ОРГАНИЗАЦИЯ ОБЪЕДИНЕННЫХ НАЦИЙ

A

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СОВЕТ ПО ПРАВАМ ЧЕЛОВЕКА
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ЕЖЕГОДНЫЙ ДОКЛАД ВЕРХОВНОГО КОМИССАРА ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ ПО ПРАВАМ ЧЕЛОВЕКА И ДОКЛАДЫ УПРАВЛЕНИЯ ВЕРХОВНОГО КОМИССАРА ПО ПРАВАМ ЧЕЛОВЕКА И ГЕНЕРАЛЬНОГО СЕКРЕТАРЯ

Подход, применяемый в настоящее время Международным координационным комитетом национальных учреждений по поощрению и защите прав человека в деле аккредитации национальных правозащитных учреждений в соответствии с Парижскими принципами

Доклад Генерального секретаря* **

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* Приложения к настоящему документу распространяются в том виде, в котором они были получены, только на языке представления.

** Представлен с опозданием.

I. Введение

1. Настоящий доклад представляется во исполнение решения 2/102 Совета по правам человека, в котором Совет решил призвать Верховного комиссара по правам человека продолжать ее деятельность в соответствии со всеми предыдущими решениями, принятыми Комиссией по правам человека, и обновлять соответствующие доклады и исследования. В настоящем докладе в общих чертах рассказывается о прогрессе, достигнутом с момента представления Совету по правам человека предыдущего доклада по вопросу об аккредитации национальных правозащитных учреждений (A/HRC/7/70), и его следует читать в сочетании с докладом Генерального секретаря о национальных учреждениях по поощрению и защите прав человека (A/HRC/10/54), который, в частности, содержит информацию о путях и средствах активизации участия вышеуказанных учреждений в работе Совета по правам человека.

II. ПОДКОМИТЕТ ПО АККРЕДИТАЦИИ

2. Мандат Подкомитета по аккредитации Международного координационного комитета национальных учреждений по поощрению и защите прав человека состоит в рассмотрении и анализе заявлений об аккредитации и в представлении рекомендаций Бюро Комитета относительно соблюдения заявителями Парижских принципов.
В Подкомитет входит по одному представителю аккредитованного учреждения со статусом А от каждой из четырех региональных групп: Африки, Северной и Латинской Америки, Азиатско-Тихоокеанского региона и Европы. Члены Подкомитета назначаются региональными группами на трехлетний срок, который может быть возобновлен. Подкомитет назначает консенсусом на срок в один год, который может быть возобновлен, одного из своих членов для выполнения функций Председателя Подкомитета.
По состоянию на декабрь 2008 года в состав Подкомитета входят представители правозащитных учреждений Канады от Северной и Латинской Америки; Руанды от Африки; Республики Корея от Азиатско-Тихоокеанского региона; и Германии от Европы (Председатель). Управление Верховного комиссара по правам человека участвует в работе Подкомитета в качестве постоянного наблюдателя и в силу выполнения им функций секретариата Комитета. Подкомитет выражает признательность за высокую степень поддержки и профессионализма персоналу секретариата Комитета, и в частности секции по национальным учреждениям УВКПЧ.

3. В 2008 году Подкомитет рассмотрел положение дел, касающихся заявлений об аккредитации (заявлений о подтверждении аккредитации), поступивших от правозащитных учреждений Албании, Алжира, Венесуэлы (Боливарианской Республики), Ганы, Гватемалы, Германии, Ирландии, Кении, Люксембурга, Маврикия, Малайзии,

Монголии, Нигера, Парагвая, Республики Корея, Таиланда, Уганды, Швеции и Эквадора. Он рассмотрел новые заявления, поступившие от учреждений Великобритании, Восточного Тимора, Мальдивских Островов, Катара, Российской Федерации, Украины, Хорватии и Швейцарии, и провел специальные обзоры, касающиеся учреждений Афганистана и Непала. По состоянию на декабрь 2008 года Комитетом в соответствии с Парижскими принципами было аккредитовано 64 учреждения со статусом А.

4. Таблица, отражающая положение в области аккредитации по состоянию на декабрь 2008 года, содержится в приложении I. В приложения II и III включены соответственно доклады Подкомитета по аккредитации за апрель и ноябрь 2008 года.

