

**INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS FOR
THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

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

Geneva, 26 – 30 March 2012

SUMMARY OF RECOMMENDATIONS

<p><u>1. Accreditation (Art. 10 of the ICC Statute)</u></p>
<p>1.1 <u>Bermuda : The Ombudsman of the Republic of Bermuda (OBO)</u> Recommendation: The SCA recommends that consideration of the application of the OBO be deferred to its second session in 2012.</p>
<p>1.2 <u>Kazakhstan: The Commissioner for Human Rights (CHR)</u> Recommendation: The SCA recommends that the CHR be accredited B status.</p>
<p>1.3 <u>Kyrgyzstan: The Ombudsman of the Kyrgyz Republic (OKR)</u> Recommendation: The SCA recommends that the OKR be accredited B status.</p>
<p>1.4 <u>Mali: Commission Nationale des Droits de l'Homme (CNDH)</u> Recommendation: The SCA recommends that the CNDH be accredited B status.</p>
<p>1.5 <u>Tajikistan: The Human Rights Ombudsman of the Republic of Tajikistan (HROT)</u> Recommendation: The SCA recommends that the HROT be accredited B status.</p>
<p><u>2. Re-Accreditation (Art. 15 of the ICC Statute)</u></p>
<p>2.1 <u>Bolivia: The Defensoria del Pueblo (Defensor) of Bolivia</u> Recommendation: The SCA recommends that the Defensor be re-accredited A status.</p>
<p>2.2 <u>Burkina Faso: Commission Nationale des Droits de l'Homme (CNDH)</u> Recommendation: The SCA informs the CNDH that, in accordance with Art. 20 of the ICC Statute, its accreditation status has now lapsed.</p>
<p>2.3 <u>Colombia: The Defensoria Del Pueblo of Colombia (DPC)</u> Recommendation: The SCA recommends that the DPC be re-accredited with A status.</p>
<p>2.4 <u>Indonesia: Indonesian National Commission on Human Rights (Komnas HAM)</u> Recommendation: The SCA recommends that Kommas HAM be re-accredited A status.</p>
<p>2.5 <u>Malawi: Malawi Human Rights Commission (MHRC)</u> Recommendation: The SCA recommends that consideration of the application of the MHRC be deferred to its second session of 2012.</p>
<p>2.6 <u>Peru: The Defensoria del Pueblo del Peru (DPP)</u> Recommendation: The SCA recommends that the DPP be re-accredited A status.</p>
<p>2.7 <u>The Philippines: The Commission on Human Rights of the Philippines (CHRP)</u> Recommendation: The SCA recommends that the CHRP be re-accredited A status.</p>

2.8 Rwanda: The National Commission for Human Rights of the Republic of Rwanda (NCHR)

Recommendation: The SCA informs the NCHR of its intention to recommend to the ICC Bureau that the NCHR be accredited with **B status**, and gives the institution the opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The NCHR retains its **A status** during this period.

2.9 Slovakia: National Centre for Human Rights (SNCHR)

Recommendation: The SCA recommends the NCHR that, in accordance with Art. 20 of the ICC Statute, its accreditation status has now lapsed.

3. Review (Article 16.2 of the ICC Statute)

3.1 Azerbaijan: The Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan (HRCA)

Recommendation: The SCA recommends that the HRCA be re-accredited **A status**.

Report and Recommendations of the Session of the SCA on 26 – 30 March 2012

1. BACKGROUND

- 1.1.** In accordance with the Statute (attached as Annex I) of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC), the SCA has the mandate to consider and review applications for accreditation, reaccreditation and special or other reviews received by the National Institutions and Regional Mechanisms Section (NIRMS) of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its capacity as the ICC Secretariat, and to make recommendations to the ICC Bureau members with regard to the compliance of applicant institutions with the Paris Principles (attached as Annex 2). The SCA assesses compliance with the Paris Principles in law and in practice.
- 1.2.** In accordance with the SCA Rules of Procedure, the SCA is composed of NHRI representatives from each region: Togo for Africa, Canada for the Americas, Qatar for Asia-Pacific (Chair), and France for Europe.
- 1.3.** The SCA convened from 26 to 30 March 2012. OHCHR participated as a permanent observer and in its capacity as ICC Secretariat. In accordance with established procedures, regional coordinating committees of NHRIs were invited to attend as observers. The SCA welcomed the participation of representatives from the Secretariat of the Asia Pacific Forum of NHRIs, the Network of African NHRIs and the ICC Geneva Representative.
- 1.4.** Pursuant to article 10 of the Statute, the SCA considered applications for accreditation from the NHRIs of Bermuda, Kazakhstan, Kyrgyzstan, Mali and Tajikistan.
- 1.5.** Pursuant to article 15 of the Statute, the SCA also considered applications for re-accreditation from the NHRIs of Bolivia, Burkina Faso, Colombia, Indonesia, Malawi, Peru, The Philippines, Rwanda and Slovakia.
- 1.6.** Pursuant to article 16.2 of the Statute, the SCA reviewed the NHRI of Azerbaijan.
- 1.7.** In accordance with the Paris Principles and the ICC SCA Rules of Procedure, the classifications for accreditation used by the SCA are:

 - A:** Compliance with the Paris Principles;
 - B:** Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;
 - C:** Non-compliance with the Paris Principles.
- 1.8.** The General Observations (attached as Annex 3), as interpretative tools of the Paris Principles, may be used to:

 1. Instruct institutions when they are developing their own processes and mechanisms, to ensure Paris Principles compliance;
 2. Persuade domestic governments to address or remedy issues relating to an institution's compliance with the standards articulated in the General Observations; and

3. Guide the SCA in its determination of new accreditation applications, re-accreditation applications or other review:
 - i) If an institution falls substantially short of the standards articulated in the General Observations, it will be open for the SCA to find that it is not Paris Principles compliant; and
 - ii) If the SCA has noted concern about an institution's compliance with any of the General Observations, it may consider what steps, if any, have been taken by an institution to address those concerns in future applications. If the SCA is not provided with proof of efforts to address the General Observations previously made, or offered a reasonable explanation why no efforts had been made, it would be open to the SCA to interpret such lack of progress as non-compliance with the Paris Principles.

- 1.9.** The SCA developed General Observations on NHRIs serving as National Monitoring/Preventive Mechanisms; on the quasi-judicial competency of NHRIs; and on assessing the performance of NHRIs. The General Observations will be sent for consideration to the ICC Bureau.

- 1.10.** At the request of the ICC Chair, the SCA is currently developing a paper for consideration by the ICC Bureau on how the ICC should respond to: i) accreditation applications from institutions in States/entities that are not UN member or observer States; ii) accreditation applications from local level institutions; iii) accreditation applications from more than one institution in a UN member or observer State.

- 1.11.** The SCA notes that when specific issues are raised in its report in relation to accreditation, re-accreditation, special or other reviews, NHRIs are required to address these issues in any subsequent application or other review.

- 1.12.** The SCA encourages all accredited NHRIs to inform the ICC Bureau at the first available opportunity about circumstances that would negatively affect their ability to meet the standards and obligations of the Paris Principles.

- 1.13.** When the SCA declares its intention to consider particular issues within a specified time-frame, the outcome of the review may lead to a recommendation that may affect the accreditation status. In the event additional issues arise during the course of the review, the SCA will notify the NHRI.

- 1.14.** Pursuant to Article 12 of the Statute, where the SCA comes to an accreditation recommendation, it shall forward that recommendation to the ICC Bureau whose final decision is subject to the following process:
 - i) The recommendation of the SCA shall first be forwarded to the applicant;
 - ii) An applicant can challenge a recommendation by submitting a written challenge to the ICC Chairperson, through the ICC Secretariat, within twenty eight (28) days of receipt.
 - iii) Thereafter the recommendation will be forwarded to the members of the ICC Bureau for decision. If a challenge has been received from the applicant, the challenge together with all relevant material received in connection with both the application and the challenge will also be forwarded to the members of the ICC Bureau;

- iv) Any member of the ICC Bureau who disagrees with the recommendation shall, within twenty (20) days of its receipt, notify the Chair of the SCA and the ICC Secretariat. The ICC Secretariat will promptly notify all ICC Bureau members of the objection raised and will provide all necessary information to clarify that objection. If within twenty (20) days of receipt of this information at least four members of the ICC Bureau coming from not less than two regional groups notify the ICC Secretariat that they hold a similar objection, the recommendation shall be referred to the next ICC Bureau meeting for decision;
- v) If at least four members coming from two or more regional groups do not raise objection to the recommendation within twenty (20) days of its receipt, the recommendation shall be deemed to be approved by the ICC Bureau;
- vi) The decision of the ICC Bureau on accreditation is final.

1.15. Pursuant to Article 18 of the Statute, in cases where the SCA considers a recommendation that would serve to remove the accredited status from an applicant institution, the applicant institution is informed of this intention and given the opportunity to provide in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The concerned institution retains its “A” status during this period.

1.16. At ICC25 the Statute was amended to clarify the provision for the suspension of an A status NHRI in exceptional circumstances.

1.17. The SCA continued to consult with concerned NHRIs, where necessary, during its session. Prior to the session, all concerned NHRIs were requested to provide a name and phone number in case the SCA needed to contact the Institution. In addition, OHCHR desk officers and, as appropriate, OHCHR field officers were available to provide further information, as needed.

1.18. The SCA acknowledges the high degree of support and professionalism of the staff of the ICC Secretariat (OHCHR National Institutions and Regional Mechanisms Section).

1.19. The SCA shared the summaries prepared by the Secretariat with the concerned NHRIs before the consideration of their applications and were given one week to provide any comments on them. As in previous cases, once the recommendations of the SCA are adopted by the ICC Bureau, the summaries, the comments and the statements of compliance will be posted on the NHRI website (<http://nhri.ohchr.org/>). The summaries are only prepared in English, due to financial constraints.

1.20. The SCA considered information received from civil society and the response received from the National Human Rights Commission of Thailand.

1.21. The SCA considered publicly available information on the situation in Togo. In accordance with the SCA's practice and procedure, the representative from Togo did not participate and was absent from the meeting at this time.

2. SPECIFIC RECOMMENDATIONS – ACCREDITATION APPLICATIONS (Art. 10 of the ICC Statute)

2.1 Bermuda: Office of the Bermuda Ombudsman (OBO)

Recommendation: The SCA recommends that consideration of the application of the OBO be **deferred** to its second session in 2012.

At its October 2011 session, the SCA deferred consideration of the application of the OBO to its current session, to allow the SCA to obtain additional information on the status of Bermuda as a British Overseas Territory and the ramifications of this status for its accreditation. The SCA noted that it may then refer the matter to the ICC Bureau for advice and direction as appropriate.

The SCA was unable to obtain the additional information necessary on the status of Bermuda as a British Overseas Territory in sufficient time to be able to consider the application at the current session. The SCA will continue to be in contact with the OBO to determine what further documentation and information is required to determine the status of Bermuda, the ramifications of this status for its accreditation and whether the matter ought to be referred to the ICC Bureau for advice and direction as appropriate.

The SCA expresses its appreciation to the OBO for its cooperation and assistance in providing documentation and explanations on the issues raised by the SCA.

2.2 Kazakhstan: The Commissioner for Human Rights (CHR)

The SCA recommends the CHR be accredited **B status**.

The SCA notes:

1. Establishment

The post of Commissioner for Human Rights and the National Centre for Human Rights are established by Presidential Decree, which is an act of the executive, rather than through a constitutional or legal text.

The Paris Principles require that a NHRI be established in a constitutional or legal text. Establishment of a NHRI by an instrument of the Executive is inadequate to ensure permanency and independence.

The SCA refers to Paris Principle A.2 and to its General Observation 1.1 on 'Establishment of national institutions.'

The SCA encourages the CHR to advocate for constitutional or legal text to establish the CHR in compliance with the Paris Principles. Such a text should address the following issues:

2. Mandate

Art 18 of the Provision on the Commissioner of Human Rights precludes the Commissioner from considering complaints against actions of the President, Parliament and its members, Government, Constitutional Council, Prosecutor General, Central Electoral Commission and the Courts. It is of the view that this provision may limit the CHR's ability to carry out its mandate in an independent manner.

The SCA notes that while it may be justified to place certain acts of these bodies beyond the scope of review by the CHR, it encourages the CHR to advocate for the power to consider human rights violations where these are not currently the subject of review by a more appropriate independent body.

3. Selection and appointment

Art 8 of the Provision on the Commissioner of Human Rights indicates that the President appoints the Commissioner following consultations with the Committees of the Chambers of the Parliament. Vacancies for the position of Commissioner are not advertised publicly and the selection process does not involve a broad consultation with civil society.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages the CHR to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups;
- promote broad consultation and / or participation in the application, screening and selection process; and
- assess applicants on the basis of pre-determined, objective and publicly available criteria.

