

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

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

Geneva, 16-20 March 2015

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

2.1 Iraq: High Commission for Human Rights (HCHR)

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

The SCA welcomes the establishment of the HCHR. It commends the HCHR for its continuing efforts to promote and protect human rights despite the hostile security situation in which it operates. The SCA appreciates the ongoing efforts of the HCHR to maintain its independence, and emphasizes the importance of continuing these efforts.

The SCA further commends the efforts of the HCHR to engage with the international human rights system.

The SCA notes with appreciation the efforts the HCHR has been making to work cooperatively with and seek guidance from various stakeholders, including UNAMI and the APF. It encourages the HCHR to continue these efforts in order to strengthen its legislative base and its effectiveness.

The SCA notes:

1. Mandate

The SCA notes that the range of promotional activities undertaken by the HCHR to date has been limited.

While acknowledging the financial constraints faced by the HCHR, the SCA encourages the HCHR to undertake a wider range of promotional functions to create a society where human rights are more broadly understood and respected. Such functions may include education training, advising, public outreach and advocacy.

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

2. Selection and appointment

Article 8(3) of the Law on the HCHR indicates that the Chairperson and Deputy Chairperson of the HCHR are elected by a majority of the members of the HCHR. The SCA notes that, to date, the HCHR has not elected a Chairperson and Deputy Chairperson. The SCA encourages the HCHR to ensure that this situation is rectified as soon as possible.

In accordance with article 7 of the Law, a selection committee comprised of not more than 15 experts representing the Council of Representatives, the Council of Ministers, the High Judicial Council, civil society, and the UN Office for Human Rights in Iraq select individuals to be recommended to the Council of Representatives for appointment. The Law does not specify how many members from each segment of society are to be included in the committee. This leaves open the possibility that this committee will be comprised predominantly of government representatives. The SCA notes that, during the last selection process, only two representatives of civil society were present on the selection committee.

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

While recognizing the difficulties in securing amendments, the SCA encourages the HCHR to advocate for amendments to the Law to ensure the process includes requirements for broad consultation and / or participation in the screening and selection 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. Conflicts of interest

The Law does not include a provision to address a situation where members have actual or perceived conflicts of interest.

The avoidance of conflicts of interest protects the reputation, and the real and perceived independence of, an NHRI. Members should be required to disclose conflicts of interest and to avoid participation on decisions where these arise.

The SCA encourages the HCHR to advocate for the inclusion in the Law, regulations or binding administrative guidelines of provisions that protect against real or perceived conflicts of interest.

4. Adequate funding and financial autonomy

The HCHR reports that its funding from government is not sufficient to effectively carry out its mandate. The SCA also notes with concern reports that the HCHR was required to operate without funding for the first half of 2013.

Additionally, while recognizing that the HCHR is authorized under the Law to open regional offices, the SCA notes that, to date, it has been unable to do so. The SCA notes that this may be a concern in the context of Iraq, where vulnerable persons are often located in geographically remote parts of the country.

Finally, the SCA notes that, in accordance with article 14 of the Law, the HCHR requires the absolute majority approval of the Council of Representatives in order to accept donor funding.

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

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

- a) The allocation of funds for premises which are accessible to the wide community, including for persons, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may

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

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

The SCA encourages the HCHR to advocate for an appropriate level of funding to effectively carry out its mandate. It further encourages the HCHR to advocate for amendments to its enabling law to allow it to receive donor funding without prior government approval.

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

5. Cooperation with other human rights bodies

The SCA wishes to highlight that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfill 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 and non-governmental organizations.

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

2.2 Latvia: Ombudsman of the Republic of Latvia (OORL)

Recommendation: The SCA recommends that the OORL be accredited with **A** status.

The SCA welcomes the application for accreditation from the Ombudsman of the Republic of Latvia. The SCA notes that amendments to the Ombudsman Law entered into force in January 2015, for which the unofficial translation has been shared with the SCA members in March 2015.