

NOTE

As of 7 June 2024, the SCA recommendations contained in this report are considered final with exception of those related to the Office of the Human Rights Commissioner of Azerbaijan and the Commission nationale indépendante des droits de l'homme du Burundi, who in accordance with Article 12.1(ii) of GANHRI statute challenged the recommendations.

GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (GANHRI)

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

**Online, 26-28 March 2024
Geneva, 29 April-3 May 2024**

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SUMMARY OF RECOMMENDATIONS

<u>1. Accreditation (Art. 10 of the GANHRI Statute)</u>
<u>1.1 Pakistan: The National Commission for Human Rights (NCHR)</u> Recommendation: The SCA recommends that the NCHR be accredited with “A” status.
<u>2. Re-Accreditation (Art. 15 of the GANHRI Statute)</u>
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<u>2.3 Bosnia and Herzegovina: The Institute for Human Rights Ombudsmen of Bosnia and Herzegovina (IHROBH)</u> Recommendation: The SCA recommends that the IHROBIH be re-accredited with “A” status.
<u>2.4 Cameroon: The Cameroon Human Rights Commission (CHRC)</u> Recommendation: The SCA recommends that the CHRC be re-accredited with “A” status.
<u>2.5 Costa Rica: The Defensoria de los Habitantes of Costa Rica (DHCR)</u> Recommendation: The SCA recommends that the DHCR be re-accredited with “A” status.
<u>2.6 Lithuania: The Seimas Ombudspersons Office of the Republic of Lithuania (SOO)</u> Recommendation: The SCA recommends that the SOO be re-accredited with “A” status.
<u>2.7 Paraguay: Defensoría Del Pueblo of Paraguay (DPP)</u> Recommendation: The SCA recommends that the DPP be re-accredited with “A” status.
<u>2.8 Portugal: The Provedor de Justica Portugal (DPJ)</u> Recommendation: The SCA recommends that the DPJ be re-accredited with “A” status.
<u>2.9 South Africa: The South Africa Human Rights Commission (SAHRC)</u> Recommendation: The SCA recommends that the SAHRC be re-accredited with “A” status.
<u>2.10 Spain: The Defensor Del Pueblo of Spain (DPS)</u> Recommendation: The SCA recommends that the DPS be re-accredited with “A” status.
<u>2.11 Sri Lanka: The Human Rights Commission of Sri Lanka (HRCSL)</u> Recommendation: The SCA recommends that the HRCSL be re-accredited with “A” status.
<u>3. Decision (Art. 14.1 of the GANHRI Statute)</u>
<u>3.1 Decision:</u> The SCA decides to defer the review of <u>The Commission nationale des droits de l’homme (CNDH) of Chad</u> for 18 months (or three sessions).
<u>3.2 Decision:</u> The SCA decides to defer the review of the <u>National Human Rights Commission of India (NHRC)</u> for 12 months (or two sessions).
<u>3.3 Decision:</u> The SCA decides to defer the review of <u>The Oman Human Rights Commission (OHRC)</u> for 18 months (or three sessions).

<u>4. Review (Art. 16.2 of the GANHRI Statute)</u>
<u>4.1 Burundi: The Commission nationale indépendante des droits de l’homme (CNIDH)</u> Recommendation: The SCA recommends that the accreditation status of the CNIDH be downgraded to B.
<u>4.2 Great Britain: The Equality and Human Rights Commission (EHRC)</u> Recommendation: The SCA recommends that the accreditation status of the EHRC be maintained.
<u>5. Special Review (Art. 16.2 of the GANHRI Statute)</u>
<u>5.1 Canada: The Canadian Human Rights Commission (CHRC)</u> Decision: The SCA decides to initiate a special review of CHRC at its second session of 2024
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**Report, Recommendations, and Decision of the Session of the SCA,
26-28 March 2024 ; 29 April-3 May 2024**

1. BACKGROUND

1.1 In accordance with the Statute¹ of the Global Alliance of National Human Rights Institutions (GANHRI), the Sub-Committee on Accreditation (SCA) has the mandate to consider and review applications for accreditation, re-accreditation 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 with regard to the compliance of applicant institutions with the Paris Principles². 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.

On 15 March 2023, the GANHRI General Assembly adopted amendments to the GANHRI Statute.

1.2 In accordance with the RoP, the SCA is composed of one NHRI representative from each region. The current SCA members are New-Zealand for Asia-Pacific (Chair), Kenya as the acting member for Africa, Greece for Europe, and Honduras for the Americas.

The NHRI of Honduras attended the online segment and did not attend the in-person segment due to unforeseen circumstances. In accordance with section 4.4 of the SCA's RoP, the SCA convened with a quorum of three members.

In accordance with section 3.1 of the SCA's RoP, the NHRI of Croatia, as the incoming member for Europe, participated to learn about the procedures in practice, in advance of serving on the SCA.

1.3 During its retreat in October 2022, the SCA decided to introduce an online segment in its sessions in order to provide for sufficient time in its deliberation. The SCA, therefore, convened from 25-29 March 2024 for the online segment and from 29 April to 3 May 2024, for the in-person segment. OHCHR-NIRMS participated in its capacity as GANHRI and SCA Secretariat. In accordance with the RoP, 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

¹ Available at https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/EN_GANHRI_Statute_adopted_15032023.pdf

² Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N94/116/24/PDF/N9411624.pdf?OpenElement>

Network of National Human Rights Institutions (ENNHRI), Network of African National Human Rights Institutions (NANHRI) and La Red de Instituciones Nacionales de Derechos Humanos (RINDHCA). In accordance with the RoP, the SCA also welcomed the participation of the GANHRI Head Office.

- 1.4 Pursuant to article 10 of the Statute, the SCA considered applications for the accreditation of institutions from Chad, the Dominican Republic and Pakistan.
- 1.5 In keeping with Article 13.2 of the GANHRI Statute, the SCA decided that the application of the institution from the Dominican Republic does not meet the minimum requirement to be accredited as an NHRI and informed the institution accordingly.
- 1.6 Pursuant to article 14.1 of the Statute, the SCA took a decision regarding the NHRI of India and reviewed certain issues regarding the NHRI of Costa Rica.
- 1.7 Pursuant to article 15 of the Statute, the SCA considered applications for re-accreditation from the NHRIs of Azerbaijan, Bolivia, Bosnia and Herzegovina, Cameroon, Costa Rica, Lithuania, Oman, Paraguay, Portugal, South-Africa, Spain, and Sri Lanka.
- 1.8 Pursuant to article 16.2 of the Statute, the SCA reviewed certain issues regarding the NHRIs of Burundi and Great Britain.
- 1.9 Pursuant to article 16.2 of the Statute, the SCA decided to initiate a special review for the NHRIs of Iraq and Canada.
- 1.10 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.
- 1.11 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.
- 1.12 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, nor 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.

1.13 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.

1.14 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 an NHRI is no longer operating in compliance with the Paris Principles.

1.15 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.

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

1.17 Pursuant to Article 18.2 of the Statute, any decision that would serve to downgrade or remove accreditation status from an NHRI can only be taken after the NHRI 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. Upon failure of the NHRI to do so, its status will be downgraded or removed, where applicable.

1.18 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.

1.19 Pursuant to Article 16.4 of the Statute, any review of the accreditation classification of a NHRI must be finalized within 18 months.

1.20 The SCA acknowledges the high degree of support and professionalism of the GANHRI Secretariat (OHCHR-NIRMS).

1.21 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.

- 1.22** Once the recommendations of the SCA are adopted by the GANHRI Bureau, the report of the SCA is placed on the SCA website (<https://www.ohchr.org/EN/Countries/NHRI/Pages/SCA-Reports.aspx>).
- 1.23** The SCA considered information received from civil society. The SCA shared that information with the concerned NHRIs and considered their responses.
- 1.24 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 SCA website at <https://www.ohchr.org/EN/Countries/NHRI/Pages/SCA-Rules-of-Procedures.aspx>

SPECIFIC RECOMMENDATIONS

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

1.1 Pakistan: The National Commission for Human Rights (NCHR)

Recommendation: The SCA recommends that the NCHR be accredited with “A” status.

The SCA welcomes the NCHR request for accreditation and commends the NCHR for its proactive efforts to promote and protect human rights. 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 NCHR is encouraged to continue to actively engage with the OHCHR, GANHRI, 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.

The SCA notes

1. Selection and appointment

Section 4 of the NCHR Act outlines the appointment process for the NCHR Chairperson and members, stipulating the necessity of public advertisement of vacancies. The NCHR reports that this provision enables representatives from civil society organizations to apply or recommend candidates for membership within the NCHR.

However, the SCA considers that the process currently enshrined in the NCHR Act is not sufficiently broad and transparent. In particular, the process does not formalize broad consultations and/or participation in the application, screening, selection, and appointment process.

The SCA encourages the NCHR to advocate for the formalization and application of a process that includes the requirements to promote broad consultation and/or participation of civil society organizations in the application, screening, selection, and appointment of commissioners.

There is currently no provision in the NCHR Act that safeguards against prolonged vacancies in the leadership of the institution in case of a delay in the appointment process, which has previously left the institution without a board of commissioners for a prolonged period.

The SCA recommends that the NCHR advocate for an amendment to this aspect of the NCHR Act to ensure timely appointments and prevent prolonged vacancies in the leadership of the institution.

The SCA refers to Paris Principle B.1 and to its General Observations 1.1 on ‘The establishment of NHRIs’ and 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

2. Encouraging ratification or accession to international human rights instruments

While the NCHR Act is not explicit on the NCHR function regarding ratification or accession to international human rights instruments, the SCA acknowledges that the NCHR continues to advocate for the ratification of the International Convention for the Protection of All Persons against Enforced Disappearances and the Optional Protocol to the Prevention against Torture.

Furthermore, the NCHR reported on its advocacy work for the passing of the Torture and Custodial Death (Prevention and Punishment) Bill as well as prison reforms as per the Mandela and Bangkok Rules.

The SCA considers 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, to be a key function of an NHRI.

While acknowledging that the NCHR already performs such functions in practice, the SCA urges the NCHR to advocate for appropriate amendments to the NCHR Act to explicitly mandate the encouragement of ratification or accession to regional and international human rights instruments.

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

3. Human rights mandate

The SCA notes the NCHR broad interpretation of its mandate encompassing all facets of human rights and acknowledges its proactive approach in addressing violations, including on enforced disappearances, trafficking, migrant workers, and on economic, social, and cultural rights more broadly. The SCA also recognizes the manner in which the findings of the NCHR investigations into individual human rights violations have shaped and informed its work on addressing the systemic nature of such violations, through measures such as advocating for legislative reform or improvements to government policy and programs.

The SCA acknowledges that the NCHR is operating in a challenging environment and encourages it to further its proactive efforts in the protection and promotion of all human rights, particularly civil and political 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'.

4. Adequate funding

The NCHR reported that it has managed to secure a separate budget line from the Finance Division of the Government which provides for a more secure and protected budget. The operational budget for the NCHR has seen a significant increase from Rs. 83.180 million to Rs. 161.170 million for the fiscal year of 2024, which allowed the NCHR to place a greater emphasis on the development of its institutional capacity.

