



## Supplementary Human Dimension Meeting

### NATIONAL HUMAN RIGHTS INSTITUTIONS (ombudsinstitutions, commissions, institutes and other mechanisms) 14-15 April, 2011 Hofburg, Vienna

#### ANNOTATED AGENDA

#### Background

NHRIs can play an important role in ensuring that participating States adhere to international human rights standards and in promoting a culture of respect for human rights at the national level. In the 1990 Copenhagen Document, participating States committed themselves to “facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law”. OSCE participating States have also acknowledged the important role of NHRIs in various areas such as gender equality (Sofia 2004), preventive action against terrorism (Bucharest 2001) and on issues involving Roma and Sinti communities (Maastricht 2003)<sup>1</sup> and tasked the OSCE Office for Democratic Institutions and Human Rights to assist in building the capacity of NHRIs in these areas.

In the 2010 Astana Commemorative Declaration, OSCE participating States reaffirmed that ‘the respect for human rights and fundamental freedoms, democracy and the rule of law’ is ‘at the core of the OSCE comprehensive concept of security’. This overarching principle implies and reinforces the importance that OSCE participating States support the work of independent, state-funded bodies established to support the implementation of international standards at the national level.

The issue of NHRIs has been discussed at a number of previous human dimension events, including in 2006 at the Supplementary Human Dimension Meeting (SHDM) entitled *Human Rights Defenders and NHRIs: Legislative, State and Non-State Aspects*, in 2007, at the SHDM *On Protection and Promotion of Human Rights: Responsibilities and Effective Remedies*, and in 2008 on the *Role and Mandate of National Institutions against*

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<sup>1</sup> - Bucharest 2001 (Annex to Decision on Combating Terrorism; The Bucharest Plan of Action for Combating Terrorism) “ODIHR: Will continue and increase efforts to promote and assist in building democratic institutions at the request of States, *inter alia* by helping to strengthen .... ombudsman institutions and civil society.”  
- Maastricht 2003 (Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area) “Upon request, ODIHR will provide advice on how participating States’ existing mechanisms, such as ombudsman offices, ...., can alleviate tensions between Roma and Sinti and non-Roma communities.”  
- The 2004 Sofia Ministerial Council Decision recommended to participating States to establish and strengthen existing mechanisms for ensuring gender equality, *inter alia* by making available the services of an impartial and independent person or body, such as an Ombudsman/Human Rights Commissioner, to address gender related discrimination against individual citizens.  
- Sofia 2004 (Annex to Decision No. 14/04; OSCE Action Plan for the Protection of Gender Equality) “The ODIHR will continue to provide know-how and support for the building-up of democratic institutions for advancing gender equality, such as Ombudsman’s offices at local and national levels, as appropriate;”  
- The 2007 Madrid Ministerial Council Decision on tolerance and non-discrimination also encouraged participating States to establish national institutions or specialized bodies to combat intolerance and discrimination as well as to develop and implement national strategies and action plans in this field.

*Discrimination in Combating Racism and Xenophobia with a Special Focus on Persons Belonging to National Minorities and Migrants.*

Although in some participating States NHRIs have long existed, most OSCE participating States have created NHRIs in the last two decades. These bodies are set up as institutionally and functionally independent bodies that promote and monitor States' implementation of and compliance with their obligations to protect human rights and fundamental freedoms. They are state-funded and permanent, usually legitimized by the national Parliaments which provide oversight in relation to their operations. Their mandate generally includes the power to protect and promote economic, social and cultural rights as well as civil and political rights. Typical functions include processing and resolving human rights complaints and identifying human rights challenges, making recommendations to the government, promoting national laws and practices that conform to international standards and promoting human rights in the community.

Until now, 41 OSCE participating States have created NHRIs on a state level in the form of Ombuds Institutions, National Human Rights Commissions or National Human Rights Centres or Institutes. 29 of these institutions from 26 participating States have undergone the evaluation procedure by the International Coordinating Committee of National Human Rights Institutions which operates under the auspices of the United Nations Office of the High Commissioner for Human Rights and reviews the compliance of the minimum standards for National Human Rights Institutions set out by the United Nations Principles relating to the Status of National Institutions ("Paris Principles"<sup>2</sup>). Many other institutions are on the path to accreditation.

Despite these positive developments, NHRIs require further support. While in many cases their structures have been formed and operations are ongoing, some NHRIs report having to deal with weak legislative frameworks, insufficient financial and human resources and a general lack of political will to recognise their recommendations, guidance and advice. Some international experts and domestic stakeholders have at times raised questions about the legal or factual independence of a number of NHRIs.

The Supplementary Human Dimension Meeting will provide a platform for exchanges among governments, NHRIs and civil society actors, and serve as an opportunity for participating States to review their commitments towards NHRIs, as well as share best practices and ways to overcome challenges in supporting NHRIs to exercise their mandated work. Participants will be able to explore "the bridge-building" role played by NHRIs in bringing governments and civil society together in addressing human rights issues across the OSCE region.

