

NOTE

"As of 24 January 2017, SCA recommendations contained in this report are considered final."

**GLOBAL ALLIANCE 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, 14 – 18 November 2016

SUMMARY OF RECOMMENDATIONS

<p><u>2. Re-Accreditation (Art. 15 of the GANHRI Statute)</u></p>
<p><u>2.1 Argentina: Defensor del Pueblo de la Nación (DPNA)</u> Decision: The SCA decides that further consideration of the re-accreditation application of the DPNA will be deferred to its second session of 2017.</p>
<p><u>2.2 Australia: Australian Human Rights Commission (AHRC)</u> Recommendation: The SCA recommends that the AHRC be re-accredited with A status.</p>
<p><u>2.3 Bosnia and Herzegovina: Human Rights Ombudsmen of Bosnia and Herzegovina (IHROBH)</u> Decision: The SCA decides that further consideration of the re-accreditation application of IHROBH will be deferred to its second session of 2017.</p>
<p><u>2.4 Costa Rica: Defensoría de los Habitantes (DHCR)</u> Recommendation: the SCA recommends that the DHCR be re-accredited with A status.</p>
<p><u>2.5 El Salvador: Procuraduría para la Defensa de los Derechos Humanos (PDDH)</u> Recommendation: The SCA recommends that the PDDH be re-accredited with A status.</p>
<p><u>2.6 India: National Human Rights Commission (NHRCI)</u> Decision: The SCA decides that further consideration of the re-accreditation application of the NHRCI will be deferred to its second session of 2017.</p>
<p><u>2.7 Jordan: The National Centre for Human Rights (NCHR)</u> Recommendation: The SCA recommends that the NCHR be re-accredited with A status.</p>
<p><u>2.8 Malawi: Malawi Human Rights Commission (MHRC)</u> Recommendation: The SCA recommends that the MHRC be re-accredited with A status.</p>
<p><u>2.9 Mauritania: Commission Nationale des droits de l’homme (CNDH)</u> Decision: The SCA decides that further consideration of the re-accreditation application of the CNDH will be deferred to its second session of 2017.</p>
<p><u>2.10 Mexico: Comisión Nacional de los Derechos Humanos (CNDH)</u> Recommendation: The SCA recommends that the CNDH be re-accredited with A status.</p>
<p><u>2.11 Namibia: Office of the Ombudsman (Ombudsman)</u> Decision: The SCA decides that further consideration of the re-accreditation application of the Ombudsman will be deferred to its second session of 2017.</p>

2.12 Nicaragua: Procuraduría para la Defensa de los Derechos Humanos (PDDH)
Recommendation: The SCA decides that further consideration of the re-accreditation application of the PDDH will be **deferred** to its second session of 2017.

2.13 Nigeria: National Human Rights Commission (NHRC)
Recommendation: The SCA recommends that the NHRC be re-accredited with **A** status.

2.14 Tanzania: Commission for Human Rights and Good Governance of (CHRAGG)
Decision: The SCA decides that further consideration of the re-accreditation application of the CHRAGG will be **deferred** to its second session of 2017.

2.15 Zambia: Human Rights Commission (HRCZ)
Decision: The SCA decides that further consideration of the re-accreditation application of the HRCZ will be **deferred** to its second session of 2017.

3. Review (Art. 16.2 of the GANHRI Statute)

3.1 Burundi: Commission nationale indépendante des droits de l’homme (CNIDH)
Recommendation: The SCA recommends that the CNIDH be downgraded to **B** status.

Report, Recommendations, and Decisions of the Session of the SCA, 14 – 18 November 2016

1. BACKGROUND

- 1.1. In accordance with the Statute (Annex I) of the Global Alliance of National Institutions for the Promotion and Protection of Human Rights (GANHRI), the SCA considers and reviews applications for accreditation, reaccreditation and special or other reviews received by the National Institutions, Regional Mechanisms and Civil Society Section (NRCS) of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its capacity as the GANHRI Secretariat, and to make recommendations to the GANHRI Bureau members with regard to the compliance of applicant institutions with the Paris Principles (Annex II). 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: Canada for the Americas (Chair), Mauritania for Africa, Jordan for Asia-Pacific and France for Europe. During the consideration of the re-accreditation applications of Mauritania and Jordan, the relevant regions were represented by NHRI representatives from Morocco and Qatar, respectively.
- 1.3. The SCA convened from 14 to 18 November 2016. OHCHR participated as a permanent observer and in its capacity as GANHRI Secretariat. In accordance with established procedures, the Geneva-based office of GANHRI and regional coordinating committees of NHRIs were invited to attend as observers. The SCA welcomed the participation of the GANHRI Geneva Representative and representatives from the Secretariat of the APF, ENNHRI and NANHRI.
- 1.4. Pursuant to article 15 of the Statute, the SCA also considered applications for re-accreditation from the NHRIs of Argentina, Australia, Bosnia and Herzegovina, Costa Rica, El Salvador, India, Jordan, Malawi, Mauritania, Mexico, Namibia, Nicaragua, Nigeria, Tanzania and Zambia.
- 1.5. Pursuant to article 16.2 of the Statute, the SCA conducted a special review of the NHRI of Burundi.
- 1.6. In accordance with the Paris Principles and the GANHRI 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;
- 1.7. The General Observations (Annex III), as interpretative 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 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 was not Paris Principle compliant.
 - 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 no 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.

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

- 1.9.** Pursuant to Article 12 of the Statute, where the SCA comes to an accreditation recommendation, it shall forward that recommendation to the GANHRI 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 GANHRI Chairperson, through the GANHRI Secretariat, within twenty eight (28) days of receipt.
 - iii) Thereafter the recommendation will be forwarded to the members of the GANHRI 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 GANHRI Bureau;
 - iv) Any member of the GANHRI Bureau who disagrees with the recommendation shall, within twenty (20) days of its receipt, notify the Chair of the SCA and the GANHRI Secretariat. The GANHRI Secretariat will promptly notify all GANHRI 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 GANHRI Bureau coming from not less than two regional groups notify the GANHRI Secretariat that they hold a similar objection, the recommendation shall be referred to the next GANHRI 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 GANHRI Bureau;
 - vi) The decision of the GANHRI Bureau on accreditation is final.

- 1.10.** At each session the SCA conducts a teleconference with every NHRI. It may also consult with and seek further information from NHRIs where necessary. In addition, OHCHR desk officers and, as appropriate, OHCHR field officers were available to provide further information, as needed.

- 1.11. Pursuant to Article 18.1 of the statute, 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.
- 1.12. At any time, the SCA may receive information that raises concern that the circumstances of a NHRI have changed in a way that affects its compliance with the Paris Principles, and the SCA may then initiate a special review of that NHRI's accreditation status. When considering whether or not to initiate a special review, the SCA has adopted a new procedure whereby, in addition to written submissions made by the NHRI, civil society and any other stakeholder, the NHRI is afforded the opportunity to make an oral statement to the SCA during the session.
- 1.13. Pursuant to Article 16(3), any review of the accreditation classification of a NHRI must be finalized within 18 months.
- 1.14. The SCA acknowledges the high degree of support and professionalism of the GANHRI Secretariat (OHCHR-NRCS).
- 1.15. The SCA shared the summaries prepared by the Secretariat with the concerned NHRIs before the consideration of their applications and gave one week to provide any comments on them. The summaries are only prepared in English, due to financial constraints. Once the recommendations of the SCA are adopted by the GANHRI Bureau, the report of the SCA is placed on the GANHRI website (<http://nhri.ohchr.org/>).
- 1.16. The SCA considered information received from civil society. The SCA shared that information with the concerned NHRIs and considered their responses.
- 1.17. **Notes:** The GANHRI statute, the Paris Principles and the General Observations referred to above can be downloaded in Arabic, English, French and Spanish from the following links:
 1. The GANHRI Statute:
<http://nhri.ohchr.org/EN/AboutUs/Governance/Pages/Statute.aspx>
 2. The Paris Principles and General Observations:
<http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx>

2. SPECIFIC RECOMMENDATIONS - RE-ACCREDITATION APPLICATIONS (Art. 15 of the GANHRI Statute)

2.1 Argentina: Defensoria del Pueblo de la Nación Argentina (DPNA)

Decision: The SCA decides that further consideration of the re-accreditation application of the DPNA will be **deferred** to its second session of 2017.

The SCA notes with concern:

1. Selection and appointment

The position of Ombudsperson has been vacant since 2009. Despite the requirement of Article 13 of the enabling Law that one of the Deputy Ombudspersons be officiated as acting Ombudsperson, the SCA notes that the DPNA is currently headed by the General Undersecretary who was appointed by the National Congress.

The delay in the appointment of the Ombudsperson and Deputy Ombudspersons could restrict DPNA's ability to speak out on significant and controversial human rights concerns. The SCA acknowledges the recent establishment of the Permanent Bicameral Commission, which is expected to lead to the appointment of an Ombudsperson and two Deputy Ombudspersons.

The SCA encourages a prompt resolution of the process of appointing the Ombudsperson and Deputy Ombudspersons of the DPNA.

The SCA further notes that the process for selection and appointment currently enshrined in the enabling Law is not sufficiently broad and transparent. In particular, it does not:

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

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

The SCA encourages the DPNA to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

2. Human rights mandate

The DPNA's enabling Law provides for a limited promotion mandate. The SCA notes, however, that in practice the DPNA undertakes promotional activities.

The SCA is of the view that an NHRI should be legislatively mandated with specific functions to both promote and protect human rights. It understands 'promotion' to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy.

The SCA notes that draft amendments to the enabling Law have been laid before Parliament, and encourages the DPNA to continue to advocate for appropriate amendments to its enabling Law to make its promotional mandate explicit. Until such time as the amendments are passed, the SCA encourages the DPNA to continue interpreting its mandate broadly.

The SCA refers to Paris Principle A.1, A.2 and A.3 and to its General Observation 1.2 on 'Human Rights Mandate'.

3. Adequate funding

The SCA notes that the DPNA has experienced a reduction in funding and an increase in functions.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities.

In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the institution's operations and the fulfilment of its mandate. Provision of adequate funding by the State should, at a minimum, include the following:

- a) the allocation of funds for premises that is accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of well-functioning communications systems including telephone and internet; and
- e) the allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

Such funding should be regularly released and in a manner that does not impact adversely on its functions, day-to-day management and retention of staff.

The SCA encourages the DPNA to continue to advocate for adequate funding to fulfil its mandate effectively.

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

The SCA further notes:

4. Cooperation with civil society

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. In this regard it acknowledges the DPNA's engagement and cooperation with civil society organizations.

The SCA encourages the DPNA to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

2.2 Australia: Australian Human Rights Commission (AHRC)

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

The SCA notes with concern:

1. Selection and appointment

The Australian Human Rights Commission Act and a number of Anti-Discrimination Acts provide that the Governor-General appoints members of the Commission on the recommendation of the Attorney General.