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

The SCA recommends that the NCHR continue to advocate for an appropriate level of funding to carry out the full breadth of its mandate. Such appropriate level of funding shall ensure sufficient ongoing resources to engage with communities nationally, including in regional and remote areas, and with marginalised groups.

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

5. Staffing

The SCA notes that over 47% of the allocated positions within the NCHR remain vacant.

The SCA acknowledges the progress made by the NCHR in addressing its staffing shortfall, notably through the engagement of a private company to support the recruitment process for these vacant positions, which the NCHR reported will be filled as soon as possible.

While acknowledging the progress made by the NCHR in addressing this staffing shortfall, the SCA emphasizes that adequate staffing can better support the fulfilment of the NHRI mandate and promote stability in the institution.

Therefore, the SCA urges the NCHR to continue expediting the recruitment process to ensure adequate human resources for optimal functioning.

The SCA refers to G.O. 2.4 'Recruitment and retention of NHRI staff'.

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

2.1 Azerbaijan: The Office of the Human Rights Commissioner of Azerbaijan (HRCA)

Recommendation: The SCA recommends that the HRCA be re-accredited with “B” status.

The SCA acknowledges the efforts undertaken by the HRCA in addressing its previous recommendations including in advocating for amendments to its enabling law. However, the SCA is of the view that a number of issues still need to be addressed in order to ensure the HRCA full compliance with the requirements of the Paris Principles and the General Observations.

The SCA encourages the HRCA to continue its engagement with OHCHR, GANHRI, ENNHRI, and other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in order to continue strengthening its institutional framework and working methods. The SCA notes the wish of the HRCA to receive further technical support and capacity building from the international human rights system.

The SCA notes with concern:

1. Addressing human rights violations

The SCA provided the HRCA with the opportunity to comment on the communications sent by Special Procedures of the Human Rights Council to the State of Azerbaijan between May 2019 and October 2023 regarding information on alleged human rights violations in relation to the destruction of Armenian cultural heritage sites; unlawful killings, torture and ill-treatment of Armenian civilians and Armenian prisoners of war; and the blockade of the Lachin corridor.

The HRCA noted the importance for reports by the Special Procedures mandate holders to be factual and evidence-based and expressed regret about the lack of collaboration from Special Procedures of the Human Rights Council with the HRCA. The HRCA indicated the allegations in relation to the destruction of Armenian cultural heritage and the blockade of the Lachin corridor are unfounded. The HRCA informed the SCA that it has been regularly undertaking visits to all persons of Armenian nationality in places of detention to address their conditions including, for example, enabling their right to video-conference calls. The HRCA noted that it had not found cases of torture or ill-treatment of prisoners of war.

Furthermore, the HRCA provided information about how it addresses pressing human rights issues relating to human rights defenders, civil society space, and the crackdown on journalists.

In view of the information before it, the SCA is of the view that the HRCA has not taken sufficient action, nor spoken out in a manner that promotes protection for human rights in response to credible allegations of serious human rights violations having been committed by government authorities. The failure to do so demonstrates a lack of independence. Therefore, the SCA is of the view that the HRCA is acting in a way that continues to compromise its compliance with the Paris Principles.

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. Where serious violations of human rights are imminent, NHRIs are expected to conduct themselves with a heightened level of vigilance and independence.

The SCA recommends that the HRCA take proactive steps to promote and protect all human rights, including in relation to human rights defenders and serious human rights violations in the country.

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

2. Selection and appointment

The SCA welcomes the HRCA advocacy for changes to the selection and appointment procedure on the need for a timely renewal of the Commissioner in order to avoid a long transitional incumbency at the head of the institution. In particular, it notes the amendment to Article 4.3 of the Law which now provides that the President of the Republic of Azerbaijan presents three candidates to the Parliament for the election of a new Commissioner thirty days prior to the expiration of the incumbent Commissioner's term.

However, the criteria for shortlisting the three candidates by the President of the Republic are not explicit in the Law. The SCA notes that Article 3 of the Law outlines requirements for the position of the Ombudsperson. The HRCA reported that it has undertaken advocacy for clarity in the criteria by which the President selects the candidates, and for transparency of the process.

The SCA is of the view that key concerns regarding the selection and appointment of the Commissioner remain unaddressed. In March 2017 and in May 2018 the SCA noted that *"In accordance with article 2(1) of the Law, the Ombudsperson is elected by an 83 votes majority of the Parliament from among three (3) candidates proposed by the President. 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; 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 formalisation of a clear, transparent, and participatory selection and appointment process of the NHRI 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 HRCA to continue to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process; and
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria.

The selection and appointment should be under the control of an independent and credible body and involve open and fair consultation with NGOs and civil society. The assessment of applicants on the basis of pre-determined, objective and publicly available criteria promotes the merit-based appointment of candidates, limits the capacity for undue interference in the selection process, and serves to ensure the appropriate management and effectiveness of the NHRI.

The SCA encourages the HRCA to continue to advocate for appropriate amendments to its enabling law to ensure that the selection and appointment process is sufficiently transparent and participatory.

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’

The SCA also notes:

3. Human rights mandate

According to article 1.6 of the enabling Law, examining the activities of the President of the Republic of Azerbaijan, deputies of the Parliament, and judges shall not fall within the HRCA mandate. Also, the HRCA mandate does not extend to human rights violations by private entities.

An NHRI 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. Specifically, the mandate should:

- extend to the acts and omissions of both the public and private sectors;
- provide the authority to address recommendations to public authorities, to analyse the human rights situation in the country, and to obtain statements or documents in order to assess situations raising human rights issues;
- authorize the full investigation into all alleged human rights violations, including the military, police, and security officers.

The SCA encourages the HRCA to advocate for amendments to its enabling law to empower it to authorize full investigation into all alleged human rights violations and to ensure that its mandate extends to the acts and omissions of the private sector.

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

4. Protection of staff from civil and criminal liability

The SCA notes that Article 6 of the enabling Law provides immunity for the Commissioner and that the HRCA interprets this provision as the basis for the functional immunity of the staff of the HRCA when they implement ombudsman activities. The SCA further notes that the Law provides immunity for members of the National Preventive Group.

External parties may seek to influence the independent operation of an NHRI by initiating, or by threatening to initiate, legal proceedings against a member of the decision-making body or a staff member of the NHRI. For this reason, NHRI legislation should include provisions to protect members and staff from legal liability for acts undertaken in good faith in their official capacity. Such protections serve to enhance the NHRI ability to engage in critical analysis and commentary on human rights issues, safeguard the independence, and promote public confidence in the NHRI.

The SCA encourages the HRCA to advocate for the enabling Law to explicitly provide functional immunity for staff of the HRCA.

The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on ‘Protection from criminal and civil liability for official actions and decisions undertaken in good faith’.

2.2 Bolivia: Defensoría del Pueblo of the Plurinational State of Bolivia (DPB)

Recommendation: The SCA recommends that the DPB be re-accredited with “A” status.

The SCA commends the efforts of the DPB to promote and protect human rights in Bolivia. 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, in line with the Paris Principles and the recommendations made by the SCA during this review.

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

The SCA notes:

1. Selection and appointment

The DPB informed the SCA that the DPB has tabled before Parliament, on 15 April 2024, a Bill to amend its enabling Law to explicitly allow civil society organizations to propose candidates for the position of the Defensor.

The SCA is of the view that it is important to ensure the formalization of a participatory selection and appointment process of the leadership of an NHRI in relevant legislation, regulations or binding administrative guidelines. A process that ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI. Such a process should involve open and fair consultation with NGOs and civil society.

The current Defensor took office in September 2022 and sent to the Senate the three names of his Deputies to be ratified; however, this ratification was approved only in July 2023. The mentioned Bill also advocates for the removal of the requirement for the Senate to ratify the appointment of the deputies.

The SCA encourages the DPB to continue to advocate for the passage of the proposed Bill which would lead to a timely selection and appointment of Deputies, and to ensure pluralism in the composition of its leadership.

The SCA refers to Paris Principle B.1 and to its General Observations 1.7 on ‘Ensuring pluralism of the NHRI’ and 1.8 on ‘Selection and appointment of the decision-making body of a NHRI’.

2. Protection from civil and criminal liability

The enabling law of the DPB does not explicitly provide protection from criminal or civil liability for actions undertaken in good faith by its staff. However, the DPB mentions that all staff of the NPM branch of the DPB are protected from criminal and civil liability as per article 35 of the OPCAT since the vesting of the mandate to the institution in 2021.

The SCA notes that, on 15 April 2024, the amendment Bill presented to Parliament also explicitly addresses the protection from criminal or civil liability for all the staff.

The SCA encourages the DPB to continue to advocate for the passage of the amendments to its enabling law to explicitly provide protections from civil and criminal liability for official actions undertaken in good faith.

The SCA refers to Paris Principle B.3 and its General Observation 2.3 on ‘Protection from criminal and civil liability for official actions and decisions undertaken in good faith’.

3. Adequate funding

In 2023, the DPB received an 11% increase of its budget, adding to USD \$693.000. A total of USD\$181.000 was assigned to the creation of 10 permanent positions in regional border offices; and USD\$513.000 was used to incorporate 40 of its consultants as permanent staff. It is further noted that 80% of its current budget is allocated to remuneration while 20% are available for other services and activities.

The SCA reiterates that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI 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 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 DPB to continue to advocate for an adequate level of funding to effectively carry out its mandate.

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

4. Human rights mandate

The SCA welcomes the work of DPB in the promotion of human rights through its programmes in schools, in relation to health issues, as well as with vulnerable groups such as indigenous peoples, afro-descendants, persons with disabilities, women, LGBTIQ+, among others.

The SCA notes that the NHRI mandate to promote and protect human rights must be defined as broadly as possible so as to give the public the protection of a wide range of international human rights standards.

The SCA encourages the DPB to continue interpreting its mandate in a broad manner and to continue advocating for the passage of the amendments to its enabling legislation to give it a more comprehensive mandate, including access to public documents that will allow the DPB to assess situations raising human rights issues.

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

5. Recommendations by NHRIs

The SCA notes that, in the Bill presented before Parliament on 15 April 2024, it advocated for the inclusion in its enabling Law of the obligation by the authorities to receive, analyze and follow-up on the recommendations made by the DPB, as well as on its thematic reports.

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

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

The SCA is of the view that NHRIs are more effective when provided with the authority to monitor the extent to which public authorities follow their advice and recommendations. The SCA encourages governments to respond to advice and requests from NHRIs, and to indicate, within a reasonable time, how they have complied with their recommendations.

The SCA refers to Paris Principle A.3 and to its General Observation 1.6 on 'Recommendations by NHRIs'.

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

Recommendation: The SCA recommends that the IHROBH be re-accredited with “A” status.

The SCA commends the efforts of the IHROBH to promote and protect human rights in Bosnia and Herzegovina. It encourages the institution to continue these efforts.

The SCA acknowledges the amendments made to the enabling law of the IHROBH in line with several previous SCA recommendations.

