeholders should be consulted on any changes in policy or law impacting on the NHRI.

## **2.2 Secondly, NHRIs across the Council of Europe noted that many state actors are not aware of the NHRI mandate.**

As cooperation with state actors is essential to the effectiveness of NHRIs, this Recommendation could provide meaningful impacts through:

- Fostering awareness and cooperation of public institutions and authorities on the independence, mandate and functions of NHRIs;
- Systematically engaging with NHRIs to ensure compliance with human rights obligations, recommendations and judgments;
- Ensuring NHRI access to policy-making initiatives, so that they can advise on human rights implications and a human rights based approach;
- Seeking NHRI input on legislative processes, including in Parliamentary debate;
- Supporting individuals' access to justice, including through awareness raising, legal assistance, complaints handling or strategic litigation; and
- Requiring a reasoned response, in a timely manner, to all NHRI recommendations.

If a Member States commits to establishing an NHRI, it is essential that the processes for cooperation and engagement in-state are sufficient to ensure the effective discharge of the NHRI mandate, through informed dialogue and due consideration of its human rights expertise.

## **2.3 Thirdly, this Recommendation can help realise the potential of NHRIs to assist the Council of Europe in achieving its objectives on human rights, democracy and rule of law.**

NHRIs already contribute to many Council of Europe processes, in close collaboration with civil society and state actors. At a regional level, ENNHRI provides regular substantive input to CDDH, to the Court through third party interventions, and to the recent Interlaken process. We support NHRIs' work on execution of judgments, and also collaborate extensively with the European Committee on Social Rights, the Commissioner for Human Rights and other Council of Europe Bodies.

As reflected in the Helsinki Decision, and at the informal exchange of views with the Committee of Ministers last year, our members have identified how this cooperation could be strengthened for the increased realisation of our common objectives, through:

- Jointly strengthening the capacity of NHRIs to contribute effectively to Council of Europe processes;
- Bolstering Council of Europe mechanisms to address reprisals and threats against human rights defenders, including NHRIs;
- Facilitating access for NHRIs and ENNHRI to Council of Europe processes, including through developing a broader participatory status; and
- Ensuring that NHRIs and ENNHRI are informed of developments and engaged in dialogue at the Council of Europe level.

The recognition and encouragement of a stronger role and meaningful participation of NHRIs in the Council of Europe would assist in joint work towards our common objectives of the realisation of human rights, democracy and rule of law. Indeed, the Committee of Ministers has invited NHRIs to provide more inputs to its own debates, and there is precedent of participation by international NGOs.

NHRIs are state-mandated bodies, with invaluable expertise on international human rights standards and the local context. They cooperate closely with civil society, state actors, and international actors to achieve a collaborative result within the human rights framework. This also reflects the role of NHRIs in other mechanisms, such as the UN Human Rights Council and other bodies.

### 3. Conclusion

**CDDH-INST has provided an excellent basis for updating the Recommendation on NHRIs** through progressive drafting on civil society space (Recommendation 2018/11) and Ombudsman Institutions (2019/6).

**The Drafting Group can be ambitious** given this strong basis, and also the Committee of Ministers Helsinki Decision and the Formal Responses of 12 February 2020 to PACE, where they invite NHRIs for future exchange on human rights and rule of law, and recognise NHRIs' important work.

**Finally, this Recommendation provides an opportunity for leadership in ongoing global developments** where the UN, EU, OSCE, African Union, African Commission on Human and Peoples' Rights, and Inter-American Commission on Human Rights are each engaging with NHRIs and calling for their establishment and strengthening. Other regions are aware of the developments at Council of Europe, and what Europe can contribute to the effectiveness of NHRIs.

**ENNHRI stands ready to support the Drafting Group and ongoing developments at Council of Europe** to ensure that this pivotal opportunity for enhancing the effectiveness of NHRIs, and cooperative working towards the Council of Europe objectives can become a reality. My colleague Katrien and myself will be here throughout the drafting process and will happily engage as needed, and with experience of international resolutions on NHRIs, as well as NHRI practices and needs throughout the region.

Beyond this, once a Recommendation is adopted by the Committee of Ministers, we will work with our NHRI members towards the effective implementation of the Recommendation and, as such, our members have proposed a review of progress within three years.

I look forward to working with the Drafting Group, Member States and Observers throughout the next three days and beyond.

Thank you.

## Appendix IV

**Draft Recommendation on the development and strengthening of effective, pluralist and independent national human rights institutions**

The Committee of Ministers of the Council of Europe, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that effective, pluralist and independent national human rights institutions are among the pillars of respect for human rights, rule of law and democracy;

Recognising that a national human rights institution (NHRI) is a State mandated body, independent of Government, with a broad constitutional or legislative mandate to promote and protect human rights, and accredited on a regular basis by reference to its compliance with the Paris Principles<sup>1</sup>;

Recalling that NHRIs are human rights defenders, and that they contribute to the promotion and protection of other human rights defenders and a safe and enabling space for civil society;

Recalling also the Committee of Ministers' Helsinki Decision to further strengthen the Council of Europe's mechanisms for the protection of human rights defenders, including the Secretary General's Private Office procedure on human rights defenders;