The SCA notes that some merit criteria are provided in the relevant enabling laws, and that the process for the assessment of candidates is specified in the "Merit and Transparency Guidelines" of the Australian Public Service Commission (APSC). The Guidelines include requirements to: advertise vacancies; provide detailed selection criteria; and assess candidates by a panel that includes the independent representative of the APSC whose role is to ensure the process is in accordance with the Guidelines. On the completion of the assessment process, the panel determines a pool of suitable candidates and provides a report to the Commissioner of the APSC for endorsement and transmission to the Attorney General. The Attorney-General then writes to the Prime Minister seeking approval for the candidate to be appointed as an AHRC Commissioner by the Governor-General.

However, the SCA notes that: if the Attorney-General is not satisfied with the proposed candidates, he or she may unilaterally propose an alternate appointee; and that, in one instance in 2013, the Attorney-General proposed the appointment of a Commissioner without following the merit-based selection process outlined above. Such appointment has

the potential to bring into question the legitimacy of the appointees and the independence of the NHRI. The SCA is of the view that it is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for an NHRI's decision-making body, and the application of the established process in all cases.

The SCA notes that AHRC has proposed amendments to formalize the above selection process in its enabling law, and that it continues to advocate for such amendments. The SCA encourages the AHRC to continue to advocate for a selection process that specifies explicit requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and /or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

2. Dismissal process

In accordance with section 41 of the AHRC Act, section 102 of the Sex Discrimination Act, section 119 of the Disability Discrimination Act, section 34 of the Racial Discrimination Act and section 53 G of the Age Discrimination Act, the Governor-General may remove the Commissioner on the advice of the Executive Council, for the following reasons: (i) physical or mental incapacity; (ii) misbehaviour; (iii) absence from duty; and (iv) bankruptcy under their respective applicable above cited laws. The precise process for dismissal is not further described in the Act.

The SCA is of the view that, in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process similar to that accorded to members of other independent State agencies. This process should apply uniformly to all nominating entities.

The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the member to fulfil his or her mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by the decision of an appropriate body with independent jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed based solely on the discretion of the appointing authorities.

These requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI. The SCA accordingly urges the AHRC to advocate for an independent and objective dismissal process regarding the grounds already recognised in the AHRC Act.

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

3. Adequate funding and financial autonomy

The SCA expresses concern about cuts to the AHRC budget since 2014-15.

The SCA again notes, with concern, the impact of the application of annual efficiency dividends which erode the AHRCs base level of funding and therefore its capacity to fulfil its legislative mandate. The SCA is also concerned about the conferral of work and the appointment of additional commissioners without an additional budget allocation.

The SCA reiterates that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities. Further the NHRI ought to be provided with adequate funding for its operations and ensures that the Commission retains adequate discretionary funding to independently set its own program of work. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI’s operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, at a minimum, include the following:

- a) The allocation of funds for premises which are accessible to the wide community, including for persons, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) Remuneration of members of the decision-making body (where appropriate);
- d) The establishment of a well-functioning communications system including telephone and internet; and
- e) The allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA encourages the AHRC to continue to advocate for an appropriate level of funding to carry out its mandate including, where appropriate, the establishment of regional offices.

The SCA refers to Paris Principle B.2 and to its General Observations 1.10 on ‘Adequate funding’ and 2.8 on ‘Administrative regulation’.

The SCA further notes:

4. Limitation on mandate

The current definition of human rights in the Act does not explicitly refer to either the Convention against Torture or the International Covenant on Economic, Social and Cultural rights.

The SCA acknowledges that the AHRC interprets its mandate to encompass all human rights.

The Paris Principles require that an NHRI must be legislatively mandated for both the promotion and protection of all human rights.

The SCA urges the AHRC to continue advocating for amendment of the definition of 'human rights' within the AHRC Act to include the seven core human rights treaties ratified by Australia (matching the definition used by the Parliamentary Joint Committee on Human Rights).

The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observation 1.2 and 2.7 on 'Human rights mandate.'

5. Tenure

The SCA notes the provisions of sections 37 of the AHRC Act, 97 of the Sex Discrimination Act, 114 of the Disability Discrimination Act, 30 of the Racial Discrimination Act and 53 B of the Age Discrimination Act, which each provide that members can be appointed for a term not exceeding seven years and that they are eligible for re-appointment, with no limit on the number of times re-appointment can occur.

As a proven practice, the SCA encourages that a term of between three (3) and seven (7) years with the option to renew once be provided for in an NHRI's enabling law.

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

2.3 Bosnia and Herzegovina: Human Rights Ombudsmen of Bosnia and Herzegovina (IHROBH)

Decision: The SCA decides that further consideration of the re-accreditation application of IHROBH will be deferred to its second session of 2017.

The SCA commends the efforts of the IHROBH in advocating for a stronger legislative framework, and it encourages the IHROBH to continue these efforts. The SCA notes that the IHROBH intends to propose legislative amendments.

The SCA commends the work undertaken by IHROBH to address the SCA's recommendations of 2010.

The SCA notes with concern:

1. Human rights mandate

The enabling law of IHROBH provides for a limited promotion mandate.

The SCA understands 'promotion' to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy; as well as encouraging ratification and implementation of international standards and engagement with the international human rights system.

While the SCA acknowledges that IHROBH interprets its mandate broadly and undertakes promotion of human rights activities, including in relation to international human rights

mechanisms, it encourages IHROBH to advocate for legislative changes to explicitly include specific functions to both promote and protect human rights.

The SCA refers to Paris Principle A.3 and to its General Observations 1.2 on 'Human rights mandate' and 1.3 on 'Encouraging ratification or accession to international human rights instruments',

2. Selection and appointment

In accordance with the law the Ombudsmen are appointed by the parliamentary assembly. The SCA is of the view that the selection process currently enshrined in the existing Law is not sufficiently broad and transparent, in that it does not specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

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

The SCA encourages the IHROBH to continue to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

3. Dismissal

In accordance with article 12 of the Law, the Ombudspersons can be dismissed on account of inability to carry out their functions. The SCA is of the view that this provision should be made explicit in the Law to avoid misinterpretation.

Further, the Ombudspersons are dismissed by the Parliamentary Assembly. The Law does not provide further details on the dismissal process.

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

The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the member to fulfill his or her mandate.

Where appropriate, the legislation should specify that the application of a particular ground must be supported by the decision of an appropriate body with independent jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed based solely on the discretion of the appointing authorities.

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

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

4. Adequate funding and financial autonomy

The IHROBH reports that it has experienced significant budget cuts. It further reports that, of the 89 positions envisioned for the organization, only 56 are currently staffed, and that it is unable to plan for the hiring of additional staff due to its budgetary situation.

Further, in accordance with article 39 of the existing Law, the financial appropriation necessary for the functioning of the IHROBH is included in the budget of the Presidency of Bosnia and Herzegovina. The existing Law does not specify the process by which this budget allocation is made, does not specify whether it appears as a separate budget line, and does not provide for the financial autonomy of the IHROBH over the budget allocation. The SCA also notes that the IHROBH has indicated that its most recent audit report called for greater financial independence for the IHROBH.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI's operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, at a minimum, include the following:

- a) The allocation of funds for premises which are accessible to the wide community, including for persons, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) Remuneration of members of the decision-making body (where appropriate);
- d) The establishment of a well-functioning communications system including telephone and internet; and
- e) The allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

Funds should be allocated to a separate budget line item applicable only to the NHRI. The NHRI should have complete autonomy over the allocation of its budget. Such funding should

be regularly released and in a manner that does not impact adversely on its functions, day-to-day management and retention of staff.

Although, IHROBH stated that other institutions in Bosnia and Herzegovina are facing similar budgetary challenges, the SCA encourages IHROBH to continue advocating for an appropriate level of funding to carry out its mandate, including for its upcoming NPM function, as well as necessary amendments to its enabling Law to ensure financial autonomy.

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

The SCA further notes:

5. Immunity

Article 16 of the existing Law provides that the Ombudsperson shall not be prosecuted, subjected to investigation, arrested, detained or tried for the opinions expressed or for the decisions taken in the exercise of powers associated with his or her duties. The existing Law does not, however, appear to protect the Ombudsperson from civil liability.

External parties may seek to influence the independence of an NHRI by initiating, or by threatening to initiate, legal proceedings against a members. For this reason, NHRI legislation should include provisions to protect members from legal liability for acts undertaken in good faith in their official capacity. Such a provision promotes:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

The SCA encourages the IHROBH to continue to advocate for amendments to its enabling Law.

The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity.'

6. Annual report

In accordance with article 34 of the Law, the annual report of IHROBH is distributed to a number of entities. However, there is no requirement in the enabling Law that the annual report is considered by or discussed in the relevant Parliaments.

The SCA is of the view that it is preferable for the enabling law of an NHRI provide that the legislature discuss and consider the reports of the NHRI, so as to ensure that its recommendations are properly considered, and to promote action on them.

The SCA recommends that the IHROBH advocate for the inclusion in its enabling law of a process whereby its reports are discussed and considered by the legislature.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

7. Cooperation with civil society

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. In this regard it acknowledges the IHROBH engagement and cooperation with civil society organizations.

The SCA encourages the IHROBH to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

8. Interaction with the international human rights system

While the IHROBH notes that it interacts with the regional and international human rights system, the Law does not explicitly provide for this function.

The Paris Principles recognize that monitoring and engaging with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, can be an effective tool for NHRIs in the promotion and protection of human rights domestically.

The SCA encourages IHROBH to advocate for changes in its enabling law to explicitly allow the institution to interact with the regional and international human rights system. It highlights that effective engagement with the international human rights system may include:

- submitting parallel or shadow reports to the Universal Periodic review, Special Procedures mechanisms and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council;
- assisting, facilitating and participating in country visits by United Nations experts, including special procedures mandate holders, treaty bodies, fact finding missions and commissions of inquiry; and
- monitoring and promoting the implementation of relevant recommendations originating from the human rights system.

In considering their engagement with the international human rights system, NHRIs are encouraged to actively engage with the OHCHR, the GANHRI, its Regional NHRI Coordinating Committees, and other NHRIs, as well as international and national NGOs and civil society organization.

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

2.4 Costa Rica: Defensoría de los Habitantes (DHCR)

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

The SCA welcomes the efforts of the DHCR to advocate for its entrenchment in the Constitution and encourages it to continue these efforts.

The SCA notes with concern:

1. Human rights mandate

The enabling law of the DHCR provides for a limited promotion mandate. However, the SCA notes that in practice the DHCR undertakes some promotional activities.

The SCA is of the view that an NHRI should be legislatively mandated with specific functions to both promote and protect human rights. It understands 'promotion' to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy.

The SCA encourages the DCHR to advocate for appropriate amendments to its enabling law to make its promotional mandate explicit.

The SCA refers to Paris Principle A.3 and to its General Observation 1.2 on 'Human rights mandate.'

2. Adequate funding

The SCA notes that DHCR mandate has expanded in recent years to include responsibility as the National Preventive Mechanism (NPM) under Optional Protocol on the Convention against Torture and as the National Monitoring Mechanism (NMM) under the Convention on the Rights of Persons with Disabilities. While the DHCR has recently been provided with some additional funding to discharge these mandates, the SCA is concerned that it may not be sufficient to effectively carry out its mandate.