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

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

The SCA notes:

1. Human rights mandate

The SCA notes that the mandate of the IHROBH does not encompass the acts or omissions of private entities beyond its anti-discrimination mandate. The IHROBH reported that, in practice, it does address human rights violations by private entities through the positive obligation of the State to prevent human rights violations, including by private actors. It also reported that when it receives complaints in respect of private entities, it references the complaints to the relevant bodies.

The SCA encourages the IHROBH to further develop its work in addressing private entities and recommends that the IHROBH advocate for a mandate that explicitly includes the ability to address all human rights violations resulting from the 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 'Human rights mandate'.

2. Cooperation with civil society organisations

Article 36a of the Law mandates the IHROBH to hold regular and topical consultations with civil society organizations. The IHROBH reports that it regularly cooperates with civil society organizations. However, the SCA notes that the extent of this cooperation could be further improved to include more proactive outreach to a broad range of civil society organisations, including on issues relating to health and environmental rights.

The SCA is of the view that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandate. NHRIs should develop, formalize, and maintain working relationships a wide range of civil society organizations.

The SCA encourages the IHROBH to continue and strengthen its cooperation with a wide range of civil society organizations and human rights defenders.

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. Recommendations by NHRIs

The IHROBH reports that it has made various recommendations through its advice, annual, and thematic reports. However, the SCA notes there has been inadequate response to its recommendations by relevant State authorities.

In fulfilling its mandate, an NHRI should 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 have been found to be violated.

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

The SCA recommends that the IHROBH continue to conduct follow-up activities to monitor the extent to which their recommendations have been implemented, including through its Special Report on the Implementation of IHROBH Recommendations.

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'.

4. Adequate funding

The SCA acknowledges that the IHROBH is now mandated to be involved in the budgetary process and that its staff and budget have increased since its last review in 2017.

However, the IHROBH reports that the current level of funding is insufficient to meet its operational and human resources needs, including recruitment and retention of staff under comparable conditions and benefits as other civil servants performing similar tasks in independent institutions. In addition, the IHROBH reports that its premises are not accessible to persons with disabilities.

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

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;
- b) Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State; and
- c) The allocation of a sufficient amount of resources for mandated activities.

Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA recommends that the IHROBH continue to advocate for an appropriate level of funding to effectively carry out the breadth of its mandate including its anti-discrimination mandate and newly established NPM mandate. In addition, the SCA recommends the IHROBH advocate for sufficient funding to ensure an accessible office space, and to enable the recruitment and retention of staff with salaries and benefits comparable to civil servants discharging similar functions.

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

5. Term of office

Pursuant to Art.10 paragraph 1 of the Law the Ombudsmen are appointed for a six-year renewable term. The Law is silent on the number of times a member can be re-appointed, which leaves open the possibility of unlimited tenure.

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 recommends that the IHROBH continues to advocate for amendments to its enabling legislation 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'.

2.4 Cameroon: The Cameroon Human Rights Commission (CHRC)

Recommendation: The SCA recommends that the CHRC 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 SCA encourages the CHRC to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, to continue strengthening its institutional framework and working methods.

The SCA notes:

1. Ability to function and to address human rights violations

The SCA has been made aware of publicly available information on a case involving an allegation of sexual harassment against the Chairperson of the CHRC. The SCA is concerned that the CHRC currently has no policy in place to address allegations of sexual harassment and protect victims.

Maintaining integrity and credibility is a key factor to ensure the effectiveness of an NHRI and affects its real and perceived independence and accessibility. The SCA urges the CHRC to take measures to ensure that its response to the allegation does not compromise its ability to carry out its mandate nor its credibility.

The SCA welcomes that a policy regarding sexual harassment is currently being developed by the CHRC. The SCA strongly encourages the CHRC to expedite the development and effective implementation of policies and processes to address allegations of sexual harassment and protect victims of sexual harassment.

2. Selection and Appointment

In accordance with Article 12.3. of the enabling Law, the Chairperson, the Vice-Chairperson, and the other members of the Commission are appointed by decree of the President of the Republic on the proposal of the administrations, associations, and socio-professional bodies to which they belong.

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;
- ensure that such criteria are uniformly used by different nominating entities to assess the merit of eligible applicants.

In addition, the SCA is also concerned that Commissioners appointed by decree of the President include Commissioners proposed by the public administration, in particular diplomats and experts in prison administration and management of places of deprivation of liberty. The SCA is of the view that such a process should be under the control of an independent and credible body and involve open and fair consultation with NGOs and civil society.

The SCA encourages the CHRC to advocate for the necessary changes in its selection and appointment process to ensure that members of the public administration do not form part of the decision-making body of the CHRC.

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 recommends a consistent, transparent, merit-based, and broadly consultative selection process for all relevant nominating entities.

The SCA encourages the CHRC to advocate for an amendment to its enabling law to ensure the formalization and application of a process that includes requirements to:

- Publicize vacancies broadly; and
- Assess applicants on the basis of pre-determined, objective and publicly available criteria.

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

3. Representation of women in the membership

According to Article 14.3 of the enabling Law, women must account for at least 30% of the members of the Commission. However, among the current 15 members appointed by the President of the Republic, only three are women, or 20%.

The SCA welcomes the advocacy by the CHRC to achieve the quota of 30% women Commissioners. It also welcomes the CHRC's further advocacy for an amendment to the law to ensure that women must account for at least 50% of the membership of the Commission.

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

The SCA encourages the CHRC to continue to advocate for women to account for at least 30% of the membership, as per Article 14.3 of the Law, and to continue to advocate for an amendment to this specific provision of the law to increase women representation to 50%.

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

4. Accessibility

The SCA notes that, based on Article 44 of the enabling law, police officers from the General Delegation for National Security are assigned to the Head Office and all regional offices of the CHRC to ensure their protection.

While the SCA acknowledges that there are situations in which police protection may be required, it also highlights that it is critical for an NHRI to be accessible to all groups and that the presence of police may compromise the perceived independence of the Institution and risk deterring complainants. This is particularly important when an NHRI, such as the CHRC, has a mandate to address and prevent torture by detaining authorities.

The SCA notes that a means of increasing the accessibility of NHRIs to vulnerable groups is to ensure that their premises are neither located in wealthy areas nor in or nearby government buildings, and that this is particularly important where government buildings are protected by military or security forces.

The SCA encourages the CHRC to ensure that its security measures do not limit the accessibility of its premises.

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

5. Adequate funding

The SCA notes that although the resources allocated to the CHRC have increased substantially since 2021, they are insufficient for it to fully carry out its mandate.

Among other things, the CHRC has not received additional allocation to cover the new payroll, which now includes the remuneration and other benefits of the 15 permanent members versus 2 permanent members in previous years, as well as the additional costs generated by the increase in salaries of CHRC staff members.

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

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

- Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- Remuneration of members of the decision-making body;
- 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 CHRC to continue to advocate for the funding necessary to ensure that it can effectively carry out its mandate, including its NPM function.

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

6. Interaction with the international human rights system

The SCA notes that the CHRC has engaged in some cooperation with the international human rights system, including participating in the CERD session in April 2022 and in Human Rights Council Sessions in 2022 and 2023, but is of the view that efforts in this regard could be increased.

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

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

- submitting parallel or shadow reports to the Universal Periodic Review, Special Procedure mechanisms and Treaty Bodies Committees;

- monitoring and promoting the implementation of relevant recommendations originating from the human rights system.

While it is appropriate for governments to consult with NHRIs in the preparation of a state's reports to human rights mechanisms, NHRIs should neither prepare the country report nor should they report on behalf of the government. NHRIs must maintain their independence and, where they have the capacity to provide information to human rights mechanisms, do so in their own right.

The SCA encourages the CHRC to provide information to human rights mechanisms in its own right and systematically submit parallel reports.

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'.

2.5 Costa Rica: The Defensoria de los Habitantes of Costa Rica (DHCR)

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

The SCA commends the efforts of the DCHR to promote and protect human rights in Costa Rica. It encourages the institution to continue these efforts.

The SCA encourages the DHCR 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, in line with the Paris Principles and the recommendations made by the SCA during this review.

The SCA acknowledges the efforts of the DHCR in advocating for a stronger legislative framework of the Law of the Defensoria de los Habitantes de la Republica de Costa Rica, to give the DHCHR a constitutional standing which would provide for protection from criminal and civil liability for official actions and decision undertaken in good faith for its leadership.

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

The SCA notes:

1. Adequate funding

The DHCR reports that the request for additional budget submitted to the Legislative Assembly was approved in October 2023 amounting to USD\$475.716. Half of this amount was released in April 2024, and the rest of the amount is expected to be released in June 2024. The SCA notes that adequate funding should ensure the gradual and progressive realization of improvement in the DHCR operation and the fulfillment of its mandate.

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

Provision of adequate funding by the State should, as a minimum, include the allocation of a sufficient amount of resources for mandated activities. Where the National Institution has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA encourages the DHCR to continue to advocate for the necessary financial resources including a timely release of the budget to enable the DHCR to properly fulfil its obligations.

The SCA refers to Paris Principle B.2 and to its General Observations 1.10 on ‘Adequate funding of NHRIs’ and 2.8 on ‘Assessing National Human Rights Institutions as National Preventive and National Monitoring Mechanisms’.

2. Encouraging ratification or accession of international human rights instruments

The Law is silent with regard to the DHCR explicit mandate to encourage the ratification of, or accession to international human rights instruments to which the State is a party. The DHCR reported that, in practice, it carries out activity relating to encouraging ratification including an advocacy to the Legislative Assembly to ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).

The SCA welcomes the activities carried out in practice by the DHCR; however, the SCA is of the view that encouraging the ratification of, or accession to international human rights instruments, and the effective implementation of international human rights instruments to which a State is party, is a key function of an NHRI. The SCA considers it important that these duties form an integral part of the enabling legislation of an NHRI.

The SCA recommends the DHCR to advocate for amendments in its enabling law to explicitly include the mandate to encourage the ratification of, or accession to international human rights instruments.

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

3. Cooperation with other human rights bodies

The SCA notes information received from the DHCR concerning the progressive work it has carried out with civil society organizations and other domestic human rights bodies.

The SCA acknowledges that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates. NHRIs should develop, formalize and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

The SCA encourages the DHCR to continue formalizing and maintaining regular, constructive and systematic working relationships with other domestic institutions and actors established for the protection and promotion of human rights, so as to ensure the full realization of human rights nation-wide.

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

2.6 Lithuania: The Seimas Ombudspersons' Office of the Republic of Lithuania (SOO)

Recommendation: The SCA recommends that the SOO be re-accredited with “A” status

The SCA commends the efforts of the SOO to promote and protect human rights in Lithuania. 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 SCA encourages the SOO to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, to continue strengthening its institutional framework and working methods.

The SCA notes:

1. Adequate funding

Despite the recent increase in the SOO budget, the SCA notes that this budget is neither sufficient to recruit and retain qualified staff, nor to fully implement its promotion mandate. Furthermore, the SOO reported that a new mandate for the institution as National Rapporteur on Human Trafficking is currently under discussion in Parliament, which may be added to the SOO without additional resources.

