

## NOTE

As of 08 November 2022, the SCA recommendations contained in this report are considered final with exception of those related to the **National Human Rights Commission of Nepal** and **Human Rights Commission of Sri Lanka**, which in accordance with Article 12.1(ii) of GANHRI statute challenged the recommendations.

**GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (GANHRI)**

**Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)**

**Geneva, 03 - 07 October 2022**

**SUMMARY OF RECOMMENDATIONS**

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| <p><b><u>1. Accreditation (Art. 10 of the GANHRI Statute)</u></b></p>   |
| <p><b><u>1.1 Türkiye: The Human Rights and Equality Institution of Türkiye (HREIT)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the HREIT be accredited with “B” status.</p>   |
| <p><b><u>2. Re-Accreditation (Art. 15 of the GANHRI Statute)</u></b></p>  |
| <p><b><u>2.1 Colombia: The Defensoría del Pueblo of Colombia (DPC)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the DPC be re-accredited with “A” status.</p>  |
| <p><b><u>2.2 Cyprus: Office of the Commissioner for Administration and Human Rights (CAHR)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the CAHR be re-accredited with “A” status.</p>                               |
| <p><b><u>2.3 El Salvador: The Procuraduría para la Defensa de los Derechos Humanos de la República de El Salvador (PDDH)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the PDDH be re-accredited with “A” status.</p> |
| <p><b><u>2.4 Great Britain: The Equality and Human Rights Commission of Great Britain (EHRC)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the EHRC be re-accredited with “A” status.</p>                             |
| <p><b><u>2.5 Indonesia: The National Commission on Human Rights of Indonesia (Komnas HAM)</u></b><br/> <b>Recommendation:</b> The SCA recommends that Komnas HAM be re-accredited with “A” status.</p>                              |
| <p><b><u>2.6 Niger: The Commission Nationale des Droits Humains of Niger (CNDH)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the CNDH be re-accredited with “A” status.</p>  |
| <p><b><u>2.7 Norway: The Norwegian National Human Rights Institution (NNHRI)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the NNHRI be re-accredited with “A” status.</p>  |
| <p><b><u>2.8 Peru: The Defensoría del Pueblo de Perú (DPP)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the DPP be re-accredited with “A” status.</p>  |
| <p><b><u>2.9 Sierra Leone : The Human Rights Commission of Sierra Leone (HRCSL)</u></b><br/> <b>Recommendation:</b> The SCA recommends that the HRCSL be re-accredited with “A” status.</p>   |

## **SPECIFIC RECOMMENDATIONS**

### **2. REACCREDITATION (Art. 15 of the GANHRI Statute)**

#### **2.4 Great Britain: The Equality and Human Rights Commission of Great Britain (EHRC)**

Recommendation: The SCA recommends that the EHRC be reaccredited with **A** status.

The SCA highlights that NHRIs that have been accredited A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

The SCA encourages the EHRC to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in order to continue strengthening its institutional framework and working methods.

The SCA notes:

##### **1. Human rights mandate**

The EHRC informed the SCA that Section 28(8) of the Equality Act, providing for legal assistance to persons with disabilities, is yet to be fully implemented. The SCA acknowledges the efforts of the EHRC to advocate for the implementation of Section 28(8) of the Equality Act.

An NHRI's mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights.

The SCA recommends that the EHRC continue to advocate for the strengthening of its protection mandate, specifically through the implementation of Section 28(8) of the Equality Act.

The SCA refers to Paris Principles A.1, A.2, and A.3 and to its General Observation 1.2 'Human rights mandate'.

##### **2. Addressing human rights issues**

The SCA acknowledges the concerns raised by several civil society organizations and in public records on the will of the EHRC to effectively and independently address human rights issues, including the rights of LGBTI people, migrants and asylum seekers. The SCA acknowledges that the EHRC provided information concerning its activities and efforts to address human rights issues.

The SCA is of the view that it is vitally important that all the findings and recommendations of the NHRI be publicly available as this increases the transparency and public accountability of the NHRI.

The SCA emphasizes that an NHRI's mandate should promote a progressive definition of human rights, which includes all rights set out in international, regional, and domestic instruments. NHRIs are expected to promote and ensure respect for all human rights, democratic principles and the strengthening of the rule of law in all circumstances, and without exception.

The SCA recommends that the EHRC address key human rights issues in an independent, effective, public and transparent manner, in particular in relations to the promotion and protection of the rights of LGBTI people, migrants and asylum seekers, persons with disabilities, as well as issues related to racial discrimination, in line with international human rights standards.

The SCA refers to Paris Principles A.1, A.2, and A.3 and to its General Observation 1.2 'Human rights mandate'.