III. СОВЕРШЕНСТВОВАНИЕ ПРОЦЕССА АККРЕДИТАЦИИ МЕЖДУНАРОДНЫМ КООРДИНАЦИОННЫМ КОМИТЕТОМ

5. На своей семнадцатой сессии, проведенной 12 апреля 2006 года, Международный координационный комитет учредил рабочую группу с целью изучения процесса аккредитации и подготовки для Комитета документа для обсуждения по данному вопросу. Рабочая группа, члены которой в то же время также являлись членами Подкомитета по аккредитации, подготовила документ для обсуждения, в котором рассматривались три области: a) состав Подкомитета и его роль и обязанности; b) процесс аккредитации; и c) содержание критериев или минимальных стандартов, установленных для аккредитации. Этот документ был представлен Комитету на его восемнадцатой и девятнадцатой сессиях. Кроме того, членам было предложено представить дополнительные замечания в письменном виде с целью разработки итогового документа для представления Комитету и утверждения его Комитетом на его двадцатой сессии в апреле 2008 года.

6. Документ, утвержденный Комитетом в апреле 2008 года, включает в себя ряд мер по совершенствованию своей процедуры аккредитации, в том числе:

a) процесс апелляционного производства для обеспечения большей транспарентности и соблюдения надлежащей процедуры для правозащитных учреждений, которые, как представляется, не соблюдают Парижские принципы;

b) более тщательное рассмотрение каждого заявления об аккредитации, в том числе всех документов и заявления о соблюдении требований, представляемых правозащитными учреждениями до начала сессии, с подробным резюме, подготовленным секретариатом;

c) более конкретные рекомендации, представляемые для каждого учреждения (со статусом A или B) с целью обеспечения полного соблюдения Парижских принципов - даже до истечения установленного для пересмотра аккредитаций пятилетнего срока;

d) более активное и широкое распространение информации о рекомендациях Подкомитета среди правозащитных учреждений и других участников, с тем чтобы они могли играть проактивную роль в контексте последующей деятельности, проводимой в соответствующей стране Организацией Объединенных Наций или региональными координационными органами правозащитных учреждений. Доклады Подкомитета также размещаются в Интернете (www.nhri.net).

7. В 2008 году Международный координационный комитет разработал новый статут с целью регистраций Комитета в качестве объединения в соответствии с швейцарским законодательством. Этот статут, основанный на существующих правилах процедуры Комитета, был утвержден на девятой Международной конференции национальных учреждений по поощрению и защите прав человека, проведенной в Найроби с 21 по 24 октября 2008 года. Процедура аккредитации, определенная в этом статуте в статье 12, гласит, что, когда Комитет по аккредитации приступает к принятию решения об аккредитации, такое решение следует рассматривать в качестве рекомендации, касающейся статуса аккредитации, причем окончательное решение принимается Бюро Комитета по завершении следующего процесса:

a) рекомендация Подкомитета направляется прежде всего заявителю;

b) заявитель в течение 28 дней по получении рекомендации может оспорить рекомендацию путем подачи через секретариат Комитета письменного возражения на имя Председателя Комитета;

c) после чего рекомендация направляется членам Бюро Комитета для принятия решения. Если возражение было получено от заявителя, то оно вместе со всеми соответствующими материалами, полученными в связи с заявлением и возражением, также направляется членам Бюро;

d) любой член Бюро, несогласный с рекомендацией, в течение 20 дней по ее получении уведомляет председателя Подкомитета и секретариат. Секретариат незамедлительно уведомляет всех членов Бюро о заявленном возражении и предоставляет всю необходимую информацию для разъяснения этого возражения. Если в течение 20 дней по получении этой информации большинство членов Бюро уведомляет

секретариат о том, что у них имеется подобное возражение, то рекомендация направляется на следующее заседание Бюро для принятия решения;

e) если большинство членов Бюро не выражает возражения в отношении рекомендации в течение 20 дней по ее получении, то рекомендация считается одобренной Бюро;

f) решение Бюро по аккредитации является окончательным.

8. Правила процедуры Подкомитета по аккредитации остаются в силе и включаются в качестве приложения к статуту Международного координационного комитета (статья 58).