The SCA refers to Paris Principle B.1 and to its General Observation 2.2 on 'Selection and appointment of the governing body'.

4. Pluralism of staff

The enabling legislation does not provide that staff of the CHR are to be representative of the diverse segments of Kazakh society.

For single member institutions, such as an Ombudsperson, the SCA highlights the importance of ensuring that its staff is representative of the diverse segments of society. A diverse staff facilitates the NHRI's appreciation of, and capacity to engage on all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens.

The CHR is encouraged to develop policies and procedures to ensure that staff representation is broad and pluralistic.

The SCA refers to General Observation 2.1 on 'Ensuring Pluralism', particularly subsection d).

5. Cooperation with other human rights institutions

The CHR is not vested with the mandate to cooperate with the International Human Rights System, including the UN.

The SCA emphasizes the importance of NHRI engagement with the international human rights system, in particular the Human Rights Council and its mechanisms (Special

Procedures and the UPR), and the Treaty Bodies. This may include, depending on the NHRIs assessment of priorities, submitting independent reports and providing input into these processes and following up at the national level to the recommendations originating from the international human rights system. In addition, the SCA encourages the CHR to actively engage with the ICC, the relevant Regional Coordinating Committee of NHRIs, as well as international and national NGOs and civil society organizations.

The SCA refers to Paris Principle A.3 and its General Observation 1.4 on 'Interaction with the International Human Rights System'.

6. Funding:

The CHR reports that although the budget received from the State is sufficient to carry out its core mandate, certain activities necessitate the use of donor funds. Further, the SCA notes that various treaty bodies, including the Committee against Torture and the Committee on the Rights of the Child have expressed concern regarding the adequacy of the budget.

The SCA emphasizes the importance of the State providing the CHR with adequate funding and independent management and control of its budget. This promotes the independence of the NHRI by allowing it to freely determine its priorities and effectively fulfil its mandate. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfilment of its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 2.6 on 'Adequate funding'.

7. Immunity:

There are no provisions in the enabling legislation to ensure immunity of the Commissioner.

The SCA is of the view that provisions should be included in the enabling legislation of an NHRI to protect the members of the governing body from legal liability for actions undertaken in their official capacity.

The SCA refers to its General Observation 2.5 on 'Immunity'.

8. Annual report:

The SCA appreciates the distribution and promotion of the Annual Report undertaken by the CHR and that follow up to the Report is directed by the President, but expresses its concern that Art 23 of the enabling law provides that the CHR is required to submit its annual report of activities directly to the President.

The SCA emphasizes that annual and thematic reports serve to highlight key human rights concerns in a country and provide a means by which an NHRI can make recommendations to, and monitor respect for, human rights by government. Furthermore, annual and thematic reports provide a public account, and therefore public scrutiny, of the effectiveness of an NHRI. Accordingly, the SCA is of the view that an NHRI should have the authority to submit directly to Parliament and to any other competent body any opinion, recommendation, proposal or report on any matter concerning the promotion and protection of human rights.

The SCA refers to Paris Principle A.3 and to its General Observation 6.1 on 'Annual report'.

The SCA encourages the CHR to seek assistance and advice from the relevant Regional Coordinating Committee of NHRIs and the OHCHR.

2.3 Kyrgyz Republic: Ombudsman (Akyikatchy) of the Kyrgyz Republic (OKR)

Recommendation: The SCA recommends that the OKR be accredited **B status**.

The SCA notes:

1. Selection and appointment

Vacancies for the post of Ombudsman and Deputy Ombudsman are not advertised widely. Further, the eligibility criteria for these positions are quite vague and neither educational qualifications nor any experience in the field of human rights have been prescribed under the law.

The SCA is also concerned about the lack of civil society involvement in the most recent selection process for the Deputy Ombudsman and is of the view that the selection process prescribed by the enabling legislation is insufficient to ensure the broad consultation and participation of diverse societal forces.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages the OKR to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups;
- promote broad consultation and / or participation in the application, screening and selection process; and
- assess applicants on the basis of pre-determined, objectively relevant and publicly available criteria.

The SCA refers to Paris Principle B.1 and to its General Observation 2.2 on 'Selection and appointment of the governing body'.

2. Pluralism of staff

The enabling legislation does not provide that staff of the OKR are to be representative of the diverse segments of Kyrgyz society.

For single member institutions, such as an Ombudsperson, the SCA highlights the importance of ensuring that its staff is representative of the diverse segments of society. A diverse staff facilitates the NHRI's appreciation of, and capacity to engage on all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens.

The OKR is encouraged to develop policies and procedures to ensure that staff representation is broad and pluralistic.

The SCA refers to General Observation 2.1 on 'Ensuring Pluralism', particularly subsection d).

3. Cooperation with civil society organizations

The SCA expresses its concern about the lack of engagement between the OKR and civil society organizations.

The SCA is of the view that, in order to effectively fulfil their mandates, NHRIs must develop and maintain relationships and cooperation with civil society. It recommends that the Ombudsman develop and formalize regular and systemic working relations with such organizations.

The SCA refers to Paris Principle C (g) and to its General Observation 1.5 on "Cooperation with other human rights institutions".

4. Security of tenure

Art 7(7) of the Law specifies that the Ombudsman and Deputies may be dismissed in the event of non-approval of a report they have submitted to the Parliament. This has the potential to affect the ability of the OKR to submit independent and unbiased reports on the human rights situation in the country.

The SCA expresses its concern that this provision is so broad as to impact on the security of tenure of members and may adversely affect the independence of the OKR.

The SCA is of the view that an independent and objective dismissal process is required. The grounds for dismissal must be clearly defined in the legislation. Where appropriate, the legislation should specify that the application of the ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed based solely on the discretion of appointing authorities. This is essential to ensure the security of tenure of the members of the governing body and the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages the OKR to advocate for an independent and objective dismissal process in its legislation. The SCA refers to its General Observation 2.9 on 'Guarantee of tenure for members of governing bodies'.

5. Encouraging ratification or accession to international human rights instruments

The enabling law of the Ombudsman does not provide it with a specific mandate to encourage ratification and implementation of international human rights standards.

The SCA encourages the OKR to advocate for the entrenchment of this function in the enabling legislation of the Ombudsman to ensure the effective protection of human rights and refers to Paris Principle A3 (b) and General Observation 1.3 "Encouraging ratification or accession to international human rights instruments".

The SCA encourages the Ombudsman to seek assistance and advice from the relevant Regional Coordinating Committee of NHRIs and the OHCHR.

2.4 Mali: La Commission Nationale des Droits de l'Homme du Mali (CNDH)

Recommendation: The SCA recommends the CNDH be accredited **B status**.

The SCA notes that the founding law of the CNDH does not comply with the Paris Principles, including the following respects:

1. Pluralism

The founding law specifies that members are to come from a variety of designated groups including civil society, professional associations, trade unions, the judiciary, parliament and government. In determining representation from these groups, consideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status. The SCA encourages the CNDH to advocate for pluralism in the composition of its leadership.

The SCA refers to Paris Principle B1 and General Observation 2.1 on 'Ensuring Pluralism'.

2. Composition and selection of the members of the Commission

The founding law does not specify a process by which nominating organisations are to seek or assess applicants.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the members of a national human rights institution.

The SCA encourages the CNDH to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- assess applicants on the basis of clear and objective criteria that promote selection based on merit;
- promote broad consultation and / or participation in the application, screening and selection process;
- assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- ensure pluralism in the composition of the CNDH.

The SCA refers to Paris Principle B.1 and to its General Observations 2.1 on "Ensuring pluralism and 2.2 on 'Selection and appointment of the governing body'.

3. Mandate

The SCA acknowledges that the enabling legislation contains implicit provisions allowing for the protection of human rights; however those provisions are not explicit and may restrict the interpretation of a broad mandate. The SCA encourages the CNDH to advocate for amendments to the Law to expressly provide a broad mandate to both protect and promote all human rights.

The SCA refers to the Paris Principle A1 and General Observation 1.2 on “Human rights mandate”.

4. Cooperation with other human rights institutions

The CNDH did not provide sufficient details of how it works with civil society organizations in carrying out its mandate.

In order to effectively fulfil their mandates, the SCA is of the view that NHRIs must develop and maintain relationships and cooperation with civil society. It recommends that the CNDH develop and formalize regular and systemic working relations with such organizations.

The SCA refers to Paris Principle C (g) and to its General Observation 1.5 on “Cooperation with other human rights institutions”.

5. Funding

The funds for the operation of the CNDH are contained in the budget of the Ministry of Justice and the CNDH does not appear to have full and independent access, or management and control over their dispersal.

The SCA emphasizes that an NHRI should have financial autonomy as this assists in promoting independence of the NHRI by allowing it to freely determine its priorities and the allocation of its resources.

Funds should be allocated to a separate budget line item. Once funds have been allocated by Parliament, the funds should be released to the NHRI and it should exercise absolute management and control. Where accountability requirements are imposed by government, such regulation must not compromise the capacity of the NHRI to function independently and effectively. Further, the SCA emphasizes the importance of the State providing a level of funding that is adequate to ensure the gradual and progressive realization of the NHRI mandate.

The SCA refers to Paris Principle B.2 and to its General Observations 2.6 on ‘Adequate funding’ and 2.10 on ‘Administrative regulation’.

6. Immunity

The SCA is of the view that provisions should be included in the enabling legislation of an NHRI to protect the members of the governing body from legal liability for actions undertaken in their official capacity.

The SCA refers to its General Observation 2.5 on ‘Immunity’.

7. Staffing by secondment

The CNDH has advised that its staff is seconded from the Ministry of Justice. The SCA notes that such an arrangement may, or may be seen to, compromise the independence of a national human rights institution.

An NHRI should have the capacity to determine staffing requirements based on its determination of organizational priorities and should be able to hire its own staff accordingly.

The SCA refers to General Observation 2.4 on ‘Staffing by secondment’.

8. Full-time members

The CNDH reports that its members are volunteers rather than full time members.

The SCA is of the view that the appointment of full-time members:

- assists in promoting the independence of the NHRI by ensuring a more stable mandate for members;
- provides more effective leadership for staff; and,
- promotes the ongoing and effective fulfilment of the NHRI's functions.

It encourages the CNDH to advocate for the appointment of full-time members.

The SCA refers to its General Observations 2.6 on “Adequate Funding” and 2.8 on ‘Full-time Members’.

9. Recommendations by NHRIs

It is unclear by what means the CNDH follows up on the recommendations it has made to Government.

The SCA notes that in fulfilling its protection mandate, an NHRI must not only monitor, investigate and report on the human rights situation in the country, it should also undertake rigorous and systematic follow up activities to promote the implementation on its recommendations and findings, and the protection of those whose rights were found to have been violated.

The SCA refers to Paris Principle B.2 and to its General Observation 1.6 on ‘Recommendations by NHRIs’.

The SCA encourages the CNDH to seek assistance and advice from the Network of African NHRIs and the OHCHR.

2.5 Tajikistan: Office of the Human Rights Ombudsman of the Republic of Tajikistan (HROT)

Recommendation: The SCA recommends the HROT be accredited **B status**.

The Law on the Human Rights Ombudsman in the Republic of Tajikistan came into force in April 2008. The HROT became fully functional in May 2009.

The HROT has a broad mandate, and carries out a quasi-judicial (complaints handling) function. The SCA expresses its appreciation for the considerable work done by the HROT in fulfilling its mandate to promote and protect human rights.

However, the SCA notes:

1. Mandate

The SCA notes with appreciation the activities that the HROT has undertaken to encourage ratification or accession to international human rights instruments, despite the fact that this function is not enshrined in its enabling legislation.

The SCA encourages the HROT to advocate for amendments to its enabling legislation to explicitly include this function.

The SCA refers to Paris Principle A.3 (c) and its General Observation 1.3 on 'Encouraging ratification or accession to international human rights instruments'.

2. Selection and appointment

Vacancies for the position of Ombudsman are not advertised publicly and the process of selection for candidates does not involve a broad consultation with civil society.

Moreover, no information has been provided regarding the legal provision on the selection process and the membership requirements of the Expert Council established by the Commissioner.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages HROT to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups;
- promote broad consultation and / or participation in the application, screening and selection process; and
- assess applicants on the basis of pre-determined, objective and publicly available criteria.

The SCA refers to Paris Principle B.1 and its General Observation 2.2 on 'Selection and appointment of the governing body'.

3. Pluralism of staff

The enabling legislation does not provide that staff of the HROT are to be representative of the diverse segments of Tajik society.

For single member institutions, such as an Ombudsperson, the SCA highlights the importance of ensuring that its staff is representative of the diverse segments of society. A diverse staff facilitates the NHRI's appreciation of, and capacity to engage on all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens.

The HROT is encouraged to advocate for amendments to the legislation, or to develop policies and procedures to ensure that staff representation is broad and pluralistic.

The SCA refers to General Observation 2.1 on 'Ensuring Pluralism', particularly subsection d).