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

Furthermore, the SCA highlights that, where an NHRI has been mandated with additional responsibilities, it must be provided with the additional adequate funding to effectively fulfil these duties.

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

- the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities;
- salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- remuneration of members of the decision making body; and
- the allocation of a sufficient amount of resources for mandated activities.

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

The SCA encourages the SOO to continue to advocate for an adequate level of funding and human resources to ensure that it can effectively carry out the full breadth of its current and additional mandates in an effective manner, including its mandate to promote human rights.

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

2. Selection and appointment

The SCA notes that the formal participation of civil society organizations in the application, screening and selection of members is not enshrined in the Law on the Seimas Ombudspersons nor in any other binding administrative documents.

The SOO reported that in practice civil society representatives have the opportunity to express their views on the candidates for the position of Ombudspersons once the candidacies become public and during the hearing of applications by the Seimas Committee on Human Rights. Further, the SOO reported that more than 100 organisations operating in the field of human rights expressed public support for the appointment of the current Ombudsperson.

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 is of the view that involvement of civil society organizations should be formalized, for example by:

- directly soliciting proposals from civil society; or
- allowing civil society to directly participate in the evaluation process.

The SCA encourages the SOO to continue to advocate for the formalization and application of a process that includes requirements to publicize vacancies broadly and to promote broad consultation and/or participation in the application, screening, selection and appointment process.

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

3. Dismissal

The SCA notes that the ground for Parliament to initiate a no-confidence vote is not explicit in Article 9 (1) of the enabling law nor is such ground specified in the Seimas Statute.

The SOO reported that while this provision has never been invoked since the establishment of the institution, consistent efforts and active advocacy have been undertaken by the SOO to call on the legislature to clarify Article 9 (1) or remove it from the Law.

The SCA highlights that 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, enshrined in the law, ensure the security of tenure of members of the decision-making body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

The SCA encourages the SOO to continue to advocate for amendments to its enabling law to provide for an independent and objective dismissal process including by providing express criteria on the no-confidence vote against the Ombudsperson or to remove this ground for dismissal.

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

4. Encouraging ratification or accession to international human rights instruments

The SOO reported that it carries out activities relating to encouraging ratification of human rights instruments. However, the SCA notes that its enabling Law does not explicitly vest the SOO with this function.

The SCA is of the view that encouraging ratification of, or accession to, regional and international human rights instruments, and the monitoring of the effective implementation of those instruments to which the State is a party, is a key function of an NHRI.

While acknowledging that the SOO carries out such functions in practice, the SCA encourages it to continue interpreting its mandate in a broad manner and to advocate for the appropriate amendments to its enabling law in order to have an explicit mandate to encourage ratification or accession to regional and international human rights instruments.

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

2.7 Paraguay: Defensoría Del Pueblo of Paraguay (DPP)

Recommendation: The SCA recommends that the DPP be re-accredited with “A” status.

The SCA commends the efforts of the DPP to promote and protect human rights in Paraguay. 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, in line with the Paris Principles and the recommendations made by the SCA during this review.

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

The SCA notes:

1. Selection and appointment

In accordance with article 278 of the Constitution and Article 4 of the Law, the Defensor is appointed by a two-thirds majority of the House of Representatives from a list of 3 candidates proposed by the Senate. The process, however, is not explicitly developed in the law.

The DPP reports that, in practice, the Senate assesses the profiles and the vision statement of the candidates, and whether they fulfil the requirements set in the law. The DPP further reports that the call for candidacies is widely broadcasted for 15 days on radio and television and that the most recent selection of the two Deputies in 2022, gender representation was guaranteed with a shortlist composed solely of women and, for the first time, a woman was appointed Deputy within the DPP.

While the SCA acknowledges that the most recent selection and appointment process has been conducted with wide publication of vacancies, participation of civil society, and guaranteed gender representation, it notes that the legal provision on selection and appointment does not explicitly include a clear and transparent process.

The SCA recommends the DPP to advocate for the provision of an explicit selection and appointment process in its law 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; and
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria.

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

2. Dismissal

As per Article 25 of the Constitution and Article 5 of the Law, the Defensor and the Deputy Defensor can be impeached for (i) poor performance of their duties, (ii) offences committed in the exercise of their duties, or (iii) common crimes.

The DPP reports that the spirit of Article 25 of the Constitution is to hold senior public officials accountable in the exercise of their mandates. The DPP states that the Defensor is immovable from his position, as are the High Court Judges, the President, and Vice-president of the Republic.

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

The SCA recommends that the DPP advocate for an explicit provision on the dismissal process of the Defensor in its enabling law. Such requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI.

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

3. Adequate funding

While the current budget of the DPP is relatively stable, the DPP notes that such budget is not sufficient for the upscale of implementation of the full breadth of the institution’s mandate.

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 encourages the DPP to continue to advocate for an appropriate level of funding to carry out the full breadth of its mandate.

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

4. Encouraging ratification or accession to international human rights instruments

The DPP enabling law does not explicitly mandate the institution to encourage ratification of and accession to regional and international human rights instruments. The SCA acknowledges that the DPP reports to undertake these functions in practice.

The SCA encourages the DPP to advocate for an explicit mandate to encourage ratification of or accession to regional and international human rights instruments. Encouraging ratification of, or accession to regional and international human rights instruments, and the effective implementation of international instruments to which the state is a party, is a key function of an NHRI. The Paris Principles further prescribe that NHRIs should promote and encourage the harmonization of national legislation, regulations and practices with these instruments. The SCA considers it important that these duties form an integral part of the enabling legislation of an NHRI.

The SCA refers to Paris Principle A.3 and to its General Observation 1.3 on “Encouraging ratification or accession to international human rights instruments”.

5. Term of office

According to Article 277 of the Constitution, the Defensor is appointed for a five-year renewable term. The Law is silent in the number of times a Defensor can be re-elected, which leaves open the possibility of unlimited tenure.

The SCA emphasizes that an appropriate term of appointment is crucial in promoting the independence of the membership of an NHRI. The SCA is of the view that specifying an appropriate minimum term in the NHRI enabling law is crucial in both promoting the independence of the membership and of the NHRI. The SCA recommends that the appointment should have the option to renew once.

The SCA recommends that the DPP advocates for amendments to its enabling legislation to provide for the term of office of its members to be limited to one re-appointment.

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

2.8 Portugal: The Provedor de Justica Portugal (DPJ)

Recommendation: The SCA recommends that the DPJ be re-accredited with “A” status.

The SCA commends the efforts of the DPJ to promote and protect human rights in Portugal. 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 SCA encourages the PDJ to continue to actively engage with the OHCHR, GANHRI, ENNHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in order to continue strengthening its institutional framework and working methods.

1. Selection and Appointment

Article 255(f) of Parliament’s Rules of Procedure regulates that the nomination of candidates for Ombudsperson are submitted by a minimum of ten and maximum of 30 members of Parliament. Article 257 (b) of the Rules of Procedure mandates public hearings for

Ombudsperson candidates. The PDJ reports that in practice, there is considerable media coverage prior to the parliamentary hearing, allowing civil society and the wider public to give input by providing comments and opinions on the candidates.

The SCA acknowledges that Article 163(h) of the Constitution and Article 5(1) of the Statute of the Ombudsman requires a qualified majority of votes for the election of the Ombudsperson and that the PDJ reports that this implies the existence of a large consensus within the Parliament for the election of the PDJ.

However, the SCA continues to be of the view, as per its 2017 recommendations, that the current selection and appointment process enshrined in the enabling law is not sufficiently broad and transparent. In particular, it does not:

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

The SCA emphasises that it is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for the Provedor in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of a national human rights institution.

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

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process; and
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria.

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

2. Encouraging ratification or accession to international human rights instruments

The enabling law does not explicitly mandate the PDJ to encourage ratification or accession to international human rights instruments. The SCA acknowledges that the PDJ interprets its mandate broadly and that in practice it does encourage ratification and accession to international human rights instruments including through its previous advocacy for the ratification of the Optional Protocol to the UN Convention against Torture, as well as its ongoing advocacy for a UN instrument on the rights of older persons. The PDJ further reported that Portugal has already ratified all major human rights treaties.

While acknowledging that the PDJ interprets its mandate broadly, the SCA highlights that encouraging ratification of, or accession to, regional and international human rights

instruments, as well as monitoring the effective implementation of those instruments to which the state is a party, is a vital function of an NHRI.

The SCA encourages the PDJ to continue interpreting and applying its mandate in a broad manner and to advocate for appropriate amendments to its enabling law to provide for an explicit mandate to encourage ratification or accession to regional and international human rights instruments.

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

3. Pluralism

The enabling law of the PDJ is not explicit with regard to the requirement for pluralism and diversity of its staff. The SCA notes information provided by the PDJ that, in practice, 71% of employees are female and that they have staff from diverse ethnic backgrounds and age groups.

The SCA considers the pluralistic composition of the NHRI to be fundamentally linked to the requirement of independence, credibility, effectiveness, and accessibility. The SCA emphasizes that pluralism refers to broader representation of national society and consideration must be given to ensuring pluralism in the context of gender, ethnicity, minority status, and persons with disability. The SCA further notes that ensuring pluralism through staff that are representative of the diverse segments of society is particularly relevant for single member NHRIs, such as Ombuds institutions.

The SCA recommends the PDJ advance the formalisation of processes that ensure reflection of the principles of pluralism and diversity in its staff composition. The SCA further recommends that PDJ takes steps to ensure the implementation of these principles.

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

4. Cooperation with civil society

The PDJ reported that it engages and cooperates with civil society organisations including on handling their complaints, engaging in hearings with civil society, and that it has formalized cooperation through its NPM advisory body and a protocol for cooperation on children's rights.

The SCA highlights that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to fulfil their mandates effectively. The SCA encourages the PDJ to further develop, formalize and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including civil society organizations.

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

2.9 South Africa: The South Africa Human Rights Commission (SAHRC)

Recommendation: The SCA recommends that the SAHRC be re-accredited with "A" status.

The SCA commends the efforts of the SAHRC to promote and protect human rights in South Africa. 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 SCA encourages the SAHRC to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, to continue strengthening its institutional framework and working methods.

The SCA notes:

1. Human Rights Mandate

The SCA notes that while the SAHRC has a mandate to monitor the observance of human rights and the power to enter premises, it does not have an explicit mandate to conduct unannounced visits to places of detention. The SAHRC informs that, in practice, it carries out unannounced visits to places of deprivation of liberty and is advocating for the passage of the NPM Bill which will provide the SAHRC with an explicit mandate to conduct unannounced visits.

The SCA is of the view that an NHRI 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. Specifically, the mandate should include the mandate to authorize unannounced and free access to inspect and examine any public premises, documents, equipment, and assets without prior written notice.

The SCA therefore reiterates its previous recommendations of 2017 and recommends that the SAHRC continue to advocate for appropriate amendments to its law to provide it with an explicit mandate to conduct unannounced visit to places of deprivation of liberty.

