

GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (GANHRI)

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

14-24 June 2021

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**Report, Recommendations, and Decision of the Virtual Session of the SCA,
14-24 June 2021**

1. BACKGROUND

1.1 In accordance with the Statute (Annex I) of the Global Alliance of National Human Rights Institutions (GANHRI), the SCA has the mandate to consider and review applications for accreditation, reaccreditation and special or other reviews received by the National Institutions and Regional Mechanisms Section (NIRMS) of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its capacity as the 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.

At its June/July 2020 session, the GANHRI Bureau adopted amendments to the SCA Rules of Procedure (RoP) and the General Observations.

At its March 2019 session, the GANHRI General Assembly adopted amendments to the GANHRI Statute.

1.2 In accordance with the RoP, the SCA is composed of NHRI representatives from each region: Morocco for Africa (Chair), The Netherlands for Europe, Palestine for Asia-Pacific and Guatemala for the Americas. In accordance with section 3.1 of the SCA's RoP, the NHRI of New Zealand, as alternate member for Asia-Pacific and the NHRI of Great Britain, as future member for Europe participated to learn about the procedures in practice, in advance of serving on the SCA;

1.3 The SCA virtually convened from 14 to 24 June 2021. OHCHR participated as a permanent observer in its capacity as GANHRI Secretariat. In accordance with established procedures, regional networks of NHRIs were invited to attend as observers. The SCA welcomed the participation of representatives from the Secretariats of the Asia-Pacific Forum (APF), European Network of National Human Rights Institutions (ENNHRI), Network of African National Human Rights Institutions (NANHRI) and Network of National Human Rights Institutions in the Americas (RINDHCA). The SCA also welcomed the participation of a representative from the GANHRI Head Office.

1.4 Pursuant to article 10 of the Statute, the SCA considered application for accreditation from the NHRI of Fiji.

1.5 Pursuant to article 14.1 of the Statute, the SCA took a decision regarding the re-accreditation of the NHRI of Cyprus.

1.6 Pursuant to article 15 of the Statute, the SCA considered applications for re-accreditation from the NHRIs of Burundi, Hungary, Ireland, Malaysia, Mauritius, Iraq, the Russian Federation and Scotland.

1.7 Pursuant to article 16.2 of the Statute, the SCA reviewed certain issues regarding the NHRI of Mexico. The SCA also decided to initiate a special review for the NHRIs of Nepal and Sri Lanka.

1.8 In accordance with the Paris Principles and the SCA RoP, the classifications for accreditation used by the SCA are:

A: Fully compliant with the Paris Principles;

B: Partially compliant with the Paris Principles or insufficient information provided to make a determination.

1.9 In the interests of clarity and as a good practice, where the SCA has recommended that an NHRI be accredited with other than A status, it has divided its recommendations between those that it “notes with concern” and those that it “notes”. The issues that have been noted “with concern” constitute the primary reasons for which the NHRI has not been accredited with A status.

1.10 The General Observations, 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 is 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.

1.11 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.

1.12 The SCA wishes to highlight its expectations that all NHRIs will take the necessary steps to pursue continuous efforts at improvement and to enhance effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA. Failure to do so may result in a finding that a NHRI is no longer operating in compliance with the Paris Principles.

1.13 Pursuant to Article 12.1 of the Statute, where the SCA comes to an accreditation recommendation, it shall be deemed accepted by the GANHRI Bureau unless it is successfully challenged by the applicant NHRI in accordance with the following process:

- i) The recommendation of the SCA shall, as soon as practicable, be forwarded to the applicant NHRI;

- ii) The applicant NHRI can challenge a recommendation of the SCA by submitting a letter addressed to the GANHRI Chairperson and copied to the GANHRI Secretariat within twenty-eight (28) days of the date of communication of the recommendation;
- iii) At the end of this twenty-eight (28) day period, the GANHRI Secretariat will forward to Bureau members, as soon as practicable, the recommendations of the SCA. If the applicant NHRI has not challenged the recommendation, it shall be deemed accepted by the Bureau;
- iv) If an applicant NHRI submits a challenge within these twenty-eight (28) days, the GANHRI Secretariat will forward to the Bureau, as soon as practicable, all relevant materials related to the challenge. GANHRI Bureau members will be provided with twenty (20) days in which to determine whether or not to support this challenge;
- v) Any member of the GANHRI Bureau that supports the challenge of the applicant NHRI shall, within twenty (20) days, notify the Chair of the SCA and the GANHRI Secretariat of this support. If the challenge does not receive the support of at least one (1) Bureau member within twenty (20) days, the recommendation of the SCA will be deemed accepted by the Bureau;
- vi) If at least one (1) member of the GANHRI Bureau supports the challenge of the applicant NHRI within these twenty (20) days, the GANHRI Secretariat will notify members of the Bureau as soon as practicable of this support and will provide any additional relevant information;
- vii) Once provided with this notification and any additional relevant material, any member of the GANHRI Bureau that supports the challenge of the applicant NHRI shall, within twenty (20) days, notify the GANHRI Chairperson and GANHRI Secretariat of this support. If the challenge does not receive the support of at least four (4) Bureau members in total coming from not less than two (2) regions within the twenty (20) days, the recommendation of the SCA will be deemed accepted by the Bureau;
- viii) If the challenge receives the support of at least four (4) Bureau members in total coming from not less than two (2) regions, the recommendation of the SCA shall be referred to the following GANHRI Bureau meeting for a decision.

1.14 At each session the SCA conducts a teleconference with every NHRI. It may also consult with and seek further information from NHRIs where necessary.

1.15 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.

1.16 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.

- 1.17 Pursuant to Article 16.4 of the Statute, any review of the accreditation classification of a NHRI must be finalized within 18 months.
- 1.18 The SCA acknowledges the high degree of support and professionalism of the GANHRI Secretariat (OHCHR-NIRMS).
- 1.19 The SCA shared the summaries prepared by the Secretariat with the concerned NHRIs before the consideration of their applications and gave one (1) week to provide any comments on them. The summaries are only prepared in English, due to financial constraints.
- 1.20 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/>).
- 1.21 The SCA considered information received from civil society. The SCA shared that information with the concerned NHRIs and considered their responses.
- 1.22 **Notes:** The GANHRI Statute, the Paris Principles, the General Observations and the Practice Notes 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>
 3. The Practice Notes:
<http://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/General%20Observations%20/Forms/Default%20View.aspx>

SPECIFIC RECOMMENDATIONS

1. ACCREDITATION (Art. 10 of the GANHRI Statute)

1.1 Fiji: Human Rights and Anti-Discrimination Commission (HRADC)

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

The SCA welcomes the establishment of the HRADC and the efforts it has made to promote and protect human rights. The SCA notes the HRADC ongoing strategic planning process and encourages it to continue strengthening its institutional framework and effectiveness in line with the recommendations below.