4. Interaction with the International Human Rights System

The HROT participated in the working groups preparing national reports to the UN treaty bodies. This participation was limited to contributing to the government report. The SCA also notes that the HROT participated in the UPR as part of the government delegation, which compromises the independence, and/or perception of the independence, of the HROT.

The SCA emphasizes the importance of NHRI engagement with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and the UPR), and the Treaty Bodies, in a manner that reflects the principle of independence. This includes providing independent input (shadow reports) into these processes and following up at the national level on the recommendations made by the international human rights system.

The SCA refers to Paris Principle A.3 and its General Observation 1.4 on 'Interaction with the International Human Rights System'.

5. Funding

The HROT has reported that, although the budget received from the Government allows it to carry out its mandate, 40% of its budget is financed by donors.

The SCA emphasizes the importance of the State providing adequate core funding. This promotes the independence of the NHRI by allowing it to freely determine its priorities and allocate its resources accordingly. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfilment of its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 2.6 on 'Adequate funding'.

6. Immunity:

While Article 8 of the Law ostensibly provides the Ombudsman with immunity from arrest, detention, bringing by force, search or imposition of administrative penalty by a court, these actions are permissible upon the approval of the President or the Prosecutor General.

The SCA acknowledges that no office holder should be beyond the reach of the law and is of the view that in certain exceptional circumstances it may be necessary to lift immunity. However, the decision to do so should not be exercised by an individual, but rather by an appropriately constituted body such as the superior court or by a special majority of Parliament.

The SCA refers to its General Observation 2.5 on 'Immunity'.

The SCA encourages the HROT to seek assistance and advice from the relevant regional Coordinating Committee of NHRIs and the OHCHR.

3. SPECIFIC RECOMMENDATIONS - RE-ACCREDITATION APPLICATIONS (Art. 15 of the ICC Statute)

3.1 Bolivia: The Defensoria del Pueblo (Defensor) of Bolivia

Recommendation: The SCA recommends that the Defensor be re-accredited A **status**

The SCA acknowledges and commends the Defensoría for its extensive promotional and protective activities and encourages it to continue to effectively fulfil its broad mandate to promote and protect human rights.

The SCA notes:

1. Funding:

While the SCA commends the DPB for fundraising efforts to ensure it can continue to carry out its functions, the SCA expresses its concern that more than 50% of the DPB's funding is from external sources. The SCA also notes with concern that the DPB reports that this includes funding the salaries of 50% of its staff.

The SCA emphasizes that funding from external sources should not comprise the core funding of an NHRI as it is the responsibility of the state to provide adequate funding to ensure the gradual and progressive realization of the improvement of the organization's operations and fulfilment of its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 2.6 on 'Adequate funding'.

3.2 Burkina Faso: Commission Nationale des Droits de L'homme (CNDH)

Recommendation: The SCA informs the CNDH that, in accordance with Art. 20 of the ICC Statute, its accreditation status has now lapsed.

The SCA advises the CNDH that, in accordance with Art. 23 of the ICC Statute, all rights and privileges conferred on the CNDH through accreditation have now ceased.

The SCA encourages the CNDH to seek accreditation in accordance with Art.10 of the ICC Statute upon appointment of its new Commissioners. It further encourages the CNDH to seek assistance and advice from the African Network of National Human Rights Institutions and OHCHR.

3.3 Colombia: Defensoria del Pueblo de Colombia (DPC)

Recommendation:

The SCA recommends that the DPC be re-accredited with A status.

1. Selection and appointment

In accordance with the enabling legislation of the DPC, the Defensor is appointed by the Chamber of Representatives from a list of three candidates presented by the President. Vacancies are not publicized and the selection process does not involve a broad consultation with diverse societal forces, in particular civil society.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages the DPC to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups; and
- promote broad consultation and / or participation in the application, screening and selection process.

The SCA refers to Paris Principle B.1 and to its General Observation 2.2 on ‘Selection and appointment of the governing body’.

2. Pluralism of staff

The enabling legislation does not provide that staff of the DPC are to be representative of the diverse segments of Columbian society.

For single member institutions, such as an Ombudsperson, the SCA highlights the importance of ensuring that its staff is representative of the diverse segments of society. A diverse staff facilitates the NHRI’s appreciation of, and capacity to engage on all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens.

The DPC is encouraged to develop policies and procedures to ensure that staff representation is broad and pluralistic.

The SCA refers to General Observation 2.1 on ‘Ensuring Pluralism’, particularly subsection d).

The SCA will again consider the above-mentioned issues at its first session in 2014.

The SCA also notes the following issues. These issues will not be considered at its first session in 2014, but rather at the DPCs 2017 reaccreditation review.

3. Tenure

The SCA notes that the legislation is silent on the frequency of mandate renewal. The SCA recommends that tenure be between 3 to 7 years, renewable once.

The SCA refers to Paris Principle B.3.

4. Interaction with the International Human Rights System

The SCA commends the DPC for encouraging the harmonisation of national legislation with international human rights standards.

The SCA emphasizes the importance of NHRI engagement with the international human rights system, independently of the Government, in particular the Human Rights Council

and its mechanisms (Special Procedures and the UPR), and the Treaty Bodies. This includes providing input into these processes and following up at the national level the recommendations originating from the international human rights system. In addition, the SCA encourages the DPC to actively engage with the ICC, the Network of NHRIs of the Americas, as well as international and national NGOs and civil society organizations. The SCA refers to Paris Principle A.3 and its General Observation 1.4 on 'Interaction with the International Human Rights System'.

The SCA encourages the DPC to seek assistance and advice from the Network of NHRIs of the Americas and the OHCHR

3.4 Indonesia: National Commission on Human Rights (Komnas HAM)

Recommendation:

The SCA recommends that Komnas HAM be re-accredited with A status.

The SCA notes:

1. Composition, selection and appointment

During the 2007 review of Komnas HAM, the SCA expressed concern about lack of pluralism in the governing body, in particular, the low representation of women. The representation of women remains low with only one in the current governing body. The SCA is therefore not satisfied that Komnas HAM has taken sufficient action to address the concerns raised in 2007.

The SCA again emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection, ensures pluralism and promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages Komnas HAM to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to maximize the number of potential candidates from a wide range of societal groups and to ensure pluralism, including appropriate gender representation in the composition of Komnas HAM.

The SCA refers to Paris Principle B.1 and to its General Observations 2.1 on "Ensuring pluralism and 2.2 on 'Selection and appointment of the governing body'.

2. Administrative regulation

Art. 81(5) of Law No. 39 provides that the position, duties, responsibilities and organizational structure of the Secretariat General of Komnas HAM shall be set forth in a Presidential Decree. The SCA notes that during Komnas HAM's 2007 review it recommended that these be established through Commission regulations and policies in order to maintain independence and autonomy. It further notes that Komnas HAM has not indicated what steps it has taken to address this recommendation. The SCA is therefore not satisfied that Komnas HAM has sufficiently addressed the recommendation it made in 2007.

The SCA refers to its General Observation 2.10 on 'Administrative regulation'.

3. Immunity:

The SCA notes that, during Komnas HAM's 2007 review, it emphasized the importance of protecting members of the governing body from legal liability for actions undertaken in their official capacity. The provision of such protection in the institution's founding legislation or other legislation promotes the independence and security of tenure of members of the governing body. The SCA notes however that no such protections have been implemented and is therefore not satisfied that Komnas HAM has sufficiently addressed the recommendations it made in 2007.

The SCA again refers to this General Observation 2.5 on 'Immunity.'

4. Funding and Budget

Komnas HAM expressed concern about the inadequacy of the budget and the failure of the Ministry of Finance to release the fund that were approved by the Parliament.

The SCA emphasizes that NHRIs should have complete financial autonomy. Funds should be allocated to a separate budget line item. Once funds have been allocated by Parliament, the funds should be released to the NHRI and it should exercise absolute management and control.

Komnas HAM should be provided with adequate budget to establish regional offices.

In seeking to address the issues raised above, the SCA encourages Komnas HAM to seek the advice and assistance of the Asia Pacific Forum of NHRIs and the OHCHR.

The SCA will again consider the above-mentioned issues at its first session in 2014.

3.5 Malawi: Malawi Human Rights Commission (MHRC)

Recommendation: The SCA recommends that consideration of the application of the MHRC be **deferred** to its second session of 2012.

The SCA notes with grave concern the recent arrest of the Chairperson of the MHRC and the increasing violence against, and intimidation of, human rights defenders in Malawi.

The SCA notes that the terms of the current Commissioners end in May 2012. In considering the application of the MHRC at its next session, the SCA will consider the selection and appointment process undertaken to appoint the new Commissioners, taking into account the concerns noted below.

The SCA notes:

1. Immunity:

At the time of the MHRC's re-accreditation in 2007, the SCA noted the importance of legislative immunity for members and staff of the Commission in the exercise of their duties and referred to the General Observation on immunity.

The SCA notes with appreciation the MHRC's efforts to address the concern it raised in 2007 by advocating for provisions in the enabling legislation to include a provision on immunity.

However, the enabling legislation of the MHRC continues to be silent on whether members incur legal liability for actions taken in their official capacity.

The SCA encourages the MHRC to continue to advocate for provisions to protect its members of the governing body from legal liability for actions undertaken in their official capacity.

The SCA again refers to its General Observation 2.5 on 'Immunity'.

2. Selection and appointment of members:

The procedure for assessment and selection of candidates is not clearly reflected in the legislation or officially documented. Additionally, the role of the Law Commissioner and the Ombudsman as the Selection Committee for members is incompatible with their role as ex officio members of the MHRC.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages the MHRC to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups;
- promote broad consultation and / or participation in the application, screening and selection process;
- assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- ensure pluralism in the composition of the MHRC.

The SCA refers to Paris Principle B.1 and to its General Observations 2.1 on 'Ensuring pluralism' and 2.2 on 'Selection and appointment of the governing body'.

3. Dismissal of Members:

Article 131 (3) states that a member may be removed from office for "impartiality". The SCA is concerned that without further clarification, this provision has the potential for misuse and therefore to compromise the independence and security of tenure of a member.

The SCA is of the view that an independent and objective dismissal process is required. The grounds for dismissal must be clearly defined in the legislation. Where appropriate, the legislation should specify that the application of the ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed based solely on the discretion of appointing authorities. This is essential to ensure the security of tenure of the members of the governing body and the

independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA refers the MHRC to the General Observation 2.9 Guarantee for tenure of Members of governing bodies.

4. Funding:

The MHRC reports that government funding remains inadequate to fulfil its mandate and that it relies on donor funding.

The SCA emphasizes the importance of the State providing adequate core funding that is sufficient to allow for core programming in protection and promotion of human rights and sustain the required staff compliment. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfilment of its mandate. This promotes the independence of the NHRI by allowing it to freely determine its priorities and allocate its resources accordingly. It encourages the MHRC to advocate for an improvement in the level of funding it receives.

The SCA refers to Paris Principle B.2 and to its General Observation 2.6 on 'Adequate funding'.

5. Government representatives on NHRIs

The Law Commissioner and the Ombudsman are ex officio members of the MHRC, however the Constitution is silent on whether they have voting rights. In addition, the SCA notes that the Law Commissioner and the Ombudsman constitute the selection committee for membership of the MHRC. Together, these two elements may impact on the independence, or perceived independence of the MHRC.

The Paris Principles therefore require that Government representatives on governing or advisory bodies of national institutions should only participate in an advisory capacity.

The SCA refers to Paris Principle B1 (e) and to General Observation 2.3 on Government representatives on national institutions.

6. Full-time members:

The SCA notes that, members of the MHRC serve on a part-time basis.

The SCA appreciates administrative provisions allow members to serve full-time and that the current members have opted for part-time status.

The SCA is of the view that the appointment of full-time members:

- assists in promoting the independence of the NHRI by ensuring a more stable mandate for members;
- provides more effective leadership for staff; and,
- promotes the ongoing and effective fulfilment of the NHRI's functions.

It encourages the MHRC to advocate for the appointment of full-time members.

The SCA refers to its General Observation 2.8 on 'Full-time Members'.

7. Recommendations by NHRIs:

The MHRC has reported that the limited compliance it receives with its recommendations presents a major challenge to the implementation of its mandate.

The SCA encourages the MHRC to continue to advocate for the implementation of its recommendations or decisions in a practical, systemic and timely manner.

The SCA refers to Paris Principle B.2 and to its General Observation 1.6 on 'Recommendations by NHRIs'.

8. Accessibility

The MHRC has advised that its premises are not easily accessible to persons with disabilities. The SCA encourages the MHRC to advocate for such changes as are necessary to ensure that all individuals can access their premises.

The SCA encourages the MHRC to continue to cooperate with the Network of African NHRIs and the OHCHR.

3.5 Peru: The Defensoria del Pueblo del Peru (DPP)

Recommendation: The SCA recommends the DPP be reaccredited **A status**.