Recognising that effective NHRIs are an important link between Government and civil society, in so far as they help bridge the protection gap between the rights of individuals and the responsibilities of the State;

Welcoming the significant increase in the number of accredited<sup>2</sup> independent NHRIs<sup>3</sup> since the adoption of Recommendation No. R(97)14 on the establishment of independent national institutions for the promotion and protection of human rights;

Underlining the great potential and impact of independent NHRIs for the promotion and protection of human rights in Europe, in particular for the effective implementation of the European Convention on Human Rights (ETS No. 5) including on the basis of its Article 36, paragraph 2, concerning third party intervention before the European Court of Human Rights and Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments;

Acknowledging the importance of continuing support by the Council of Europe and other international stakeholders to NHRIs and welcoming the well-established cooperation between the Commissioner for Human Rights of the Council of Europe and NHRIs, as well as the European Network of National Human Rights Institutions (ENNHRI), as foreseen in the

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<sup>1</sup> Principles relating to the Status of National Institutions (The Paris Principles), adopted by the United Nations General Assembly in Resolution 48/134 of 20 December 1993 and interpreted by the Sub-Committee on Accreditation of the Global Alliance of national human rights institutions (GANHRI) in its General Observations, <https://ganhri.org/accreditation/>

<sup>2</sup> <http://ennhri.org/our-members/>

<sup>3</sup> NHRIs may cover Ombudsman institutions, human rights commissions, hybrid institutions (which combine several mandates, including that of equality body), and human rights institutes and centres, etc.

Commissioner's mandate under Resolution (99) 50 on the Council of Europe Commissioner for Human Rights;

Acknowledging further the importance of the cooperation between NHRIs and ENNHRI, and of their cooperation with the Council of Europe<sup>4</sup> and other national and international stakeholders;

Bearing in mind the broad international support for the development, strengthening, protection and recognition of, and cooperation with NHRIs,<sup>5</sup> not only by the Council of Europe, but also the United Nations, OSCE ODIHR, and the European Union;

Recognising the diversity of NHRIs, which reflects the diversity of the countries and regions they serve;

Emphasising at the same time that it is vitally important that any such institution, be established and function in full compliance with the minimum standards contained in the Paris Principles, in particular with regard to its:

- Mandate and competence to promote and protect all human rights for all;
- autonomy from Government;
- independence guaranteed by primary legislation or, preferably, the Constitution;
- pluralism;
- adequate resources;
- adequate access to individuals, premises and information; and
- international accountability and legitimacy through international periodic accreditation.

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<sup>4</sup> ENNHRI has observer status in several Council of Europe Intergovernmental Committees.

<sup>5</sup> In addition to Recommendation No. R (97) 14 of the Committee of Ministers to member States on the establishment of independent national institutions for the promotion and protection of human rights, in particular:

- Committee of Ministers Resolution (97) 11 on co-operation between national human rights institutions of member states and between them and the Council of Europe;
- Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe;
- Recommendation CM/Rec(2019)6 of the Committee of Ministers to member States on the development of the Ombudsman institution;
- Parliamentary Assembly Resolution 1959 (2013) on strengthening the institution of ombudsman in Europe;
- Congress of Local and Regional Authorities, Resolution 327 (2011) on the office of Ombudsperson and local and regional authorities;
- European Commission for Democracy through Law (Venice Commission), Principles on the protection and promotion of the Ombudsman institution ("The Venice Principles");
- European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No. 2 (revised) on Equality Bodies to combat racism and intolerance at national level;
- United Nations General Assembly Resolution 48/134 on national institutions for the promotion and protection of human rights ("The Paris Principles") and the developing interpretation of the Paris Principles by the Sub-Committee on Accreditation of the Global Alliance of the National Human Rights Institutions' (GANHRI);
- United Nations General Assembly Resolutions 65/207, 67/163, 69/168, 71/200 and 72/186 on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights;
- European Network of National Human Rights Institutions - *Guidelines on ENNHRI Support to NHRIs under Threat*, March 2016. For further ENNHRI documents see <http://ennhri.org/>.

Expressing grave concern about the challenging working conditions, threats, pressures and attacks which NHRIs and their members and staff are at times exposed to in member States;

Wishing to build on its Recommendation No. R(97)14 on the establishment of independent national institutions for the promotion and protection human rights, henceforth replaced by the present instrument;

Recommends that the Governments of member States:

1. establish and, when established, maintain and strengthen an independent NHRI in accordance with the Paris Principles. In this context, States could draw on technical assistance such as from ENNHRI and regional and international bodies, to build on existing best practice;
2. ensure an enabling legal framework and a conducive institutional and public environment for NHRIs to carry out their activities effectively for the protection and promotion of all human rights and fundamental freedoms, and cooperate with them;
3. ensure that the principles set out in the appendix to this Recommendation are implemented in relevant domestic law and practice;
4. ensure that these principles are interpreted in line with the specific recommendations and General Observations of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI);
5. evaluate on a regular basis the effectiveness of the measures taken in the implementation of the appendix to this Recommendation including through consultation and dialogue with NHRIs;
6. explore the ways of developing a stronger role and meaningful participation of NHRIs and ENNHRI in the Council of Europe for the enhanced promotion and protection of human rights, rule of law and democracy;
7. ensure, by appropriate means and action – including, where appropriate, translation – a wide dissemination of this Recommendation among competent authorities and stakeholders;
8. examine, within the Committee of Ministers, the implementation of this Recommendation no later than five years after its adoption.