The HRADC is encouraged to continue to actively engage with GANHRI, the APF, the OHCHR, other NHRIs, as well as other relevant stakeholders at international, regional and national levels, in order to continue to strengthen its institutional framework and working methods.

The HRADC is also encouraged to continue to actively engage with the Government and all relevant stakeholders to advocate for a national human rights action plan in line with international human rights standards.

The SCA notes with concern:

1. Selection and appointment

Section 45(2) of the 2013 Constitution of the Republic of Fiji (the Constitution) establishes that the HRADC consists of a Chairperson and four Commissioners, appointed by the President of the Republic, on the advice of the Constitutional Offices Commission.

The Constitutional Offices Commission, as established under section 132 of the Constitution, comprises the Prime Minister, the Attorney-General, the Leader of Opposition, two members appointed by the President on the advice of the Prime Minister and one member appointed by the President on the advice of the Leader of the Opposition.

The SCA is of the view that the process enshrined in the Constitution is not sufficiently broad and transparent.

In particular, it does not:

- require the advertisement of vacancies for members; 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 HRADC 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. Term of Office

According to section 135(2) of the Constitution, members shall be elected for a 3-year term and are eligible for re-appointment. However, the Constitution does not impose any limitations on the number of terms, which leaves open the possibility of unlimited tenure. In order to promote institutional independence, the SCA encourages the term of office to be limited to one re-appointment.

The SCA encourages the HRADC to advocate for amendments to its enabling law to provide for such a limit on the term of office.

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

3. Full-time members

The Human Rights and Anti-Discrimination Commission Act 2009 (the Act) is silent on whether members serve in a full-time or part-time capacity.

The SCA is of the view that the enabling law of an NHRI should provide that members of its decision-making body include full-time remunerated members.

This assists in ensuring:

- a) The independence of the NHRI free 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 encourages the HRADC to advocate for the amendment of the Act to ensure that the decision-making body includes 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. Conflict of interest

According to section 7(2) of the Constitution, Commissioners can engage in other activities, including management or control of a body corporate, or of any other body carrying on business for profit if such engagement is granted by the Minister responsible for human rights.

The HRADC reports that section 11 of individual staff “contract of service” makes explicit reference to conflict of interest. For instance, there is an expressed provision in relation to conflict of interest in the employment contract of the Director of the HRADC.

However, there do not appear to be additional provisions – in legislation, regulation, or another binding administrative guideline – that provide further guidance on what types of activities constitute a conflict of interest or the process by which a determination would be made about the existence of such a conflict.

In addition, the HRADC reports that the Chairperson is also the Acting Chief Justice of the Supreme Court.

The HRADC reports that, in order to prevent conflict of interest, the Acting Chief Justice does not preside over constitutional redress applications, neither does he make decisions with respect to complaints before the HRADC.

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. The avoidance of conflicts of interest protects the reputation, and the real and perceived independence of an NHRI.

The SCA encourages the HRADC to advocate for the development of further binding guidance with respect to what constitutes a conflict of interest and the process by which a determination would be made about the existence of such a conflict.

The SCA refers to Paris Principle B.2

The SCA also notes:

1. Adequate funding and financial autonomy

The SCA notes that the HRADC would benefit from additional funding in order to carry out its functions, specially to allow recruitment of additional staff.

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 these priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the NHRI’s operation 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 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 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 an 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 HRADC to advocate for the funding necessary to ensure that it can effectively carry out its mandate.

The SCA further notes that the HRADC reports that the Ministry of Economy has the authority to revise the HRADC's budget proposal in line with the rules governing independent institutions and statutory bodies. The SCA acknowledges that, the HRADC reported that it has never been under any direction from the Ministry of Economy.

The SCA notes that the classification of an NHRI as an independent State agency has important implications for the regulation of certain practices, including reporting, recruitment, funding and accounting. Where a State has developed uniform rules or regulations to ensure State agencies are properly accountable for the use of public funds, the application of such rules or regulations on an NHRI is not considered inappropriate provided they do not compromise the NHRI's ability to perform its role independently and effectively.

Accordingly, the SCA encourages the HRADC to advocate for appropriate modifications to applicable administrative procedures to ensure that its independence and financial autonomy is guaranteed.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs' and General Observation 2.7 on 'Administrative regulation of NHRIs.'

2. Quasi-judicial functions

In accordance with section 29(1) of the Act, the HRADC must investigate any complaint it receives, unless before commencing or during the investigation it decides not to do so because:

- a) the complaint is not within its jurisdiction;
- b) the complaint is trivial, frivolous, vexatious or not made in good faith;
- c) the complainant, or a person acting on his or her behalf, has brought proceedings relating to the same matter in a court or tribunal;
- d) the complainant has another remedy or channel of complaint available that could reasonably be expected to use;
- e) the complainant has not a sufficient interest in the complaint;
- f) the person alleged to be aggrieved does not desire that the complaint to be investigated;
- g) the complaint has been delayed too long to justify an investigation;
- h) the HRADC has before it matters more worthy of its attention;
- i) HRADC lack of resources for an adequate investigation, and may defer or discontinue an investigation for any of these reasons.

The SCA is concerned that the wording of subsection 29(1)(h) suggests that some human rights complaints have more intrinsic value than others. While the SCA acknowledges the necessity for an NHRI to be able to manage a complaints-handling process efficiently through criteria for triage, it considers the wording of this provision to be against the spirit of human rights. Accordingly, the SCA encourages the HRADC to advocate for an amendment of the Act to remove subsection 29(1)(h).

Where an NHRI has been provided with a mandate to receive and consider complaints alleging violations of human rights, an NHRI should ensure that complaints are dealt with fairly, transparently, efficiently, expeditiously, and with consistency. In order to do so, an 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 refers to Paris Principles A.1, A.2, A.3 and D(d) and to its General Observation 2.9 on 'The quasi-judicial competency of NHRIs (complaints-handling).'

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

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

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

The SCA commends the efforts undertaken by the CNIDH to promote and protect human rights in the challenging context in which it operates. The SCA encourages the CNIDH to continue these efforts, and to strengthen its institutional framework and effectiveness in line with the recommendations below.