The SCA notes:

1. Mandate

The Constitution and the Law do not explicitly mandate the DPP with responsibility to promote human rights. The SCA acknowledges and commends the Defensoria for the human rights promotional activities it carries out and encourages it to continue interpreting its mandate in a broad fashion.

The SCA further encourages the DPP to advocate for legislative amendments to more clearly establish a broad mandate to both protect and promote human rights.

The SCA refers to Paris Principles A.2.

2. Selection and appointment

The process for the selection and appointment of the Defensor requires the election of a candidate by two thirds of the members of Parliament. In practice, this has failed to result in the election of a candidate. This has led to the appointment of an acting Defensor through a process which is not compliant with the Paris Principles.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process and promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages the Defensor to advocate for an effective selection process contained in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;

- maximize the number of potential candidates from a wide range of societal groups;
- promote broad consultation and / or participation in the application, screening and selection process; and
- assess applicants on the basis of pre-determined, objective and publicly available criteria.

The SCA refers to Paris Principle B.1 and to its General Observation 2.2 on ‘Selection and appointment of the governing body’.

3. Pluralism

As noted by the SCA in 2007, the enabling legislation does not provide that staff of the DPP are to be representative of the diverse segments of Peruvian society.

For single member institutions, such as an Ombudsperson, the SCA highlights the importance of ensuring that its staff is representative of the diverse segments of society. A diverse staff facilitates the NHRI’s appreciation of, and capacity to engage on all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens.

The DPP is encouraged to advocate for amendments to the legislation, or to develop policies and procedures to ensure that staff representation is broad and pluralistic.

The SCA refers to its General Observation 2.1 (d) on “Ensuring pluralism”.

4. Funding:

Although the budget received from the State presently allows it to carry out its mandate, the SCA expresses its concern that the DPP is operating at maximum capacity.

The SCA emphasizes the importance of the State providing adequate core funding. This promotes the independence of the NHRI by allowing it to freely determine its priorities and effectively fulfil its mandate. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the organization’s operations and the fulfilment of its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 2.6 on ‘Adequate funding’.

3.6 The Philippines: The Commission on Human Rights of the Philippines (CHRP)

Recommendation: The SCA recommends the CHRP be reaccredited **A status**.

In March 2007, the SCA expressed concerns about the selection and appointment of the governing body of the CHRP.

The SCA notes with appreciation the work undertaken by the CHRP in advocating for and drafting the more comprehensive founding law that is under consideration by parliament.

In pursuing passage of this legislation, the SCA encourages the CHRP to ensure that the Bill addresses the following issues:

1. Mandate

The revised founding law should clearly establish the CHRP mandate to both promote and protect human rights, while also clarifying and consolidating the CHRP existing powers and functions that are currently found in a number of domestic laws and Executive Orders.

The SCA refers to Paris Principles A.2.

2. Composition, selection and appointment

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages the CHRP to seek to ensure the inclusion of a clear, transparent and participatory selection process in the revised founding law, noting that such a process might include:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups;
- promote broad consultation and / or participation in the application, screening and selection process;
- assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- ensure pluralism in the composition of the CHRP.

The SCA refers to Paris Principle B.1 and to its General Observation 2.2 on “Selection and appointment of the governing body”.

3. Security of tenure

The SCA appreciates that the CHRP relies on the jurisprudence cited in its Statement of Compliance as evidence of a due process requirement in the process for dismissal of commissioners. .

The SCA is of the view that an independent and objective dismissal process is required. The grounds for dismissal must be clearly defined in the legislation. Where appropriate, the legislation should specify that the application of the ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed based solely on the discretion of appointing authorities. This is essential to ensure the security of tenure of the members of the governing body and the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA refers to its General Observation 2.9 on ‘Guarantee of tenure for members of governing bodies’.

In addition to issues relating to the amendment of the CHRP’s founding law, the SCA also notes the following.

4. Funding

The SCA emphasizes the importance of the State providing adequate core funding. This promotes the independence of the NHRI by allowing it to freely determine its priorities and effectively fulfil its mandate.

The SCA encourages the CHRP to advocate for an appropriate level of funding that ensures the gradual and progressive realisation of an NHRIs mandate, and improvements to its organizational capacity and operations.

The SCA refers the CHRP to Paris Principle B.2 and to its General Observation 2.6 on 'Adequate funding'.

5. Practice

The SCA notes the importance of NHRIs undertaking a comprehensive range of activities if they are to effectively fulfil their protection mandate. Such an approach involves detailed monitoring and rigorous investigation of rights violations, the provision of both constructive and critical advice to governments, and systematic follow up on its recommendations and findings.

The SCA encourages the CHRP to seek assistance and advice from the OHCHR and the Asia-Pacific Forum of NHRIs.

3.7 Rwanda: The National Commission for Human Rights of the Republic of Rwanda(NCHR)

Recommendation: The SCA informs the NCHR of its intention to recommend to the ICC Bureau that the NCHR be accredited with **B status**, and gives the institution the opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The NCHR retains its **A status** during this period.

The SCA notes:

1. Independence

The SCA emphasizes that independence is a fundamental pillar of the Paris Principles. It further emphasizes that, while reasonable restrictions to the mandate of NHRIs for national security reasons is not inherently contrary to the Paris Principles, any such restrictions imposed should not be arbitrarily or unreasonably applied and should be exercised under due process.

While the enabling legislation guarantees the independence of the NCHR, concerns have been raised by public reports about its independence in practice. The SCA notes that, in its submissions, the NCHR did not provide sufficient information in regards to the nature of the institution's accountability, funding, reporting arrangements and whether the NCHR is receiving instructions from the government.

The SCA expresses its concern regarding public reports that the laws preventing hate speech and racial vilification (genocide ideology) have reportedly been used to silence government critics under the guise of national security.

2. Composition, selection and appointment

The SCA considered the re-accreditation of the NCHR in 2007, and at that time referred to General Observation 2.2 “Selection and appointment of the government body”, in particular sub-paragraphs a) (a transparent process), b) (broad consultation throughout the selection and appointment process), and c) (advertising vacancies broadly).

The former Chairperson of the NCHR was appointed Deputy Chief Justice of Rwanda on December 9, 2011. The new Chairperson was appointed by the government very recently without any apparent process being followed.

The lack of process in the appointment of the new Chairperson demonstrates that neither the NCHR nor the government of Rwanda made any efforts to address the concerns of the SCA as expressed in 2007.

Vacancies for the position are not advertised widely and the process of selection and appointment does not promote broad consultation with and participation by diverse social forces, in particular civil society. Further, the enabling legislation does not require pluralistic composition in the NCHR’s membership.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The Sub-Committee also notes with concerns that according to Article 11.5 of the law, “for a person to be a commissioner, he or she shall fulfil the following: ‘be experienced in administration or was once an administrator’.” It understands that such a requirement is interpreted to mean that only a person who is or was in the Government administration becomes eligible to be a commissioner.

The SCA encourages the NCHR to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups;
- promote broad consultation and / or participation in the application, screening and selection process;
- assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- ensure pluralism in the composition of the NCHR.

The SCA refers to Paris Principle B.1 and to its General Observations 2.1 on ‘Ensuring pluralism’ and 2.2 on ‘Selection and appointment of the governing body’.

3. Funding

The SCA emphasizes the importance of the State providing adequate core funding. This promotes the independence of the NHRI by allowing it to freely determine its priorities and effectively fulfil its mandate. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfilment of its mandate.

Financial systems should be such that the NCHR has complete financial autonomy. This should be a separate budget line over which it has absolute management and control. The SCA refers to Paris Principle B.2 and to its General Observation 2.6 on 'Adequate funding'.

4. Removal by appointing organization

Article 17 of the enabling legislation provides that a member may be "removed from office by the organ that appointed him / her". This provision may be misused.

The SCA is of the view that an independent and objective dismissal process is required. The grounds for dismissal must be clearly defined in the legislation. Where appropriate, the legislation should specify that the application of the ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed based solely on the discretion of appointing authorities. This is essential to ensure the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA refers the NCHR to the General Observation 2.9 Guarantee for tenure of Members of governing bodies.

The SCA encourages the NCHR to seek assistance and advice from the Network of African NHRIs, the Association francophone des commissions nationales des droits de l'Homme (AFCNDH), and the OHCHR.

3.8 Slovakia: National Centre for Human Rights (NCHR)

Recommendation: The SCA informs the NCHR that, in accordance with Art. 20 of the ICC Statute, its accreditation status has now lapsed.

The SCA advises the NCHR that, in accordance with Art. 23 of the ICC Statute, all rights and privileges conferred on the NCHR through accreditation have now ceased.

The SCA encourages the NCHR to seek accreditation in accordance with Art.10 of the ICC Statute. It further encourages the NCHR to seek assistance and advice from the European Coordinating Committee of NHRIs and the OHCHR.

4. SPECIFIC RECOMMENDATIONS: Review (Article 16.2 of the ICC Statute)

4.1 Azerbaijan: The Human Rights Commissioner (Ombudsman) of the Republic of Azerbaijan (HRCA)

Recommendation: The SCA recommends the HRCA be re-accredited **A status**.

At its May 2011 session, the SCA was informed of the SCA's intention to recommend to the ICC Bureau that the HRCA be accredited with B status, and gave the institution the

opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The HRCA retained its status during this period.

The SCA noted the following:

1. Selection and Appointment: The SCA noted the response provided by the HCRA on the circumstances regarding the re-appointment of the Commissioner for Human Rights, however the SCA expressed concern over the delays and transparency of the appointment procedure, which call into question the independence of the HRCA.

The SCA noted the Paris Principles requirement for a clear, transparent and participatory selection process that promotes the independence of, and public confidence in, the senior leadership of a national human rights institution. It encouraged the HRCA to advocate for the formalization of the selection process in relevant laws, regulations or binding administrative guidelines, and for its subsequent application in practice. The SCA referred to the General Observation 2.2 “Selection and appointment of the governing body’.

2. Practice: The SCA noted the Concluding Observations of the UN Committee Against Torture (CAT/C/AZE/CO/3), issues raised by NGOs concerning the independence of the HRCA and the response provided by the HRCA.

Based on information received during the Special Review Process on the human rights situation in Azerbaijan, and in particular the case of detainees, the SCA is not satisfied that the HRCA has approached or conducted its functions in a manner that fulfills its mandate to protect and promote human rights. In particular, the SCA has not been provided with adequate information to confirm that the HRCA has undertaken in-depth monitoring and rigorous investigation, nor provided critical advice to government or systematic follow up of its recommendations and findings on alleged human rights violations. Such activities together comprise a key part of its mandate.

The SCA referred to Paris Principles A.3 (iv) and to General Observation 1.6 ‘Recommendation by NHRIs’.

The SCA encouraged the HRCA to refer to the recommendations of the UPR, Treaty Bodies and Special Mandate Holders in setting its priorities for action.

At its current session, the SCA considered the documentary evidence provided by the HRCA, and was satisfied that improvements were sufficient to establish that the HRCA performs in compliance with the Paris Principles. The SCA considered the amendments to the Constitution of Azerbaijan, which now provide that the Ombudsman remain in office until his/her successor is appointed, and that the Ombudsman is eligible for election for a second term.

As to the function of the HRCA as the National Preventative Mechanism under OPCAT, the SCA was satisfied, based on the documentary information provided by the HRCA that it does provide advice to government and follow up on recommendations and findings on alleged human rights violations. At the same time, though, the SCA remains concerned that the information provided by the HRCA on its activities, reports, recommendations, and follow up are not widely known or publicized within Azerbaijan, and encourages the HRCA to publicize and make known its critical assessments and recommendations. The SCA encourages the HRCA to undertake in depth monitoring (including repeated visits to places of detention and ongoing monitoring of individuals detained), rigorous investigations, the provision of critical advice to the Government and

systematically follow up on its recommendations and findings on alleged human rights violations.

The SCA notes:

1. Selection and appointment

Vacancies for the position of Ombudsman are not advertised publicly and the selection process for candidates does not involve broad consultation with civil society.

The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection and ensures pluralism. Such a process promotes the independence of, and public confidence in, the senior leadership of a national human rights institution.

The SCA encourages HRCA to advocate for the formalization of the selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- publicize vacancies;
- maximize the number of potential candidates from a wide range of societal groups;
- assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- promote broad consultation and / or participation in the application, screening and selection process

The SCA refers to Paris Principle B.1 and to its General Observation 2.2 on ‘Selection and appointment of the governing body’.

2. Pluralism of staff

The enabling legislation does not provide that staff of the HRCA are to be representative of the diverse segments of Azeri society.

For single member institutions, such as an Ombudsperson, the SCA highlights the importance of ensuring that its staff is representative of the diverse segments of society. A diverse staff facilitates the NHRI’s appreciation of, and capacity to engage on all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens.

