



Outcome report

Expert meeting on strengthening the independence of NHRIs in the OSCE region

ODIHR premises, Warsaw, Poland

28-29 November 2016

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This report should neither be interpreted as official OSCE recommendations based on a consensus decision, nor as the official position of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) or any other OSCE structures, or of any particular OSCE participating State; it reflects opinions expressed individually by participants in the workshop.

Executive summary

On 28 and 29 November, 34 representatives of national human rights institutions (NHRIs), international organizations and academia took part in an expert meeting on the independence of NHRIs, hosted by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw.

The expert meeting was jointly organized by ODIHR, the Council of Europe, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Ombudsman Institute (IOI), the European Network of National Human Rights Institutions (ENNHRI) and the Office of the Polish Commissioner for Human Rights.

Dr. Adam Bodnar, the Polish Commissioner for Human Rights, delivered a keynote speech in which he stressed that platforms as the one provided by this meeting help NHRIs be better equipped to address the challenges in establishing, maintaining and enhancing their independence.

The second keynote speech, delivered by the UN Special Rapporteur for the Situation of Human Rights Defenders, Michel Forst, focused on how the establishment of strong and independent NHRIs can contribute to the promotion and protection of human rights defenders.

Throughout plenary discussions and presentations and in various working groups, the participants reviewed specific aspects of international standards related to guarantees of independence and pluralism of NHRIs as laid down in the Principles relating to the Status of National Institutions (the Paris Principles).¹ Participants also shared experiences and lessons learned and identified good practices. The findings of each working group were presented to the plenary by their moderators. In the closing plenary session participants also discussed future actions to provide sustainable operational guidance on this issue for NHRIs across the OSCE region.

¹ The Paris Principles can be accessed via <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>.

Objectives of the meeting

1. Review the specific aspects of the Paris Principles related to guarantees of independence and pluralism of NHRIs, including functional and financial independence.
2. Identify good practices and lessons learned on strengthening and maintaining the independence of NHRIs.
3. Discuss modalities to follow-up on the outcomes of the meeting to provide sustainable, operational guidance on the issue of independence to NHRIs across the OSCE region.

Outcomes of the meeting

1. The co-organizing international and regional organizations issued a joint statement on the independence and pluralistic character of NHRIs in the OSCE region on 19 December 2016, referring to this expert meeting. The statement can be downloaded on <http://www.osce.org/odihr/289946>.
2. The Office of the Polish Commissioner for Human Rights will use the findings of this meeting to strengthen the independence of the institution and report its findings back to the participants of the expert meeting, including ideas for future action.
3. The international and regional organizations will further explore the development of guidelines and other products on the independence of NHRIs and the implementation of the Paris Principles in practice, based on international standards and the experience of NHRIs across the OSCE region.

Keynote speeches

In his statement, the Polish Commissioner for Human Rights, Dr. Adam Bodnar, pointed out that challenges vis-à-vis the independence of NHRIs are not a recent nor new phenomenon, recalling a number of instances in countries across the OSCE region where the independence of NHRIs has been affected.

According to Dr. Bodnar, sharing experiences in platforms as the one provided by this meeting help NHRIs to be better equipped to address the challenges they face now or might face in the future. Dr. Bodnar noted that support by international and regional organizations, such as the International Ombudsman Institute (IOI), played an important role in countering tendencies that can compromise the independence of NHRIs. He illustrated this by highlighting the fact finding mission by the IOI to Poland in summer 2016 and the subsequent publication of its report based on the findings of this missions, and the positive effects this had on domestic actors and in the media. In the aftermath of the publication of that report, the joint statement of support for the Office of the Polish Commissioner for Human Rights, signed by the members of the European Network of National Human Rights Institutes (ENNHRI) and various regional and international organizations, helped in further consolidating support for his office.

Dr. Bodnar indicated that the lack of understanding of the different functions of the NHRI among the general population in Poland (e.g. its function as equality body), combined with the dominant political discourse, leads to (popular) misunderstandings about the institute. The involvement of international organizations may exacerbate these misunderstandings, as the national audience does not understand the nature of the involvement of the Polish Commissioner on the international level, leading to accusations of the institute acting as a "traitor".

Moreover, Dr. Bodnar outlined three topical challenges regarding the independence of NHRIs:

- The vulnerability of the budget;
- The lack of support of non-governmental institutions for the institute;
- Governmental control of national media.

In his keynote speech, the UN Special Rapporteur for the Situation of Human Rights Defenders, Michel Forst described how the current situation in the OSCE region makes it a more arduous to be a human rights defender (HRD), and reminded the audience that the protection of HRDs is a state responsibility. Mr. Forst also noted that NHRIs have a unique position in the protection of HRDs, as NHRIs have a bridging function between Governments and civil society. In this regard, he called for the establishment of NHRIs in countries where such an institute does not yet exist, and called upon NHRIs to:

- Step up their efforts in advocating for legislation for better protection of HRDs, thereby also stressing the gender-related safety and security challenges faced by female HRDs;
- Stand up for the protection of HRDs, especially with regard to immunity and impunity of attackers;
- Further guide and assist their governments in promoting the work of HRDs.