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

The CNIDH is encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

The SCA notes:

1. Mandate

Article 4 and 5 of the Law provides for the CNIDH mandate to promote and protect human rights.

The SCA is of the view that an NHRI's mandate should be interpreted in a broad and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights.

The SCA encourages the CNIDH to continue to interpret its mandate in a way that promotes the realization of all human rights including social, economic and cultural rights.

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

2. Adequate funding

While acknowledging that the CNIDH's budget has increased in 2020, the SCA encourages the CNIDH to continue to advocate for additional funding to ensure that it can effectively carry out the full breadth of its mandate, particularly in view of its efforts to engage more with civil society and public authorities.

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.

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

3. Pluralism and diversity

Article 8 of the Law requires that the selection and appointment of members takes into account the diversity and pluralism of the Burundian society, ensuring that ethnic, regional and gender balance are respected.

However, the CNIDH reports that in practice, there is no Commissioner from the Twa ethnic community.

The SCA notes that pluralism and diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates.

The SCA encourages the CNIDH to take steps to ensure pluralism, including representation of diverse ethnic groups, in its composition of members and staff.

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

4. Interaction with the international human rights system

The SCA acknowledges the activities the CNIDH has taken to interact with the international human rights system.

The SCA emphasizes that monitoring and engaging with regional and international human rights systems, 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 highlights that depending on existing domestic priorities and resources, effective engagement with regional and international human rights systems may include:

- submitting alternative reports to the Universal Periodic Review and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council;
- supporting, facilitating and contributing to 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 recommendations originating from regional and international human rights systems.

The SCA encourages the CNIDH to continue these efforts.

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’.

2.2 Hungary: Commissioner for Fundamental Rights of Hungary (CFR)

Recommendation: The SCA recommends that the CFR 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 CFR maintains A status until the SCA’s

first session of 2022. This allows an opportunity for the CFR to provide the documentary evidence necessary to establish its continued conformity with the Paris Principles.

The CFR is encouraged to continue to actively engage with GANHRI, ENNHRI, the OHCHR, other NHRIs, as well as other relevant stakeholders at international, regional and national levels, in order to continue to strengthen its institutional framework and working methods.

The SCA notes with concern:

1. Addressing human rights violations

The SCA had received information from the Special Rapporteur on the situation of human rights defenders in 2017 that amendments to the CFR enabling law and the lack of enforceability of its recommendations have weakened its protection mandate in relation to certain rights and that, despite its mandate, the CFR has been reluctant to refer complaints to the Constitutional Court for review in cases that it deems political or institutional.

The Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, as well as the UN Human Rights Committee expressed concerns regarding the “Foreign Funded Organizations Act”. The SCA also received a report from partner organizations of the CFR highlighting several human rights issues in the country including in relation to vulnerable ethnic minorities, migrants and asylum seekers.

The SCA also received information from civil society that the CFR had failed to step up in support of the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, known as the Istanbul Convention.

Based on the CFR written and oral response to the above issues, the SCA is of the view that the CFR has not effectively engaged on and publicly addressed all human rights issues, including in relation to vulnerable groups such as ethnic minorities, LGBTI, refugees and migrants as well as constitutional court cases deemed political and institutional, media pluralism, civic space and judicial independence.

The SCA is of the view that the CFR has not spoken out in a manner that promotes protection of all human rights. The failure to do so demonstrates a lack of sufficient independence. Therefore, the SCA is of the view that the CFR is operating in a way that has seriously compromised its compliance with the Paris Principles.

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 notes:

1. Selection and Appointment

Article 9(3)(j) of the Fundamental Law of Hungary provides that the President of Hungary nominates a candidate to Parliament for election as Commissioner.

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

- Require the advertisement of vacancies;
- Establish clear and uniform merit criteria on which candidates are assessed; and
- Specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.

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 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 reiterates its concerns and encourages the CFR to continue to advocate for the formalization and application of a process that includes requirements to:

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

In this regard, the SCA notes that Section 7(4) of Act CXI of 2011 on the Commissioner for Fundamental Rights provides that the Commissioner shall seek advice from the nationality self-government before proposing the Deputy Commissioner responsible for the protection of the rights of national minorities.

The SCA encourages the CFR to consider a similar amendment to the process of selection for the Commissioner, as well as such other amendments as may be required to address the issues outlined above.

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. Interaction with the international human rights system

The SCA recognizes that CFR has partially engaged with international and regional human rights mechanisms but that it has made limited use of such mechanisms in relation to sensitive issues.

The SCA recognizes 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 the CFR to cooperate with and seek assistance, as necessary, from OHCHR, GANHRI and ENNHRI. 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'.

3. Cooperation with Civil Society

The SCA emphasizes that regular and constructive engagement of all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates, and contribute to the accessibility of the institution for all, including those who are geographically, politically or socially remote NHRIs should develop, formalize and maintain working relationships as appropriate with other domestic institutions, as well as civil society and non-governmental organizations.

Broad engagement with all stakeholders improves the effectiveness of an NHRI in implementing its mandate to promote and protect human rights by providing a better understanding of the breadth of human rights issues across the state; the different impact of such issues based on social, cultural, geographic and other factors; gaps; priorities; and implementation strategies.

The SCA therefore encourages the CFR to continue to enhance and formalize its working relationships and cooperation with civil society organizations and human rights defenders, including those working on the rights of vulnerable groups.

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

2.3 Ireland: Irish Human Rights and Equality Commission (IHREC)

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

The SCA commends the efforts of the IHREC to promote and protect human rights in the Republic of Ireland. It encourages the institution to continue these efforts.

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

The IHREC is encouraged to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

The SCA notes:

1. Human Rights Mandate

The Irish Human Rights and Equality Commission Act 2014 (the Act) provides two definitions of ‘human rights’ in Section 2 and Section 29 where the latter is used for purposes of construing Part 3 on the enforcement and compliance provisions. The SCA notes that the Committee on Economic, Social, and Cultural Rights expressed concern about the limitation of the definition in Section 29.

The SCA acknowledges that “although the IHREC has argued that a wider definition of human rights should apply to all of its powers, the Government has argued that a wider definition in Part 3 would attract constitutional difficulties and legal challenge”.

The SCA is of the view that an NHRI should be legislatively mandated with specific functions to both promote and protect all human rights. An NHRI’s mandate should be interpreted in a broad, liberal, and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional, and domestic instruments, including economic, social, and cultural rights.

