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European Network of National Human Rights Institutions  
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Swedish Ministry of Employment

## Re: Consultation on the proposal for the establishment of a National Human Rights Institution in Sweden (Ds 2019:4)

ENNHRI welcomes the steps taken by the Swedish government and other national authorities in relation to the recent [legislative proposal](#) to establish a national human rights institution (NHRI) in Sweden. Effective and independent NHRIs in compliance with the Paris Principles are crucial for promoting and protecting human rights at the national level. Therefore, the establishment of such a Swedish NHRI would further strengthen the human rights framework in Sweden.

ENNHRI is a network of 44 NHRIs in Europe.<sup>1</sup> One of our core objectives is to assist NHRIs on accreditation and compliance with the UN Paris Principles, adopted by UN General Assembly [Resolution 48/134](#), as well as to cooperate with national stakeholders for the establishment of such NHRIs in countries where they do not yet exist. When providing advice on Paris Principles compliance, ENNHRI takes account of the [General Observations](#) of the international body responsible for the accreditation of NHRIs, the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI). Therefore, we appreciate this opportunity to comment on some specific elements of the proposal to establish an NHRI in Sweden in compliance with the UN Paris Principles, with reference to the [call for consultation](#) on the report "Förslag till en nationell institution för mänskliga rättigheter i Sverige" (Ds 2019:4).

### A new authority under the government

As indicated in the proposal, the Swedish NHRI would be established as a new authority under the government. ENNHRI is aware that, in 2017, the Riksdag's Committee on the Constitution [took the position](#) that predominant reasons militated against placing the NHRI under the authority of the Riksdag. Moreover, we duly note the comprehensive analysis carried out by the author of the [report](#) with regard to the possibilities under the Swedish legal framework for the establishment of a new institution. We note that the author of the report makes the assessment that the proposal will result in an NHRI in compliance with the Paris Principles, including requirements related to independence.

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<sup>1</sup> ENNHRI has a member in Sweden, the Swedish Equality Ombudsman. In view of the thematic mandate focused on equality, and due to concerns related to its independence, accountability and security of tenure, the Swedish Equality Ombudsman was deemed not to fully comply with the Paris Principles and was internationally accredited with B-status.

Under the UN Paris Principles, States retain the mandate to select the institutional model and the appropriate legal framework for the establishment of NHRIs. However, this faculty is subject to the requirements under the UN Paris Principles, which aim to ensure the independence and effectiveness of NHRIs across the globe, both in law and in practice.

The Paris Principles and SCA General Observations specify elements needed to ensure the independence of NHRIs related to the selection and appointment of the decision-making body of NHRIs, funding, recruitment and dismissal of staff, and reporting, among others. Taken together, the current proposal raises significant issues with regard to the standards of independence as established by the UN Paris Principles.

### Reporting to the government

The legislative proposal establishes that the Swedish NHRI shall submit annual reports to the government on its activities and observations of developments in the area of human rights.

The UN Paris Principles make explicit reference to the submission of annual NHRI reports to Parliament in addition to Government. The SCA General Observations specify that the enabling laws of an NHRI should establish a process whereby its reports are required to be widely circulated, discussed and considered by the legislature. In some countries, the NHRI submits reports to the government who, in turn, tables these before the legislature. The SCA states that it is preferable for the NHRI to have an explicit power to table reports directly in the legislature rather than through the executive. The NHRI annual reports are considered vital public documents that provide a regular audit of the government's performance on human rights and a public account of the effectiveness of the NHRI.

### Other elements

There are other elements in the proposal that could be further aligned with the UN Paris Principles, such as on the dismissal of the NHRI's decision making-body and the possibility for the government to instruct the NHRI to carry out specific tasks.

For example, the UN Paris Principles require NHRIs to have a stable mandate. To guarantee tenure for members of the NHRI decision-making body, the enabling legislation of an NHRI must contain an independent and objective dismissal process. This includes that the grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the members to fulfil their mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. The SCA General Observations conclude that dismissal should not be allowed based solely on the discretion of the appointing authorities.

Another element that could impact on the independence of the NHRI relates to the selection of the members of the decision-making body. While the proposal states that the government shall seek recommendations for members of the Board of Directors from a set of different actors, the government is not required to select members from this pool of candidates. As a result, the participation of civil society and other actors in the selection of the Board of Directors risks not living up to requirements of pluralism and participation required by the Paris Principles and SCA General Observations.

ENNHRI stands ready to provide more detailed information on these elements.

### Conclusion

ENNHRI appreciates the efforts taken by the Swedish government and other authorities involved in the establishment of a Swedish NHRI, which has the capacity to further strengthen the promotion and protection of human rights in Sweden. While fully acknowledging the domestic legal framework and the history behind this legislative proposal, the current draft text could include additional safeguards, particularly to further guarantee the independence and public accountability of the new institution, in light of the UN Paris Principles and with a view to facilitate the international accreditation of the future Swedish NHRI in line with the UN standards.

As it stands, based on ENNHRI's experience supporting NHRIs during the accreditation process, the draft proposal appears to fall short of providing the future NHRI with the independence safeguards that can be found under the UN Paris Principles.

Ultimately, when a Swedish NHRI is established and applies for accreditation, it is the Sub-Committee on Accreditation that will assess the NHRI's compliance with the UN Paris Principles and, when doing so, will present recommendations. The SCA recommendations are intended to assist the national government and the institution concerned to fulfil the NHRI's mandate in an independent and effective manner, in accordance with the Paris Principles. ENNHRI supports NHRIs throughout the accreditation process, including with the follow-up to the SCA recommendations.

We remain available for further information and cooperation on this matter.



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