Opening remarks

In her opening remarks, Ms. Katarzyna Jarosiewicz-Wargan, First Deputy Director, ODIHR, welcomed the participants to the meeting and thanked the co-organizers for their support in organizing this event on the independence of NHRIs with ODIHR. She also thanked the Polish Commissioner for Human Rights, Dr. Adam Bodnar, for initiating the process that eventually led to organizing this meeting.

Ms. Jarosiewicz-Wargan underlined that in today's OSCE space, with a deteriorating rule of law and human rights landscape, the unique functions and roles of NHRIs are critically important in upholding and promoting human rights in democratic societies in the OSCE participating States. She emphasized that NHRIs have an important place in OSCE commitments and in ODIHR's mandate, and looked forward to further supporting and strengthening the ability of NHRIs to perform their vital role independently in the national human rights infrastructure of participating States.

In his opening remarks, Mr. Markus Jaeger, Head of Division, Human Rights Policy and Co-operation Department, Council of Europe, thanked all participants and organizers for taking part in this expert meeting on the independence of NHRIs and highlighted the relevance of this specific topic given the recent socio-political developments in the OSCE region.

He observed that in the current climate, NHRIs are important actors in the (inter)national human rights infrastructure, as their function as a 'bridge' between civil society and the State informs and enables them to respond quickly to new human rights developments on the ground. Furthermore, he noticed that while public opinion in the current climate can be of a changing nature, NHRIs have a human rights-calibrated compass that enables them to base their activities on a consistent foundation, and underlined the importance of the maintaining and strengthening the independence of NHRIs in carrying out these activities.

During the meeting, three rounds of panel presentations introduced the topics of the working groups. Each panel was followed by a short discussion.

Panel I - Specific aspects of the Paris Principles related to guarantees of independence and pluralism of NHRIs

Presenters:

- Dr. Magali Lafourcade, Chair Designate, Global Alliance of National Human Rights Institutes Sub Committee on Accreditation (GANHRI SCA); Secretary General, Commission Nationale Consultative des Droits de l'Homme (CNCDH)
- Ms. Liza Sekaggya, Human Rights Officer, National Institutions and Regional Mechanisms Section, UN Office of the High Commissioner for Human Rights (OHCHR)
- Dr. Thomas Schwarz, Deputy Head, Department of Fundamental Rights Promotion, EU Fundamental Rights Agency (FRA)

Dr. Lafourcade's presentation focused on the mandate and pluralism of NHRIs and other criteria laid down in the Paris Principles, adopted by the UN General Assembly in 1993, and described in detail

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how the quasi-judicial procedure for the accreditation for NHRIs has a positive impact on the credibility of NHRIs.

Ms. Sekaggya noted in her contribution that as of August 2016, 25 NHRIs accredited with A-status exist in the OSCE region, along with 11 NHRIs accredited with B-status and 4 NHRIs with C-status. During her in-depth presentation on the Sub-Committee on Accreditation's (SCA) methodology for assessing the compliance of NHRIs with the Paris Principles, she also highlighted the checklist used by OHCHR. The checklist can be found in [the UNDP-OHCHR Toolkit for collaboration with National Human Rights Institutions](#).

Dr. Schwarz described in his contribution the three levels of cooperation of FRA with NHRIs: on the EU-level, on the international level and through FRA research on NHRIs and equality bodies. He also highlighted the [Handbook on the establishment and accreditation of National Human Rights Institutions in the European Union](#), published by FRA in 2012. Focusing on the next steps to be taken by FRA in the near future, Dr. Schwarz pointed to the current research by FRA on forced return monitoring systems (which includes NHRIs) and the co-hosting of a workshop on individual complaints handling by NHRIs on 6-7 December in Brussels.

Panel II - The independence of national human rights institutions as monitoring bodies of international human rights instruments

Panel II explored the impact of various functions of NHRIs on the independence of the NHRIs, such as being part of the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture (OPCAT) or handling individual complaints as Ombudsman, with presentations by:

- Mr. Juris Jansons, Ombudsman of Latvia
- Dr. Victor Zaharia, member of UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT)
- Ms. Tatjana Vlašić, Adviser to the Ombudswoman of the Republic of Croatia

In his presentation, Mr. Jansons presented the functions and tasks of the Ombudsman of Latvia. With regards to the independence of the institute, Mr. Jansons also presented the rights of the Ombudsman, as put down in national law, that underlie the functions and tasks of the Ombudsman, paying special attention to how this affects the immunity of the Ombudsman.

Dr. Zaharia presented the work of the SPT and how this might benefit the independence of NHRIs. He noted that it is an integral part of the mandate and tasks of NHRIs to collaborate with international actors, as also laid down in the Paris Principles, and pointed out that this collaboration can be even further deepened when NHRIs are also functioning as (part of) the NPM. On the different existing models of NPMs existing worldwide, Dr. Zaharia indicated that the SPT has no recommended model how to integrate NPMs-structures with existing types of NHRIs.