The SCA encourages the IHREC to continue to advocate for appropriate amendments to its enabling law to ensure that the full range of civil, political, economic, social, and cultural rights shall apply to all its powers.

The SCA also notes that the Act does not provide the IHREC with an explicit mandate to encourage ratification or accession to international human rights instruments.

Encouraging ratification of, or accession to international human rights instruments, and the effective implementation of international human rights instruments to which the state is a party, is a key function of an NHRI. The SCA considers it important that these duties form part of the legislative mandate of an NHRI.

The SCA acknowledges that the IHREC interprets its mandate broadly to include activities in this regard. However, the SCA reiterates its recommendation in November 2015 to advocate for changes to IHREC's enabling law to mandate it with explicit responsibility to encourage ratification or accession to international instruments.

Further, the SCA notes that the IHREC does not have an explicit mandate to monitor places of deprivation of liberty. The SCA acknowledges that the IHREC engaged with policy-makers, civil society, and government departments on the ratification of the UN Optional Protocol to the Convention against Torture and has provided views as to the establishment of a National Preventative Mechanism in the country. The SCA encourages the IHREC to advocate for an explicit mandate to conduct unannounced visits to all places of deprivation of liberty.

The SCA refers to A.1, A.2, A.3 and D(d) and to its General Observation 1.2 on 'Human rights mandate,' 1.3 on 'Encouraging ratification or accession to international human rights instruments,' 2.8 on 'Assessing NHRIs as National Preventive and National Monitoring Mechanisms' and 1.6 on 'Recommendations by NHRIs.'

2. Selection and appointment

Section 13 of the Act provides for the Commissioners' selection and appointment process.

The SCA notes that Section 13(6) provides that the Minister shall agree with the Public Appointments Service the selection criteria and process to be implemented in respect of the filling of any vacancy on the Commission. The SCA notes that while Section 13 provides certain requirements for the selection and appointment process, including the requirements to ensure diversity and pluralism and the publicizing of the vacancies, the law is silent on a permanent selection criteria and process. Moreover, the process currently enshrined in law is not sufficiently broad and transparent. In particular, it does not:

- Promote broad consultation and/or participation in the application, screening, selection, and appointment process, particularly by civil society; and
- Assess applicants on the basis of pre-determined and objective criteria.

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 IHREC to advocate for the formalization and application of a process that includes requirements to:

- a) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- b) Promote broad consultation and/ or participation in the application, screening, selection and appointment process;
- 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 encourages the IHREC to advocate for the formalization and application of a uniform process that ensures the broad participation of civil society in the selection and appointment process and the assessment of applicants on the basis of pre-determined and objective criteria.

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

3. Adequate funding

While acknowledging that the IHREC’s budget has consistently increased, the SCA encourages the IHREC to continue to advocate for additional funding to ensure that it can effectively carry out the full breadth of its mandate. The IHREC reports that its mandate has expanded and its responsibilities are increasing, thus IHREC notes it would benefit from additional funding for both its existing mandate and all expanded powers.

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 wide 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 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 an NHRI has been mandated with additional responsibilities by the State, it must be provided with additional financial resources to enable it to assume the responsibilities of discharging these functions

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

4. Term of office

The Act provides that members shall hold office for a period not exceeding five years determined by the President of Ireland, on the advice of the Government. The SCA notes that the Act is silent on the minimum period that each member may hold office, except for those persons appointed on the day of IHREC establishment. In practice, the IHREC reports that, with the exception of the first appointment, all members so far have been appointed for five-year terms.

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 (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 between three (3) and seven (7) years with the option to renew once be provided for in the NHRI's enabling law.

While acknowledging that in practice all members of the IHREC appointed after the establishment day were appointed for five-year terms, the SCA encourages the IHREC to advocate for amendment to its enabling law to provide for a fixed minimum term of appointment for members of the Commission.

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

2.4 Malaysia: Human Rights Commission (SUHAKAM)

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

The SCA commends the efforts of the SUHAKAM to promote and protect human rights. It encourages the institution to continue these efforts.

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

SUHAKAM is encouraged to continue to actively engage with the OHCHR, GANHRI, the APF, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening its institutional framework and working methods.

The SCA acknowledges the amendments proposed by SUHAKAM to its enabling law and encourages it to continue to advocate for their adoption by parliament.

The SCA notes:

1. Selection and appointment

In accordance with section 5(2) of the Human Rights Commission of Malaysia Act (the Act), the King, on recommendation of the Prime Minister, appoints SUHAKAM Commissioners. Section 11A of the Act provides for the establishment of a Selection Committee to support the Prime Minister, comprised of the Chief Secretary to the Government, the Chairperson of the Commission, and three (3) members of civil society, appointed by the Prime Minister, who have knowledge of or practical experience in human rights matters. The Act therefore provides the Prime Minister with discretion to nominate the three civil society candidates on the Selection Panel.

The SCA is still of the view that, while the Prime Minister must consult the Selection Committee, there should be a legal requirement that recommendations be made from the list of candidates that were been determined by the independent Selection Committee to be suitable for appointment.

The SCA highlights that the combination of these two factors leaves open the potential for political interference.

The SCA acknowledges the amendments prepared by SUHAKAM to its enabling law to address these concerns and encourages SUHAKAM to continue to advocate for the adoption of those amendments.

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

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which the Selection Committee assesses the merit of 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 SUHAKAM 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. Full-time members

The Act does not specify whether SUHAKAM members serve in a full-time or part-time capacity. SUHAKAM reports that members serve on a part-time basis.

The SCA acknowledges that SUHAKAM has proposed amendments to section 5(1) of its Act to provide for the appointment of both full-time and part-time Commissioners.

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

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

The SCA encourages SUHAKAM to continue to advocate for the appropriate amendment to its establishing law to address this concern.

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

3. Adequate funding

While acknowledging that SUHAKAM receives annual budget to enable it to discharge its functions, SUHAKAM reports that it has budget constraints to effectively carry out the full breadth of its mandate.

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 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.

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

4. Cooperation with other human rights bodies

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates. In this regard, the SCA welcomes the advice from SUHAKAM that it recognizes the crucial role of civil society organizations (CSOs) and non-

governmental organizations (NGOs) in promoting and protecting human rights, and that it has intensified its engagement and cooperation with CSOs and NGOs in various ways.

The SCA reiterates that NHRIs should maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society and non-governmental organizations.

The SCA encourages SUHAKAM to maintain and strengthen these relationships and refers to Paris Principle C (g) and to its General Observation 1.5 on 'Cooperation with other human rights bodies'.