The HRCA is encouraged to develop policies and procedures to ensure that staff representation is broad and pluralistic.

The SCA refers to General Observation 2.1 on ‘Ensuring Pluralism’, particularly subsection d).

3. Cooperation with other human rights institutions

The HRCA should ensure that it develops, maintains and strengthens ongoing relations with NGOs working in the field of human rights. The SCA refers to its General Observation 1.5 on ‘Cooperation with other human rights institutions.’

4. Funding

The HRCA has reported on the lack of funding available to carry out its NPM mandate.

The SCA emphasizes the importance of the State providing adequate funding to support the implementation of the NHRI's ability to carry out this legislated function. This promotes the independence of the NHRI by allowing it to freely determine its priorities and effectively fulfil its mandate. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the NPM's operations and the fulfilment of its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 2.6 on 'Adequate funding'.


The SCA encourages the HRCA to continue to cooperate with the European Coordinating Committee of NHRIs and the OHCHR.


Annex I

ASSOCIATION INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

STATUTE

Art 1.1	<p>SECTION 1: DEFINITIONS AND INTERPRETATION</p> <p>In this Statute</p> <p>Former Rules of Procedure means the Rules of Procedure of "The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights" adopted on 15 April 2000 and as amended on 13 April 2002, and on 14 April 2008 which are now merged into this Statute;</p> <p>ICC means the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights existing under the former Rules of Procedure, referred to in the United Nations Commission on Human Rights resolution 2005/74 and the United Nations Human Rights Council resolution 5/1, which is now given independent corporate personality by this Statute;</p> <p>ICC Bureau means the committee of management established under Article 43 of this Statute;</p> <p>Days: In this statute, a reference to days means calendar days, not working days.</p> <p>NHRI means a National Human Rights Institution;</p> <p>NIU means the National Institutions Unit of the Office of the United Nations High Commissioner for Human Rights;</p> <p>Observer means an institution or person granted permission to participate in ICC meetings or other open meetings or workshops without voting rights and without the right to speak unless invited to do so by the Chairperson of the meeting or workshop.</p> <p>OHCHR means the Office of the United Nations High Commissioner for Human Rights;</p> <p>Paris Principles means the Principles Relating to the Status of National Institutions, 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;</p> <p>Rules of Procedure of the ICC Sub-Committee on Accreditation mean the Rules of Procedure for the ICC Sub-Committee on Accreditation adopted by the members</p>
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	<p>of the International Coordinating Committee constituted under the former Rules of Procedure at its 15th session, held on 14 September 2004 at Seoul, Republic of Korea, as amended at the 20th session, held on 14 April 2008 at Geneva, Switzerland, and continued in existence under the transitional provisions of this Statute;</p> <p>Regional Coordinating Committee means the body established by NHRIs in each of the regional groupings referred to in Section 7 of this Statute to act as their coordinating secretariats, namely:</p> <ul style="list-style-type: none"> ▪ Asia Pacific Forum of National Human Rights Institutions; ▪ European Coordinating Committee of National Human Rights Institutions; ▪ Network of African National Human Rights Institutions; and ▪ Network of National Human Rights Institutions of the Americas; <p>Secretary means the individual elected as Secretary under Article 34 who acts as the Deputy to the Chairperson to carry out the role and functions of the Chairperson in her or his absence, including the functions referred to in Article 49;</p> <p>Sub-Committee on Accreditation means the sub-committee established under the former Rules of Procedure and referred to as the Accreditation Subcommittee of the International Coordinating Committee of National Institutions in United Nations Commission on Human Rights resolution 2005/74 as the authority to accredit NHRIs, under the auspices of the OHCHR, and whose mandate is given to it under and in accordance with the Rules of Procedure for the ICC Sub-Committee on Accreditation;</p> <p>Voting member means a NHRI which is a member of the ICC and is accredited with an 'A' status; and non-voting member means a NHRI which is a member of the ICC and is accredited with a 'B' status;</p> <p>'Writing' or 'Written' includes any hand-written, typed or printed communication, including telex, cable, electronic mail and facsimile transmissions.</p>
Art 1.2	References to the 'ICC' in the Rules of Procedure for the ICC Sub-Committee on Accreditation shall be read as references to the ICC Bureau established under this Statute, and references to the 'ICC Rules of Procedure' shall be read as references to the former Rules of Procedure, and to the corresponding rules in this Statute.
Art 2	<p>SECTION 2: NAME, LOGO AND REGISTERED OFFICE</p> <p>A non-profit association is hereby created by the National Human Rights Institutions (NHRIs) subscribing to this present Statute, according to Articles 60 and following of the Swiss Civil Code as an international association possessing legal personality independent of its members. The name of the association is the Association International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, in this Statute referred to as the ICC. The duration of the ICC is unlimited.</p> <p>The ICC created by this Statute gives independent corporate personality to the loose arrangement of NHRIs hitherto existing under the former Rules of Procedure.</p>
Art 3	<p>The official logo of the ICC, in each of the working languages, is the following image:</p> <div style="display: flex; align-items: center;">  <div style="margin-left: 20px;"> <p>INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (ICC)</p> <p>COMITÉ INTERNATIONAL DE COORDINATION DES INSTITUTIONS NATIONALES POUR LA PROMOTION ET LA PROTECTION DES DROITS DE L'HOMME (CIC)</p> <p>COMITÉ INTERNACIONAL DE COORDINACIÓN DE LAS INSTITUCIONES NACIONALES PARA LA PROMOCIÓN Y LA PROTECCIÓN DE LOS DERECHOS HUMANOS (CIC)</p> </div> </div>

	 <p>ICC لجنة التنسيق الدولية للمؤسسات الوطنية لتعزيز وحماية حقوق الإنسان</p>
Art 4	The registered office of the ICC is in Geneva, Switzerland
Art 5	<p>SECTION 3: PURPOSE Objects The ICC is an international association of NHRIs which promotes and strengthens NHRIs to be in accordance with the Paris Principles and provides leadership in the promotion and protection of human rights.</p>
Art 6	General Meetings of the ICC, meetings of the ICC Bureau and of the Sub-Committee on Accreditation, as well as International Conferences of the ICC shall be held under the auspices of, and in cooperation with, OHCHR.
Art 7	<p>Functions The functions of the ICC are:</p> <ol style="list-style-type: none"> 1. To coordinate at an international level the activities of NHRIs established in conformity with the Paris Principles, including such activities as: <ul style="list-style-type: none"> ▪ Interaction and cooperation with the United Nations, including the OHCHR, the Human Rights Council, its mechanisms, United Nations human rights treaty bodies, as well as with other international organisations; ▪ Collaboration and coordination amongst NHRIs and the regional groups and Regional Coordinating Committees; ▪ Communication amongst members, and with stakeholders including, where appropriate, the general public; ▪ Development of knowledge; ▪ Management of knowledge; ▪ Development of guidelines, policies, statements; ▪ Implementation of initiatives; ▪ Organisation of conferences. 2. To promote the establishment and strengthening of NHRIs in conformity with the Paris Principles, including such activities as: <ul style="list-style-type: none"> ▪ Accreditation of new members; ▪ Periodic renewal of accreditation; ▪ Special review of accreditation; ▪ Assistance of NHRIs under threat; ▪ Encouraging the provision of technical assistance; ▪ Fostering and promoting education and training opportunities to develop and reinforce the capacities of NHRIs. 3. To undertake such other functions as are referred to it by its voting members. <p>Principles: In fulfilling these functions, the ICC will work in ways that emphasize the following principles:</p> <ul style="list-style-type: none"> ▪ Fair, transparent, and credible accreditation processes; ▪ Timely information and guidance to NHRIs on engagement with the Human Rights Council, its mechanisms, and United Nations human rights treaty bodies; ▪ The dissemination of information and directives concerning the Human Rights Council, its mechanisms, and United Nations human rights treaty bodies to NHRIs; ▪ Mandated representation of NHRIs; ▪ Strong relationships with the OHCHR and the Regional Coordinating Committees that reflect the complementarity of roles; ▪ Flexibility, transparency and active participation in all processes;

	<ul style="list-style-type: none"> ▪ Inclusive decision-making processes based on consensus to the greatest extent possible; ▪ The maintenance of its independence and financial autonomy.
Art 8	<p>International Conference The ICC may convene a triennial International Conference in accordance with the Rules of Procedure of International Conferences of National Institutions for the Promotion and Protection of Human Rights.</p>
Art 9	<p>SECTION 4: LIAISON WITH OTHER HUMAN RIGHTS INSTITUTIONS AND NGOs The ICC may liaise with other human rights institutions including the International Ombudsman Institute and non-governmental organizations. The ICC Bureau may decide to grant such organizations observer A status at any meetings or workshops of the ICC or the ICC Bureau.</p>
	<p>SECTION 5: PARIS PRINCIPLES ACCREDITATION [Note: Pursuant to Human Rights Council resolution 5/1, VII Rules of Procedure, rule 7(b), participation of NHRIs in the work of the Human Rights Council is based on arrangements and practices agreed upon by the Human Rights Commission including resolution 2005/74 of 20 April 2005. Resolution 2005/74, paragraph 11(a), permitted NHRIs that are accredited by the Sub-Committee on Accreditation to exercise participation rights in the Human Rights Commission and subsidiary bodies of the Commission.]</p>
Art 10	<p>Application for Accreditation Process Any NHRI seeking accreditation under the Paris Principles shall apply to the Chairperson of the ICC. Through the ICC Secretariat, that NHRI shall supply the following in support of its application:</p> <ul style="list-style-type: none"> ▪ a copy of the legislation or other instrument by which it is established and empowered in its official or published format; ▪ an outline of its organizational structure including staff complement and annual budget; ▪ a copy of its most recent annual report or equivalent document in its official or published format; ▪ a detailed statement showing how it complies with the Paris Principles as well as any respects in which it does not so comply and any proposals to ensure compliance. The ICC Bureau may determine the form in which this statement is to be provided. <p>The application shall be decided pursuant to Articles 11 and 12 of this Statute.</p>
Art 11.1	<p>All applications for accreditation under the Paris Principles, shall be decided under the auspices of, and in cooperation with, OHCHR by the ICC Bureau after considering a report from the Sub-Committee on Accreditation on the basis of written evidence submitted.</p>
Art 11.2	<p>In coming to a decision, the ICC Bureau and the Sub-Committee shall adopt processes that facilitate dialogue and exchange of information between it and the applicant NHRI as deemed necessary to come to a fair and just decision.</p>
Art 12	<p>Where the Sub-Committee on Accreditation comes to an accreditation recommendation, it shall forward that recommendation to the ICC Bureau whose decision is final subject to the following process:</p> <ul style="list-style-type: none"> ▪ The recommendation of the Sub-Committee shall first be forwarded to the applicant; ▪ An applicant can challenge a recommendation by submitting a written challenge to the ICC Chairperson, through the ICC Secretariat, within twenty eight (28) days of receipt. ▪ Thereafter the recommendation will be forwarded to the members of the ICC Bureau for decision. If a challenge has been received from the applicant, the challenge together with all relevant material received in connection with both the application and the challenge will also be forwarded to the members of the ICC

	<p>Bureau;</p> <ul style="list-style-type: none"> ▪ Any member of the ICC Bureau who disagrees with the recommendation shall, within twenty (20) days of its receipt, notify the Chair of the Sub-Committee and the ICC Secretariat. The ICC Secretariat will promptly notify all ICC Bureau members of the objection raised and will provide all necessary information to clarify that objection. If within twenty (20) days of receipt of this information at least four members of the ICC Bureau coming from not less than two regional groups notify the ICC Secretariat that they hold a similar objection, the recommendation shall be referred to the next ICC Bureau meeting for decision; ▪ If at least four members coming from two or more regional groups do not raise objection to the recommendation within twenty (20) days of its receipt, the recommendation shall be deemed to be approved by the ICC Bureau; ▪ The decision of the ICC Bureau on accreditation is final.
Art 13	Should the ICC Bureau decide to decline an application for accreditation of any NHRI by reason of its failure to comply with the Paris Principles, the ICC Bureau or its delegate may consult further with that institution concerning measures to address its compliance issues.
Art 14	Any NHRI whose application for accreditation has been declined may reapply for accreditation, according to the guidelines under Article 10, at any time. Such an application may be considered at the next meeting of the Sub Committee on Accreditation.
Art 15	<p>Periodic Re-accreditation</p> <p>All NHRIs that hold an 'A' status are subject to re-accreditation on a five year cyclical basis. Article 10 applies to NHRIs undergoing re-accreditation. In particular reference to an application for accreditation means both the initial application and the application for re-accreditation.</p>
Art 16.1	<p>Review of Accreditation Process</p> <p>Where the circumstances of any NHRI change in any way which may affect its compliance with the Paris Principles, that NHRI shall notify the Chairperson of those changes and the Chairperson shall place the matter before the Sub-Committee on Accreditation for review of that NHRI's accreditation status.</p>
Art 16.2	Where, in the opinion of the Chairperson of the ICC or of any member of the Sub-Committee on Accreditation, it appears that the circumstances of any NHRI that has been accredited with an 'A' status under the former Rules of Procedure may have changed in a way which affects its compliance with the Paris Principles, the Chairperson or the Sub-Committee may initiate a review of that NHRI's accreditation status.
Art 16.3	Any review of the accreditation classification of a NHRI must be finalized within eighteen (18) months.
Art 17	On any review the Chairperson and Sub-Committee on Accreditation shall have all the powers and responsibilities as in an application under Article 10.
Art 18.1	<p>Alteration of Accreditation Classification</p> <p>Any decision that would serve to remove accredited 'A' status from an applicant can only be taken after the applicant is informed of this intention and is given the opportunity to provide in writing, within one (1) year of receipt of such notice, the written evidence deemed necessary to establish its continued conformity to the Paris Principles.</p>
Art 18.2	<p>Authority to immediately suspend accreditation in exceptional circumstances</p> <p>Where, in the opinion of the ICC Chairperson, an exceptional circumstance exists necessitating the urgent suspension of an accredited 'A' status institution, the ICC Bureau may decide to immediately suspend the accreditation classification of that institution and initiate a special review, pursuant to Article 16.2</p>
Art 18.3	<p>Process for immediate suspension of accreditation in exceptional circumstances</p>