To function effectively, a National Human Rights Institution must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the Institution's operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);

- d) the establishment of well-functioning communications systems including telephone and internet;
- e) the allocation of a sufficient amount of resources for mandated activities. Where the National Institution has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA urges the Government to provide the DHCR with the necessary financial resources to enable it to properly fulfil its obligations, including carrying out its mandate as NPM and NMM.

The SCA refers to Paris Principle B.2 and to its General Observations 1.10 on 'Adequate funding of NHRIs' and 2.9 on 'Assessing National Human Rights Institutions as National Preventive and National Monitoring Mechanisms'.

The SCA further notes:

3. Functional immunity

The Law is silent on whether and how members enjoy functional immunity for actions taken in their official capacity in good faith.

External parties may seek to influence the independent operation of an NHRI by initiating, or by threatening to initiate, legal proceedings against a member. For this reason, NHRI legislation should include provisions to protect members from legal liability for acts undertaken in good faith in their official capacity. Such a provision promotes:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

It is acknowledged that no office holder should be beyond the reach of the law and, thus, 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. It is recommended that national law provides for well-defined circumstances in which the functional immunity of the decision-making body may be lifted in accordance with fair and transparent procedures.

The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity.'

4. Interaction with the international human rights system

The SCA commends DHCR's interaction with the international human rights system and encourages it to continue this interaction. It notes that the DHCR is a member of various regional organizations and has actively engaged with the international and regional human rights systems.

The SCA notes, however, that the Law does not explicitly mandate the DHCR to interact with international and regional human rights systems or to encourage the ratification of, or accession to, international human rights instruments.

The Paris Principles recognise that monitoring and engaging with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, can be an effective tool for National Human Rights Institutions in the promotion and protection of human rights domestically.

In considering their engagement with the international human rights system, National Institutions are encouraged to actively engage with the Office of the United Nations High Commissioner for Human Rights (OHCHR), GANHRI, their Regional NHRI networks and other National Institutions, as well as international and national NGOs and civil society organizations.

The SCA encourages the DHCR to continue its engagement with the international and regional human rights systems, and to advocate for amendments to its enabling law to include explicit responsibility for these activities.

The SCA refers to Paris Principles A.3 (b) - (e) and to its General Observation 1.4 on 'Interaction with the international human rights system'.

5. Pluralism

The Law does not require that the membership and staff be representative of diverse segments of society. The SCA notes that DHCR has indicated that, in the staff recruitment process, pluralism and diversity are taken into consideration and that efforts are being made to ensure that LGBTI, Afro-descendants, indigenous peoples and other minority groups are represented within DHCR's staff.

The SCA emphasizes that diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI for all citizens.

A diverse decision-making and staff body facilitates the National Human Rights Institution'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 National Institutions for all citizens.

Pluralism refers to broader representation of national society. Consideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status. This includes, for example, ensuring the equitable participation of women in the National Institution.

The SCA notes there are diverse models for ensuring the requirement of pluralism in the composition of the NHRI as set out in the Paris Principles. For example:

- a) Members of the decision-making body represent different segments of society as referred to in the Paris Principles. Criteria for membership of the decision-making body should be legislatively established, be made publicly available and subject to consultation with all stakeholders, including civil society. Criteria that may unduly narrow and restrict the diversity and plurality of the composition of the National Institution's membership should be avoided;

- b) Pluralism through the appointment procedures of the governing body of the National Institutions, 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 staff that are representative of the diverse segments of society. This is particularly relevant for single member Institutions, such as an Ombudsperson.

The SCA encourages the DHCR to advocate for the inclusion in its enabling law of provisions requiring pluralism in its membership and staff.

The SCA refers to Paris Principles B.1 and to its General Observation 1.7 on 'Ensuring pluralism of the NHRI'.

6. Cooperation with civil society

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. In this regard it acknowledges the DHCR's engagement and cooperation with civil society organizations.

The SCA encourages the DHCR to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

2.5 El Salvador: Procuraduría para la Defensa de los Derechos Humanos (PDDH)

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

The SCA notes with concern:

1. Adequate funding

The PDDH reports that it has not been allocated with sufficient funding to create new programs or strengthen existing ones and that, while it has received some increases in its budgetary allocation, these have not been sufficient to address the limitations faced by the institution.

The SCA emphasizes that, to function effectively, a National Human Rights Institution must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the Institution's operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of well-functioning communications systems including telephone and internet;
- e) the allocation of a sufficient amount of resources for mandated activities.

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

2. Selection and appointment

The law is silent on the selection and appointment process of the Deputy Ombudsperson.

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

Such a process should include requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups;
- c) Promote broad consultation and/or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria;
- e) Select members to serve in their own individual capacity rather than on behalf of the organization they represent.

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

3. Dismissal

In accordance with article 9 of the Law, the Ombudsperson may be dismissed by a two-thirds (2/3) majority vote of the Legislative Assembly for various reasons, including manifest breach of their constitutional and legal obligations and gross negligence in the performance of their duties. It is not clear what the precise procedure for dismissal is, however, including, for example, who proposes a vote and whether a hearing is held.

The SCA is of the view that, in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of a NHRI must contain an independent and objective dismissal process similar to that accorded to members of other independent State agencies. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law.

The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the member to fulfil their mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed based solely on the discretion of appointing authorities.

Such requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of a National Institution.

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

The SCA further notes:

4. Accessibility

Whilst acknowledging the efforts made by the PDDH to ensure its facilities and services are accessible to all, the SCA notes that the PDDH reports that its premises are not fully accessible for persons with disabilities. The PDDH further reports that there are areas of the country where it is difficult to access its services as a result of infrastructure difficulties.

The SCA acknowledges that these difficulties are largely the product of the financial limitations faced by the PDDH and encourages it to continue to take steps to ensure its facilities and services are accessible to all.

5. Term of office

The Procurador is elected for a three (3) year term. In May 2011, the SCA expressed concern that this term is too short to promote the independence of members and ensure the continuity of programs and services.

Whilst the SCA acknowledges that the PPDH has undertaken institutional arrangements to mitigate the negative impact on the continuity of PDDH programmes and activities, the SCA remains concerned that the duration of the term is too short to promote the independence of members and ensure the continuity of programs and services.

The SCA further notes that the Law does not provide a limitation on the number of times that the term of office of the Procurador can be renewed.

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of the NHRI, and to ensure the continuity of its programs and services. An appointment period of three years is considered to be the minimum that would be sufficient to achieve these aims. As a proven practice, the Sub-Committee encourages that a term of between three and seven years with the option to renew once be provided for in the NHRI's enabling law.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on 'Full-time members of an NHRI'.

2.6 India: National Human Rights Commission (NHRCI)

Decision: The SCA decides that further consideration of the re-accreditation application of the NHRCI will be **deferred** to its second session of 2017.

The SCA notes with concern:

1. Composition and pluralism

In accordance with section 3(2) of the Act, the NHRCI shall consist of: a) a Chairperson who has been a Chief Justice of the Supreme Court; b) one member who has been a Judge of the Supreme Court; c) one member who has been Chief Justice of the High Court; d) two members amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The SCA reiterates its previous concerns from October 2006 and May 2011, and remains of the view that the requirement that the Chair be a former Chief Justice of the Supreme Court and the majority of members be recruited from the senior judiciary severely restricts the potential pool of candidates, particularly as it relates to the representation of women in the governing body of the NHRCI.

The SCA acknowledges that the justification for these requirements is based on the NHRCI's quasi-judicial function. However, it notes that:

- the quasi-judicial function is but one of the ten (10) functions enumerated in section 12 of the Act;
- section 3(2) also provides for the appointment of two (2) members amongst persons having knowledge of, or practical experience in, matters relating to human rights, who are not required to be chosen from the judiciary; and
- no women have been appointed to any of the positions on the governing body of the NHRCI since 2004.

The SCA further acknowledges the NHRCI's position that the presence of "deemed members" from the National Commissions addressing caste, women's rights, minorities, scheduled tribes, and children's rights – two (2) of whom are women – on the statutory full commission contributes to the pluralism of the NHRCI. However, the SCA notes that the NHRCI reported that the member from the National Commission on scheduled castes rarely attends full statutory commission meetings and that the SCA has received information from civil society organizations indicating that the other deemed members similarly rarely attend meetings where decisions on the focus, priorities and core business of the NHRCI's non-judicial functions are made. Accordingly, the SCA remains of the view that this method of ensuring pluralism is insufficient.

Finally, the SCA notes that the NHRCI reports that, of its 468 staff, 92 (20%) are women. The SCA is accordingly of the view that the NHRC has not taken the necessary steps to ensure pluralism of its institution through its staff complement.

The SCA notes there are diverse models for ensuring the requirement of pluralism in the composition of the NHRI as set out in the Paris Principles. For example:

- a) Members of the decision-making body represent different segments of society as referred to in the Paris Principles. Criteria for membership of the decision-making body

should be legislatively established, be made publicly available and subject to consultation with all stakeholders, including civil society. Criteria that may unduly narrow and restrict the diversity and plurality of the composition of the NHRI's membership should be avoided;

- b) Pluralism through the appointment procedures of the governing body of the NHRIs, 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 staff that are representative of the diverse segments of society. This is particularly relevant for single member Institutions, such as an Ombudsperson.

The SCA encourages NHRC to ensure pluralism, including appropriate gender balance, within the NHRI.

The SCA refers to Paris Principles B.1 and B.2 and to General Observations 1.7 on 'Ensuring pluralism of the NHRI' and 2.4 on 'Recruitment and retention of NHRI staff'.

2. Selection and appointment

In accordance with section 4 of the Act, the Chairperson and other members of the NHRCI are appointed by the President based on the recommendation of a Committee consisting of the Prime Minister, the Speaker of the House of the People, the Minister in-charge of the Ministry of Human Affairs in the government of India, the Leader of the Opposition in the House of the People, the Leader of the Opposition in the Council of States, and the Deputy Chairperson of the Council of States.

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

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which all parties assess the merit of eligible applicants; and
- specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

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

The SCA encourages the NHRCI to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

3. The appointment of the Secretary General and the Director of Investigations from Central Government

Section 11 of the Act requires that the Central Government second to the NHRCI a civil servant with the rank of Secretary to take the role of Secretary General of the Commission, and a police officer of the rank of Director General of Police or above to take the post of Director (Investigations).

In October 2006 and May 2011, the SCA emphasized that a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI's staff members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it brings into question its capacity to function independently.

Also in May 2011, the SCA expressed its concern about the practice of having police officers and former police officers involved in the investigation of human rights violations, particularly in circumstances where the alleged perpetrators are the police. It noted that this practice has adverse implications for the actual and perceived independence of the NHRCI.

The SCA acknowledges the NHRCI's position that:

- As concerns the Secretary General, the fact that this individual is seconded from the senior levels in the civil service means that they have wide knowledge of government functioning and standing among various levels of government. However, the SCA notes that, in the past five (5) years, the position has been held by a variety of people and has been vacant for a substantial period of time.
- As concerns the Director General (Investigation) and the practice of using former police officers to investigate complaints, these individuals know how the system works and, as a result, are unable to unearth truth in cases where others could not. However, for victims of abuses by police, there is a real or perceived conflict of interest, and this may impact the ability of such persons to access human rights justice.