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

2. Selection and appointment

Section 193 (4) of the Constitution provides that SAHRC members are appointed by the President on the recommendations of the National Assembly. Section 193(5) specifies that the National Assembly must recommend individuals nominated by a Committee of the Assembly, which includes members from political parties. The SCA notes that the law is silent on the requirement to publicize vacancies broadly and on the process used by the Committee of the National Assembly in shortlisting the candidates whose names are submitted for consideration by the National Assembly.

The SCA notes that while Section 193 (6) of the Constitution allows for civil society participation, the law is not explicit on the modality of such 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 decision-making body in relevant legislation, regulations, or binding administrative guidelines, as appropriate.

The SAHRC informs that the proposed amendment to the Law on the selection and appointment process is awaiting presentation to Parliament by the Department of Justice and Constitutional Affairs.

The SCA, reiterates its previous recommendations of 2017 and recommends the SAHRC to continue advocate for the formalization of a selection and appointment process in relevant legislation, regulations or binding administrative guidelines and application of a process that includes the requirement to:

- a) Publicize vacancies broadly; and
- b) Promote broad consultation and / or participation in the application, screening, selection, and appointment process.

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. Financial autonomy and adequate funding

The SAHRC has informed the SCA that jointly with other Chapter nine institutions, under the aegis of the Forum for Institutions Supporting Democracy (FISD), is advocating to have its budget presented directly to Parliament rather than through the Department of Justice and Constitutional Affairs. The SCA notes information that the SAHRC has met the leadership of Parliament who have undertaken to support this approach. The SCA encourages the SAHRC continue its advocacy in this regard in order to safeguard its independence.

The SCA also takes note of the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/ZAF/CO/9-11) of 2023, in which the Committee raises concern about the *insufficient financial resources allocated to the SAHRC and the decision to reduce the budget allocated to the SAHRC, thereby jeopardizing its ability to fulfil its mandate in an effective manner.*

The SCA underscores that to function effectively, an NHRI must be provided with adequate funding to guarantee its independence and its ability to freely determine its priorities and activities. Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, 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) the establishment of well-functioning communications systems including telephone and internet; and
- c) 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 therefore recommends that the SAHRC continue to advocate for adequate funding including funding to expand its presence across the country.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 ‘Adequate funding of National Human Rights Institutions.’

2.10 Spain: The Defensor Del Pueblo of Spain (DPS)

Recommendation: The SCA recommends that the DPS be re-accredited with “A” status.

The SCA commends the efforts of the DPS to promote and protect human rights in Spain. 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, in line with the Paris Principles and the recommendations made by the SCA during this review.

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

The SCA notes:

1. Selection and appointment

Article 54 of the Constitution establishes that the Defensor is appointed by the Parliament. Articles 2 and 4 of the Law contain the provisions for the selection and appointment of the Defensor for a five-year term by a Joint Congress-Senate Committee.

The DPS reports that, in practice, the vacancy is broadly advertised in the Official Gazette and the media, allowing civil society engagement, and guaranteeing its transparency and broad participation.

The SCA is of the view that the selection process as currently formalized in the existing Law is not sufficiently broad and transparent. It does not:

- require the advertisement of vacancies;
- 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 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 previous recommendation made in 2018 and encourages the DPS to continue to advocate for the explicit formalization and application of a selection 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; and
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria.

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

2. Term of office

In accordance with article 2.1 of the Law, the Defensor is appointed for a 5-year term and immediately ceases in their functions upon expiration of this term. The enabling law does not

limit the number of times that the Defensor can be re-elected. The DPS reports that the law does not prohibit the outgoing Defensor from reapplying, but that generally, the Defensor is not re-elected.

The SCA recommends the DPS to advocate for amendments in its law to explicitly provide for a limitation to the possibility of re-election of the Defensor to one additional term.

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

3. Annual and thematic reports

The SCA acknowledges that the DPS has addressed in its annual and thematic reports a wide range of human rights issues such as migrant’s rights, women’s rights, children’s rights, racial discrimination, sexual and gender-based violence and housing. In accordance with the law, the DPS annual report is presented to Parliament. The Law does not include a process which requires Parliament to discuss and consider the reports.

The SCA notes that annual, special and thematic reports serve to highlight key developments in the human rights situation in a country and provide a public account and public scrutiny, of the effectiveness of an NHRI. The reports also provide means by which an NHRI can make recommendations to government and monitor respect for human rights.

The SCA recommends the DPS to advocate for amendments to its law to explicitly establish a process whereby its reports are to be widely circulated, discussed and considered by the legislature.

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

4. Encouraging ratification or ascension to international human rights instruments

The DPS reported that it carries out activities encouraging ratification of human rights instruments in practice. However, the SCA notes that its enabling law does not explicitly vest the DPS with this function.

The SCA notes that 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 encourages it to continue interpreting its mandate in a broad manner and recommends that the DPS advocate for appropriate amendments to its enabling law to explicitly include the mandate to encourage the ratification of and accession to international human rights instruments.

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

2.11 Sri Lanka: The Human Rights Commission of Sri Lanka (HRCSL)

Recommendation: The SCA recommends that the HRCSL be re-accredited with “A” status.

The SCA commends the efforts of the HRCSL to address the SCA’s previous recommendations on the selection and appointment process of its members and to address key human rights violations.

The SCA highlights that NHRIs that have been accredited with 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 HRCSL is encouraged to continue to actively engage with the OHCHR, GANHRI, 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.

The SCA notes:

1. Visiting places of deprivation of liberty

Section 11(d) of the HRCSL Act empowers the HRCSL to visit all places of deprivation of liberty, however it is silent on whether these visits are announced or unannounced. The HRCSL notes that, in practice, it conducts unannounced visits to places of deprivation of liberty. The HRCSL also reports that it regularly monitors police stations, prisons, child detention centres and women's detention centres.

The SCA is of the view that an NHR should be mandated to conduct 'unannounced' visits to all places of detention within its jurisdiction, as this limits opportunities for detaining authorities to hide or obscure human rights violations and facilitates greater scrutiny.

While the SCA notes that the HRCSL carries out unannounced visits in practice, it recommends the HRCSL to advocate for amendments to the HRCSL Act to provide it with the express power to conduct such visits without providing prior notice to authorities. The SCA also encourages the HRCSL to continue to access all places of deprivation of liberty to effectively monitor, investigate and report on the human rights situation in a timely manner.

The SCA refers to Paris Principles A.3 and D(d) and to its General Observation 1.2 on the 'Human rights mandate'.

2. Interaction with the international human rights system

The HRCSL Act is silent on the institution's engagement with the international human rights system. The SCA acknowledges that the HRCSL has engaged with the international human rights system to a substantial degree, and has established an international affairs division to coordinate interactions with international human rights mechanisms. The HRCSL further indicates that it is reviewing various treaties to assess the potential for the State to accede to additional instruments, considering that the State has ratified all core human rights treaties.

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 highlights that effective engagement with the international human rights system may include monitoring and promoting the implementation of relevant recommendations originating from the human rights system. The SCA encourages the HRCSL to continue its engagement with the international human rights system and to advocate for amendments to the HRCSL Act to provide it with the explicit mandate to interact with the international human rights system.

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

3. Cooperation with other human rights bodies and civil society organizations

The HRCSL informed the SCA that it interacts and engages with civil society organizations using its mandate to receive complaints and petitions from individuals.

The SCA is of the view that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandate. NHRIs should develop, formalize and maintain working relationships with human rights defenders, as well as a wide range of civil society organizations.

The SCA encourages the HRCSL to continue engaging with civil society organizations and human rights defenders. The SCA recommends that the HRCSL strengthen and formalize these relationships.

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

4. Financial autonomy

Section 29(1) of the HRCSL Act provides that the 'state shall provide the Commission with adequate funds to enable the Commission to discharge the functions assigned to it by this Act'. The HRCSL reports that it enjoys financial autonomy in practice, including through a separate budget line item within the State budget which it controls. However, the SCA considers that the current statutory arrangements do not provide the HRCSL with sufficient financial autonomy.

The SCA notes that NHRIs should have complete financial autonomy as a guarantee of its overall freedom to determine its priorities and activities. National law should indicate from where the budget of the NHRI is allocated and should ensure this is a separate budget line over which the NHRI has absolute management and control. The NHRI has the obligation to ensure the coordinated, transparent and accountable management of its funding through regular public financial reporting and a regular annual independent audit.

The SCA therefore recommends that the HRCSL advocates for appropriate modifications to applicable administrative procedures to ensure that its functional independence and financial autonomy are guaranteed.

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

5. Pluralism and diversity of staff

The HRCSL informed the SCA of the gender balance within its staff complement, with 48% of the staff being women. The SCA notes that 77% of the HRCSL staff are from the Sinhala ethnic group. The HRCSL reported that it is formulating a comprehensive gender inclusion policy to guide pluralism and diversity within its staff.

The SCA notes that the HRCSL Act is silent on the requirement for a pluralistic and diverse composition of the HRCSL staff, including linguistic and ethnic representation.

The SCA emphasizes that a diverse decision-making and staff body facilitates an NHRI's appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates and promotes the accessibility of the NHRI for all citizens. The SCA encourages the HRCSL to continue to establish measures to support pluralism and diversity.

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

6. Term of office

Section 5 of the HRCSL Act provides that '[a]ny member who vacates his office, otherwise than by removal under Section 4, shall be eligible for re-appointment', although it is silent on the number of times a member can be reappointed, which leaves open the possibility of unlimited tenure. The SCA acknowledges information from the HRCSL that in practice the members serve a maximum of two 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. As a proven practice, the SCA encourages that a term of between 3 and 7 years with an option to renew once be provided for in the NHRI's enabling legislation.

The SCA recommends that the HRCSL advocates for amendments to its enabling legislation to provide for the term of office of its members to be limited to one re-appointment.

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

7. Selection and appointment

The SCA acknowledges the passage of the 21st Amendment to the Constitution of Sri Lanka, which re-established the Constitutional Council as the body that oversees the appointment of members of the HRCSL, as well as other independent state institutions.

The members of the HRCSL are appointed by the President based on the recommendations of the Constitutional Council. The Constitutional Council comprises the Prime Minister, the Speaker of the Parliament, the Leader of Opposition in Parliament, four members of Parliament and three persons nominated by the Speaker in agreement with the Prime Minister and Leader of the Opposition.

The HRCSL reports that, in practice, the three members of the Constitutional Council who are not members of Parliament are essentially representatives of civil society.

However, the SCA is of the view that the current process is not sufficiently broad and transparent and does not formalise the participation of civil society. In particular, it does not formally:

- require the advertisement of vacancies; and
- promote broad consultation and / or participation of civil society 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 of 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 recommends that the HRCSL advocates for the formalization of the selection process to include requirements to:

- a) Publicize vacancies broadly;

- b) Maximize the number of potential candidates from a wide range of societal groups;
- c) Promote broad consultation and / or participation, including of civil society, in the application, screening, selection and appointment process; and
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria.

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

8. Addressing human rights violations

The HRCSL reports it has undertaken various activities to address human rights concerns around civil and political rights particularly regarding enforced disappearances, torture, arbitrary detention, harassment, and disproportionate use of force by the Police and other security personnel.