Ms. Vlašić focused in her presentation on the experiences of the Ombudswoman of the Republic of Croatia in collaborating with international and regional organizations. She noted how regional organizations, for example, can express their desire for human rights monitoring by NHRIs to

governments, strengthening the position of the institute. In case of Croatia, Ms. Vlašić pointed out how the Ombudswoman used this method during the pre-accession phase to the European Union and how this facilitated the work of the Ombudswoman.

Panel discussion III - Enhancing the effectiveness of NHRIs by means of international and regional cooperation

In Panel III, the following representatives of international and regional organizations presented the activities of their institutions:

- Ms. Géraldine Mattioli-Zeltner, Advisor, Office of the Commissioner for Human Rights of the Council of Europe
- Ms. Liza Sekaggya, Human Rights Officer, National Institutions and Regional Mechanisms Section, OHCHR
- Ms. Debbie Kohner, Secretary General, ENNHRI
- Mr. Günther Kräuter, Secretary General, IOI

In her contribution, Ms. Sekaggya focused on the engagement of NHRIs with UN Human Rights mechanisms. She noted that NHRIs can encourage their government to give a “standing invitation” to special rapporteurs, and highlighted that NHRIs with an A-status who cannot attend the meetings of the Human Rights Council have the possibility of delivering a video statement instead. Moreover, Ms. Sekaggya pointed out that NHRIs can contribute to the Human Rights Council complaints procedure by submitting consistent patterns of gross and reliably attested human rights violations.

Ms. Mattioli-Zeltner focused in her contribution on the activities of the Commissioner for Human Rights of the Council of Europe and noted that meeting with the NHRI is an integral part of each Commissioner’s country visit. Moreover, she noted how the Commissioner can support NHRIs whose independence is under pressure. She illustrated this with the example of one of the participating States, where the Commissioner for Human Rights undertook a monitoring visit in tandem with the NHRI to strengthen NHRI’s position and as a show of international solidarity.

On behalf of ENNHRI, Ms. Kohner noted that the overall objective of the criteria on the independence of NHRIs is to depoliticize the work of these institutions. She described the added value of international cooperation for NHRIs with regional network organizations, such as the EU where human rights impact assessments by NHRIs can feed into the drafting process of EU directives. Moreover, she noted that the cooperation between NHRIs in regional mechanisms such as ENNHRI has so far proved to be effective and has increased solidarity and trust among its members and other NHRIs.

The Secretary General of the IOI, Mr. Kräuter, shared with the participants how the IOI strengthens the independence of NHRIs in practice, for example of Ombudsman under threat and through cooperation with various international and regional organizations. He noted that if human rights are to be protected and promoted by international organizations, they also have to be present at the “hotspots”, recalling the recent fact finding mission by the IOI in Poland in summer 2016. The fact

finding mission also involved dialogue with governmental actors and was followed up with a statement of support by NHRIs and international and regional organizations.

Closing plenary session

During the closing plenary session, the following speakers delivered their closing remarks to the plenary:

- Ms. Beate Rudolf, Chair, GANHRI; Director, German Institute for Human Rights
- Mr. Omer Fisher, Acting Head, Human Rights Department, OSCE/ODIHR

In her closing remarks Ms. Rudolf observed that the platform offered by this meeting enabled participants to share good practices and challenges regarding the independence of their institutions, and reiterated the importance of the topic of this meeting for NHRIs at this moment. Ms. Rudolf recommended NHRIs to strengthen their independence by reaching out to other actors such as the media, the Parliament, civil society organizations – and by informing them of the specific tasks and role of NHRIs in democratic societies – in order for these actors to act as safeguards for the independence of NHRIs. She noted that international and regional organizations can facilitate this process.

On behalf of all organizers, Mr. Fisher thanked the participants for their active engagement during the meeting and underlined the importance of strong and independent NHRIs in the OSCE region. He also reiterated the commitment of ODIHR to support the establishment and maintenance of strong and independent NHRIs in the OSCE region, and to this end outlined various next steps that could be taken in the aftermath of this meeting.

Findings from the meeting

The findings from the working groups and closing plenary session are listed below. Because of the overlap among topics discussed in the working groups and to provide a comprehensive overview, the findings are categorized by topic. Where feasible, these findings have been complemented by recommendations to state bodies, based on the ICC SCA General Observations of the Paris Principles (as adopted in Geneva in May 2013).

Working with the media & awareness raising

Experiences

A number of NHRIs underscored the importance of working with media as a crucial instrument for NHRIs to address the general lack of understanding in societies about the need for an independent human rights institution on a national level.

To promote human rights in their societies, NHRIs have developed various awareness raising methods. A number of NHRIs have developed action plans and/or strategies to this end.

Examples of awareness raising activities conducted by NHRIs include:

- Taking a public stance on human rights issues in the media, and participating in public debates during the draft process of new legislation;
- Responding to enquiries from media and the Parliament on governmental decisions and new legislation;
- Organizing training for target audiences (e.g. journalists, police) on specific topics (e.g. prevention of torture), and involving citizens and journalists in the human rights monitoring by the NHRI;
- Making local visits across the country, including to schools and vulnerable groups, to show visible support and to take the ‘human rights temperature’ across the country;
- Including stakeholders in the promotion of their rights, for example for the promotion of rights of persons with disabilities;

Experiences (cont.)