5. Annual and Special Reports

In accordance with section 21 of the Act, SUHAKAM may submit annual and thematic reports to Parliament. However, there is no requirement for the Parliament to debate the report.

The SCA acknowledges advice from SUHAKAM that, for the first time, in 2018, its Annual Report was debated in the Parliament and that it is proposing amendments to the Act to include a requirement for Parliament to debate its reports.

The SCA considers it important that the enabling law establish a process whereby the NHRIs reports are required to be publicly circulated, and tabled, discussed and considered by the legislature. It is preferable for an NHRI to have the explicit power to table reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them.

The SCA encourages SUHAKAM to continue to advocate for this competence.

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

3. Dismissal

In accordance with section 10(d) of the Act, the King may remove a member, on the advice of the Prime Minister, if he is of the opinion that a member:

- (i) has engaged in any paid office or employment which conflicts with his duties as a members of the Commission;
- (ii) has misbehaved or conducted himself in such a manner as to bring disrepute to the Commission; or
- (iii) has acted in contravention of the Act and in conflict with his duties as a member of the Commission.

This provision provides significant discretion to the Prime Minister in recommending the removal of a member, and, as some of the grounds are discretionary, does not provide sufficient protection against political interference.

The SCA notes the draft amendment to subsection 10(d)(ii) of the Act proposed by SUHAKAM, which would require a finding of guilt by a tribunal or court for a criminal offence or misconduct before a Commissioner can be dismissed.

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.

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. Dismissal should not be allowed based solely on the discretion of the appointing authorities.

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

The SCA encourages SUHAKAM to continue advocate for appropriate amendments to its Law to ensure an independent and objective dismissal process.

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'.

2.5 Mauritius: National Human Rights Commission of Mauritius (NHRC)

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

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

The NHRC is encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

The SCA notes:

1. Interaction with the international human rights system

The NHRC informs that it is an observer member of the Mauritius National Mechanism for Reporting and Follow-up (NMRIF) mandated to coordinate and prepare reports to and engage with international and regional human rights mechanisms. The NHRC also informs that it contributes to the State reports to Treaty Bodies while it has not submitted parallel reports to the Treaty Bodies.

The SCA recognises 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 reiterates the importance for the NHRC to engage with the international human rights system independently of government. This 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.

The SCA encourages the NHRC to engage effectively and independently with the international human rights systems.

The SCA refers to Paris Principle A.3 and to its General Observation 1.4 on ‘interaction with the international human rights system’.

2. Cooperation with other national bodies

Further, the NHRC reports the establishment of an Independent Police Complaints Commission in 2016 with the mandate to, inter alia, handle complaints against police officers acting in the course of their duties. The SCA is of the view that the NHRC should develop, formalize and maintain working relationships, as appropriate, with this commission and domestic institutions established for the promotion and protection of human rights.

The SCA emphasizes that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandate. The SCA encourages the NHRC to continue and strengthen its cooperation with national Commission in charge of police brutality and other bodies.

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

3. Pluralism and diversity

The law is silent with regard to the pluralism and diversity of staff and members. The NHRC reports that its membership and staff, in practice, reflect the ethnic and religious diversity in the country.

Pluralism and diversity facilitate the appreciation of, and capacity to engage on, all human rights issues affecting the society in which an NHRI operates. In addition, it promotes the accessibility of the NHRI for all people in Mauritius. The SCA encourages the NHRC to take steps to ensure pluralism in its composition through the development of binding instruments or guidelines.

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

4. Selection and appointment

Section 3(8) of the Act establishes that the NHRC members are appointed by the President of the Republic upon advice of the Prime Minister and subsequent to consultation with the Leader of the Opposition. Further, the Act is silent on the advertisement of vacancies for the posts of Chairperson and members. The NHRC reports that civil society organisations are informally consulted in the process.

The SCA reiterates that the process currently enshrined in the Act is not sufficiently broad and participatory. In particular, it does not formalise the process for achieving broad consultation and/or participation of civil society organisations 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.

The SCA continues to encourage the NHRC to advocate for the formalisation 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 of civil society organisations in the application, screening, selection and appointment process.
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and

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'.

5. Adequate funding

The SCA acknowledges that the NHRC's budget has been unchanged partly due to the COVID-19 pandemic. The NHRC reports that the level of funding is insufficient to meet its human resources needs, including the recruitment of additional staff working on substantive issues.

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 realization of the improvement of the NHRI's operations and the fulfilment of its mandate, including salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent institutions of the State.

The SCA encourages the NHRC to continue to advocate for adequate funding, including to ensure the recruitment of a sufficient number of staff.

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

6. Annual report

Pursuant to Section 11(1) of the Act, the NHRC submits its annual report to the President of the Republic who shall lay the report before the Assembly within one month. The NHRC informs that the annual report is made public. While the National Assembly may address parliamentary questions to the Executive, the process does not provide for a debate on the annual report of the NHRC within the National Assembly.

The SCA considers it important that the enabling laws of an NHRI establishes a process whereby its reports are required to be discussed and considered by the legislature, to ensure that relevant public authorities properly consider its recommendations.

The SCA encourages the NHRC to advocate for the appropriate amendment to its enabling law to ensure that the National Assembly discusses and considers its annual, specials and thematic reports.

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

7. Staffing

The SCA notes NHRC’s efforts to recruit its own staff freely. However, the NHRC reports that 70% of its staff in charge of administrative and financial tasks are secondees including in high level position such as the NHRC Secretary as per Section 5(1) of the Act.

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 the capacity of the NHRI to function independently. NHRIs should be legislatively empowered to determine the staffing structure, the skills required to fulfil the Institution’s mandate, set other appropriate criteria, and select their staff in accordance with national law.

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

2.6 Iraq: Iraqi High Commission for Human Rights (IHCHR)

Recommendation: The SCA recommends that the IHCHR be re-accredited with **A** Status.

The SCA commends the efforts made by the Iraqi High Commission for Human Rights (IHCHR) to promote and protect human rights in the challenging context in which it operates, including its efforts to address the previous recommendations made by the SCA through its activities since its last review in 2015.

The SCA notes in particular, its efforts to advocate for the amendment of the Amended Law of the Iraqi High Commission for Human Rights (2008) (IHCHR Amended Law), especially the provisions on tenure, appointments and selection.

The SCA encourages the IHCHR to continue its efforts to promote and protect all human rights, and to continue to strengthen its institutional framework and effectiveness in line with the recommendations below.