Notwithstanding the justifications provided, the SCA remains concerned that these practices have a real impact on the perceived independence of the NHRCI. The SCA therefore recommends that:

- the Secretary General be recruited through an open, merit-based selection process; and
- the NHRCI consider policy options to address the perceived independence issue created by having former police officers investigate complaints, for example, by providing for civilian oversight of these activities.

The SCA refers to Paris Principle B.2 and to its General Observation 2.5 on “Staffing by secondment”.

4. Political representatives on NHRIs

The NHRCI reports that the Chairperson of the National Commission for Scheduled Castes is a Member of Parliament, and that this individual has voting rights in the full statutory commission.

The SCA notes that the Paris Principles require an NHRI to be independent from government in its structure, composition, decision-making and method of operation. It must be constituted and empowered to consider and determine the strategic priorities and activities of the NHRI based solely on its determination of the human rights priorities in the country, free from political interference.

For these reasons, government representatives and members of parliament should not be members of, nor participate in, the decision-making organs of an NHRI. Their membership of, and participation in, the decision-making body of the NHRI has the potential to impact on the real and perceived independence of the NHRI.

The SCA recognizes that it is important to maintain effective working relationships, and where relevant, to consult with government. However, this should not be achieved through the participation of government representatives in the decision-making body of the NHRI.

Where government representatives or members of parliament, or representatives of government agencies, are included in the decision-making body, the NHRI's legislation should clearly indicate that such persons participate only in an advisory capacity. In order to further promote independence in decision-making, and avoid conflicts of interest, an NHRI's rules of procedure should establish practices to ensure that such persons are unable to inappropriately influence decision-making by, for example, excluding them from attending parts of the meeting where final deliberations and strategic decisions are made.

The participation of government representatives or members of parliament, or representatives of government agencies, should be restricted to those whose roles and functions are of direct relevance to the mandate and functions of the NHRI, and whose advice and cooperation may assist the NHRI in fulfilling its mandate. In addition, the number of such representatives should be limited and should not exceed the number of other members of the NHRI's governing body.

The SCA refers to Paris Principles B.1, B.3 and C(c) and to its General Observation 1.9 on 'Government representatives on NHRIs'.

The SCA further notes:

5. Cooperation with other human rights bodies

The NHRCI highlights the existence of Core/Expert Groups as the means by which it complies with the Paris Principles' requirement for pluralism and engagement with civil society and other human rights defenders. However, the SCA notes that it has received information from civil society organizations that these mechanisms are not functioning effectively as a means of engagement and cooperation between the NHRCI and civil society. The SCA notes that this was raised as an issue of concern during the SCA's May 2011 review of the NHRCI.

The SCA again highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates. It encourages the

NHRCI to take steps to facilitate increased engagement and cooperation with all civil society organizations.

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

6. Access to NHRC’s complaints process

The SCA has received information from civil society groups alleging that the NHRCI’s complaint handling functions suffer from extended delays. The SCA notes with concern that the NHRCI confirmed to have a substantial backlog of 40,000 cases.

In fulfilling its complaint handling mandate, the NHRI should ensure that complaints are dealt with fairly, transparently, efficiently, expeditiously, and with consistency. In order to do so, a NHRI should:

- ensure that its facilities, staff, and its practices and procedures, facilitate access by those who allege their rights have been violated and their representatives; and
- ensure that its complaint handling procedures are contained in written guidelines, and that these are publicly available.

The SCA encourages the NHRCI to handle complaints in timely manner and permit all individuals, regardless of their legal status, to access to its complaint process.

The SCA refers to Paris Principle D(c) and to its General Observation 2.10 on ‘The quasi-judicial competence of NHRIs’.

7. Annual report

The most recent annual report of the NHRCI publicly available is for 2011-2012. The SCA notes that, in accordance with section 20(2) the Act, an annual report cannot be made public until it is tabled in Parliament by the government, and that this cannot be done until the government has prepared a response for follow-up and recommendations made by the NHRCI in the report. The SCA acknowledges that the NHRCI reports that its annual reports for 2012-2013, 2013-2014, and 2014-2015 have been submitted to the government, but as the government has not developed its responses to the recommendations in those reports, they have not been tabled in Parliament or made public.

The SCA notes that this was raised as an issue of concern during the SCA’s May 2011 review of the NHRCI.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby its reports are required to be widely circulated, discussed and considered by the legislature. It again notes that the SCA finds it difficult to assess the effectiveness of an NHRI and its compliance with the Paris Principles in the absence of a current annual report.

The SCA acknowledges that the NHRCI reports that it has mitigated this limitation in its ability to publicize current annual reports by publishing other reports on thematic issues or the state of human rights generally. The SCA encourages the NHRCI to seek a solution to this issue, and to continue to advocate for its annual reports to be tabled in Parliament and made public as soon as possible.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on ‘Annual reports of NHRIs.’

2.7 Jordan: The National Centre for Human Rights (NCHR)

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

The SCA notes that in July 2016, the Council of Ministers approved amendments to JNCHR’s enabling law and that the House of Deputies is expected to adopt them.

The SCA commends JNCHR’s efforts to address the concerns previously expressed by the SCA. It encourages the JNCHR to strengthen its legislative framework by advocating for further amendments to the law to address the concerns outlined below.

The SCA notes with concern:

1. Selection and appointment

In accordance with article 13(A) of the Law, the JNCHR shall be supervised by a Board of Trustees of no more than twenty-one (21) members, whose Chairman and members are appointed by Royal Decree at the recommendation of the Prime Minister, and that the Prime Minister shall take into consideration any proposals submitted by representatives of civil society.

The SCA reiterates its previous recommendation made in November 2015 and is of the view that the process currently enshrined in the law is not sufficiently broad and transparent. In particular it does not:

- require the advertisement of vacancies; and
- promote broad consultation and / or participation in the application, screening, selection and appointment process.

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

The SCA encourages the JNCHR to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- d) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

2. Political representatives on NHRIs

The SCA notes that three (3) members of the JNCHR's Board of Trustees are parliamentarians, and these members have voting rights.

The Paris Principles require that a NHRI be independent of government in its composition, operation and decision-making. It must be constituted and empowered to consider and determine its strategic priorities and activities based solely on its determination of the human rights priorities in the country, free from political interference.

For these reasons, government representatives and members of parliament should not be members of, nor participate in the decision-making of, organs of a NHRI. Their membership of, and participation in, the decision-making body of the NHRI has the potential to impact on both the real and perceived independence of the NHRI.

The SCA recognizes that it is important to maintain effective working relationships, and where relevant, consult with government. However, this should not be achieved through the participation of government representatives in the decision-making body of the NHRI.

Where government representatives or members of parliament are included in the decision-making body, they should be excluded from attending parts of the meeting where final deliberations and strategic decisions are made, and they should not be able to vote on these matters.

The SCA reiterates its previous recommendation made in November 2015 and encourages the JNCHR to advocate for the necessary changes in its governance structure and accordingly amend the law.

The SCA refers to Paris Principles B.1, B.3 and C(c) and to its General Observation 1.9 on 'Government representatives on NHRIs'.

The SCA further notes:

3. Dismissal

In accordance with article 13 (3) of the law, membership of the Board shall expire for various grounds. However, the SCA notes the authority to dismiss and the process for determining the existence of the ground in the event of loss of civil qualification, health incapacitation or absence without acceptable excuse is not specified.

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

The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the members to fulfil the institution's mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed to be based solely on the discretion of the appointing authorities.

The SCA is of the view that such requirements ensure the security of tenure of members the Board and General Commissioner and are essential to ensure the independence of, and public confidence in, the senior leadership of a NHRI. The SCA encourages the JNCHR to advocate for amendments to address this issue in the enabling law.

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

4. Donor funding

Article 20 of the Law provides that the JNCHR requires the approval of the Council of Ministers in order to accept foreign donations.

NHRIs should not be required to obtain approval from the state for external sources of funding, which may otherwise detract from its independence.

The SCA encourages the JNCHR to advocate for amendments to address this issue in the enabling law.

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

2.8 Malawi: Malawi Human Rights Commission (MHRC)

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

The SCA welcomes the amendments to the MHRC’s enabling law to address SCA concern on the voting rights of the Law Commissioner and Ombudsperson. It commends the MHRC for having taken steps to address the SCA’s previous concerns.

The SCA notes:

1. Adequate funding

The MHRC notes that its funding is not sufficient to effectively carry out its mandate. Consequently, it faces a situation of understaffing and difficulties in retaining staff with the requisite skills. The MHRC reports having advocated for an increase of its budget as well as having sought donor funding.

The SCA emphasizes that to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the Institution’s operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with

- other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
 - c) remuneration of members of its decision-making body (where appropriate);
 - d) the establishment of well-functioning communications systems including telephone and internet;
 - e) the allocation of a sufficient amount of resources for mandated activities. Where the National Institution has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

Funding from external sources, such as from international development partners, should not compose the core funding of the NHRI, as this is the responsibility of the State. However, the SCA recognizes the need for the international community, in specific and rare circumstances, to continue to engage and support an NHRI in order to ensure it receives adequate funding until such time when the State will be able to do so. In such unique cases NHRIs should not be required to obtain approval from the state for external sources of funding, which may otherwise detract from its independence. Such funds should not be tied to donor-defined priorities but rather to the pre-determined priorities of the NHRI.

The SCA refers to Paris Principle B.2 and to its General Observations 1.10 on 'Adequate funding of NHRIs' and 2.4 on 'Recruitment and retention of NHRI staff'.

2. Recommendations by NHRIs

The MHRC reported that it has received limited cooperation from Parliament and Government regarding its requests and recommendations.

The SCA notes that annual, special and thematic reports of NHRIs serve to highlight key national human rights concerns and provide a means by which these bodies can make recommendations to, and monitor respect for, human rights by public authorities.

NHRIs, as part of their mandate to promote and protect human rights should undertake follow up action on recommendations contained in these reports and should publicize detailed information on the measures taken or not taken by public authorities in implementing specific recommendations or decisions.

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 and advocate for the implementation on its recommendations and findings, and the protection of those whose rights were found to have been violated.

Public authorities are encouraged to respond to recommendations from NHRIs in a timely manner, and to provide detailed information on practical and systematic follow up action, as appropriate, to the NHRI's recommendations.

The SCA refers to Paris Principles A.3, C(c) and D(d) and to its General Observation 1.6 on 'Recommendations made by NHRIs'.

2.9 Mauritania: Commission Nationale des droits del’homme (CNDH)

Decision: The SCA decides that further consideration of the re-accreditation application of the CNDH will be deferred to its second session of 2017.

The SCA notes with concern:

1. Selection and appointment

In accordance with article 12 of the Law, the President and members of the CNDH are appointed by a decree of the President based on the proposals of various ministries, institutions, professional and civil society organizations, as outlined by article 11 of the Law.

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

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which all parties assess the merit of eligible applicants; and
- specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

The SCA is additionally concerned that having each body make nominations may result in different processes being employed by each entity.