The SCA acknowledges these efforts and recommends that the HRCSL continue to strengthen its work to address all human rights violations including violence and discrimination, custodial deaths, torture and enforced disappearance. The HRCSL is also encouraged to develop and strengthen mechanisms for the protection of victims and witnesses.

The SCA also recommends that the HRCSL takes proactive steps to ensure it is accessible to the wider community, including regions in the North and East of the country. The SCA highlights that to promote independence and accessibility, an NHRI should establish a permanent regional presence, where possible.

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. Where serious violations of human rights are imminent, NHRIs are expected to conduct themselves with vigilance and independence. In fulfilling its protection mandate, an NHRI must not only monitor, investigate, and report on the human rights situation in the country, it should also undertake rigorous and systematic follow-up activities to promote and advocate for the implementation of its recommendations and findings, and the protection of those whose rights were found to be violated.

The SCA refers to Paris Principles A.1, A.2, A.3, B.2 and D(d) and to its General Observations 1.6 on ‘Recommendations by NHRIs’ and 1.10 on ‘Adequate funding of NHRIs’.

3. DECISION (Art. 14.1 of the GANHRI Statute)

3.1 Chad : The Commission nationale des droits de l’homme (CNDH)

Decision: The SCA decides to defer the review of CNDH of Chad for 18 months (or three sessions).

The SCA welcomes the CNDH request for accreditation and encourages it to continue its efforts to promote and protect all human rights. The CNDH is further encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels to continue strengthening its institutional framework and working methods.

The SCA decided to defer consideration of the CNDH on the following grounds.

The SCA encourages the CNDH to take the actions necessary to address these issues and to provide further information and evidence, as required:

1. Selection and appointment and terms of office

Article 20 of the Law states that commissioners are elected for a four-year term renewable once. Part of the 2018 cohort of commissioners for the first tenure were appointed to serve for a 2-year term to ensure partial renewal of the plenary for subsequent selection process.

During the session, the CNDH informed the SCA of the Supreme Court interpretation of the provision on selection and appointment which stipulates a renewal of the full board of commissioners. In February 2024, in keeping with the Supreme Court decision, seven out of eleven members have been renewed while they have not concluded the 4 year- tenure as per the law.

The SCA recommends that the CNDH advocates for a selection and appointment that abides by the provision of the enabling law in terms of tenure, effectiveness, and continuity of an NHRI. Such selection and appointment process should include a clear interpretation of the law regarding the tenure of the members. The SCA is of the view that there is a need to maintain the permanency and institutional independence of an NHRI.

The SCA further recommends for the amendment to the enabling law in particular of its Article 20, to provide for uniform term of office for all commissioners. This will ensure consistency and clarity with regard to the provision for term of office.

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

2. Pluralism and gender representation

Article 10 of the CNDH enabling law states that the institution is made up of eleven members. The CNDH is currently composed of 9 members from civil society and 4 women. One out the 3 members of the Bureau is a woman while 2 out of the 4 sub-commissions (Sub-Commission for the Prevention of Torture and Other Forms of Inhuman and Degrading Treatment / Sub-Commission for the Promotion of Equality and the Rights of Women, Children, People with Disabilities and Other Specific Groups) are headed by women.

Regarding pluralism and diversity of its staff complement, the CNDH reported that female applications are strongly encouraged in the context of staff recruitment and their competence is recognized in the context of positions of responsibility within the institution.

However, the SCA notes that the current membership of the CNDH does not encompass all aspects of pluralism.

Consideration must be given to ensuring pluralism in the context of ethnicity, minority status, and persons with disabilities. This 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.

The SCA recommends that the CNDH takes further steps to ensure pluralism in its membership and staff composition including on gender representation.

The SCA recommends that the CNDH take steps to ensure pluralism and diversity including appropriate religious, ethnic, regional and gender balance in its composition, including the staffing.

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

3. Adequate funding

Article 2 of the Law vests the CNDH with financial autonomy. While the CNDH budget for 2023 has seen an increase, the CNDH reported that the disbursement procedures of the institution’s budget suffer delays.

The SCA notes a recommendation from the Committee on Economic, Social and Cultural Rights (E/C.12/TCD/CO/4) of October 2023 calling for the State to provide the NHRI *with adequate financial and human resources to enable it to perform its duties while maintaining its independence from the executive and legislative branches and to protect it from interference by any State body.*

The CNDH reported that the new board of commissioners will work closely with the Ministry of Finance for the disbursement plan to be fully implemented which will allow an effective implementation of the CNDH activities.

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

The SCA encourages the CNDH to advocate for regular and timely release of its funding to ensure effective implementation of its mandate and for the level of funding necessary to effectively carry out the full breadth of its mandate and build the capacity of its members and staff.

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

4. Annual reports of NHRIs

Article 9 of the Law states that the CNDH shall prepare an annual report on the human rights situation in Chad. The report shall be shared with the President of the Republic and the Speaker of the National Assembly and disseminated. The report is not discussed by Parliament.

The CNDH informed the SCA that due to internal issues, the 2022 annual report was not duly published and debated by Parliament. The CNDH further notes that the new board of commissioners is planning to ensure that the 2023 report will be debated by Parliament.

The SCA is of the view that it is preferable for an NHRI to have the explicit power to table reports and have these reports debated directly in the legislature.

The SCA recommends that the CNDH advocate for amendments to its law to establish a process for Parliament to consider and debate its reports.

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

5. Addressing human rights violations

The SCA notes the low number of complaints and allegations of human rights violations lodged within the CNDH. The CNDH highlights that as a fairly newly established institution, its members and staff still need to be empowered with sufficient capacity to monitor, promote, and protect the rights of everyone including when discrimination or gender violence are concerned.

The SCA encourages the CNDH to strengthen its efforts to raise public awareness on its mandate to protect human rights and address all human rights violations, in particular to increase the number of complaints, including in the context of transitional justice and elections.

The SCA emphasizes that protection functions may be understood as those that address and seek to prevent actual and future human rights violations. Such functions include monitoring, inquiring, investigating, and reporting on human rights violations, and may include individual complaint handling.

The SCA therefore urges the CNDH to strengthen its efforts to address all human rights violations.

The SCA refers to Paris Principles A.1, A.2, A.3, and D(d) and its General Observation 1.6 on 'Recommendations by NHRIs', 1.2 on 'Human rights mandate'.

6. Recommendations by NHRIs

The CNDH reported that its mandate is not well known by the public authorities, including by non-states actors. The CNDH noted that it has conducted awareness raising on the mandate of the institution through roundtables, radio broadcasts, visits to the provinces, as well as the establishment of consultation frameworks in cooperation with the United Nations system.

The SCA recommends the CNDH to continue engaging with Government and other stakeholders. This includes engaging national authorities to respond and comply with CNDH advice and recommendations within a reasonable time.

The SCA refers to Paris Principles A.1, A.2, A.3 and to its General Observation 1.6 'Recommendation by NHRIs'.

7. Interaction with the international human rights system

The SCA notes that the CNDH has limited engagement with international human rights systems in particular the United Nations human rights treaty bodies and the Human Rights Council.

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

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

- submitting parallel or shadow reports to the UPR, Special Procedure mechanisms and Treaty Bodies ;
- making statements during debates before review bodies and the Human Rights Council; - 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 recommends that the CNDH strengthen its engagement with the international human rights system. The SCA refers to Paris Principle A.3 (d) and (e) and to its General Observation 1.4 on 'Interaction with the international human rights system'.

3.2 India: The National Human Rights Commission of India (NHRC)

Decision: The SCA decides to **defer** the review of the **NHRC** for 12 months (or two sessions).

The SCA takes note of the responses provided by the NHRC both in writing and during the interview, and the progress made towards having the full board. However, the SCA notes that the majority of the recommendations remain unaddressed.

The SCA reiterates that when an NHRI does not provide sufficient evidence to show the steps it has taken to address previous concerns raised by the SCA, or fails to offer a reasonable explanation of why previous concerns, often repeated, have not been addressed, the SCA may, depending on the seriousness of the issues previously raised, interpret such lack of progress as an unwillingness to demonstrate efforts in implementing the SCA recommendation and as an indication of non-compliance with the Paris Principles.

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

The SCA decided to further defer consideration of the NHRC on the following grounds:

1. Involvement of police officers in investigations

Section 11 of the Protection of Human Rights Act (PHRA) requires the Central Government to make available to the NHRC a police officer of the rank of Director General of Police or above, and such officers as necessary for the efficient performance of the NHRC.

The SCA notes the response of the NHRC that:

- Police officers are appointed by the Union of Public Service Commission and are independent from government influence.
- Police officers covering investigation activities are needed for the NHRC effective operation.
- The selection of police officers to serve in the NHRC Investigations Department is the sole prerogative of the NHRC.
- Police officers who are on secondment work under the direction and control of the NHRC which ensures that they are independent from government influence in the implementation of their duties.
- The NHRC has investigated and sanctioned 792 police officers for human rights violations and has ordered compensation for victims.

While taking note of these responses, the SCA continues to be concerned about the perceived or real conflict of interest in having police officers seconded from government engaged in investigations of human rights violations including those committed by police. The SCA reiterates its concern that the secondment of police officers to act as investigative staff may impact on their ability to conduct impartial investigations as well as the ability of victims to access human rights justice.

The SCA further notes that the NHRC has not provided information on steps taken to address SCA recommendations made in this regard in November 2017 and March 2023. The SCA therefore recommends that the NHRC advocate for amendments to section 11 of the PHRA and to amend its investigative structure to remove the capacity of government to second police officers to acts as investigative staff.

The SCA refers to Paris Principles B1, B.2 and B.3 and to its General Observation 2.4 on 'Recruitment and retention of NHRI staff'.

2. Appointment of the Secretary-General

Section 11 of the PHRA requires that the Central Government makes available to the NHRI a civil servant with the rank of Secretary to the Government to take the role of Secretary General of the Commission.

In its previous reviews of the NHRC in November 2017 and March 2023, the SCA emphasized that a fundamental requirement of the Paris Principles is that an NHRI is, and is perceived to be, able to operate independent of government interference. Where an NHRI members are seconded from the public service, and where this includes those at the highest level in the NHRI, it raises question about its capacity to function fully independently'.

The SCA acknowledges the response of the NHRC that:

- The arrangement ensures that the NHRC has the necessary expertise in the day-to-day management of the institution and its cooperation with other government institutions.
- The Secretary General works under full control of the NHRC and is selected by the NHRC from a list of candidates provided by the Government.
- All civil servants in India including those recommended for the position of Secretary of the NHRC are appointed by the Union Public Service Commission and not by the Government.

However, the SCA continues to be of the view that Section 11 of the PHRA, which requires the secondment of the Secretary General of the NHRC from the Government, has a real impact on the perceived independence of the NHRI.

While the SCA acknowledges that the current Secretary General appointed in June 2023 is a retired civil servant and is not a civil servant in post, the SCA continues to reiterate its recommendation of November 2017 and March 2023 that the NHRC advocates for amendments to the PHRA to remove the capacity for the Government to make a senior civil servant available for the position of Secretary General, and to empower the NHRC to independently recruit candidates for the position.