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

The IHCHR is encouraged to continue to actively engage with the OHCHR, GANHRI, the APF, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

1. Selection and Appointment

Article 7 of the IHCHR Amended Law stipulates that the Council of Representatives shall form a Committee of Experts, of a maximum of 15 members, and that this Committee shall select members of the Board of Commissioners. It further stipulates in article 8(1) that an absolute majority of the Council of Representatives (the National Parliament) shall approve the selected members. In

accordance with article 7(2), the Committee of Experts conducts the selection through a national communique.

The IHCHR reports that, in practice, announcements for vacancies are made in the gazettes, the media, and their website, and that the Committee of Experts establishes a shortlist. Applicants are then reviewed and a list of selected candidates is sent to the Council of Representatives for approval.

While the SCA acknowledges that the Committee of Experts has been composed of various stakeholders including civil society representatives, it remains concerned that the composition as described in the IHCHR Amended Law does not provide for a specified number of civil society or non-government representatives. This leaves open the possibility for the Committee of Experts to be comprised predominantly of government representatives.

The SCA is of the view that the process currently in place is not explicitly enshrined in the Law and is not sufficiently broad and transparent. In particular, it does not promote broad consultation and/or participation in the application, screening, selection, and appointment process for all members.

The SCA acknowledges the efforts made by the IHCHR to advocate for amendments to this aspect of the IHCHR Amended Law, which it encourages the IHCHR to continue.

The SCA is of the view that 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 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 uniform 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. Term of Office

According to Section 8(6) of the IHCHR Amended Law, the members of the IHCHR serve a four-year term. The IHCHR Amended Law is silent on the number of times a member can be re-appointed, which leaves open the possibility of unlimited tenure. In order to promote institutional independence, the SCA is of the view that it would be preferable for the term of office to be limited to one re-appointment.

The SCA encourages the IHCHR's to continue to advocate for amendments to its enabling law to provide for such limits on the term of office.

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

3. Adequate funding and financial autonomy

The SCA notes that article 14(3) of the IHCHR Amended Law requires the IHCHR to seek approval from the Council of Representatives prior to receiving donor funding. Although the IHCHR reported that, in practice, this provision has never been used, the SCA encourages the IHCHR to advocate for the removal of this restriction under the IHCHR Amended Law, to ensure it enjoys full autonomy.

The SCA is of the view that as it is the responsibility of the State to ensure the NHRI's core budget. Funding from external sources, such as from international development partners, should not constitute the NHRI's core funding. However, it 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. This is particularly applicable in post-conflict States. In these circumstances, NHRIs should not be required to obtain approval for external sources of funding, as this requirement may pose a threat to its independence.

While the SCA acknowledges that the IHCHR has undertaken activities within its existing budget, it notes that the IHCHR has reported that it would benefit from more funding especially in relation to its activities.

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 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 IHCHR to continue to advocate for an appropriate level of funding to carry out its mandate.

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

4. Accessibility (linguistic)

The SCA notes the efforts that the IHCHR has made to become more accessible to all linguistic and ethnic groups, including its intention to expand the website to include the Kurdish language.

The SCA highlights the importance of ensuring the accessibility of information about an NHRI, its services and activities, as this assists individuals and groups in bringing attention to violations of human rights. The SCA emphasizes that in multilingual societies, the NHRI’s capacity to communicate in all languages is key to its accessibility.

The SCA encourages the IHCHR to continue these efforts and ensure that the institution becomes even more accessible to all linguistic and other groups.

5. Interaction with the international human rights system

The SCA acknowledges the steps taken by the IHCHR to engage with the international human rights mechanisms including various treaty bodies and special procedures mandate holders.

The SCA emphasizes that monitoring and engaging with regional and international human rights systems, 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 highlights that effective cooperation with regional and international human rights systems may include:

- submitting alternative reports to the Universal Periodic Review and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council;
- supporting, facilitating and contributing to 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 recommendations originating from regional and international human rights systems.

The SCA acknowledges the activities IHCHR has taken in this regard, and encourages it to continue these efforts.

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’.

2.7 Russian Federation: Office of the High Commissioner for Human Rights (OCHR)

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

The SCA commends the OCHR’s efforts to address the previous recommendations through its activities since its last review in 2019.

The SCA notes in particular, the OCHR’s efforts to advocate for the amendment of its legislation.

The SCA encourages the OCHR to continue its efforts to promote and protect all human rights, and to continue to strengthen its institutional framework and effectiveness in line with the recommendations below.

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

The OCHR is encouraged to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

1. Selection and appointment

The SCA notes that Articles 2, 7 and 8(1) of the OCHR enabling law state that the Commissioner is appointed by a qualified majority of the State Duma, based on proposals for candidates that can be made by the President of the Russian Federation, the Council of the Federation of the Assembly, Deputies of the State Duma, or Deputies of associations in the State Duma.

The SCA acknowledges that the OCHR reported it is engaging in a dialogue with the State Duma to seek amendments to its legislation in order to address the previous recommendations by the SCA on selection and appointment.

The SCA is of the view that the process enshrined in the law is not sufficiently broad and transparent, as it does not:

- require the advertisement of vacancies;
- establish clear and uniform merit criteria on which candidates are assessed;
- 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 OCHR to advocate for the formalization and application of a uniform 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. Human Rights Mandate

The SCA acknowledges information received from the OCHR in relation to its activities and efforts to promote and protect a range of human rights including civil and political rights and business and human rights.

The SCA notes that the mandate of the OCHR does not encompass the acts or omissions of private entities. The OCHR informed that it is working alongside authorities for an amendment to its law that would broaden its mandate to cover private entities as well.

The SCA encourages the OCHR to advocate for a broader mandate that includes the ability to address all human rights violations resulting from the acts and omissions of private entities. In this regard, the SCA emphasizes that, where an NHRI has been mandated with additional responsibilities, it must be provided with additional resources to enable it to assume the responsibilities of discharging these functions.

In addition, the OCHR has provided limited information in relation to its work on groups in a vulnerable position such as the LGBTI community.

The SCA encourages the institution to strengthen its efforts to address all human rights issues and expand upon its activities in particular monitoring the rights of human rights defenders and political prisoners. The SCA further encourages the OCHR to ensure that its positions on these issues are made publicly available, as this will contribute to strengthening the credibility and accessibility of the institution for all people in Russia.

An NHRI’s mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights, which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights. NHRIs are required to promote and ensure respect for all human rights, democratic principles, and the strengthening of the rule of law in all circumstances, and without exception.