The SCA is of the view that all nominating bodies should utilize an open and transparent merit-based selection and appointment process.

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

The SCA encourages the CNDH to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

2. Political representatives on NHRIs

In accordance with article 11 of the Law, membership of the CNDH includes two (2) members of parliament, one from the National Assembly and the other from the Senate, with voting rights.

The SCA notes that the Paris Principles require that an NHRI be independent of government in its composition, operation and decision-making. It must be constituted and empowered to consider and determine the strategic priorities and activities of the NHRI based solely on its determination of the human rights priorities in the country, and free from political interference.

For these reasons, government representatives and members of parliament should not be members of, nor participate in, the decision-making organs of an NHRI. Their membership of, and participation in, the decision-making body of the NHRI has the potential to impact on the real and perceived independence of the NHRI.

The SCA recognizes that it is important to maintain effective working relationships, and where relevant, consult with government. However, this should not be achieved through the participation of government representatives in the decision-making body of the NHRI.

Where government representatives or members of parliament are included in the decision-making body, they should be excluded from attending parts of meetings where final deliberations and strategic decisions are made, and should not be able to vote on these matters.

The SCA reiterates its May 2011 recommendations and encourages the CNDH to advocate for the necessary changes in its Law to ensure that representatives of political parties have no voting rights.

The SCA refers to Paris Principles B.1, B.3 and C(c) and to its General Observation 1.9 on 'Government representatives on NHRIs'.

3. Interaction with the international human rights system

The SCA has received concerning correspondence from the Special Rapporteur on extreme poverty and human rights alleging that the CNDH has not fully engaged and cooperated with some United Nations mechanisms and bodies.

The SCA acknowledges that the CNDH disputes these allegations.

The Paris Principles recognize that engagement with the international human rights system, and in particular with the Human Rights Council and its mechanisms, can be an effective tool for NHRIs in the promotion and protection of human rights domestically.

While it is appropriate for governments to consult with NHRIs in the preparation of a state's reports to human rights mechanisms, NHRIs should neither prepare the country report nor should they report on behalf of the government. NHRIs must maintain their independence and, where they have the capacity to provide information to human rights mechanisms, do so in their own right. NHRIs should not participate as part of a government delegation during the Universal Periodic Review, during reviews before the Treaty Bodies, or in other international mechanisms where independent participation rights for NHRIs exist. Where independent participation rights for NHRIs do not exist in a particular fora and an NHRI

chooses to participate as part of a state delegation, the manner of their participation must clearly distinguish them as an independent NHRI.

The SCA encourages the CNDH to provide further information on its cooperation with the international human rights system.

The SCA refers to Paris Principles A.3(d) and (e) and to its General Observation 1.4 on 'Interaction with the international human rights system'.

4. Cooperation with civil society

The SCA has received information from civil society that alleges the CNDH did not engage with a broad range of civil society organizations, particularly those who were critical of government.

The SCA acknowledges that the CNDH reports that it engages with a broad range of civil society organizations.

The SCA notes that broad engagement with all stakeholders improves the effectiveness of an NHRI in implementing its mandate to promote and protect human rights by providing a better understanding of: the breadth of human rights issues across the state; the impact of such issues based on social, cultural, geographic and other factors; gaps; priorities; and implementation strategies. NHRIs working in isolation may be limited in their ability to provide adequate human rights protections to the public.

The SCA encourages the CNDH to provide additional information about its cooperation with civil society.

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

5. Addressing human rights violations

The SCA was made aware of the case of Mohamed Cheikh Ould Mohamed who was convicted and sentenced to death for apostasy. The SCA has received a statement issued by and posted on the website of the CNDH on 7 January 2014 which supported the application of the death penalty in cases of apostasy. In response, the CNDH acknowledged that the statement had been issued, but stated that it had not been authorized by the President of the CNDH.

The CNDH did not, however, indicate that it had issued a formal retraction nor made public statements that the application of the death penalty for this crime is inconsistent with international human rights law.

An NHRI's mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments. NHRIs are expected to promote and ensure respect for all human rights, democratic principles and the strengthening of the rule of law in all circumstances, and without exception. Where serious violations of human rights are imminent, NHRIs are expected to conduct themselves with a heightened level of vigilance and independence.

The SCA refers to Paris Principles A.1, A.2, and A.3.

The SCA further notes:

6. Dismissal

According to Article 17 of the Law, a member can only be removed after a hearing for serious misconduct, default, repeated and non-justified absences, impediment or loss of membership qualities under which he was elected.

Also in accordance with article 17 of the Law, dismissal occurs after being heard in accordance with the conditions set forth in the law. The Law is otherwise silent on the dismissal process.

The SCA notes that the lack of specificity in some of the grounds for dismissal coupled with the absence of an explicit process for such dismissal creates the possibility that the process may be subject to misuse.

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

The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the member to fulfil his or her mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by the decision of an appropriate body with independent jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed based solely on the discretion of the appointing authorities.

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

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

7. Annual report

In accordance with article 6 of the Law, the annual report of the CNDH is submitted to the President.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby its reports are required to be widely circulated, discussed and considered by the legislature. It encourages the CNDH to advocate for changes to its enabling law to provide the explicit power to table all reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs.'

2.10 Mexico: Comisión Nacional de los Derechos Humanos (CNDH)

Recommendation: the SCA recommends that the CNDH be re-accredited with **A** status.

The SCA notes with concern:

1. Recommendations by national human rights institutions

The SCA has received information that the number of recommendations issued by the CNDH is substantially lower than the number of complaints of human rights violations received. The SCA acknowledges that there are a number of reasons for this, including the high percentage of complaints that are resolved through a conciliation process. However, the SCA encourages the CNDH to review its processes to ensure that its current methods of operations do not result in a failure to address systemic human rights violations.

Annual, special and thematic reports of NHRIs serve to highlight key national human rights concerns and provide a means by which these bodies can make recommendations to, and monitor respect for, human rights by public authorities.

NHRIs, as part of their mandate to promote and protect human rights should undertake follow up action on recommendations contained in these reports and should publicize detailed information on the measures taken or not taken by public authorities in implementing specific recommendations or decisions.

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 and advocate for the implementation on its recommendations and findings, and the protection of those whose rights were found to have been violated.

Public authorities are encouraged to respond to recommendations from National Institutions in a timely manner, and to provide detailed information on practical and systematic follow-up action, as appropriate, to the National Institution's recommendations.

The SCA refers to Paris Principles A.3, C(c) and D (d) and to its General Observation 1.6 on 'Recommendations by'.

2. Dismissal

In accordance with Title 4 of the Constitution, the President of the CNDH can be dismissed by a two-thirds (2/3) majority vote of the Senate for acts or omissions that damage fundamental public interests, affect the legality, honesty and efficiency of the position, or for corrupt acts. The precise procedure for dismissal, however, is not clear, including who can initiate the dismissal process and whether a hearing is held.

The SCA is of the view that, in order to address the Paris Principles requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process. The dismissal must be made in conformity with all the substantive and procedural requirements prescribed by law.

The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact on the capacity of the members to fulfil their mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed solely on the discretion of the appointing authorities.

Such requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

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

The SCA further notes:

3. Selection and appointment process

The SCA notes that article 102(B)(7) of the Constitution provides that the election of the President, as well as the members of the Advisory Council, shall be subject to a public consultation, which shall be transparent.

The SCA notes that the method of public consultation is not provided for in law or in another binding regulation.

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

The SCA encourages the CNDH to advocate for the formalization of a transparent selection and appointment process, including through a public consultation process with NGOs and civil society.

The SCA encourages the CNDH to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

4. Pluralism

The enabling law does not explicitly require pluralism in the membership and staff of the CNDH.

A diverse decision-making and staff body 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.

Pluralism refers to broader representation of national society. Consideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status. This includes, for example, ensuring the equitable participation of women in the NHRI.

The SCA notes there are diverse models for ensuring the requirement of pluralism in the composition of the NHRI as set out in the Paris Principles. For example:

- a) Members of the decision-making body represent different segments of society as referred to in the Paris Principles. Criteria for membership of the decision-making body should be legislatively established, be made publicly available and subject to consultation with all stakeholders, including civil society. Criteria that may unduly narrow and restrict the diversity and plurality of the composition of the NHRI's membership should be avoided;
- b) Pluralism through the appointment procedures of the governing body of the NHRIs, 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 staff that are representative of the diverse segments of society. This is particularly relevant for single member Institutions, such as an Ombudsperson.

The SCA encourages the CNDH to advocate for the inclusion in its enabling law of provisions requiring pluralism and gender balance in its membership and staff.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on 'Ensuring pluralism'.

5. Formalization of the role as NPM

The CNDH's role as NPM has not been formalized to date. The SCA notes that the 'Law on the Prevention, Investigation and Sanction of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment', which will formally designate the CNDH as the NPM, is pending before Parliament and is expected to be adopted in December 2016.

Where an NHRI has been designated as the NPM, and specifically where this designation provides for additional powers to enter, monitor, investigate and report on places of detention that go beyond the powers of the NHRI already available in the enabling law, a more clearly-defined legal mandate is required. This specific legislative mandate assists in ensuring the NHRI is able to undertake its role effectively and free from interference.

The SCA refers to its General Observation 2.9 on 'Assessing NHRIs as National Preventive and National Monitoring Mechanisms'.

6. Interaction with the international human rights system

The SCA commends CNDH's interaction with the international human rights system. It notes that the CNDH has submitted reports to treaty bodies and has actively engaged and cooperated with various United Nations agencies.

The Paris Principles recognize that monitoring and engaging with the international human rights system, can be an effective tool for NHRIs in the promotion and protection of human

rights domestically. Depending on existing domestic priorities and resources, effective engagement with the international human rights system may include:

- submitting parallel or shadow reports to the UPR, Special Procedure mechanisms and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council; and
- monitoring and promoting the implementation of relevant recommendations emanating from United Nations and regional human rights mechanisms.

The SCA encourages the CNDH to continue its engagement with the international human rights system.

The SCA refers to Paris Principle A.3 (d) and (e) and to its General Observation 1.4 on 'Interaction with the international human rights system'.

2.11 Namibia: Office of the Ombudsman (Ombudsman)

Decision: The SCA decides that further consideration of the re-accreditation application of the Ombudsman will be **deferred** to its second session of 2017.

The SCA commends the Ombudsman for proposing amendments to the enabling law. It notes that these are currently under consideration by the Ministry of Justice and are yet to be considered by the Cabinet and adopted by Parliament.

The SCA notes with concern:

1. Mandate

The SCA reiterates its concern from May 2011:

"The SCA notes that the Ombudsman mandate refers to the protection of constitutional rights and freedoms. These include some, but not all recognised civil, political, economic, social and cultural rights. Furthermore, the SCA notes that the enabling legislation refers to protection of human rights, but not to promotion. Similar concerns have been expressed by specific treaty bodies. The CERD (CERD/C/NAM/CO/12 22 September 2008) recommended that the State party take all necessary steps to strengthen the legislative mandate and the capacity of the Ombudsman, so that it effectively fulfils its mandate. The ICCPR (CCPR/CO/81/NAM) recommended strengthening the legislative mandate of the institution of the Ombudsman and providing it with adequate resources."