15:00 – 16:00            **Opening Session**

16:00 – 18:00            **Session I: National Human Rights Institutions - their role in promoting and protecting human rights**

According to the United Nations Paris Principles, NHRIs should have a clearly defined and comprehensive mandate, based on universal human rights standards. While some focus predominantly on processing individual complaints, others have been mandated to focus

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<sup>2</sup> Adopted by the United Nations General Assembly resolution 48/134 of 20 December 1993.

more on advocating legislative changes and making recommendations on policy issues with a human rights dimension. Furthermore, some NHRIs give special attention to awareness-raising and human rights education. Whatever their respective mandates may be, all NHRIs have the common objective to promote and protect human rights at the national level. When many NHRIs were first established, there was a focus on their role in the promotion and protection of civil and political rights. Subsequently, their mandate has expanded to cover the full scope of human rights, including economic, social and cultural rights, as well as environmental issues. NHRIs often focus on supporting vulnerable or marginalized groups in society, such as ethnic, national or linguistic minorities, women and children, refugees, internally displaced persons, migrant workers or persons in detention.

Having proven to be a reliable and independent source of expertise and oversight, many NHRI have in recent years been entrusted with one or more additional responsibilities adding new functions to their mandate. Some have become the National Preventive Mechanism (NPM) under the UN Optional Protocol to the Convention Against Torture, whereas others have been given the task of serving as the independent monitoring mechanism under the UN Convention on the Rights of Person with Disabilities or as the focal point under the national anti-discrimination legislation. While these additional functions have the overall effect of strengthening the role of National Human Rights Institutions as a guarantor for the implementation of human rights at the national level, they also pose additional challenges in terms of capacity and human and financial resources.

The first session of the SHDM will allow for a broad discussion on the role, functions and prevailing models of NHRIs, their proven relevance and importance in support of human rights protection and promotion.

The following issues may be considered for the discussion:

- What impact does the work of NHRIs have on human rights issues in participating States?
- Which are the key areas in promoting and protecting human rights on which NHRIs should focus?
- What are the challenges faced by NHRIs in fully exercising their mandate?
- What are some of the solutions that have been developed to strengthen the role of NHRIs in fulfilling their mandates?

## **Day 2**

10:00 – 12:00

### **Session II: National Human Rights Institutions and governments**

NHRIs are expected to operate independently from the government, but also need to engage with the government continuously and at many different levels to promote positive change and better adherence to human rights standards. This poses a central challenge to the functioning of all NHRIs, requiring them to maintain a good working relationship with the government whilst fully maintaining their independence and acting to vigorously defend and protect human rights and fundamental freedoms. In this regard, it is crucial to note that all the work of NHRIs is directed at assisting governments in the implementation of their

international human rights obligations. This includes initiating or reviewing legislation to contribute to the development of a human rights-based approach to policies in various fields or highlighting gaps in existing legislation. Depending on the mandate of the NHRI, their role may include informing the government of identified human rights violations, both of individual cases and emerging trends, and making recommendations to prevent such violations in the future.

Where the interaction between the state authorities and the NHRI is collaborative, cooperative and based on a genuine common effort to protect universal human rights, the rights of individuals are likely to be better protected and policies and legislation are more likely to be in line with international human rights standards.

The second session will explore the current state of relationships between NHRIs and governments and to discuss challenges, opportunities and good practices in this regard.

The following issues may be considered for the discussion:

- How can the institutional and structural independence of NHRIs as a key element for their success be best achieved?
- How can governments further assist the work of NHRIs and strengthen their role?
- What are some of the challenges NHRIs see in their relationship with governments?
- What are some of the successful models that were found to overcome these challenges?

12:00 - 14:00            Lunch break

14:00 – 16:00            **Session III: National Human Rights Institutions and civil society**

Civil society actors, such as non-governmental organizations, religious leaders, trade unions and academic institutions, can be an important source of information, giving the NHRIs access to expertise and valuable social networks, including to individuals or groups who are politically, socially, economically or culturally marginalized. A collaborative relationship with such actors contributes to deepening the legitimacy of NHRIs and ensures that public concerns and priorities are reflected in their work. The 1990 Charter of Paris affirmed “the major role that non-governmental organizations, religious and other groups and individuals play in the achievement of the objectives” of the process that evolved into the OSCE. NHRIs are often mandated by law to take the lead in raising human rights awareness and providing human rights education to the public, hence empowering civil society by imparting knowledge of human rights.

The last session will provide a platform to discuss the current forms and areas of cooperation between NHRIs and civil society and to elaborate on the mutual benefits as well as the existing challenges of such relationships.

The following issues may be considered for the discussion:

- What are the advantages of cooperation for both NHRIs and civil society actors?

- What are the main challenges for successful cooperation between NHRIs and civil society?
- What are some of the thematic areas in which cooperation between NHRIs and civil society has proven to be successful?
- How can the cooperation between NHRIs and civil society actors be reinforced and strengthened?

16:00 – 16:30          Break

16:30 – 17:30          Closing Session