- Disseminating information on human rights in national and local newspapers, local media, national TV, radio, social media;
- Delivering human rights education for various target audiences, such as public prosecutors, visitors groups, schools and students;
- Disseminating a digital newsletter once a month.

Good practices

One NHRI said that its access to public media was blocked and, as a consequence, the NHRI diversified its means for communicating with the public and awareness raising about human rights by using other media instead. In the end, this prompted public media to cover the activities of the NHRI again.

The target audience determines the type of media used by NHRIs. One NHRI, for example, uses radio broadcasts to reach audiences in more remote and rural areas of the country, where there is no TV and Internet coverage.

Proven methods for engagement by NHRIs with the media include:

- Finding an angle to a human rights issue that is interesting for the target audience in the national context, and use this as basis to engage with the media;
- Recruiting staff members with relevant media experience;
- Basing the message and means of delivery on the target audience and the topic. For example, one NHRI that reported on the rights of prisoners relied to a large extent on visual findings, by using pictures in the presentation of its findings and recommendations;
- Providing the media with a story/a narrative that focuses on how human rights are lived by persons in day-to-day reality and by creating a structural relationship with media actors.

Recommendations to NHRIs

Use various media (e.g. newspapers, television, social media, radio) to raise awareness about human rights and the independent profile of the NHRI, and the awareness about the institution in the society.

Tailor the message to, and make it accessible for, the target audience.

Engage with media outlets to make them one of the safeguards for the independence of institutions.

Prepare a dedicated communications strategy for engagement with the media, the public and other stakeholders.

Recommendations to state bodies

Assign NHRI with the competence to freely address public opinion, raise public awareness on human rights issues and carry out education and training programs, also by granting unlimited access to (state-controlled) public media.

Provide NHRIs with sufficient funding to engage in awareness raising activities.

Selection, (re-)appointment and tenure of NHRI members

Experiences

The definition for human rights expertise as criterion for selection of NHRI members differs among NHRIs in across the OSCE region. Interpretations range from a broad (wherein experience in human rights is also recognized in experience stemming from community practice) to a stricter interpretation (experience measured by degree in human rights law).

In the OSCE region, various combinations regarding the minimum and maximum numbers of years for tenure of NHRI members exist. Some NHRIs have capped the number of re-appointments for its members, while other NHRIs have appointed members with a non-renewable tenure.

Good practices

The usage of advisory committees in (re-)appointment procedures, made up of representatives from civil society organizations, unions, business representatives and sometimes also members of Parliament, was identified by NHRIs during the meeting as a good practice, as these committees also contribute to increased pluralism and diversity of NHRIs.

As re-appointment of members can create pressure by external forces in the re-appointment procedure, one NHRI has opted for non-renewable tenures of its members, whereas another NHRI's members can be renewed only once, with a maximum tenure of 7 years.

Recommendations to NHRIs

Build in checks and balances in the re-appointment procedure to counter external influence and improve protection of re-appointees.

Announce vacancies openly and aim for a society-wide reach by posting vacancies on various sites, which are also visited by vulnerable groups for example.

Streamline selection procedures with the Belgrade Principles.²

² The Belgrade Principles on the relationship between national human rights institutions and Parliaments can be accessed via <http://nhri.ohchr.org/EN/Themes/Portuguese/DocumentsPage/Belgrade%20Principles%20Final.pdf>.

Recommendations to state bodies

Enable and support NHRIs in adopting transparent, open and non-politicized selection and (re-)appointment procedures for NHRI members, for example by strengthening the legislative framework according to the Paris Principles.

Ensure that selection criteria for the appointment of qualified and independent members are legislatively established and made publicly available prior to appointment.

The participation of members of a ruling political party or coalition or representatives of governmental agencies as members of NHRIs should be restricted to those whose roles and functions are of direct relevance to the mandate and functions of the National Institution, and whose advice and cooperation may assist the NHRI in fulfilling its mandate. The number of such representatives should be limited.

Full-time/part-time contracted NHRI members and remuneration

NHRIs have made various choices with regard to full time or part-time employment of NHRI members and their remuneration. While these choices are dependent on the type of institution (cf. an NHRI based on a commission model and an NHRI based on an Ombudsman model) and the national context, each choice entails its own risks and opportunities.

NHRI members	How does this affect the independence of NHRIs?
Part-time contracted	<p>Opportunity: improved functional independence as NHRI members can keep up their own profession and are strongly embedded in civil society and other sectors of society.</p> <p>Opportunity: stimulates professional development of NHRI members outside the institute.</p> <p>Risk: as part-time contracted members of NHRIs can also occupy positions in other organizations, this may lead to a conflict of interest. Even if this only a perceived conflict of interest, it may carry consequences for the independence and credibility of the institute.</p>
Full-time contracted	<p>Opportunity: independence may increase as members of NHRIs are less inclined to occupy positions in other organizations, thus avoiding potential conflicts of interests.</p> <p>Risk: pluralist and diverse character of NHRI can be compromised, as full-time and remunerated contracted NHRIs members can, due to budgetary constraints, lead to smaller boards.</p>
Remunerated	<p>Opportunity: conflict of interest can be avoided to a certain extent as members have fewer incentives for seeking other sources of income.</p> <p>Risk: implications for pluralist and diverse character of organization, as financial consequences will affect number members of the NHRI. Contracting NHRI members on part-time basis can remedy this to certain extent.</p>

NHRI members

How does this affect the independence of NHRIs?