While acknowledging that the Ombudsman interprets its mandate in a broad manner, the SCA encourages the Ombudsman to continue to advocate for the passing of amendments to the enabling law which will provide the institution with an explicit mandate to promote and protect all human rights, including reviewing legislation adopted after the independence of Namibia.

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

2. Selection and appointment

In accordance with article 90(1) of the Constitution, the Ombudsman is appointed by the President on the recommendation of the Judicial Service Commission. Similarly, in accordance with section 2(2) of the Act, the Deputy Ombudsman is appointed on the same basis.

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

- require the advertisement of vacancies; and
- specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

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

The SCA encourages Ombudsman to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

3. Staffing

The SCA reiterates its concern of May 2011:

"The enabling legislation does not specifically empower the Ombudsman to recruit its own staff".

In accordance with section 7(1) of the Act, the Office of the Ombudsman is staffed by Public Service Officers that have been made available.

While the SCA notes that changes have been proposed, the SCA continues to stress that NHRIs should be legislatively empowered to determine the staffing structure the skills required to fulfil the Institution's mandate, set other appropriate criteria (such as diversity), and select their staff in accordance with national law.

Staff should be recruited according to an open, transparent and merit-based selection process that ensures pluralism and a staff composition that possesses the skills required to fulfil the Institution's mandate. Such a process promotes the independence and effectiveness of, and public confidence in, the NHRI.

The SCA encourages the Ombudsman to advocate for changes to its enabling law to allow it to recruit its own staff.

The SCA refers to Paris Principle B.2 and to its General Observation 2.4 on 'Recruitment and retention of NHRI staff'.

4. Adequate funding and financial autonomy

In accordance with section 9 of the existing Act, the budget of the Ombudsman is paid from moneys appropriated for that purpose. The Act does not specify the source of the funds.

The SCA notes that the draft proposed amendments to the Act provide that the budget of the Ombudsman is paid from monies appropriated by government for that purpose.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities.

Government funding should be allocated to a separate budget line applicable only to the NHRI. Such funding should be regularly released and in a manner that does not impact adversely on its functions, day-to-day management and retention of staff.

The SCA encourages the Ombudsman to advocate for appropriate amendments to its enabling law in order to ensure the adequacy of the Ombudsman's funding and safeguard its financial independence.

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

The SCA further notes:

5. Term of office

The SCA reiterates its concern of May 2011:

"The term of the Ombudsman is not limited in the enabling law. The Constitution stipulates that the Ombudsman shall hold office until the age of 65 but the President may extend the retiring age of the Ombudsman to 70, (Article 90(2) of the Constitution)".

In response to this concern the SCA recommended that the Ombudsman advocate for a fixed renewable term. The SCA notes that the Ombudsman has advised that his will be the last appointment under the current indefinite term and that he has proposed the provision be amended to provide for a fixed renewable term.

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of an NHRI, and to ensure the continuity of its programs and services. An appointment period of three (3) years is considered to be the minimum that would be sufficient to achieve these aims. As a proven practice, the SCA encourages that a term of between three (3) and seven (7) years with the option to renew once be provided for in the NHRI's enabling law.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on ‘Full-time members of an NHRI’.

6. Annual report

There is no requirement in the Act that the annual report is considered by or discussed in the relevant Parliaments.

The SCA is of the view that it is preferable for the enabling law of an NHRI provide that the legislature discuss and consider the reports of the NHRI, so as to ensure that its recommendations are properly considered, and to promote action on them.

The SCA recommends that the Ombudsman advocate for the inclusion in its enabling law of a process whereby its reports are discussed and considered by the legislature.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on ‘Annual reports of NHRIs’.

7. Pluralism

The Ombudsman reported a diversity of staff on the basis of gender and language, but noted that pluralism could be improved through representation of other groups.

Diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI for all citizens.

Pluralism refers to broader representation of national society. Consideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status. This includes, for example, ensuring the equitable participation of women in the NHRI.

The SCA notes there are diverse models for ensuring the requirement of pluralism in the composition of the NHRI as set out in the Paris Principles. For example:

- a) Members of the decision-making body represent different segments of society as referred to in the Paris Principles. Criteria for membership of the decision-making body should be legislatively established, be made publicly available and subject to consultation with all stakeholders, including civil society. Criteria that may unduly narrow and restrict the diversity and plurality of the composition of the NHRI's membership should be avoided;
- b) Pluralism through the appointment procedures of the governing body of the NHRIs, 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 staff that are representative of the diverse segments of society. This is particularly relevant for single member Institutions, such as an Ombudsperson.

The SCA encourages the Ombudsman to advocate for the inclusion in its enabling law of provisions requiring pluralism in its membership and staff.

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

8. Encouraging ratification or accession to international human rights instruments

The enabling law does not provide the Ombudsman with an explicit mandate to encourage ratification or accession to international human rights instruments.

The SCA notes the Ombudsman interprets his mandate broadly and does undertake this role. The SCA encourages the Ombudsman to continue to advocate for the passing of the proposed amendments to the enabling legislation that mandate it with explicit responsibility to encourage ratification or accession to international human rights instruments.

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

9. Cooperation with civil society

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. In this regard it acknowledges the Ombudsman’s engagement and cooperation with civil society organizations.

The SCA encourages the Ombudsman to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

2.12 Nicaragua: Procuraduría para la Defensa de los Derechos Humanos (PDDH)

Decision: The SCA decides that further consideration of the re-accreditation application of the PDDH will be **deferred** to its second session of 2017.

The SCA takes note that a new Procuradora was appointed in April 2016.

The SCA notes with concern:

1. Independence

The SCA notes that on 11 November 2016, PDDH posted on its web-site a note to congratulate President José Daniel Ortega Saavedra on his re-election.

The SCA notes that notes that the real and perceived independence of an NHRI is fundamental to the Paris Principles. It stresses the importance of public confidence in the independence of a NHRI.

The SCA is of the view that displaying a political affiliation clearly impacts adversely on the real and perceived independence, impartiality and accessibility of an NHRI. The SCA therefore stresses that the PDDH has a responsibility to ensure the impartially and independence and work in strict accordance with its mandate.

The SCA refers to Paris Principles B.2, B.3 and C(a).

2. Selection and appointment

Pursuant to Articles 138(9)(d) of the Constitution and 1(2) and 8 of the Law, the Ombudsperson and Deputy Ombudsperson are appointed by 60% majority vote of the Parliament. The enabling laws are otherwise silent on the selection process.

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

- require the advertisement of vacancies; and
- specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

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

The SCA encourages PDDH to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

3. Cooperation with other human rights bodies

At its May 2011 session, the SCA made the following recommendation:

"The SCA encourages the PDDH to build constructive working relationships and to engage with a variety of civil society organizations, including national and international non-governmental organizations that play an active role in the promotion and protection of human rights in Nicaragua."

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively.

The SCA encourages the PDDH to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

The SCA further notes:

4. Term of office

According to articles 138(9) of the Constitution and 9 of the Law, the Ombudsperson and Deputy Ombudsperson are appointed for a five-year term. However, the SCA is concerned that the Law does not limit the number of renewals.

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of the NHRI, and to ensure the continuity of its programs and services. An appointment period of three years is considered to be the minimum that would be sufficient to achieve these aims. As a proven practice, the SCA encourages that a term of between three and seven years with the option to renew once be provided for in the NHRI's enabling law.

The SCA encourages the PDDH to advocate for an amendment to its enabling law to provide that the term of office of the Ombudspersons is renewable once.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on 'Full-time members of an NHRI'.

5. Interaction with the international human rights system

The Paris Principles recognise that monitoring and engaging with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, can be an effective tool for National Human Rights Institutions in the promotion and protection of human rights domestically.

Depending on existing domestic priorities and resources, effective engagement with the international human rights system may include:

- submitting parallel or shadow reports to the Universal Periodic Review, Special Procedure mechanisms and Treaty Bodies Committees;
- making statements during debates before review bodies and the Human Rights Council;
- assisting, facilitating and participating in country visits by United Nations experts, including special procedures mandate holders, treaty bodies, fact finding missions and commissions of inquiry; and
- monitoring and promoting the implementation of relevant recommendations originating from the human rights system.

In considering their engagement with the international human rights system, National Institutions are encouraged to actively engage with OHCHR, GANHRI, their Regional NHRI Coordinating Committee and other National Institutions, as well as international and national NGOs and civil society organizations.

The SCA encourages PDDH to increase its engagement with the international human rights system, and to advocate for amendments to its enabling law to formalize the cooperation with the United Nations and other international bodies.

The SCA refers to Paris Principles A.3 (d) and (e) and to its General Observation 1.4 on 'Interaction with the international human rights system'.

6. Pluralism

The SCA notes that the law is silent on the requirement for pluralism and representation of women within its membership and staff.

Diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI for all citizens.

Pluralism refers to broader representation of national society. Consideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status. This includes, for example, ensuring the equitable participation of women in the NHRI.

The SCA notes there are diverse models for ensuring the requirement of pluralism in the composition of the NHRI as set out in the Paris Principles. For example:

- a) Members of the decision-making body represent different segments of society as referred to in the Paris Principles. Criteria for membership of the decision-making body should be legislatively established, be made publicly available and subject to consultation with all stakeholders, including civil society. Criteria that may unduly narrow and restrict the diversity and plurality of the composition of the NHRI's membership should be avoided;
- b) Pluralism through the appointment procedures of the governing body of the NHRIs, 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 staff that are representative of the diverse segments of society. This is particularly relevant for single member Institutions, such as an Ombudsperson.

The SCA encourages the PDDH to advocate for the inclusion in its enabling law of provisions requiring pluralism in its membership and staff.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on 'Ensuring pluralism of NHRIs'.

2.13 Nigeria: National Human Rights Commission of Nigeria (NHRCN)

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

The SCA notes that the tenure of members of the Governing Council appointed in 2011 has ended, but that the Council has not yet been reconstituted.

The SCA notes with concern:

1. Selection and appointment

In accordance with section 3(3)(b) of the Act, the Chairperson and members of the Council are appointed by the President, subject to confirmation by the Senate. In accordance with section 7(1)(c), the Executive Secretary of the Commission is similarly appointed.

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

- require the advertisement of vacancies; and
- specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

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

The SCA encourages the NHRCN to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

2. Dismissal

In accordance with section 4(1) of the Act, members of the Council may be removed by the President, subject to a confirmation by a simple majority of the Senate, if they become of unsound mind or are guilty of serious misconduct in relation to their duties. The process for dismissal is not further elaborated in the Act.

The SCA is of the view that, in order to address the Paris Principles requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process. The dismissal must be made in conformity with all the substantive and procedural requirements prescribed by law.

The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact on the capacity of the members to fulfil their mandate. Where appropriate, the legislation should specify that the application of a particular ground must be

supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed solely on the discretion of the appointing authorities.