The SCA refers to Paris Principles A.1, A.2, A.3 and B.2 and to its General Observation 1.2 on ‘Human rights mandate’ and 1.10 on ‘Adequate funding of NHRIs’

3. Monitoring places of deprivation of liberty

The SCA notes, that in Article 23 (1) of the Law on the Commissioner for Human Rights of the Russian Federation, provides the Commissioner with the mandate to visit places of deprivation of liberty. However, the SCA notes that the Commissioner reported that this mandate is only given to the Commissioner and not to OCHR’s staff, and that this affects the institution’s ability to carry out this mandate effectively.

The SCA notes that the OCHR is also advocating for having the mandate to function as a National Preventive Mechanism.

The SCA encourages the Commissioner to advocate for the OCHR staff to also be authorized to conduct unannounced visits to all places of deprivation of liberty.

The SCA refers to Paris Principles A.2, A.3 and D (d) and to its General Observations 1.2 on ‘Human rights mandate and G.O 2.8 on “Assessing NHRIs as National Preventive and National Monitoring Mechanisms”.

4. Recommendations by NHRIs

The OCHR reports that while there has been a positive response to its recommendations by relevant State authorities, there is scope for systematic follow-up and implementation of its recommendations by the authorities.

The SCA is of the view that annual, special, and thematic reports of NHRIs serve to highlight key national human rights concerns and provide the means by which these bodies can make recommendations to, and monitor respect for, human rights by public authorities. In fulfilling its protection mandate, an NHRI must not only monitor, investigate, publish 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 of its recommendations and findings, and the protection of those whose rights were found to be violated.

The SCA encourages the OCHR to conduct follow up activities to monitor the extent to which its recommendations have been implemented. It further encourages the OCHR to make publicly available its reports, studies and press releases, including through its website. The SCA refers to Paris Principles A.3(a), C(c), and D(d), and to its General Observation 1.6 on ‘Recommendations by NHRIs’.

5. Cooperation with civil society and other human rights bodies

The SCA acknowledges that the OCHR has provided information regarding its cooperation with civil society organizations in practice.

The SCA further notes that its level of cooperation with some public and local authorities could be improved.

The SCA is of the view that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandate. Broad engagement with all stakeholders improves the effectiveness of an NHRI in implementing its mandate to promote and protect human rights by providing a better understanding of:

- the breadth of human rights issues across the state;
- the different impacts of such issues based on social, cultural, geographic and other factors;
- gaps and priorities;
- and implementation strategies.

NHRIs should develop, formalize and maintain working relationships with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

The SCA encourages the OCHR to enhance and formalize relationships and cooperation with other domestic human rights stakeholders, including civil society organizations and human rights defenders, particularly in relation to groups in vulnerable position.

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

2.8 Scotland: Scottish Human Rights Commission (SHRC)

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

The SCA commends the efforts of the SHRC to promote and protect human rights. It encourages the institution to continue these efforts.

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

The SHRC is encouraged to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

The SCA notes:

1. Human Rights Mandate

Section 2(2) of the SCHR Act defines human rights as (a) the Convention rights within the meaning of section 1 of the Human Rights Act 1998 (c.42), (that is the rights in articles 2-12 and 14 of the European Convention on Human Rights as well as articles 1 to 3 of the First Protocol and articles 1 and 2 of the sixth Protocol), and (b) other human rights contained in any international convention, treaty or other International instrument ratified by the United Kingdom. The definition of human rights is therefore restricted to conventions ratified by the UK.

The SCA acknowledges that the SHRC interprets its mandate more broadly than the formal reading of this provision. It encourages the SHRC to continue to interpret its mandate in a broad, liberal and purposive manner to promote a progressive definition of human rights, which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights.

Section 11 of the SCHR Act empowers the SHRC to visit places of detention for inquiry purposes only. The power is limited to planned visits.

The SCA acknowledges the effective work SHRC is doing as member of the national preventive mechanism (NPM) under the Optional Protocol to the Convention against Torture (OPCAT). The SCA recognises that the SHRC was routinely involved in the inspection of Scotland's prison estate at the invitation of Her Majesty's Inspectorate of Prisons in Scotland (HMIPS). The SCA is of the view that the SHRC should be enabled to conduct unannounced and unaccompanied visits to places of detention as part of its protection mandate including in cooperation with other relevant bodies.

The SCA recognises that the SHRC has intervened in court proceedings regarding the applicability of human rights to private companies exercising public functions. The SCA recommends that the SHRC

advocate for appropriate amendments to its enabling law to include a more expansive definition of human rights and to extend to acts and omissions of private entities.

The SCA refers to Paris Principles 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 paragraph 1(2) of Schedule 1 of the Act, the Chair of the SHRC is appointed by Her Majesty on the nomination of the Scottish Parliament. In accordance with Rule 3.11 of the Standing Orders of the Scottish Parliament, a selection panel consisting of the convener of the most relevant Committee of the Scottish Parliament and between four and seven other Members of Parliament makes a recommendation on the appointment.

Further, in accordance with paragraph 1(3) of Schedule 1 of the Act, the other members of the SHRC are appointed by the Scottish Parliamentary Corporate Body, which is chaired by the Presiding Officer of the Scottish Parliament and consist of at least four other Members of Parliament drawn from government and the opposition parties.

While acknowledging that, in practice, the selection and appointment processes for the Chair and members are conducted in an open and transparent manner, the SCA is of the view that these processes, as provided for in the enabling law, are not sufficiently broad and transparent. In particular, they do not:

- require the advertisement of vacancies;
- establish clear and uniform criteria;
- ensure that such criteria are uniformly used to assess the merit of all eligible applicants; and
- promote broad 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 the 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 acknowledges that the SHRC sought to address the previous SCA recommendations with regard to the selection and appointment of Commissioners and has engaged in further dialogue with the Scottish Parliament Corporate Body in this regard.

The SCA encourages the SHRC to continue to advocate for amendments to its enabling law to ensure the formalization 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 especially of civil society organizations 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. Adequate funding

While acknowledging that the SHRC’s budget has been sufficient to allow it to largely meet the terms of its mandate, the SCA encourages the SHRC to continue to advocate for additional funding to ensure that it can effectively carry out the full breadth of its mandate.

The SHRC informed the SCA that it requires additional resources in preparation for and implementation of the increasing tasks it would receive in view of the planned incorporation of several UN treaties into Scots law.

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 fulfillment 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 refers to Paris Principle B.2 and to its General Observation 1.10 on ‘Adequate funding of NHRIs’.