	<p>The decision of the ICC Bureau in such an exceptional circumstance is final and is subject to the following process:</p> <p>(i) The ICC Chairperson, through the ICC Secretariat, will immediately notify the ICC Bureau and the institution in question of the alleged existence of an exceptional circumstance pursuant to Article 18.2 and the recommendation to suspend the accreditation classification of that institution;</p> <p>(ii) The institution can challenge the recommendation by submitting a written challenge to the ICC Bureau, through the ICC Secretariat, within thirty (30) days of receipt;</p> <p>(iii) Any member of the ICC Bureau who disagrees with the recommendation to suspend the accreditation classification of the institution shall, within thirty (30) days of receipt of the institution's challenge, notify the ICC Secretariat. The ICC Secretariat will promptly notify all ICC Bureau members of the objection and will provide all necessary information to clarify that objection. If within twenty (20) days of receipt of this information at least two members of the ICC Bureau coming from not less than two regional groups notify the ICC Secretariat that they hold a similar objection, the recommendation shall be referred to the next ICC Bureau meeting for decision;</p> <p>(iv) If no member of the ICC Bureau raises an objection to the recommendation, within thirty (30) days of receipt of the institution's challenge, the decision to suspend the institution's status shall be deemed to be approved by the ICC Bureau."</p>
Art 18.4	<p>For the purposes of article 18.2 and 18.3, an "exceptional circumstance" refers to a sudden and drastic change in the internal political order of a state such as:</p> <ul style="list-style-type: none"> - a break in the constitutional or democratic order; or - a declared state of emergency; or - gross violations of human rights; <p>and this is accompanied by any of the following:</p> <ul style="list-style-type: none"> - there is a change in the NHRI enabling legislation or other applicable law that is contrary to the Paris Principles; or - there is change in the composition of the NHRI that is not undertaken in accordance with the established selection and /or appointment process; or - the NHRI acts in a way that seriously compromises its compliance with the Paris Principles.
Art 19	<p>An accreditation classification held by a NHRI may be suspended if the NHRI fails to submit its application for re-accreditation or fails to do so within the prescribed time without justification.</p>
Art 20	<p>An accreditation classification may lapse if a NHRI fails to submit an application for re-accreditation within one (1) year of being suspended for failure to reapply, or if a NHRI under review under Article 16 of this Statute fails to provide sufficient documentation, within eighteen (18) months of being placed under review, to satisfy the body determining membership under this Statute that it remains in conformity with the Paris Principles.</p>
Art 21	<p>NHRIs whose accreditation has been suspended remain suspended until the body determining their compliance with the Paris Principles under this Statute comes to a determination of their accreditation status or until their accreditation lapses.</p>
Art 22	<p>NHRIs whose accreditation status has lapsed or been revoked may regain accreditation only by re-applying for accreditation as provided for in Article 10 of this Statute.</p>
Art 23	<p>In the event that accreditation lapses or is revoked or suspended, all rights and privileges conferred on that NHRI through accreditation immediately cease. In the</p>

	event that a NHRI is under review, it shall retain the accreditation status it has been granted until such time as the body determining membership comes to a decision as to its compliance with the Paris Principles or its membership lapses.
Art 24.1	SECTION 6: MEMBERS Eligibility Only NHRIs which comply fully with the Paris Principles, being those which have been accredited with an 'A' status in accordance with the former Rules of Procedure or pursuant to the procedure established under this Statute shall be eligible to be voting members of the ICC.
Art 24.2	NHRIs that are only partially compliant with the Paris Principles, being those which have been accredited with a 'B' status in accordance with the former Rules of Procedure or pursuant to the procedure established under this Statute shall be eligible to become a non-voting member.
Art 25	Any NHRIs wishing to become a member of the ICC shall apply in writing to the Chairperson of the ICC giving: in the case of an application for voting membership, particulars of the date on which it was accredited with A status; and, in the case of an application for non-voting membership, particulars of the date on which it was accredited with B status. In either case, the applicant must indicate their agreement to be bound by this Statute as amended from time to time (including as to the payment of the applicable annual membership subscription). The application shall be considered and decided by the ICC Bureau.
Art 26	A NHRI shall cease to be a member of the ICC upon written notice by that NHRI of resignation given to the Chairperson of the ICC, but without prejudice to the obligation of the NHRI to discharge outstanding fiscal obligations due to the ICC at the date of resignation.
Art 27	Membership may be revoked by resolution of the ICC Bureau if the body determining accreditation status under this Statute determines that a member no longer meets the membership eligibility requirements in Article 24.
Art 28	Membership may be cancelled by resolution of the ICC Bureau if that member has failed for six (6) months or more to pay an annual subscription that is due and owing.
Art 29.1	A NHRI whose membership has been revoked, or cancelled for non-payment of an annual subscription, may regain membership by reapplying for membership under Article 25 of this Statute.
Art 29.2	Where membership has been cancelled for non-payment of a subscription, re-admission to membership shall be subject to payment of the outstanding subscription or so much thereof as the ICC Bureau shall determine.
Art 30	Independence of Members Notwithstanding anything in this Statute, the independence, authority and national status of members, and their powers, duties and functions under their own legislative mandates, and their participation in the different international fora on human rights shall in no way be affected by the creation of the ICC or its functioning.
Art 31.1	SECTION 7: REGIONAL GROUPING OF MEMBERS For the purpose of ensuring a fair balance of regional representation on the ICC the following regional groups are established: <ul style="list-style-type: none"> ▪ Africa ▪ The Americas ▪ Asia-Pacific ▪ Europe
Art 31.2	The members within any regional group may establish such sub-regional groupings as they wish.
Art 31.3	The members of regional groups may establish their own procedures concerning meetings and activities.
Art 31.4	Each regional group is to appoint four (4) members accredited with an 'A' status

	which shall each have a representative on the ICC Bureau.
Art 32	SECTION 8: GENERAL MEETINGS OF MEMBERS The General Meeting is composed by the ICC members and constitutes the supreme power of the association.
Art 33	The duties of the General Meeting include control of the activities of the ICC, review and control of the activities of the ICC Bureau, ratification of the program of ICC activities, the amendment of this Statute, consideration of funding issues and the fixing of annual membership subscriptions to be paid by members accredited with an 'A' status provided however that decisions of the ICC Bureau on accreditation determinations shall not be subject to review or control by a General Meeting.
Art 34	The General Meeting ratifies the appointment of the members of the ICC Bureau and elects the Chairperson and the Secretary. The members of the ICC Bureau must be individuals representing the members of the ICC accredited with an "A" status which have been appointed by their regional groups under article 31.
Art 35	If required under Swiss Law, the General Meeting must elect an auditor who shall not be a member of the ICC.
Art 36	The General Meeting meets at least once a year in conjunction with a meeting of the Human Rights Council upon written notice given by the ICC Bureau to the members at least six (6) weeks in advance and at such other times required according to the law including when a request is demanded by one fifth or more of the members.
Art 37	The agenda of the meeting shall be submitted to the members with the written notice of meeting.
Art 38	SECTION 9: RIGHT TO VOTE AND DECISIONS At General Meetings only members accredited with an 'A' status shall be entitled to vote. A member that has been accredited with a 'B' status has the right to participate and speak in General Meetings (and all other open meetings and workshops of the ICC). A NHRI that is not accredited with either an 'A' or 'B' status may, with the consent of the particular meeting or workshop, attend as an observer. The Chairperson, after consultation with ICC members, may invite NHRIs who are not members of the ICC and any other person or institution to participate in the work of the ICC as an observer.
Art 39	At General Meetings only one (1) NHRI per Member State of the United Nations shall be eligible to be a voting member. Where more than one (1) institution in a State qualifies for membership the State shall have one (1) speaking right, one (1) voting right, and if elected, one (1) ICC Bureau member. The choice of an institution to represent the NHRIs of a particular State shall be for the relevant institutions to determine.
Art 40	Decisions of the General Meeting are passed by the majority of members present or duly represented. The General Meeting will only deal with matters that are summarized in the Agenda. If necessary, or on the request of more than half of the members present at a General Meeting, the Chairperson can call an Extraordinary General Meeting.
Art 41	A quorum of at least one half of the total number of members is necessary.
Art 42	Arabic, English, French, and Spanish shall be the working languages of the ICC. As a result, documents from the ICC should be available in these languages.
Art 43	SECTION 10: ICC BUREAU The ICC is managed by a committee entitled the ICC Bureau which shall comprise sixteen (16) individuals, including the Chairperson and the Secretary.
Art 44	In the event that a representative of a member of a regional group for any reason is no longer able to represent that member, or if the member ceases to hold an 'A' A status accreditation, or the member's appointment under Article 31.4 is withdrawn, the representative shall cease to be a member of the ICC Bureau and the Regional Coordinating Committee shall thereupon appoint another representative who shall act as a casual member of the ICC Bureau until the next General Meeting.

Art 45	The Chairperson and the Secretary shall be elected on a geographically rotational basis by the General Meeting for a non-renewable term of three (3) years. The order of rotation shall be: the Americas, the Asia Pacific region, Africa, and Europe.
Art 46	<p>Powers of the ICC Bureau</p> <p>The ICC Bureau is empowered to act generally in the name of the ICC and to carry out the purpose and functions of the ICC. Without limiting the generality of the powers of management the ICC Bureau is empowered to:</p> <ul style="list-style-type: none"> ▪ decide applications for accreditation after considering a recommendation from the Sub-Committee on Accreditation; ▪ decide applications for membership of the ICC; ▪ summon General Meetings of the ICC; ▪ collaborate and work with the OHCHR and its NIU, and in particular to work with the NIU in connection with the ICC accreditation process, annual meetings of the ICC, meetings of the ICC Bureau and international conferences of NHRIs. In addition, the NIU will facilitate and coordinate the participation of NHRIs in the Human Rights Council, its mechanisms, and the United Nations human rights treaty bodies ; ▪ use and accept the services of the NIU as the Secretariat for the ICC, the ICC Bureau and its Sub-Committee on Accreditation; ▪ appoint from the members of the ICC Bureau a person to be the treasurer of the ICC; ▪ acquire, lease, dispose of or otherwise deal in property of any kind; ▪ open bank accounts, appoint signatories thereto and define the authority of the signatories; ▪ spend money and do all things it considers desirable to promote the purposes of the ICC; ▪ delegate any function to a nominated person, standing committee or subcommittee of persons or members; ▪ co-ordinate and arrange conferences, meetings, standing committees and sub-committees, and other activities; ▪ engage, dismiss or suspend employees, agents and contractors; ▪ enter into contracts ; ▪ engage professional assistance for the preparation of annual and other financial statements, to obtain legal advice, and for any other purpose; ▪ prepare and disseminate information notes, bulletins and papers of any kind to members, and to promote generally information about human rights issues and activities of the Human Rights Council, its mechanisms, the United Nations human rights treaty bodies, and of the ICC in which members could have an interest; ▪ receive financial grants and donations, and gifts of any kind; ▪ adopt, amend or revoke rules of procedure in relation to the working methods of the ICC Bureau and its sub-committees to regulate or clarify any matter contemplated by this Statute. Every decision to adopt, amend or revoke a rule shall as soon as is practicable be circulated to all members of the ICC and posted on the nhri.net website.
Art 47	<p>Membership Subscription</p> <p>The ICC Bureau shall as and when it considers appropriate recommend to a General Meeting that an annual membership subscription be set by the General Meeting. Once set the Bureau will ensure procedures are in place to collect membership subscriptions. The ICC Bureau in its discretion may waive in whole or in part the annual subscription for a member if satisfied that the member is unable to pay the full amount due.</p>
Art 48	<p>Meetings of the ICC Bureau</p> <p>A meeting of the ICC Bureau shall be held in conjunction with each General Meeting</p>