Such requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

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

3. Annual report

In accordance with section 17 of the Act, the annual report of the NHRCN is submitted to the President. The SCA acknowledges that the NHRCN reports that, in practice, this report is submitted to the President, the National Assembly, the judiciary and other stakeholders, and that it makes public presentations on the report.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby its reports are required to be widely circulated, discussed and considered by the legislature. It encourages the NHRCN to advocate for changes to its enabling law to provide the explicit power to table all reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on ‘Annual reports of NHRIs.’

4. Funding and financial autonomy

The SCA notes that, given the current prevailing human rights challenges in Nigeria, the NHRCN has expanded its activities to address the repercussions of the civil unrest while operating with a very limited budget.

The SCA also makes reference to the recommendations contained in the report of the Special Rapporteur on Minority issues (A/HRC/28/64) that recommended that sufficient resources are allocated to enable the Commission to carry out its work and ensure adequate and dedicated attention to issues of minorities in each region.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI’s operations and the fulfilment of its mandate.

Provision of adequate funding by the State should, at a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);

- d) the establishment of a well-functioning communications system including telephone and internet; and
- e) the allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA encourages the NHRCN to advocate for an appropriate level of funding in order for it to function effectively.

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

2.14 Tanzania: Commission for Human Rights and Good Governance of (CHRAGG)

Decision: The SCA decides that further consideration the re-accreditation application of the CHRAGG will be **deferred** to its second session of 2017.

The SCA notes with concern:

1. Independence

At its October 2006 session, the SCA made the following recommendation:

"...The Sub-Committee notes that the constitutional power of the President to issue directives to the CHRAGG on issues of national interest under article 130(3) of the Constitution has not been invoked but suggests that consideration be given to limiting the scope of this power as prescribed by the law..."

At its October 2011 session, the SCA reiterated the above-mentioned recommendation and further noted that:

"The SCA further notes that article 130(4) provides that the President can order the CHRAGG to conduct an inquiry, or (of particular concern to the SCA) the President can order it not to conduct an inquiry. While this provision may not have been invoked by the President, the SCA is concerned that this provision may affect the independence and autonomy of the CHRAGG, and that its use may also result in impunity for human rights violations. The SCA encourages the CHRAGG to advocate for amendments to this provision."

The SCA acknowledges that the CHRAGG reports that these provisions have never been invoked, and that it has written to the Minister expressing its concern about these provisions and requesting the consideration of an amendment. Nevertheless, the SCA is concerned that these provisions may impact on the real and perceived independence of the CHRAGG.

Further, in accordance with section 16 of the Act, the President may direct the CHRAGG not to investigate a matter where he or she considers that there is a real and substantial risk that an investigation would prejudice national security.

It is the view of the SCA that an NHRI's mandate should authorize the full investigation of all alleged human rights violations, including those involving the military, police and security

officers. While limitations on the mandate of an NHRI relating to national security are not inherently contrary to the Paris Principles, it should not be unreasonably or arbitrarily applied and should only be exercised under due process.

The SCA recommends the CHRAGG to continue to advocate for amendments or removal of these provisions.

The SCA refers to Paris Principle A.1, A.2, A.3 and B.2, and to its General Observations 2.7 on 'Limitation of power of National Human Rights Institutions due to national security' and 1.2 on 'Human rights mandate'.

2. Annual Reports

The SCA recognizes that CHRAGG has prepared and published special reports on various human rights issues. However, the SCA is concerned that the most recent annual report that is publicly available is for 2010-2011. CHRAGG informed that, for reasons beyond its control, its current reports have not yet been tabled by the Minister of Constitutional Affairs before Parliament and, consequently, have not been made public.

Further, in accordance with section 33(1) of the Act and article 131(3) of the Constitution, the annual report of the CHRAGG is submitted to the National Assembly through the responsible Minister.

The importance for a NHRI to prepare, publicize and widely distribute an annual report on its national situation with regard to human rights in general, and on more specific matters, is stressed. 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.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby the Institution's reports are required to be widely circulated, discussed and considered by the legislature. It would be preferable if the NHRI has an explicit power to table reports directly in the legislature, rather than through the Executive, and in so doing to promote action on them.

Where an NHRI has made an application for accreditation or, re-accreditation, it will be required to submit a current annual report, that is, one from the preceding year's reporting period. The SCA finds it difficult to assess the effectiveness of a National Institution and its compliance with the Paris Principles in the absence of a current annual report.

The SCA encourages the CHRAGG to seek a solution to current procedural issue, and to ensure its annual reports are tabled in Parliament and made public as soon as possible. It further encourages the CHRAGG to advocate for changes to its enabling law to provide the explicit power to table all reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

3. Adequate funding

CHRAGG notes that due to national budgetary constraints, financial resources are not adequate to fulfil its mandate. CHRAGG indicates that as a result of the steps taken to increase its funding, its budget has been slightly increased. The SCA recognizes the efforts undertaken by the CHRAGG to improve its funding. However, the SCA remains concerned that the current resources are not sufficient for CHRAGG to effectively carry out its mandate.

To function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the Institution's operations and the fulfilment of its mandate. Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of well-functioning communications systems including telephone and internet;
- e) the allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA recommends CHRAGG to advocate for adequate funding to undertake its legislative mandate.

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

4. Staffing

The CHRAGG reports that its staff recruitment process is conducted by the Public Service Recruitment Secretariat in collaboration with the CHRAGG, and that it must submit its requirements to this body in order to staff positions.

The use of a whole of government recruitment process for public servants is not inherently problematic provided that process is independent and objective, and ensures merit-based selection, and the CHRAGG is able to specify the requisite criteria for selection. However it would be preferable that the CHRAGG has the power to undertake its own recruitment.

NHRIs should be legislatively empowered to determine the staffing structure, the skills required to fulfil the Institution's mandate, set other appropriate criteria (such as diversity), and select their staff in accordance with national law.

Staff should be recruited according to an open, transparent and merit based selection process that ensures pluralism and a staff composition that possesses the skills required to fulfil the Institution’s mandate. Such a process promotes the independence and effectiveness of, and public confidence in the NHRI.

NHRI staff should not be seconded or re-deployed from branches of the public service.

The SCA refers to Paris Principle B.2 and to its General Observation 2.4 on ‘Recruitment and retention of NHRI staff’.

5. Accessibility

CHRAGG has reported a decrease in the number of complaints received with regard to previous years. The SCA notes that the CHRAGG has reported that one reason for this may have been its limited ability to conduct extensive outreach programs. The SCA further acknowledges CHRAGG’s efforts to enhance its visibility and accessibility.

The SCA notes that NHRI’s relations with civil society and NGOs is particularly important in improving its accessibility to sections of the populations who are geographically, politically or socially remote. These organizations are likely to have closer relations with vulnerable groups as they often have a more extensive network than NHRIs and are almost always likely to be closer to the ground. In this way, NHRIs may utilize civil society to provide an outreach mechanism to engage with vulnerable groups.

The SCA further notes that CHRAGG has provided various examples on its cooperation with civil society organizations and other bodies. Regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates. NHRIs should develop, formalize and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including sub-national statutory human rights institutions, thematic institutions, as well as civil society and non-governmental organizations.

The SCA encourages the CHRAGG to enhance its accessibility and maintain and strengthen relationships with civil society organizations and other bodies.

The SCA refers to Paris Principle B.2 and C (g), and to its General Observations 1.10 on ‘Adequate funding’ and 1.5 on ‘Cooperation with other human rights institutions’.

The SCA further notes:

6. Dismissal process

Article 129(7) of the Constitution provides that a member may be discharged for “reason of his misconduct that affects code of conduct for Commissioner.” Article 10(1) of the Act further provides that a Commissioner may be removed from office for “misbehaviour inconsistent with the ethics of office or any law concerning the ethics of public leaders.” The SCA is concerned that the terms “misbehaviour” and “misconduct” are not defined, and may be open to misinterpretation or abuse.

In addition, pursuant to Article 10(2) of the Act, where the question of the removal of a Commissioner arises, the President appoints a special tribunal comprised of a chairman and at least two (2) other members to investigate the matter and report back. The SCA notes that the members of the special tribunal are appointed at the discretion of the President.

The SCA is of the view that, in order to address the Paris Principles requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process. The dismissal must be made in conformity with all the substantive and procedural requirements prescribed by law.

The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact on the capacity of the members to fulfil their mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed solely on the discretion of the appointing authorities.

Such requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

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

7. Term of office

At its October 2011 session, the SCA made the following recommendation:

“The SCA notes that the term of appointment for commissioners is for up to three years, renewable once. This term may not be sufficient to ensure continuity of activities and a stable tenure for the Commissioners. The SCA encourages the CHRAGG to consider seeking an amendment to its legislation to provide that the term of its commissioners be at least 3 years and not more than 7 years with the option to renew once.”

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of an NHRI, and to ensure the continuity of its programs and services. An appointment period of three (3) years is considered to be the minimum that would be sufficient to achieve these aims.

The SCA acknowledges that the CHRAGG reports that, in practice, the term of appointment of its members is automatically renewed. However, the SCA encourages that a term of between three (3) and seven (7) years with the option to renew once be provided for in the NHRI’s enabling law.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on ‘Full-time members of an NHRI’.

8. Interaction with the human rights system

The SCA commends the CHRAGG for having submitted reports to the UPR and CEDAW. The CHRAGG also indicated that it is communicating with Special Procedures mandate holders.

While acknowledging submission of reports to UPR and various treaty bodies, the SCA notes with concern that Article 6(1)(m) of the Law establishes that the Commission shall carry out the following function: “under the auspices of the government, to cooperate with and agencies of the United Nations, the OAU, the Commonwealth and other bilateral, multilateral or regional and national institutions of other countries which are competent in the areas of the protection and promotion of human rights and administrative justice.” The SCA expresses concern that the reference to “under the auspices of the government” may impact on CHRAGG’s capacity to freely engage and cooperate with the UN and other bodies.

The Paris Principles recognize that monitoring and engaging with the international human rights system, and in particular with the Human Rights Council and its mechanisms, can be an effective tool for NHRIs in the promotion and protection of human rights domestically.

While it is appropriate for governments to consult with NHRIs in the preparation of a state’s reports to human rights mechanisms, NHRIs should neither prepare the country report nor should they report on behalf of the government. NHRIs must maintain their independence and, where they have the capacity to provide information to human rights mechanisms, do so in their own right. NHRIs should not participate as part of a government delegation during the Universal Periodic Review, during reviews before the Treaty Bodies, or in other international mechanisms where independent participation rights for NHRIs exist. Where independent participation rights for NHRIs do not exist in a particular fora and an NHRI chooses to participate as part of a state delegation, the manner of their participation must clearly distinguish them as an independent NHRI.

The SCA recommends that the CHRAGG advocate for the amendment of this provision in its law to remove the clause “under the auspices of government”. The SCA further encourages the CHRAGG to continue to develop its engagement with the international human rights system.

The SCA refers to Paris Principle A.3 (d) and (e) and to its General Observation 1.4 on ‘Interaction with the international human rights system’.

9. Cooperation with other human rights bodies

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. In this regard it acknowledges the CHRAGG’s engagement and cooperation with CSOs.