3. DECISION (Art 14.1 of the GANHRI Statute)

3.1 Cyprus: Commissioner for Administration and Human Rights (the Ombudsman)

Decision: The SCA decides that further consideration of the re-accreditation application of the CAHR will be **deferred** for 18 months (or three sessions).

The SCA acknowledges the efforts made by the CAHR to address the previous recommendations through its activities since its last review in 2015. The SCA notes the amendment to the NPM law authorizing the CAHR conduct unannounced visits to places of deprivation of liberty.

The SCA encourages the CAHR to continue its efforts to promote and protect all human rights, and to continue to strengthen its institutional framework and effectiveness in line with the recommendations below.

The CAHR is encouraged to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional and national levels, in particular, in order to continue strengthening their institutional framework and working methods.

The SCA notes with concern:

1. Selection and appointment

In accordance with section 3 (1) of the Commissioner for Administration Law (the enabling law), the President, upon recommendation of the Council of Ministers and with the prior consent of the majority of the House of Representatives, appoints the Commissioner for Administration and Human Rights. The SCA acknowledges the information provided by the CAHR that the safeguards for the selection and appointment of the Commissioner are stronger if compared to other independent public functions.

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

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which 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 CAHR to advocate for the formalization 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. Mandate

The CAHR enabling law still provides a limited promotion mandate. However, the SCA notes that the CAHR undertakes a wide range of promotional activities in practice, including awareness campaigns and issuance of public statements.

Moreover, Article 2 of the enabling law limits CAHR power to investigate complaints against a number of public officials, such as the President, Attorney General, Auditor General, Central Bank Governor, Public Service Commission as well as minister in relation to actions of general governmental policy.

The SCA is of the view that a 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. 'Protection' functions may be understood as those that address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating and reporting on human rights violations, and may include individual complaint handling.

The SCA encourages the CAHR to advocate for appropriate amendments to its enabling law to make its promotional and protection mandate explicit and broad.

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

3. Adequate funding and financial autonomy

The SCA notes that the CAHR reports it receives appropriate financial and technical resources to discharge its mandate. Further, while the CAHR has management and control of its budget, budgetary amendments must be approved by the Ministry of Finance. While in practice the CAHR reported it has not encountered issues in this regard so far, the SCA is concerned that this may restrict the ability of the CAHR to direct its budget to those areas it has identified as most important.

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 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 collocated 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.

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.

Where a State has developed uniform rules or regulations to ensure State agencies are properly accountable for their use of public funds, the application of such rules is not considered inappropriate provided that they do not compromise the NHRIs ability to perform its role independently and effectively. The administrative requirements on a NHRI must be clearly defined and should be no more onerous than those applicable to other independent State agencies.

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

4. Pluralism

The SCA notes that over 60% of CAHR staff are women. There is still no requirement in the law that the CAHR staff be representative of the diverse segments of society.

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 the broader representation of national society. Consideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status.

The SCA notes that there are diverse models for ensuring the requirement of pluralism in the composition of NHRIs as set out in the Paris Principles. In the case of single-member institutions such as the CAHR, pluralism can be achieved by ensuring staff are representative of the diverse segments of society.

The SCA encourages the CAHR to advocate for the inclusion in its enabling law a requirement that its staff be reflective of the principle of pluralism.

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

5. Term of Office

Art.3(2) of the Law provides that the Ombudsman's term is of 6 years. The Law is silent on the number of times the Ombudsman can be re-appointed, which leaves open the possibility of unlimited tenure. In order to promote institutional independence, the SCA is of the view that it would be preferable for the term of office to be limited to one (1) re-appointment.

The CAHR reports that, in the past, re-appointment has occurred only once. Nevertheless, the SCA encourages the CAHR to advocate for amendments to its enabling law to provide for such limits on the term of office.

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

4. REVIEW (Art. 16.2 of the GANHRI Statute)

4.1 Mexico: Comision Nacional de los Derechos Humanos (CNDH):

Recommendation: Following the Special Review initiated in accordance with Article 16.2 of the Statute, the SCA recommends that the accreditation status of the CNDH be maintained.

In its December 2020 session, the SCA decided to undertake a special review of the CNDH based on information received from a group of civil society organisations regarding the appointment of the CNDH President in November 2019, and related concerns with respect to conflict of interest and effectiveness in dealing with all issues of human rights.

In light of the information provided by the CNDH, the SCA considers that no further review of the Institution is required at this time.

4.2 Nepal: National Human Rights Commission (NHRC)

Decision: The SCA decides to initiate a **Special Review** of the NHRC at its second session of 2021.

The SCA received correspondence from a group of civil society organizations alleging that the appointment process of the new NHRC members in February 2021 had failed to implement national guidelines enshrined in Nepalese domestic law and the essential requirements of the Paris Principles including the need for an open, transparent, and participatory process with broad consultations.

The SCA is of the view that this information raises concerns with respect to the continued compliance of the NHRC with the Paris Principles.

The SCA acknowledges receipt of response to the above issue from the government of Nepal expressing its view that the selection and appointment process and outcome were legal and legitimate.

The SCA is of the view that the response provided does not fully address all of the concerns raised.

In view of the information before it, the SCA decides to initiate a Special Review in accordance with Article 16.2 of the GANHRI Statute in order to determine the NHRC's ongoing compliance with the Paris Principles.

4.3 Sri Lanka: Human Rights Commission of Sri Lanka

Decision: The SCA decides to initiate a **Special Review** of the HRCSL at its second session of 2021.

In February 2021, the SCA received correspondence from a group of civil society organizations and the Asian NGO Network on National Human Rights Institutions (ANNI) regarding the appointment process of the HRCSL, and related concerns with respect to the lack of pluralism in the HRCSL's membership and staff and its effectiveness in discharging its human rights mandate.

The SCA is of the view that this information raises concerns with respect to the continued compliance of the HRCSL with the Paris Principles.

The SCA acknowledges that it received a response from the HRCSL regarding these allegations. This response indicates that the members of the HRCSL are appointed by the President of Sri Lanka in line with the observations of the Parliamentary Council, and that no issue regarding the independence and autonomy of the institution exists.

The SCA is however of the view that the response provided does not fully address all of the concerns raised. As a result, it decides to initiate a Special Review.

In view of the information before it, the SCA decides to initiate a Special Review in accordance with Article 16.2 of the GANHRI Statute in order to determine the HRCSL's ongoing compliance with the Paris Principles.