	of the ICC and at least two (2) times each year. Otherwise, the ICC Bureau shall meet at such times and places as it or the Chairperson shall decide. Written notice summoning a meeting shall be given at least four (4) weeks in advance unless the ICC Bureau agrees to a shorter period for that meeting. The agenda of the meeting shall be submitted to the members with the written notice of meeting.
Art 49	<p>The Chairperson and Secretary</p> <p>The Chairperson, or in his or her absence the Secretary, shall direct the work of the General Meeting and the ICC Bureau. Until otherwise decided by a General Meeting, she or he shall represent the ICC in accordance with developed practices and authorities followed by the Chairperson acting under the former Rules of Procedure. In particular, the Chairperson may speak at the Human Rights Council, its mechanisms, United Nations human rights treaty bodies and, when invited, at other international organisations:</p> <ul style="list-style-type: none"> ▪ on behalf of the ICC on topics authorised by a General Meeting or the ICC Bureau; ▪ on behalf of individual NHRIs when authorised by them; ▪ on thematic human rights issues to promote policy decided by a General Meeting, a biennial conference or by the ICC Bureau; and ▪ generally to advance the objects of the ICC.
Art 50.1	<p>Conduct of ICC Bureau Business</p> <p>Arabic, English, French, and Spanish shall be the working languages of the ICC Bureau. As a result, documents from the ICC should be available in these languages.</p>
Art 50.2	A majority of the members of the ICC Bureau shall constitute a quorum.
Art 50.3	An agenda for each meeting shall be drawn up by the Chairperson in consultation with the ICC Bureau members. Agenda items may be added at the meeting if approved by a majority of the members present.
Art 50.4	Members of the ICC Bureau may be accompanied at meetings by advisers, including, by representatives from the relevant Regional Coordinating Committee. Such persons attend in the capacity of advisers to their members and observers to the meeting, and may participate in discussions at the call and invitation of the Chair.
Art 50.5	Each member of the ICC Bureau shall have one (1) vote. Where possible, decisions of the ICC Bureau shall be reached by consensus. When consensus is not possible, decisions shall be by a majority of members present and voting. In the event of an equality of votes, the proposal being voted on shall be regarded as being defeated.
Art 50.6	The ICC Bureau may invite NHRIs whether or not members of the ICC and any other person or institution to participate in the work of the ICC or the ICC Bureau as an observer.
Art 50.7	Notwithstanding the forgoing provisions of this Article 50, the ICC Bureau may decide any matter in writing without the need to formally summon a meeting provided that a majority of the members of the ICC Bureau concur with the decision.
Art 50.8	The ICC Bureau, through the Chairperson or in her or his absence through the Secretary, shall present to General Meetings reports on activities carried out by the ICC, the ICC Bureau and its officers since the preceding General Meeting.
Art 51	<p>Further Procedure</p> <p>Should any question concerning the procedure of the ICC Bureau arise which is not provided for by these rules the ICC Bureau may adopt such procedure as it thinks fit.</p>
Art 52	<p>SECTION 11: FINANCIAL ADMINISTRATION</p> <p>Accounting Year</p> <p>The financial year ends on 31 December of each year.</p>
Art 53	<p>SECTION 12: ASSETS OF THE ICC</p> <p>The assets of the ICC comprise and include:</p>

	<ul style="list-style-type: none"> ▪ grants obtained from international and national public and semi-public organizations; ▪ donations; ▪ subscriptions; ▪ funds entrusted to it by other organizations, associations, businesses or institutions; and ▪ income and property of any kind received from whatever source.
Art 54	The assets of the ICC must be applied solely towards promoting the purposes of the ICC as set out in Section 3 in line with the Principles as set out in Article 7.
Art 55	<p>SECTION 13: DISSOLUTION AND LIQUIDATION</p> <p>Dissolution</p> <p>The ICC may be dissolved by resolution of the ICC in a General Meeting. A General Meeting called for this purpose shall be convened specially. At least one half of the members must be present. If this proportion is not present the General Meeting must be reconvened after an interval of at least two (2) weeks. It can then validly deliberate with whatever numbers of members are present. In any case the dissolution can only be approved by a majority of three quarters of the members present.</p>
Art 56	<p>Liquidation</p> <p>The winding up of the ICC and the liquidation of its assets shall be carried out by one (1) or more liquidators appointed by the General Meeting. The General Meeting must authorize the liquidator or liquidators to distribute the net assets to another association or public organization having similar purposes to the ICC. No part of the net assets available for distribution shall be paid to any member of the ICC.</p>
Art 57	<p>SECTION 14: RULES OF PROCEDURE</p> <p>The General Meeting may adopt, amend or revoke rules of procedure in relation to the working methods of the ICC, including General Meetings and international conferences, to regulate or clarify any matter contemplated by this Statute.</p>
Art 58	<p>SECTION 15: AMENDMENT OF STATUTE</p> <p>This Statute may be amended only by a General Meeting of the ICC.</p>
Art 59	<p>SECTION 16: TRANSITIONAL PROVISION</p> <p>The Sub-Committee on Accreditation and the Rules of Procedure for the ICC Sub-Committee on Accreditation are by this Statute continued in existence, and shall remain in existence until amended or revoked by the ICC Bureau. The Sub-Committee on Accreditation is hereby constituted a sub-committee of the ICC Bureau. The Rules of Procedure for the ICC Sub-Committee on Accreditation are incorporated into this Statute as Annex I</p>
<p>EXECUTED BY: Ms. Jennifer Lynch, Q.C. 30 July 2008 Amended at a General Meeting held at Nairobi, 21st October 2008 Amended at a General Meeting held at Geneva, 24th March 2009</p>	

ANNEX TO THE ICC STATUTE

RULES OF PROCEDURE FOR THE ICC SUB-COMMITTEE ON ACCREDITATION*

1. Mandate

In accordance with the Statute of the Association International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) (Article 1.1), the Sub-Committee on Accreditation has the mandate to review and analyse accreditation applications forwarded by the ICC Chairperson and to make recommendations to the ICC on the compliance of applicants with the Paris Principles.

2. Composition of the Sub-Committee

2.1. For the purpose of ensuring a fair balance of regional representation on the Sub-Committee on Accreditation, it shall be composed of one (1) ICC NHRI accredited 'A status' for each of the four (4) regional groups as established by the ICC Statute (Section 7), namely Africa, Americas, Asia-Pacific, and Europe.

2.2. Members are appointed by regional groups for a term of three (3) years renewable.

2.3. The Chair of the Sub-Committee on Accreditation shall be selected, for a term of one (1) year, renewable a maximum of two (2) times, on a rotational basis from within the Sub-Committee so that each region assumes office in turn; in the event that a member of the Sub-Committee whose turn it is to be named Chair declines the office, the Chair shall pass to the region next in line or to another NHRI in that region.

2.4 The Office of the United Nations High Commissioner for Human Rights (OHCHR) shall be a permanent observer to the Committee and in its capacity as Secretariat of the ICC, support the Sub-Committee's work, serve as a focal point on all communications and maintain records as appropriate on behalf of the ICC Chairperson.

3. Functions

3.1. Each regional group representative to the Sub-Committee on Accreditation shall facilitate the application process for NHRIs in the region.

3.2. The regional grouping representative shall supply NHRIs from their region with all relevant information pertaining to the accreditation process, including a description of the process, requirements and timelines.

3.3. In accordance with the ICC Statute (Section 5), any NHRI seeking membership or seeking re-accreditation shall apply to the ICC Chairperson, supplying all required supporting documents through the ICC Secretariat.

3.4. These applications and support documents shall be provided to the ICC Secretariat at least four (4) months prior to the meeting of the Sub-Committee. Subject to rule 3.5 of these Rules, an Institution undergoing re-accreditation that does not comply with this deadline will be suspended until such time as the required documentation is submitted and reviewed by the Sub-Committee.

3.5. Applications and documents submitted after this deadline will only be examined during the subsequent meeting of the Sub-Committee, unless the situation warrants otherwise, as determined by the ICC Chairperson. In the event that the delay involves an Institution seeking re-accreditation, a decision to not suspend the Institution can be taken only if written justifications for the delay have been provided and these are, in the view of the ICC Chairperson, compelling and exceptional.

3.6. Any civil society organization wishing to provide relevant information pertaining to any accreditation matter before the Sub-Committee shall provide such information in

writing to the ICC Secretariat at least four (4) months prior to the meeting of the Sub-Committee.

3.7. The ICC Chairperson, with support from the ICC Secretariat, will ensure that copies of the applications and supporting documentation are provided to each member of the Sub-Committee on Accreditation.

3.8. The ICC Chairperson, with support from the ICC Secretariat, will also provide a summary of particular issues for consideration by the Sub-Committee.

4. Procedures

4.1. The Sub-Committee on Accreditation will meet after the General Meeting of the ICC in order to consider any accreditation matter under Section 5 of the Statute.

4.2. The Chairperson of the Sub-Committee on Accreditation may invite any person or institution to participate in the work of the Sub-Committee as an observer.

4.3. Additional meetings of the Sub-Committee may be convened by the Chair with the agreement of the ICC Chairperson and members of the Sub-Committee on Accreditation.

4.4. When, in the view of the Sub-Committee, the accreditation of a particular applicant Institution cannot be determined fairly or reasonably without further examination of an issue for which no policy has been articulated, it shall refer that matter directly to the ICC Bureau for determination and guidance. An ultimate decision as to accreditation can only be taken once the ICC Bureau provides that decision or guidance.

4.5. The Sub-Committee may, pursuant to Article 11.2 of the ICC Statute, consult with the applicant Institution, as it deems necessary, to come to a recommendation. The Sub-Committee shall, also pursuant to and for the purposes set out in Article 11.2, consult with the applicant Institution when an adverse decision is to be recommended. These consultations may be in the form deemed most appropriate by the Sub-Committee but must be supported by written documentation; in particular the substance of verbal consultations must be recorded and be available for review. Since the ICC Bureau makes the final decision on membership, an Institution undergoing a review retains its membership status during the consultation process.

5. Accreditation Classifications

In accordance with the Paris Principles and the ICC Statute, the different classifications for accreditation used by the Sub-Committee are:

A: Voting Member - Fully in compliance with each of the Paris Principles;

B: Non-Voting Member - Not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination;

C: No Status – Not in compliance with the Paris Principles.

6. Report and Recommendations

6.1 Pursuant to Article 12 of the ICC Statute, where the Sub-Committee on Accreditation comes to an accreditation recommendation, it shall forward that recommendation to the ICC Bureau whose final decision is subject to the following process:

- (i) The recommendation of the Sub-Committee shall first be forwarded to the applicant;
- (ii) An applicant can challenge a recommendation by submitting a written challenge to the ICC Chairperson, through the ICC Secretariat, within twenty eight (28) days of receipt;
- (iii) Thereafter the recommendation will be forwarded to the members of the ICC Bureau for decision. If a challenge has been received from the applicant, the challenge together with all relevant material received in connection with both the application and the challenge will also be forwarded to the members of the ICC Bureau;
- (iv) Any member of the ICC Bureau who disagrees with the recommendation shall, within twenty (20) days of its receipt, notify the Chair of the Sub-Committee and the ICC Secretariat. The ICC Secretariat will promptly notify all ICC Bureau members of the objection raised and will provide all necessary information to clarify that objection. If within twenty (20) days of receipt of this information at least four members of the ICC Bureau coming from not less than two regional groups notify the ICC Secretariat that they hold a similar objection, the recommendation shall be referred to the next ICC Bureau meeting for decision;
- (v) If at least four members of the ICC Bureau coming from not less than two regional groups do not raise objection to the recommendation within twenty (20) days of its receipt, the recommendation shall be deemed to be approved by the ICC Bureau;
- (vi) The decision of the ICC Bureau on accreditation is final.

6.2 General Observations are to be developed by the Sub-Committee and approved by the ICC Bureau.

6.3 The General Observations, as interpretive tools of the Paris Principles, may be used to:

- (a) Instruct Institutions when they are developing their own processes and mechanisms, to ensure Paris Principles compliance;
- (b) Persuade domestic governments to address or remedy issues relating to an Institution's compliance with the standards articulated in the General Observations;
- (c) Guide the Sub-Committee on Accreditation in its determination of new accreditation applications, reaccreditation applications or special reviews:
 - (i) If an Institution falls substantially short of the standards articulated in the General Observations, it would be open for the Sub-Committee to find that it was not Paris Principle compliant.
 - (ii) If the Sub-Committee has noted concern about an Institution's compliance with any of the General Observations, it may consider what steps, if any, have been taken by an Institution to address those concerns in future applications. If the Sub-Committee is not provided with proof of efforts to address the General Observations previously made, or offered a reasonable explanation why no efforts had been made, it would be open to the Sub-Committee to interpret such lack of progress as non-compliance with the Paris Principles.