## Appendix to the Recommendation

### I. Establishment of NHRIs

1. NHRIs should be in place in all member States and they should be established, accredited and function in full compliance with the Paris Principles. The choice of the model of these institutions should be made by each State in the light of its organisation, particularities and needs. These institutions should be directly and easily accessible to everyone. Particular attention should be paid to persons who may not be aware of the existence of NHRIs, who may have difficulties in accessing NHRIs or who may be in a situation of vulnerability.

2. Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their developing interpretation by GANHRI's Sub-Committee on Accreditation.

### II. Strengthening of NHRIs

3. Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and allows them, *inter alia*, to:

- monitor and analyse the human rights situation in the country, publish reports on these findings, and address recommendations to public authorities at national, regional and local levels, and when applicable to private entities, and present an annual report before the relevant authorities, including before Parliament, for its consideration;
- freely address public opinion, raise public awareness on human rights and carry out education and training programmes;
- fully address all alleged human rights violations by all administrative authorities, other relevant State entities and, when applicable, private entities;
- have unfettered access to all relevant premises, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by this mandate, and all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests with due respect for confidentiality of information obtained;
- monitor existing and draft policies and legislation before, during and after their adoption to advise the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by making relevant and concrete recommendations;

- contribute to an effective justice system for all, by raising awareness of and facilitating access to rights and remedies and, as applicable, providing legal assistance, being a party before the courts, or receiving individual complaints;
- encourage the signature, ratification of and accession to international human rights treaties, contribute to the effective implementation of such treaties, as well as the related judgments, decisions and recommendations and monitoring of States' compliance with them.

4. The process of selection and appointment of the leadership of a NHRI should be competence-based, transparent and participatory to guarantee the independence and pluralist representation of these institutions.<sup>6</sup> It should also be based on clear, predetermined, objective and publicly accessible criteria. The duration of the appointment should be clearly set out in the founding legislation, so that the posts of the leadership of the NHRI do not stay vacant for any significant period of time.

5. To ensure independence, the enabling legislation of a NHRI should contain an objective dismissal process of the NHRI leadership with clearly defined terms. The dismissal process should be fair, and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate.

6. Member States should provide NHRIs with adequate, sufficient and sustainable resources to allow them to carry out their mandate, including to engage with all relevant stakeholders, in a fully independent manner and freely determine its priorities and activities.

7. NHRIs should have the authority to determine their staffing profile and recruit their own staff, as well as sufficient resources available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.

8. Member States should ensure that NHRIs enjoy adequate access to information, to policy-makers and legislators, including timely consultations on human rights implications of draft legislation and policy strategies. NHRIs should also be consulted, in a timely manner, on draft legislation and policies that affect their mandate, independence and operation.

9. Member States should implement the recommendations of NHRIs and are encouraged to make it a legal obligation for all addressees of recommendations by NHRIs to provide a reasoned reply within an appropriate time and to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and include information thereon in their relevant documents and reports.

10. When member States grant NHRIs additional competences to perform functions foreseen by international conventions in the field of human rights, such as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

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<sup>6</sup> Paris Principles B.1 and General Observations 1.8.

Punishment and the Convention on the Rights of Persons with Disabilities, the NHRI should have access to sufficient resources to develop the capacity to effectively discharge its functions, including having appropriately qualified and trained staff.

### **III. Securing and expanding a safe and enabling environment for NHRIs**

11. Member States should ensure that NHRIs can operate independently, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of impartiality, integrity, transparency and fairness.

12. Member States should foster awareness and cooperation of all relevant public authorities in relation to the mandate, independence and roles of NHRIs, including through training and awareness raising activities.

13. Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation, including through ensuring functional immunity. Any cases of alleged reprisal or intimidation against NHRIs, their membership and staff, or against those who cooperate or seek to cooperate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.

14. Member States should ensure that confidential information collected by NHRIs in the context of their mandates be privileged and not be unduly made public.

### **IV. Cooperation and support**

15. Member States should take effective measures to enable NHRIs to communicate and cooperate with, in addition to the various levels of administration in the member States, in particular:

- a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI;
- b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment;
- c. other human rights structures, notably Ombudsman institutions and Equality Bodies and their respective networks, where appropriate through jointly organised activities;
- d. international and regional organisations which work in related or similar fields.

16. Member States should encourage and sponsor the development of cooperation programmes with the Council of Europe to ensure permanent knowledge-sharing among NHRIs, in order to strengthen their contribution to the effective implementation of the European Convention on Human Rights and other relevant instruments.

17. Member States should seek new means and ways to strengthen the role and meaningful participation of NHRIs and ENNHRI within the Council of Europe for enhanced protection and promotion of human rights, rule of law and democracy.