Non-remunerated

Opportunity: members are motivated to apply based on credibility and prestige of the institute, further enhancing the credibility of the NHRI.

Risk: members are more likely to be involved in other organizations and activities. This might affect the credibility and perception of independence of the NHRI.

Dismissal and immunity

Experiences

NHRIs experience difficulties in describing and applying the provisions for lifting immunity of NHRI members due to the ongoing application of conflicting definitions of immunity (e.g. for the national judiciary, for NHRIs).

Recommendations to international organizations

Encourage and support civil society organizations to report on the independence of members of NHRIs (e.g. when members of an NHRI face personal attacks in the media) to international and regional human rights bodies, to enable these bodies to act at the earliest stage possible.

Conduct visible country visits in countries where the members of NHRIs are under severe pressure, and engage in dialogue with state authorities.

Recommendations to NHRIs

NHRIs should develop common and specific provisions to address dismissal procedures of NHRI members. International and regional human rights bodies could provide assistance in this process.

Even when provisions and legislation on immunity are well established on paper, pressure on members of NHRIs can still persist. One NHRI recommended collaborating in these cases with civil society organizations to report on pressure on individual NHRI members, as a way to assist in protecting the independence of NHRIs.

Recommendations to state bodies

Enable members of NHRIs to undertake their responsibilities without fear and without undue interference from the state or other actors. Members may be dismissed only on serious grounds of proven misconduct or incompetence, following fair procedures ensuring objectivity and impartiality and as set out in the national law.

Include provision in national law to protect legal liability of members of NHRIs for the actions and decisions that are undertaken in good faith in their official capacity.

Engaging with the Parliament and government in budget decision making processes

Experiences

In its budgetary process, one of the NHRIs has the possibility to discuss its budget with state authorities before a parliamentary committee on human rights approves the budget. This had led to an increase of the budget in the past 5 years. However, the process is not transparent as discussion and subsequent approval of the budget take place in a short time span and civil society does not have the opportunity to participate in these discussions.

After the budget is approved, NHRIs may have to review their (budget) priorities due to new, urgent human rights issues. In a number of cases this has led to questions from state authorities and the Parliament due to restrictions in reallocation of the NHRI's budget.

Various NHRIs use external funds for programmatic activities, for example EU grants. NHRIs prefer to use external funds which are not earmarked for a specific activity, to maintain independence in prioritizing their work. External private funding is not considered to be an option by NHRIs, due to the negative implications for the credibility and independence of the NHRI.

Good practices

One of the NHRIs noted how they 'package' the submission of their budget proposal by including the annual work plan of the institute in the submission of the budget, thereby making it easier to demonstrate to state authorities how the budget will be used.

Good practices (cont.)

International support for NHRIs during this process can be an important factor and does not undermine the NHRI's independence. This can be done by sending a letter to the government or a country visit by the international organizations. One of the NHRIs surveys members of Parliament to check their knowledge about the institute. Information from such surveys can also be used to inform the NHRI's strategy to secure its budget.

Recommendations to NHRIs

Increase awareness of the Parliament about what NHRIs do, as members of Parliament should have increased insight in, and understanding of, the work of NHRIs. Members of Parliament should also be made aware how these institutions use their budget, and the consequences of budgetary restraints for the state's duty to promote and protect human rights.

Recommendations to NHRIs (cont.)

Create a visible and public platform to engage in dialogue with the government and/or the Parliament about the budget.

Reach out to other (trusted and credible) stakeholders to comment on the proposed NHRI budget, such as autonomous state bodies or civil society organizations.

Recommendations to state bodies

Respect the autonomy of the NHRI in allocating its budget, and create enough space in budgetary rules to allow for relative flexibility of budget for NHRIs to perform its functions, day-to-day management, its retention of staff, and to re-allocate funds, for example when new human rights issues arise.

Strengthen the role of the legislative powers in the budgetary process of NHRIs, based on the Belgrade Principles.

Support NHRIs in creating a visible and public platform to engage in dialogue during the budget decision making processes.

Allocate a sufficient amount of resources for the mandated activities of the NHRI. Where the NHRI has been designated with additional responsibilities, provide additional financial resources to enable the NHRI to fulfill accompanying tasks and functions.

Allocate funding to the NHRI through a separate budget line item, applicable only to the NHRI and over which it has absolute management and control.

Accountability

Experiences

A number of NHRIs found that by engaging with the Parliament in an open and structural manner, they also improve the accountability of their institute.

NHRIs have to prioritize which human rights topics to address. In a number of instances, the assessment framework to do so is publicly available, providing insight on which criteria the NHRI bases its choices and enhancing the accountability of the NHRI.