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

3. Composition and pluralism

Article 3 of the PHRA states that the NHRC shall consist of the Chairperson who shall be a former Chief Justice or Judge of the Supreme Court, a Commissioner who shall be a current or a former Judge of the Supreme Court, a Commissioner who shall be a current or former Chief Justice of a High Court, three Commissioners who shall have knowledge of or practical experience in human rights (of whom one shall be a woman) and the Chairpersons of seven National Commissions.

The SCA acknowledges the appointment of one woman out of the six-member commission in December 2023 with experience in human rights in line with the requirements of section 3 of the PHRA. The SCA further acknowledges information from the NHRC that it has engaged State authorities to complete the appointment of the two outstanding Commissioners with

knowledge of or practical experience in human rights and that they anticipate the appointment will be made within one month of the end of the 2024 general elections.

However, the SCA continues to reiterate its previous assessment that the current composition of the membership of the NHRC with only one woman is not sufficient to meet the pluralism requirements of the Paris Principles. This is further reiterated in terms of the composition of the staff where the SCA notes that approximately 20% of the NHRC staff complement are women while 24% belong to minority groups.

The SCA is of the view that a diverse decision-making and staff body facilitates the NHRI appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates and promotes the accessibility of the NHRI to all citizens.

The SCA recommends that the NHRC continues to advocate for the completion of the appointment process to fill remaining vacancies in its leadership body, and for further amendments to the PHRA, to ensure a pluralistic balance in its composition and staff, by ensuring that diversity of Indian society is represented including, but not limited to, religious or ethnic minorities and the equitable representation of women on the NHRC's decision-making body.

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

4. Selection and appointment

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

The SCA acknowledges the position of the NHRC, that the members of the selection committee are elected officials accountable to the people of India and include voices from diverse political perspectives.

However, the SCA does not consider this to sufficiently promote broad consultation or participation in the selection process, nor maximize the number of candidates from a wide range of groups. The SCA notes that the selection committee does not provide for the formal involvement of civil society organizations in the process.

The SCA reiterates the concern raised in its November 2017 and March 2023 review of the NHRC that the selection process currently enshrined in the PHRA is not sufficiently broad and transparent. In particular, it does not:

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

It is critically important to ensure the formalization of a clear, transparent, and participatory selection and appointment process for an NHRI 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 also notes with concern that the NHRC has not provided information on steps taken to address its recommendations on selection and appointment made in November 2017 and March 2023. The SCA recommends that the NHRC advocates for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly; and
- b) Promote broad consultation and / or participation in the application, screening, selection and appointment process.

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. Addressing human rights violations

The SCA has considered reports of serious human rights violations taking place in India including the report of the Office of the High Commissioner for Human Rights and third-party submissions in relation to restriction of civic space, reprisals against human rights defenders and journalists who are perceived as critics, hate speech, violence, and discrimination against minorities.

The SCA has also received third-party submissions raising concerns that the NHRC has not used its mandate to adequately address or speak out on pressing human rights violations.

The SCA acknowledges that the NHRC has provided information on how they have addressed human rights violations, as follows:

- Taking cognizance of cases of hate speech against political actors and ordering police investigations and action.
- Investigated and recommended compensation for human rights violations arising out of police action and ethnic violence.
- Registered and acted on 397 cases against ethnic, religious, and racial minorities.
- Issued advisories regarding protection of children from online abuse.
- Established a 24-hour toll-free line where victims and human rights defenders can report human rights violations.

However, the SCA notes that the information provided does not demonstrate adequate efforts to address human rights violations at a systemic level, nor has the institution spoken out in a manner that promotes and protects all human rights.

The SCA notes observations of UN Special Procedures and the third-party submission on serious human rights violations against ethnic and religious minorities including hate speech, violence, and discrimination. In its responses both in writing and in the interview, the NHRC reports that it has taken cognizance of cases regarding violence, discrimination and hate speech against minorities including recommending compensation. The SCA is, however, concerned that the NHRC has not provided adequate information on how it is addressing the systemic nature of these violations.

While the NHRC has reported that it has taken cognizance of cases of human rights violations against human rights defenders and journalists and reconstituted its core working group on civil society, the SCA is concerned the NHRC has not provided adequate information about how they are addressing the shrinking civic space and increased instances of targeting human rights defenders, journalists, and perceived critics. The SCA is also concerned that the NHRC

has not publicly communicated its positions on these issues in a way that promotes the credibility of the institution and addresses the systemic nature of these violations.

The SCA recommends that the NHRC addresses all violations of human rights and to ensure effective follow-up so that the State makes the necessary changes to ensure that human rights are clearly protected. The SCA further recommends that the NHRC ensures that its positions on these issues are made publicly available, as this will contribute to the strengthening of the credibility and accessibility of the institution for all people in India.

An NHRI 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. 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 vigilance and independence.

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

6. Cooperation with civil society

The SCA notes that, prior to its first session of 2024, the SCA received extensive information from various civil society organizations which indicated that the relationship between the NHRCI and civil society is not effective or constructive, particularly with respect to ongoing dialogue and follow-up on issues raised.

The NHRC reported that it has reconstituted its Core working group on civil society and has met twice in 2023. However, the SCA has received information from civil society that these mechanisms are not adequately addressing pressing human rights issues and challenges faced by civil society and human rights defenders.

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

The SCA encourages the NHRC to take additional steps to ensure that it engages in ongoing, constructive dialogue and cooperation with civil society and human rights defenders and that this should include regular and ongoing modes of collaboration outside of the Core/Expert Groups and address pressing human rights issues facing human rights defenders.

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

3.3 Oman: The Oman Human Rights Commission (OHRC)

Decision: The SCA decides to **defer** the review of **OHRC** for 18 months (or three sessions).

The SCA acknowledges the efforts of the OHRC in addressing the concerns previously raised by the SCA through advocating for amendments to its enabling legal framework, which have resulted in the issuance of Royal Decree No. (57/2022) reorganizing the OHRC. The SCA also notes that the Internal Regulations for the OHRC have been updated in 2024, however the SCA considers these Regulations are not legally binding. The SCA notes that the OHRC is advocating for further amendments to the Royal Decree to reduce the number of government representatives within its membership and to increase the number of women commissioners and encourages the OHRC to continue its efforts. The SCA notes efforts by the OHRC in promoting and protecting human rights in Oman and urges them to further engage in

monitoring of human rights issues, including violations of the rights of migrant workers, the protection of human rights defenders and the shrinking of civic space.

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

The SCA decided to defer the consideration of the OHRC on the following grounds. Accordingly, the SCA encourages the OHRC to take the actions necessary to address these issues and to provide further information and documentation, as required.

1. Selection and Appointment

Articles 2 and 3 of Royal Decree No. (57/2022) provide for the appointment of the OHRC members and the election of the Chair and Vice Chair. Articles 11 and 12 of the Internal Regulations of the OHRC indicate that the appointment of the members shall be on the recommendation of an 'Independent Committee', which shall extensively consult and coordinate with government entities and civil society organizations to propose nominees for membership. However, the process as enshrined in the Royal Decree and Internal Regulations does not require the advertisement of vacancies. Moreover, the Internal Regulations do not confirm the composition of the Independent Committee, which is critical to determining its independence.

The OHRC reports that in practice the members of the Independent Committee are selected by the Sultan and that a vacancy announcement is sent out to all civil society organisations. The OHRC reported to the SCA that the process will be improved during subsequent appointments.

The SCA recommends that the OHRC advocate for amendments to the selection and appointment process that includes requirements to publicize vacancies broadly and promote broad consultation through the screening, selection and appointment committee.

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

2. Political representatives

The OHRC currently has 6 government representatives who are part of its board of 14 commissioners. While these representatives do not have voting rights according to Article 13 of the Royal Decree No. (57/2022), the presence of government representatives within the membership of the OHRC may impact its real and perceived independence. Additionally, the OHRC Internal Regulations do not contain provisions to exclude these members from attending parts of meetings where deliberations and strategic decisions are made.

The OHRC reports that these members assist in carrying out its mandate, while also acknowledging that the number of government representatives is high, reporting further that it is advocating to reduce the number of government representatives.

An NHRI is required to be independent of government in its composition, operation, and decision making. Therefore, government representatives and members of parliament should not be members of, nor participate in the decision-making organs of an NHRI.

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

In order to further promote independence in decision making, and avoid conflicts of interest, an NHRI's rules of procedure should establish practices to ensure that such persons are unable to influence decision-making by, for example, excluding them from attending parts of meetings where final deliberations and strategic decisions are made.

The SCA encourages the OHRC to continue its advocacy for the necessary changes in its legal framework, to reduce the number of government representatives in its decision-making body and introduce additional measures to limit their involvement in deliberations and strategic decisions.

The SCA refers to Paris Principles B.1, B.2, B.3 and C(a), and to its General Observation 1.9 on 'Political representatives on NHRIs'.

3. Encouraging ratification or accession to international human rights instruments

Royal Decree No. (57/2022) does not provide the OHRC with the explicit mandate to encourage ratification or accession to international human rights instruments. The OHRC reported that it interprets article 11(4) of the Decree, which provides it with the general mandate to advise state authorities on human rights and freedoms, to include recommending the ratification of international treaties.

The SCA acknowledges further that, in practice, the OHRC promotes ratification of international instruments including through its recommendations for the State to adhere to international standards in its submissions to the UPR in 2020, CEDAW in 2021 and CRC in 2022.

The SCA highlights that encouraging ratification of, or accession to, regional and international human rights instruments, as well as monitoring the effective implementation of those instruments, is a vital function of an NHRI. The SCA considers it important that these duties form an integral part of the enabling legislation of an NHRI. While article (45) bis 16 (6) of the updated Internal Regulations provides that the OHRC annual report shall include recommendations for accession to relevant international human rights conventions and proposals for withdrawing reservations to certain convention clauses, the SCA considers that Internal Regulations do not form part of the OHRC legislative mandate.

The SCA recommends that the OHRC advocate for appropriate amendments to Royal Decree No. (57/2022), to provide for the explicit mandate to encourage ratification or accession to regional and international human rights instruments. The SCA encourages the OHRC to continue its advocacy for the ratification of international human rights instruments in practice.

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

4. Dismissal

The SCA notes that the grounds for dismissal of members of the OHRC are not specified in the Royal Decree No. (57/2022). The SCA acknowledges that article 16 of the Internal Regulations provide that members of the OHCR may be dismissed by a decision of the OHRC itself for failing to meet membership criteria, violating his/her duties, or contravening the Internal Regulations. However, the SCA considers that the Internal Regulations do not provide sufficient protection for the dismissal of members by other state authorities.

The SCA emphasizes that, in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process. The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the member to fulfil its mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed to be based solely on the discretion of the appointing authorities.

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

The SCA encourages the OHRC to advocate for appropriate amendments to Royal Decree No. (57/2022) to ensure an independent and objective dismissal process for its members.