The SCA encourages the CHRAGG to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

2.15 Zambia: Human Rights Commission (HRCZ)

Decision: The SCA decides that further consideration of the re-accreditation application of the HRCZ will be **deferred** to its second session of 2017.

The SCA commends the HRCZ on its work in challenging circumstances. The SCA also welcomes the amendment of the Constitution in January 2016, and encourages the HRCZ to advocate for amendments to the enabling Law to align with the amendments to the Constitution.

The SCA notes with concern:

1. Selection and appointment

In accordance with section 5(2) of the enabling Law, Commissioners are appointed by the President, subject to ratification by the National Assembly. In accordance with section 5(3) of the enabling Law, the Chairperson and Vice-Chairperson shall be persons who have held, or are qualified to hold, high judicial office. The Act is otherwise silent on the merit criteria to be used in selecting Commissioners.

The SCA reiterates its previous recommendation, made in October 2011, that the process currently enshrined in the enabling Law is not sufficiently broad and transparent. In particular, it does not:

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

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

The SCA encourages the HRCZ to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

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

2. Dismissal process

Section 7(2) of the enabling Law provides that a Commissioner may be removed from office for 'inability to perform the functions of their office, whether arising from infirmity of body or mind, incompetence or for misbehaviour'. The enabling Law does not define these terms,

and is silent on the process for dismissal. This was raised as an issue of concern during the SCA's October 2011 review of the HRCZ.

The SCA remains of the view that the process currently enshrined in the enabling Law is not sufficiently independent or objective. In order to address the Paris Principles requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process, in conformity with all the substantive and procedural requirements prescribed by law.

The grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact on the capacity of the members to fulfil their mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. Dismissal should not be allowed solely on the discretion of the appointing authorities.

Such requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

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

3. Full-time members

The HRCZ has no full-time members, and the enabling Law is silent on whether members serve in a full-time or part-time capacity. This was raised as an issue of concern during the SCA's October 2011 review of the ZHRC.

The SCA remains of the view that the enabling law of the NHRI should provide that members of its governing body include full-time remunerated members. This assists in ensuring:

- a) the independence of the NHRI from actual or perceived conflict of interests;
- b) a stable tenure for the members;
- c) regular and appropriate direction for staff; and
- d) the ongoing and effective fulfilment of the NHRI's functions.

The SCA reiterates its previous recommendation and encourages the ZHRC to advocate for amendments to its structure and enabling Law to provide for full-time members.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on 'Full-time members of an NHRI'.

4. Adequate funding and financial independence

The ZHRC reports that, of the 131 positions in its organizational structure, 57 are filled, representing only 43% of its staffing needs. The ZHRC reports that budgetary constraints have inhibited its full recruitment of staff, and that it engages interns on a regular basis to fill the shortfall. Further, the ZHRC reports that, while funding allocated for staff has remained consistent during the review period, the budget allocated for other expenses was cut by 50% in 2016.

Also, the SCA notes that the ZHRC relies heavily on donor funding, and requires the approval of the President in order to accept donor funding. This was raised as an issue of concern during the SCA's October 2011 review of the ZHRC, and the enabling Law has not been updated since the Constitutional amendments.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities.

In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the institution's operations and the fulfilment of its mandate. Provision of adequate funding by the State should, at a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of a well-functioning communications system including telephone and internet; and
- e) the allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

Government funding should be allocated to a separate budget line item applicable only to the NHRI. Such funding should be regularly released and in a manner that does not impact adversely on its functions, day-to-day management and retention of staff.

Funding from external sources should not compose the core funding of the NHRI, as that is the responsibility of the State. However, the SCA recognizes the need for the international community, in specific and rare circumstances, to continue to engage and support a NHRI in order to ensure it receives adequate funding until such time when the State will be able to do so. In such unique cases, NHRIs should not be required to obtain approval from the state for external sources of funding, which may otherwise detract from its independence.

While an NHRI should have complete financial autonomy over the allocation of its budget, it is obliged to comply with the financial accountability requirements applicable to other independent agencies of the State.

The SCA encourages the ZHRC to advocate for an appropriate level of funding to carry out its mandate effectively, as well as appropriate amendments to the enabling Law to enable it receive donor funding without prior government approval.

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

The SCA further notes:

5. Tenure

In accordance with section 7(1) of the enabling Law, a Commissioner is appointed for a term not exceeding three (3) years, subject to renewal. In October 2011, the SCA expressed concern that this term is too short to promote the independence of members and ensure the continuity of programs and services.

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of an NHRI, and to ensure the continuity of its programs and services. An appointment period of three (3) years is considered to be the minimum that would be sufficient to achieve these aims. As a proven practice, the SCA encourages that a term of between three (3) and seven (7) years with the option to renew once be provided for in the NHRI's enabling law.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on 'Full-time members of an NHRI'.

6. Interaction with the international human rights system and encouraging ratification or accession to international human rights instruments

The enabling Law does not provide the ZHRC with an explicit mandate to encourage ratification or accession to international human rights instruments. Further, the enabling Law does not provide the ZHRC with an explicit mandate to interact with the international human rights system. In this regard, the SCA notes that the Commission did not submit a parallel report during the UPR in 2012 and to the CRC in 2016.

The Paris Principles recognize that monitoring and engaging with the international human rights system, and in particular with the Human Rights Council and its mechanisms, can be an effective tool for NHRIs in the promotion and protection of human rights domestically.

The SCA encourages the ZHRC to engage with the international human rights system, including UPR, Treaty Bodies and Special Procedures, as well as with regional and sub-regional mechanisms.

The SCA also encourages the ZHRC to advocate for changes to its enabling Law to mandate it with explicit responsibility to encourage ratification or accession to international instruments.

The SCA refers to Paris Principle A.3 (b), (d) and (e) and to its General Observations 1.3 and 1.4 on 'Encouraging ratification or accession to international human rights instruments' and 'Interaction with the international human rights system'.

7. Annual report

The SCA notes that, while Article 241(e) of the Constitution provides that "commissions shall submit annual reports to National Assembly on its accounts and activities", section 25 of the enabling Law requires that the ZHRC's annual report is first submitted to the President, who then submits it to the National Assembly. It also notes the delay in publication of ZHRC's annual reports.

The importance for a NHRI to prepare, publicize and widely distribute an annual report on its national situation with regard to human rights in general, and on more specific matters, is stressed. 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.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby the Institution's reports are required to be widely circulated, discussed and considered by the legislature. It would be preferable if the NHRI has an explicit power to table reports directly in the legislature, rather than through the Executive, and in so doing to promote action on them.

The SCA encourages the HRCZ to advocate for changes to its enabling law to clarify its explicit power to table all reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

8. Cooperation with other human rights bodies

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. In this regard it acknowledges the HRCZ's engagement and cooperation with civil society organizations.

The SCA encourages the HRCZ to develop, formalise and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

SPECIFIC RECOMMENDATIONS-REVIEW (Art. 16.2 of the GANHRI Statute)

3.1 Burundi: Commission nationale indépendante des droits de l'homme (CNIDH)

Recommendation: The SCA recommends that the CNIDH be downgraded to **B** status.

In accordance with Article 18.1 of the GANHRI statute, a recommendation to downgrade does not take effect for a period of one year. The SCA notes that the CNIDH maintains A status until the SCA's second session of 2017. This allows an opportunity for the CNIDH to provide the documentary evidence necessary to establish its continued conformity with the Paris Principles.

In May 2016, the SCA decided to undertake a Special Review of the accreditation status of the CNIDH at its second session in November 2016.

The SCA acknowledges that the political situation in Burundi at present is volatile and that the CNIDH is operating in extremely difficult circumstances. It has taken this into account in arriving at this decision.

The SCA received information which raised concerns that the CNIDH may no longer be operating in full compliance with the Paris Principles. The issues raised in May 2016 include actions taken or not taken by the CNIDH since June 2015, in the aftermath of the election in Burundi, and statements made or not made by CNIDH regarding gross human rights violations in the country.

The SCA notes that civil society organizations allege that the CNIDH:

- Is perceived as having taken positions that do not demonstrate independence from government;
- Has not taken a position vis-a-vis abuses by security forces and militias in respect of certain gross human rights violations, including arbitrary detention and extrajudicial executions; and
- Has underreported instances of serious human rights violations, including with respect to incidences of torture and the existence of mass graves.

The SCA further takes note of the report A/HRC/33/37 of the United Nations Independent Investigation on Burundi, which asserts that the CNIDH has issued one report since the crisis erupted, and that *“The report downplays gross human rights violations by indicating minimal numbers. As an illustration, for the whole of 2015, the report refers to 27 cases of torture and ill-treatment in contrast to 250 cases of torture and ill-treatment documented by OHCHR between April 2015 and April 2016”*.

The SCA takes note of the fact that the CNIDH disputes the allegations of the civil society organizations and the findings of the Independent Investigation.

The SCA considered the information provided by the CNIDH on actions it has undertaken during this period, including the following:

- Development of a strategy on the monitoring of human rights violations relating to the 2015 electoral period which defines CNIDH’s role in the prevention, monitoring and responses to human rights violations during the electoral period
- Activities undertaken by the CNIDH during the electoral period to promote human rights, including organisation of training and advocacy workshops for a wide range of stakeholders i.e. local administration, judiciary and police, religious leaders, women and youth leaders of the province of Bujumbura;
- Visits to 13 places of detention including prisons and custody cells where coup-leaders and demonstrators against the candidacy of the outgoing President were detained;
- Recommendations made to the Ministry of Justice on the situation of juvenile detainees;
- Declarations and press releases issued throughout the electoral process.

The SCA also took into consideration the CNIDH’s 2015 annual report which highlights its activities in protecting human rights, including by providing legal assistance to victims, monitoring detention conditions and providing protection to vulnerable groups (children, persons with mental disabilities and foreigners in conflict with the law) or persons under

threat. In addition, the NHRI provided data on the number of detainees released following actions having been taken by the CNIDH, improvement of detention conditions and physical protection. Finally, the annual report summarises the recommendations of the CNIDH to the Government, to the Ministry of Justice, to the judiciary, to the law enforcement services, to leaders of political parties, to civil society, to religious leaders, to the international community and to the general population.

During the session, the SCA gave the President of CNIDH the opportunity to provide his view on: the dissolution of the network of human rights observers; cooperation with civil society organisations; regularity of visits of place of detention; neutral position of CNIDH; actions undertaken to protect women victims of human rights violation and rape; downscaling of number of killings reported; number of complaints received; protection of internally displaced persons and refugees; cooperation with the international human rights mechanisms i.e. UN independent investigation on the situation of human rights in Burundi and military armed groups.

In view of all of the material before it, the SCA is of the view that CNIDH has not spoken out in a manner that promotes protection for human rights in response to credible allegations of gross human rights violations having been committed by government authorities. The failure to do so demonstrates a lack of its independence. Therefore, the SCA is of the view that CNIDH is acting in a way that has seriously compromised its compliance with the Paris Principles.

In accordance with the provisions of the GANHRI Statute, the SCA provides CNIDH the opportunity to provide, within one year, the evidence deemed necessary to establish its continued compliance with the Paris Principles.