On an international level, there is a notable tendency towards more scrutiny of accountability of NHRIs. However, downgrading the accreditation of NHRIs is a rare phenomenon and, where observed, a very lengthy process.

Good practices

Taking a public and critical stance vis-à-vis with the government when needed has proved to be one of the major factors in enhancing the accountability of NHRIs to the public and international actors.

Including the annual report of NHRIs in submissions to international human rights mechanisms, as to provide these organizations with a topical overview of the activities of the NHRI.

Surveys for members of Parliament regarding the work of NHRIs are used by one NHRI to see if members of Parliament are accurately aware of the activities of NHRIs.

Recommendations to NHRIs

If an NHRI has no expertise and/or funds available to report on an urgent human rights issue, always seek other ways to address the issue, for example by collaborating with other organizations.

NHRIs need to address urgent human rights issues, and also need to report on 'fringe' issues that might publicly be deemed less popular or urgent, such as national minorities. This way NHRIs publicly show they have an inclusive approach covering all human rights.

Recommendations to NHRIs (cont.)

Encourage the Parliament and government to publicly present and discuss the NHRI's annual report and/or hold a public hearing based on the report.

The work of the NHRI should be based on facts and its recommendations should be knowledge-based, as credibility of the NHRI also contributes to its accountability.

Recommendations to state bodies

Establish an open and structured procedure to discuss the accountability of NHRIs, for example by discussing annual reports in parliamentary committees.

Support NHRIs actively in establishing its accountability on a national and on an international level, by engaging with NHRIs in constructive dialogue on human rights promotion and protection based on facts, and by appreciating submissions by NHRIs to international human rights mechanisms.

Specify lines of accountability for NHRIs in national law.

Ensuring pluralism and diversity within NHRIs

Experiences

Challenges faced by NHRIs regarding pluralism and diversity are inseparably connected to the type, functions and tasks of the NHRI. Therefore, NHRIs have adapted different ways of ensuring pluralism and diversity.

Good practices

One of the NHRIs shared how their organization taps into external sources of knowledge, by engaging with civil society organizations and other institutions in a structured manner, to avoid developing a tunnel vision in its own activities.

Some NHRIs use advisory committees, characterized by a diversified and pluralistic composition to reflect society as a whole, that advice the NHRI on strategic decisions and important reports.

One NHRI shared how, in order to improve pluralism and diversity, its office gender mainstreamed all their internal regulations to ensure gender equality, developed a gender action plan for the office and gender balanced its senior staff.

Recommendations to NHRIs

Establish a procedure to vector in the perspectives and input from stakeholders in the activities of the NHRI on a regular basis, as a means to translate pluralism and diversity from arrangements on paper to practice.

As NHRIs promote pluralistic and diverse societies, practice what you preach. Use for example ODIHR's [Handbook for National Human Rights Institutions on Women's Rights and Gender Equality](#) to gender mainstream the work, staff and members of the NHRI.

Recommendations to state bodies

Adopt appropriate and inclusive selection criteria, in consultation with stakeholders such as civil society organizations, for the appointment of qualified and independent decision-making members.

Encourage NHRIs to reflect society's social, ethnic, linguistic, religious and geographic diversity and the participation of women as both members and staff, as this will also increase the public confidence in the understanding and responsiveness of the NHRI.

Implementing recommendations of NHRIs

Experiences

One NHRI noted that the will and attitude of the Parliament towards the NHRI is a major factor in implementing its recommendations. In the particular case presented, the NHRI's annual report has not been discussed by the Parliament in the past six years. As a result, the NHRI has considered to use the media for public "naming and shaming". Another NHRI noted that successful implementation of recommendations also depends on the head of the NHRI as a person and his/her ability to convince politicians and other stakeholders. This NHRI also organizes press conferences before presenting their annual report in the Parliament.

Good practices

NHRIs emphasized that they need to be visible, have expertise and a credible record before issuing any recommendations.

Measures taken by NHRIs to implement their recommendations effectively include:

- Basing their findings and recommendations on facts and sound knowledge of the substance, also by using credible reports from civil society organizations, court rulings, surveys and questionnaires;
- Having a proactive attitude, also by putting new issues on the public agenda, and by using new developments in society at large to reiterate the NHRI's recommendations;
- Having a clear understanding the underlying causes of human rights violations - is it a cooperation problem? Is it a technical matter? Is it a structural violation? – and base its activities on the results of this assessment;
- Having a clear prioritization process put in place, assessing the severity of the issue, which issues involve the most direct state responsibility and the political momentum which could help achieving the wanted outcome;
- Including and collaborating with civil society organizations where needed to create more support for the NHRI's recommendations;
- Reaching out to the Parliament to get the NHRI's priorities on the agenda of the Parliament and to build a structural relationship with state bodies and members of Parliament (including raising their awareness on NHRIs itself);

Good practices (cont.)