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

5. Protection from criminal and civil liability

Royal Decree No. (57/2022) and the Internal Regulations of the OHRC do not provide protection from criminal or civil liability for official actions undertaken in good faith for Commissioners and staff.

The OHRC indicates that Article 191 of the Penal Code provides some limited protection for all public authorities and that Article 2 of the Internal Regulations provides a basis in which the OHRC can operate without interference. However, the OHRC acknowledges the gap in the law regarding protection from criminal or civil liability and that advocacy efforts are ongoing to ensure the OHRC receives similar immunity provided to other official authorities. The SCA considers that the members and staff of the OHRC do not enjoy such protection.

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

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

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

The SCA reiterates its previous recommendations of November 2013 strongly recommending that provisions be included in national law to protect legal liability of members of the OHRC decision-making body for the actions undertaken and decisions made in good faith in their official capacity.

The SCA refers to Paris Principles B.3, C(c) and to its General Observation 2.3 on 'Protection from criminal and civil liability for official actions and decisions undertaken in good faith'.

6. Annual reports

Articles 16 and 45 bis 16 of Royal Decree No. (57/2022) and the updated Internal Regulations provide that the OHRC prepares and submits its annual report to the Sultan. The OHRC reported that, in practice, its annual reports are published throughout the country including with the Shura Council. The OHRC also indicated that meetings are held with officials of the Council to discuss specific issues of human rights concerns. The SCA notes that the Decree and the Regulations do not provide for the OHRC to submit its annual report to the Shura Council nor establish processes whereby the Council must consider and debate it.

The SCA considers it important that the enabling law of an NHRI establish a process whereby its reports are required to be discussed and considered by the parliament, to ensure that relevant public authorities properly consider its recommendations. It is preferable for the NHRI to have an explicit power to table reports directly in the parliament rather than through the Executive and, in so doing, to promote action on them.

The SCA encourages the OHRC to advocate for the appropriate amendment to its enabling law to provide for the tabling of its reports directly to the Shura Council to establish a process whereby the legislature must discuss and consider them.

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

7. Pluralism

The OHRC currently has a total of 3 females out of 14 members constituting 21.43%. Royal Decree No. (57/2022) is silent with regard to the pluralism and diversity of members. The OHRC informs the SCA that it is currently advocating for an amendment to the Royal Decree to provide for an increased quota of female representation.

The SCA emphasizes that pluralism refers to broader representation of the national society. Consideration must be given to ensuring pluralism in the context not only of gender, but also ethnicity, geographic, and minority status. This includes, for example, ensuring the equitable participation of women in the NHRI. This 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.

The SCA encourages the OHRC to continue advocating for amendments to the Royal Decree to ensure pluralism in its membership and staff composition.

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

8. Quasi-judicial mandate

The OHRC notes that it also receives and handles various types of reports from citizens and migrant workers. The SCA notes the limited number of complaints and cases received and handled by the OHRC.

The SCA therefore encourages the OHRC to take steps to remove potential barriers to its complaints process including improving accessibility, public awareness and confidence.

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 and D and its general observation 2.9 on “The quasi-judicial competency of NHRIs (complaints-handling)”.

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

4.1 Burundi : The Commission nationale indépendante des Droits de l’homme (CNIDH)

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

In accordance with Article 18.1 of the GANHRI Statute, a recommendation to downgrade does not take effect for a period of one year. The SCA notes that the CNIDH maintains “A” status until the SCA’s first session of 2025. This allows an opportunity for the CNIDH to provide the documentary evidence necessary to establish its continued conformity with the Paris Principles.

At its second session of 2023, the SCA decided to undertake a special review of the accreditation status of the CNIDH, based on a joint third-party submission alleging:

- political interference in the most recent selection of CNIDH members;
- unwillingness of the CNIDH to monitor and investigate politically sensitive cases, involving political opponents, important political figures, members of the internal security forces or members of the youth group affiliated to the leading political party;
- that the CNIDH has not taken steps to facilitate granting access to the UN Special Rapporteur on the situation of the human rights to the territory by the authorities of Burundi; and
- that the CNIDH has refused to engage with civil society organisations.

At its first session of 2024, the SCA gave the CNIDH the opportunity to provide a response in writing and through interview in relation to the following issues:

- how the CNIDH addresses human rights violations, particularly, arbitrary detention of journalists, human rights defenders and opposition leaders;
- how the CNIDH cooperates with a wide range of civil society organisations;
- the most recent selection of new commissioners in 2023 and on how this has affected the perceived independence and credibility of the CNIDH; and
- its cooperation with the international human rights mechanisms in particular engagement with the United Nations Special Rapporteur on the human rights situation in Burundi.

The CNIDH reported that it continues to promote and protect human rights in Burundi.

The SCA acknowledges the information provided by the CNIDH in writing and during the interview. However, the SCA is of the view that the information provided does not demonstrate sufficient independence and effectiveness to warrant continued accreditation of A status under the Paris Principles.

Also, the SCA assesses the compliance of the CNIDH with the Paris Principles in accordance with its Practice Note 3 on “assessing the performance of an NHRI” in particular:

- its ability to carry out its mandate effectively and without interference, and
- its demonstrated independence in practice and its willingness to address the pressing human rights issues.

The SCA acknowledges that the CNIDH provided responses to the issues raised. However, its responses do not sufficiently substantiate the NHRI’s efforts to address the major concerns in line with the requirements of the Paris Principles, especially on the perceived independence of the institution and its ability to address human rights violations. In particular, the CNIDH has not spoken out in a manner that supports the promotion and protection of all human rights and has not adequately addressed human rights violations.

The CNIDH is encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI and 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. Selection and appointment

The SCA received information that the selection and appointment process for members of CNIDH has been conducted in a manner that could compromise its independence.

The CNIDH has indicated that the selection and appointment process is under the authority of Parliament as stipulated by the enabling law. As such, in keeping with Articles 7, 8 and 9 of its enabling Law, the vacant Executive Secretary position has been filled by the second candidate to the position of Executive Secretary (86 votes over 116) after the leading candidate (113 votes over 116) withdrew.

The SCA is of the view that the current provision on selection and appointment does not provide sufficient protection against political interference that could adversely impact the actual and perceived institutional independence of the CNIDH, and it also threatens the stability and credibility of the institution.

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. Cooperation with civil society organisations

The SCA notes that the CNIDH has provided information on its engagement with civil society organisations, including some human rights defenders in exile that rely on the institution to investigate allegation of human rights violations in the country. The CNIDH also mentioned the risks of reprisals against its members and staff in the monitoring and reporting of alleged human rights violations including in the context of the advocacy for granting access to the UN Special Rapporteur on the human rights situation in Burundi by the State.

The SCA acknowledges the examples provided by the CNIDH and recommends that the CNIDH continues to enhance and formalise its working relationships and cooperation with civil society organisations and human rights defenders in a timely and responsive manner.

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

Broad engagement with all stakeholders improves the effectiveness of an NHRI in strengthening the civic space, 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 refers to Paris Principles C(f) and (g), and to its General Observation 1.5 on 'Cooperation with other human rights bodies'.

3. Addressing human rights violations

The CNIDH provided some information in relation to its activities and efforts to address human rights violations, including in monitoring places of deprivation of liberty and in investigating the cases of political detainees. Further, the institution declared that it had encountered resistance from national authorities during its continued advocacy for the ratification of the OPCAT.

While the SCA notes that the CNIDH is currently operating within a challenging operational context, the SCA recommends that the CNIDH strengthens its efforts to address all human rights violations and to conduct follow-up activities to ensure that the State upholds its protection obligations, as this will strengthen the credibility and accessibility of the institution for all people in Burundi.

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. NHRIs are expected to promote and ensure respect for all human rights, democratic principles and the strengthening of the rule of law in all circumstances, and without exception.

The SCA further recommends that the CNIDH ensure that its positions on these issues are made publicly available.

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

4.2 Great Britain: The Equality and Human Rights Commission (EHRC)

Recommendation: The SCA recommends that the accreditation status of the EHRC be maintained.

In its October 2023 session, the SCA decided to undertake a special review of the EHRC based on third-party submissions and publicly available information raising serious concerns about the continued compliance of the EHRC with the Paris Principles, in particular its ability to conduct its mandate independently, to take positions in line with international standards, and its cooperation with civil society. In November 2023, the SCA invited the EHRC to provide

information in relation to the issues raised. The SCA received the EHRC response in December 2023.

In light of all the information provided by the EHRC, the SCA considers that no further review of the Institution is required at this time. The EHRC is encouraged to focus on the recommendations made by the SCA in 2023. The EHRC is also encouraged to continue to engage with civil society organisations, including those working on transgender rights, in a meaningful and constructive manner.

5. SPECIAL REVIEW (Art. 16.2 of the GANHRI Statute)

5.1 Canada: The Canadian Human Rights Commission (CHRC)

Decision: The SCA decides to **initiate a special** review of **CHRC** at its second session of 2024

On 29 February 2024, the SCA Secretariat received information from the Black Class Action Secretariat (BCAS), on behalf of a coalition of Canadian civil society organizations, including a diverse range of groups dedicated to advancing human rights and equity in Canada, alleging that the CHRC has been engaged in practices that discriminate against Black and racialized employees based on investigations by two independent state authorities.

The Third-party submissions also alleged that the CHRC is not fulfilling its role in protecting individuals from discrimination and referenced findings by the Senate of Canada Human Rights Committee and the Treasury Board Secretariat of Canada which have highlighted systemic racial discrimination within the CHRC.

More specifically, in its investigation concluded in May 2023, the Senate Human Rights Committee found evidence of anti-Black racism and systemic discrimination in federal public services and was particularly concerned by its prevalence within the CHRC. The study also reported that the CHRC had higher dismissal rate of race-based complainants and exclusion of Black and racialized employees from promotions.

Whilst the SCA acknowledges the response provided by the CHRC, the SCA is of the view that third-party submissions and publicly available information raises concerns about the continued compliance of the CHRC with the Paris Principles, including its ability to conduct its mandate in an efficient manner and its perceived credibility in tackling systemic human rights violations.

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 CHRC ongoing compliance with the Paris Principles.

5.2 Iraq: The Iraqi High Commission for Human Rights (IHCHR)

Decision: The SCA decides to **initiate a special** review of **IHCHR** at its second session of 2024

On 28 September 2023, the SCA became aware of publicly available information posted on the website of the General Secretariat of the Council of Ministers' that the Council of Ministers, via Resolution No (23516) of 2023 tasked the Minister of Justice to oversee the administrative and financial matters of IHCHR while revoking the previous appointment of the head of the federal oversight office for these responsibilities. The SCA also became aware of information that the IHCHR has not had Commissioners since 2021.

The SCA is of the view that publicly available information raises serious concerns about the continued compliance of the IHCHR with the Paris Principles, including its real or perceived independence from government and its ability to discharge its mandate in an independent and effective manner.

Whilst the SCA acknowledges the response provided by the IHCHR, the SCA is of the view that the information before it raises concerns about the IHCHR continued compliance with the Paris Principles. The SCA therefore decides to initiate a Special Review in accordance with Article 16.2 of the GANHRI Statute.