** Adopted by the members of the International Coordinating Committee at its 15th session, held on 14 September 2004, Seoul, Republic of Korea. Amended by the members of the ICC at its 20th session, held on 15 April 2008, Geneva, Switzerland.*

Annex II

Principles relating to the status of national institutions

(A) Competence and responsibilities*

1. A national institution shall be vested with competence to promote and protect human rights.

2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.

3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(ii) Any situation of violation of human rights which it decides to take up;

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;

(b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;

(c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

(f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;

(g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

(B) Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

(C) Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

** Paris Principles defined at the first International Workshop on National Institutions for the Promotion and Protection of Human Rights in Paris 7-9 October 1991, adopted by Human Rights Commission Resolution 1992/54, 1992 and General Assembly Resolution 48/134, 1993.*

Annex III

ICC SUB-COMMITTEE ON ACCREDITATION

GENERAL OBSERVATIONS

1. Competence and responsibilities

- 1.1 Establishment of national institutions:** An NHRI must be established in a constitutional or legal text. Creation by an instrument of the Executive is not adequate to ensure permanency and independence.
- 1.2 Human rights mandate:** All NHRIs should be mandated with specific functions to both protect and promote human rights, such as those listed in the Paris Principles.
- 1.3 Encouraging ratification or accession to international human rights instruments:** The Sub-Committee interprets that the function of encouraging ratification or accession to international human rights instruments, set out in the Paris Principles, is a key function of a National Institution. The Sub-Committee therefore encourages the entrenchment of this function in the enabling legislation of the National Institution to ensure the best protection of human rights within that country.
- 1.4 Interaction with the International Human Rights System:** The Sub-Committee would like to highlight the importance for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs making an input to, participating in these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. In addition, NHRIs should also actively engage with the ICC and its Sub-Committee on Accreditation, Bureau as well as regional coordinating bodies of NHRIs.
- 1.5 Cooperation with other human rights institutions:** NHRIs should closely cooperate and share information with statutory institutions established also for the promotion and protection of human rights, for example at the state level or on thematic issues, as well as other organizations, such as NGOs, working in the field of human rights and should demonstrate that this occurs in their application to the ICC Sub-Committee.
- 1.6 Recommendations by NHRIs:** NHRI recommendations contained in annual, special or thematic human rights reports should normally be discussed within a reasonable amount of time, not to exceed six months, by the relevant government ministries as well as the competent parliamentary committees. These discussions should be held especially in order to determine the necessary follow up action, as appropriate in any given situation. NHRIs as part of their mandate to promote and protect human rights should ensure follow up action to recommendations contained in their reports.

2. Composition and guarantees of independence and pluralism

- 2.1 Ensuring pluralism:** The Sub-Committee notes there are diverse models of ensuring the requirement of pluralism set out in the Paris Principles. However, the

Sub-Committee emphasizes the importance of National Institutions to maintain consistent relationships with civil society and notes that this will be taken into consideration in the assessment of accreditation applications.

The Sub-Committee observes that there are different ways in which pluralism may be achieved through the composition of the National Institution, for example:

- a) Members of the governing body represent different segments of society as referred to in the Paris Principles;
- b) Pluralism through the appointment procedures of the governing body of the National Institution, for example, where diverse societal groups suggest or recommend candidates;
- c) Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or
- d) Pluralism through diverse staff representing the different societal groups within the society.

The Sub-Committee further emphasizes that the principle of pluralism includes ensuring the meaningful participation of women in the National Institution.

2.2 Selection and appointment of the governing body: The Sub-Committee notes the critical importance of the selection and appointment process of the governing body in ensuring the pluralism and independence of the National Institution. In particular, the Sub-Committee emphasizes the following factors:

- a) A transparent process
- b) Broad consultation throughout the selection and appointment process
- c) Advertising vacancies broadly
- d) Maximizing the number of potential candidates from a wide range of societal groups
- e) Selecting members to serve in their own individual capacity rather than on behalf of the organization they represent.

2.3 Government representatives on National Institutions: The Sub-Committee understands that the Paris Principles require that Government representatives on governing or advisory bodies of National Institutions do not have decision making or voting capacity.

2.4 Staffing by secondment:

In order to guarantee the independence of the NHRI, the Sub-Committee notes, as a matter of good practice, the following:

- a) Senior level posts should not be filled with secondees;
- b) The number of seconded should not exceed 25% and never be more than 50% of the total workforce of the NHRI.

2.5 IMMUNITY: IT IS STRONGLY RECOMMENDED THAT PROVISIONS BE INCLUDED IN NATIONAL LAW to protect legal liability for actions undertaken in the official capacity of the NHRI.

2.6 Adequate Funding: Provision of adequate funding by the state should, as a minimum include:

- a) the allocation of funds for adequate accommodation, at least its head office;
- b) salaries and benefits awarded to its staff comparable to public service salaries and conditions;
- c) remuneration of Commissioners (where appropriate); and
- d) the establishment of communications systems including telephone and internet.

Adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the organization's operations and the fulfilment of their mandate.

Funding from external sources, such as from development partners, should not compose the core funding of the NHRI as it is the responsibility of the state to ensure the NHRI's minimum activity budget in order to allow it to operate towards fulfilling its mandate.

Financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control.

2.7 Staff of an NHRI: As a principle, NHRIs should be empowered to appoint their own staff.

2.8 Full-time Members: Members of the NHRIs should include full-time remunerated members to:

- a) Ensure the independence of the NHRI free from actual or perceived conflict of interests;
- b) Ensure a stable mandate for the members;
- c) Ensure the ongoing and effective fulfilment of the mandate of the NHRI.

2.9 Guarantee of tenure for members of governing bodies: Provisions for the dismissal of members of governing bodies in conformity with the Paris Principles should be included in the enabling laws for NHRIs.

- a) The dismissal or forced resignation of any member may result in a special review of the accreditation status of the NHRI;
- b) Dismissal should be made in strict conformity with all the substantive and procedural requirements as prescribed by law;
- c) Dismissal should not be allowed based on solely the discretion of appointing authorities.

2.10 Administrative regulation

The classification of an NHRI as a public body has important implications for the regulation of its accountability, funding, and reporting arrangements.

In cases where the administration and expenditure of public funds by an NHRI is regulated by the Government, such regulation must not compromise the NHRI's ability to perform its role independently and effectively. For this reason, it is important that the relationship between the Government and the NHRI be clearly defined.

3. Methods of operation

4. Additional principles concerning the status of commissions with quasi-jurisdictional competence

5. Additional issues

5.1 NHRIs during the situation of a coup d'état or a state of emergency: As a principle, the Sub-Committee expects that, in the situation of a coup d'état or a state of emergency, an NHRI will conduct itself with a heightened level of vigilance and independence in the exercise of their mandate.

5.2 Limitation of power of National Institutions due to national security: The Sub-Committee notes that the scope of the mandate of many National Institutions is restricted for national security reasons. While this tendency is not inherently contrary to the Paris Principles, it is noted that consideration must be given to ensuring that such restriction is not unreasonably or arbitrarily applied and is exercised under due process.

5.3 Functioning of an NHRI in a volatile context: The Sub-Committee acknowledges that the context in which an NHRI operates may be so volatile that the NHRI cannot reasonably be expected to be in full conformity with all the provisions of the Paris Principles. When formulating its recommendation on the accreditation status in such cases, the Sub-Committee will give due consideration to factors such as: political instability; conflict or unrest; lack of state infrastructure, including excessive dependency on donor funding; and the NHRI's execution of its mandate in practice.

6. Procedural issues

6.1 Application processes: With the growing interest in establishing National Institutions, and the introduction of the five-yearly re-accreditation process, the volume of applications to be considered by the Sub-Committee has increased dramatically. In the interest of ensuring an efficient and effective accreditation process, the Sub-Committee emphasises the following requirements:

- a) Deadlines for applications will be strictly enforced;
- b) Where the deadline for a re-accreditation application is not met, the Sub-Committee will recommend that the accreditation status of the National Institution be suspended until the application is considered at the next meeting;
- c) The Sub-Committee will make assessments on the basis of the documentation provided. Incomplete applications may affect the recommendation on the accreditation status of the National Institution;
- d) Applicants should provide documentation in its official or published form (for example, published laws and published annual reports) and not secondary analytical documents;
- e) Documents must be submitted in both hard copy and electronically;
- f) All application related documentation should be sent to the ICC Secretariat at OHCHR at the following address: National Institutions Unit, OHCHR, CH-1211 Geneva 10, Switzerland and by email to: nationalinstitutions@ohchr.org; and
- g) It is the responsibility of the applicant to ensure that correspondence and application materials have been received by the ICC Secretariat.

6.2 Deferral of re-accreditation applications: The Sub-Committee will apply the following policy on the deferral of re-accreditation applications:

- a) In the event that an institution seeks a deferral of consideration of its re-accreditation application, a decision to grant the deferral can be taken only if written justifications for the deferral have been provided and these are, in the view of the ICC Chairperson, compelling and exceptional;
- b) Re-accreditation applications may be deferred for a maximum of one year, after this time the status of the NHRI will lapse; and
- c) For NHRIs whose re-accreditation applications are received after the due date or who have failed to submit their applications, their accreditation status will be suspended. This suspension can be in place for up to one year during which time the NHRI may submit its application for re-accreditation. If the application is not submitted during this time, the accreditation status will lapse.

6.3 NHRIs under review: Pursuant to Article 16 of the ICC Statute¹, the ICC Chair or the Sub-Committee may initiate a review of a NHRI's accreditation status if it appears that the circumstances of that NHRI may have changed in any way which affects its compliance with the Paris Principles. Such a review is triggered by an exceptional set of circumstances considered to be temporary in nature. As a consequence, the regular re-accreditation process will be deferred until the review is completed.

In its consideration of NHRIs under review, the Sub-Committee will apply the following process:

- a) a NHRI can be under review for a maximum of one and a half years only, during which time it may bring information to the Sub-Committee to demonstrate that, in the areas under review, the NHRI is fully compliant with the Paris Principles;
- b) During the period of review, all privileges associated with the existing accreditation status of the NHRI will remain in place;
- c) If at the end of the period of review, the concerns of the Sub-Committee have not been satisfied, then the accreditation status of the NHRI will lapse

6.4 Suspension of Accreditation: The Sub-Committee notes that the status of suspension means that the accreditation status of the Commission is temporarily suspended until information is brought before the Sub-Committee to demonstrate that, in the areas under review, the Commission is fully compliant with the Paris Principles. An NHRI with a suspended A status is not entitled to the benefits of an A A status accreditation, including voting in the ICC and participation rights before the Human Rights Council, until the suspension is lifted or the accreditation status of the NHRI is changed.

6.5 Submission of information: Submissions will only be accepted if they are in paper or electronic format. The Statement of Compliance with the Paris Principles is the core component of the application. Original materials should be submitted to support or substantiate assertions made in this Statement so that the assertions can be validated and confirmed by the Sub-Committee. No assertion will be accepted without material to support it.

Further, where an application follows a previous recommendation of the Sub-Committee, the application should directly address the comments made and should not be submitted unless all concerns can be addressed.

¹ Formerly article 3(g) of the ICC Rules of Procedure.

6.6 More than one national institution in a State: The Sub-Committee acknowledges and encourages the trend towards a strong national human rights protection system in a State by having one consolidated and comprehensive national human rights institution.

In very exceptional circumstances, should more than one national institution seek accreditation by the ICC, it should be noted that Article 39 of the ICC Statute² provides that the State shall have one speaking right, one voting right and, if elected, only one ICC Bureau member.

In those circumstances the conditions precedent for consideration of the application by the Sub-Committee are the following:

- a) Written consent of the State Government (which itself must be a member of the United Nations).
- b) Written agreement between all concerned national human rights institutions on the rights and duties as an ICC member including the exercise of the one voting and the one speaking right. This agreement shall also include arrangements for participation in the international human rights system, including the Human Rights Council and the Treaty Bodies.

The Sub-Committee stresses the above requirements are mandatory for the application to be considered.

6.7 NHRI annual report: The Sub-Committee finds it difficult to review the status of an NHRI in the absence of a current annual report, that is, a report dated not earlier than one year before the time it is scheduled to undergo review by the Sub-Committee. The Sub-Committee stresses the importance for an NHRI to prepare and publicize an annual report on its national situation with regard to human rights in general, and on more specific matters. This report should include an account of the activities undertaken by the NHRI to further its mandate during that year and should state its opinions, recommendations and proposals to address any human rights issues of concern.

Adopted by International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) by email after the SCA meeting of March 2009.

Geneva, November 2009.

² Formerly Rule 3 (b) of the ICC Rules of procedure.