- Making effective use of different tools and options available to NHRIs (mediation, strategic litigation, international monitoring mechanisms, organizing expert committees and public hearings);
- Advocating on multiple levels: from reporting to international human rights monitoring mechanisms to the local level to reach the people who feel marginalized and left out;
- Limiting the number of recommendations and identifying systemic issues wherever possible, as individual recommendations are also more time consuming in the follow-up than systemic ones;
- Creating support for recommendations by offering further explanations on the NHRI's findings with the Parliament and/or government before publishing the NHRI's report;
- Raising awareness about the findings of NHRIs among the public. Some NHRIs do this before reaching out to the Parliament and government, as public awareness and media coverage creates more incentives for state actors to act;
- Approaching potentially interested journalists and provide them with an attractive facts-based story/narrative;
- Cooperating and maintaining regular contact with international and regional organizations. International human rights mechanisms can for example give a new life to the recommendations of NHRIs, by sending a letter to the government and pressuring it to implement the recommendations;
- Finding allies whenever possible to promote recommendations, including more non-traditional allies such as private companies. Cooperation should be based on common grounds and interests, and dependent on the particular human rights issue.

Impartiality and working with other actors

Experiences

One of the NHRIs shared how they created a consultative board to facilitate dialogue with civil society. It also serves as a platform where civil society organizations can feed the NHRI with their monitoring reports. Moreover, through this platform the NHRI can train civil society organizations on human rights related topics. Other NHRIs make use of similar open platforms built around specific human rights issues.

Among NHRIs, collaboration with other actors takes different forms and is largely dependent on the needs of the NHRI. Relationships can be formalized, as in case of an NHRI that signed a memorandum of understanding with trade unions to exchange information and provide free legal aid to union members. Some NHRIs maintain relationships with other human rights organizations by sharing knowledge on research projects on a regular basis and by setting up co-ordination meetings with other public bodies.

Some NHRIs have started co-operative projects with other institutions and organizations, where there is an urgent and common need, for example on migration-related issues. However, this may also have negative implications for the independence of the NHRI, e.g. when it joins up with the same partner from civil society over and over.

Good practices

Civil society can be an additional safeguard for the independence of NHRIs. NHRIs have harnessed this potential through various measures: one NHRI does this through its National Preventive Mechanism (NPM) consultative board, composed of representatives from civil society. Other NHRIs do this through (part-time) membership of civil society representatives in their advisory committees.

Working in joint projects with other partners, such as civil society organizations, offers NHRIs a cost-efficient method to attract new expertise, to work on new human rights issues and to hire researchers on a project-basis.

Recommendations to NHRIs

When it comes engaging with the government, there is a clear need for NHRIs to keep a respectable distance. In order to do so, NHRIs should show consistency in their decision making, present facts and evidence-based advice, be transparent about their actions, manage expectations, and not shy away from speaking out on publicly unpopular human rights issues.

Recommendations to NHRIs (cont.)

NHRIs should step up their efforts to connect with all stakeholders, ranging from governmental actors to state bodies, from established civil society organizations to grass-root organizations working on human rights and from unions to employers' associations. Human rights defenders deserve special attention of NHRIs.

Due to the rotation of members of NHRIs and their staff, one NHRI recommended to other NHRIs to put down in an official document what the institute understands as being impartial. Such document will serve as resource base for new staff, but can also be used for external communications.

Clearly communicate the mandate of the institution to all stakeholders and make clear how this translates into reality, in order to manage expectations and build trust with all sides. When working on a joint project, for example with a civil society organization, make clear agreements on the ownership of the project. When collaborating with state bodies, make explicitly clear on which terms this happens and how this will be publicly communicated.

Recommendations to state bodies

Respect that NHRIs develop, formalize and maintain regular, constructive and systematic working relationships with other domestic institutions and actors, including civil society organizations representing vulnerable groups that can be geographically, politically or socially remote, as this is one of the core functions of NHRIs.

While it is appropriate for governments to consult with NHRIs in the preparation of governmental reports to human rights mechanisms, NHRIs should neither prepare the country report nor should they report on behalf of the government. National Institutions must maintain their independence and, where they have the capacity to provide information to human rights mechanisms, do so in their own right.

Provide NHRIs with the authority to determine its staffing profile and to recruit its own staff, including sufficient resources as to permit the employment and retention of staff needed to fulfill the NHRI's mandate. Additionally, such resources should allow the NHRI to apply salary levels, terms and conditions of employment to its staff equivalent to those of similarly independent state bodies and members of the public service undertaking similar work and with similar qualifications and responsibilities. Abstain from seconding public service members at senior level posts at the NHRI.

Experiences

Human rights monitoring is an effective tool that can be used by NHRIs in tandem with other instruments they have in their inventory. In order to make best use of its available instruments, one NHRI started in response to the migration crisis an ex officio human rights monitoring investigation at its own initiative. It also worked together with civil society, with members of Parliament, and handled individual complaints to address the most pressing migration issues in the country. In other projects, other NHRIs have also combined human rights monitoring with strategic litigation and individual complaints handling.

One of the NHRIs became a victim of its own success when one of its monitoring projects made the NHRI the most prominent speaker on the issue. Pressured by growing public expectations, the NHRI instigated even more monitoring activities on this particular issue, draining resources for other projects and tasks of the NHRI.