### **3. Cooperation with civil society organizations**

The EHRC provided examples of its cooperation with civil society organisations, including in the development of its strategic plan and its responses to proposed legislation that could impact on the promotion and protection of human rights.

The SCA is of the view that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandate. Broad engagement with all stakeholders improves the effectiveness of an NHRI in implementing its mandate to promote and protect human rights by providing a better understanding of: the breadth of human rights issues across the state; the different impacts of such issues based on social, cultural, geographic, and other factors; gaps; priorities; and implementation strategies. NHRIs should develop, formalize, and maintain working relationships with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

The SCA recommends that the EHRC take visible and clear steps to strengthen its working relationship with civil society organizations, including organizations that work to promote and protect the human rights of LGBTI people, migrants and asylum seekers, persons with disabilities and organizations working on racial discrimination.

The SCA refers to Paris Principles C(f) and (g) and to its General Observation 1.5 on ‘Cooperation with other human rights bodies’.

### **4. Pluralism & Diversity**

The SCA notes that the EHRC enabling legislation does not adequately and explicitly address the requirements of pluralism and diversity of its Commissioners. The EHRC informed the SCA that its Commissioners are appointed in accordance with the principles of Ministerial responsibility, Selflessness, Integrity, Merit, Openness, Diversity, Assurance and Fairness, in accordance with the UK system for appointments to public boards. The SCA notes that the EHRC reported that its current Board of Commissioners are representative of the society and that the EHRC has advocated for amendments to the enabling law requiring explicit provisions on pluralism as a requirement for selection and appointment.

Pluralism and diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. Pluralism refers to broader representation of national society. Consideration must be given to ensuring pluralism in the context of gender, ethnicity, or minority status.

The SCA recommends that the EHRC continue to take steps, including advocating for amendments to its enabling law, to ensure pluralism in its membership.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on ‘Ensuring pluralism of the NHRI’.

### **5. Selection and appointment process**

Schedule 1, Paragraph 1(1) of the Act provides that the Secretary of State appoints the Chairperson and members of the Commission. Schedule 1, Paragraph (2)(1) states that the criteria for appointment is experience or knowledge on discrimination and/or human rights, or “for some other special reason”. The EHRC reports that the selection and appointment is conducted in a manner that is comparable with all independent institutions within the State. The SCA notes that, in practice, the appointment process is subject to detailed guidance from the Office of the Commissioner for Public Appointments.

The Commissioner for Public Appointments regulates the processes by which Ministers make appointments on merit to the boards of national and regional public bodies.

The SCA is of the view that the process currently enshrined in the Law is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which the merit of eligible applicants is assessed; or
- promote broad consultation and / or participation in the application, screening, selection and appointment process.

The SCA acknowledges that the EHRC has taken steps to ensure clear and participatory selection and appointment process, including ensuring that representation of relevant skills and expertise is taken into account during the appointment process through an amendment to the Framework Document and advocating for the formalization and application of a clear, transparent and participatory selection and appointment process.

It is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for an NHRI's decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA therefore recommends the EHRC to continue advocating for the formalization of the selection and appointment process in relevant by laws, regulations, or binding administrative instruments.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of NHRIs'.

## **6. Dismissal**

The Act provides that the Secretary of State may dismiss a Commissioner who in their opinion is unable, unfit or unwilling to perform their functions. The SCA is concerned that this ground, without further qualification of this discretion, may impact adversely on the security of tenure of Commissioners.

The SCA acknowledges that the EHRC reported that, while no Commissioners have ever been dismissed in the history of the EHRC, they have engaged the Government to seek changes to the Framework Document in order to provide for further safeguards against possible unfair dismissals of Commissioners.

The SCA emphasizes that in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process.

The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the member to fulfil its 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 dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed to be based solely on the discretion of the appointing authorities.

The SCA is of the view that such requirements ensure the security of tenure of members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA recommends the EHRC to continue advocating for appropriate amendments to ensure an independent and objective dismissal process of its members.

The SCA refers to Paris Principle B.3 and to its General Observation 2.1 on 'Guarantee of tenure for members of the NHRI decision-making body'.

## **7. Financial Autonomy**

The EHRC informed the SCA that it has secured unchanged budget allocation for the 2022-2023 financial year. In addition, the EHRC informs that a separate ring-fenced budget line would enhance its financial autonomy.

The SCA is of the view that government funding should be allocated to a separate budget line applicable only to the NHRI. Such funding should be regularly released and in a manner that does not adversely affect its functions, day-to-day management and retention of staff.

The SCA recommends that the EHRC continues its efforts to advocate for a separate ring-fenced budget line to enhance its financial autonomy.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding'.