NHRIs use assessment criteria to prioritize individual complaints, including: the mandate of the NHRI, the focus of the institution (does it take on all cases, or only cases on certain issues?), the budget and the likelihood of winning a case. The latter criterion is used by some NHRIs for bringing cases to court, and it was noted by one NHRI that also 'lost' cases can still be used for awareness raising about human rights.

NHRIs that do not have a mandate to deal with individual complaints generally look into other ways to help individuals by referring to civil society organizations, petitionary committees, Ombudsman institutions, lawyers and members of Parliament. Some NHRIs defer from referring individuals to lawyers as they do not want, for reasons of impartiality and independence, to engage in what can be perceived as competition between lawyers for cases from the NHRI.

Good practices

When trying to get access to homes of elderly persons to monitor human rights, one NHRI contacted these institutions beforehand and communicated that the investigations also focused on gathering good practices as to raise awareness on human rights for elderly. Positive framing of the work of the NHRI proved very useful in gaining access to these places, even as the NHRI could not enforce access based on its mandate, and also for building trust between the NHRI and these institutions.

Good practices (cont.)

As the sheer amount of individual complaints can be challenging for NHRIs, one of the NHRIs uses referral as a method to manage the incoming complaints. Another method used by NHRIs is to prioritize cases that are suitable for strategic litigation by identifying the particular fields of human rights violations and finding a corresponding case. In the meantime the particular NHRI also works with media to produce media coverage of court proceedings. A number of NHRIs use expert commissions or councils to look into specific human rights violations and cases for strategic litigation.

Recommendations to NHRIs

NHRIs preparing human rights monitoring projects should include an exit strategy in their project proposals and actively manage the expectation of stakeholders.

Even NHRIs that are not mandated to handle individual complaints can make use of the aforementioned assessment criteria, for example for using amicus curiae.

Recommendations to state bodies

Authorize NHRIs to address recommendations to public authorities, to analyse the human rights situation in the country, and to obtain statements or documents in order to assess situations raising human rights issues; authorize unannounced and free access to inspect and examine any public premises, documents, equipment and assets without prior written notice, and authorize the full investigation into all alleged human rights violations, including the military, police and security officers.

Potential follow-up on the outcomes of the meeting for NHRIs

What can NHRIs do?

- + Share good practices and lessons learned among NHRIs in awareness raising and communications.
- + Submit requests to ODIHR for legislative opinions on national (draft) legislation. OSCE participating States can also submit such requests and NHRIs are encouraged to stimulate their governments to do so.
- + Raise awareness among the general public about international human rights conventions and the activities of NHRIs, by investing in communications about what human rights mechanisms are, how they work in the national context, and how the independence of NHRIs is required by international human rights instruments ratified by governments.
- + Use the online live-stream of the Universal Periodic Review (UPR) to follow the proceedings. The live-stream also offers a good opportunity to organize events on the UPR to further spread awareness about human rights and engage with state actors and civil society.
- + Attend the annual GANNHRI training course for national human rights institutions on the international human rights mechanisms.
- + NHRIs can make use of each other's expertise and develop a shared approach for common human rights issues, for example to report on the situation of migrants on the Mediterranean Route. Platforms such as ENNHRI are well suited for this undertaking.
- + Create coalitions with NHRIs with speaking or participating rights in the Human Rights Council. This will amplify the message of NHRIs at the international and national level, also in countries of those NHRIs who do not have speaking or participating rights in the Council.
- + Deliver a video statement to the Human Rights Council when appropriate, as it is a low-cost investment with a high impact. By doing so, NHRIs can also claim publicly that they have brought their findings and concerns to the UN.
- + Use this outcome report to further strengthen the independence of NHRIs and share experiences with the participants of the meeting, creating a corpus of good practices and lessons learned on how the Paris Principles are 'lived' by NHRIs on a day-to-day basis.
- + Submit findings to various international human rights mechanisms, as their findings are weighed in concluding observations by these mechanisms.

Potential follow-up on the outcomes of the meeting for international and regional organizations

What can international and regional organizations do?

- + Reach out to NHRIs and demonstrate to NHRIs the added value clear for their co-operation with international and regional organizations and facilitate co-operation where needed.
- + Communicate about the required input by NHRIs to international and regional human rights mechanisms. For example, these mechanisms can usually have more effect if NHRIs submit topical/thematic reports, instead of large, general reports and this could be communicated accordingly to NHRIs.
- + Develop a toolbox for NHRIs containing various means to advance their independence. Various existing tools developed by international organizations can contribute to this toolbox, enabling NHRIs to pick the tools that fit their national context best.
- + Conduct fact-finding missions in countries where NHRIs are under pressure.
- + Explore modalities for co-operation between NHRIs, civil society organizations and international and regional organizations in order to strengthen the independence of NHRIs, by providing good practices and capacity building.
- + Develop a common approach to stimulate regional and global co-operation and action on transnational topics such as migration.
- + Develop guidelines on the independence of NHRIs, based on international standards and paying special attention to the modalities for NHRI engagement with civil society organizations.
- + Refine the existing knowledge on the Paris Principles and gather examples of how the Paris Principles are translated in practice by NHRIs, by stimulating NHRIs to assess their own organizations based on the Paris Principles.