9. Комитет продолжил разработку новых процедур в ходе отчетного периода. Для своей ноябрьской сессии 2008 года Подкомитет утвердил практику ознакомления каждого правозащитного учреждения с резюме, подготовленными секретариатом до рассмотрения его заявления с учетом того, что каждое учреждение располагает периодом в одну неделю для подачи замечаний по соответствующему резюме. Все полученные замечания вместе с резюме были посланы членам Подкомитета. Резюме и замечания были размещены на форуме правозащитных учреждений (www.nhri.net) после утверждения Бюро Комитета рекомендаций Подкомитета.

10. Также на своей ноябрьской сессии 2008 года Подкомитет активизировал усилия по вовлечению региональных координационных комитетов в процесс аккредитации. Комитеты всех четырех регионов были приглашены принять участие в этой сессии в качестве наблюдателей, и Подкомитет приветствовал участие в ноябрьской сессии представителя Азиатско-Тихоокеанского форума национальных правозащитных учреждений. Подкомитет поощряет участие всех региональных координационных комитетов в работе будущих сессий.

IV. ОБЩИЕ ЗАМЕЧАНИЯ

11. В соответствии с практикой, принятой на его совещании в октябре 2006 года, Подкомитет продолжит разработку общих замечаний в отношении аккредитации. Эти замечания касаются вопросов общего характера или важных аспектов толкования и призваны играть роль руководящих принципов для его членов в контексте подачи заявлений об аккредитации или осуществления Парижских принципов. В соответствии с положениями, содержащимися в документе о принятии решения, утвержденном Комитетом на его двадцатой сессии, общие замечания в качестве "инструментов толкования" Парижских принципов могут быть использованы:

a) для представления учреждениям инструкций по разработке их собственных процедур и механизмов в целях обеспечения соблюдения Парижских принципов;

b) для того, чтобы убедить национальные правительства рассмотреть или обеспечить решение вопросов, касающихся соблюдения соответствующим учреждением стандартов, содержащихся в общих замечаниях;

c) для того, чтобы направлять действия Подкомитета по аккредитации в его решениях, касающихся новых заявлений об аккредитации, заявлений о подтверждении аккредитации или специальных обзоров.

12. Перечень общих замечаний, принятых Комитетом, содержится в приложении II. Перечень общих замечаний не является исчерпывающим и будет пополняться по мере рассмотрения Подкомитетом дополнительных заявлений. Общие замечания, сформулированные Подкомитетом на его сессиях 2008 года, пока еще не были официально утверждены Комитетом, и, как запланировано, консультации по ним и их принятие будут иметь место на его двадцать второй сессии в марте 2009 года.

Annex I

CHART OF THE STATUS OF NATIONAL INSTITUTIONS ACCREDITED BY THE INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

In accordance with the Paris Principles and the ICC Sub-Committee Rules of Procedure, the following classifications for accreditation are used by the ICC:

A: Compliance with the Paris Principles;

B: Observer Status - Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;

C: Non-compliant with the Paris Principles.

A STATUS INSTITUTIONS

National Institution	Status	Year reviewed
Asia and the Pacific		
Afghanistan: Independent Human Rights Commission	A	October 2007 Placed under review Nov 2008 - A
Australia: Australian Human Rights and Equal Opportunity Commission	A	1999 Oct 2006
India: National Human Rights Commission of India	A	1999 Oct 2006
Indonesia: National Human Rights Commission of Indonesia	A	2000 March 2007
Jordan: National Centre for Human Rights	A	April 2006 March 2007 October 2007 Will be reviewed in October 2010
Malaysia: Human Rights Commission of Malaysia (SUHAKAM)	A (see SCA report April 2008)	2002 April 2008 Will be reviewed in 2nd half of 2009

National Institution	Status	Year reviewed
Mongolia: National Human Rights Commission of Mongolia	A	2002 - A(R) 2003 Nov 2008
Nepal: National Human Rights Commission of Nepal	A	2001 - A(R) 2002 - A A status placed under review April 2006; under review in March 2007 October 2007 Nov 2008 - A
New Zealand: New Zealand Human Rights Commission	A	1999 Oct 2006
The Philippines: Philippines Commission on Human Rights	A	1999 March 2007 October 2007
Timor-Leste: Provedoria for Human Rights and Justice	A	April 2008
Republic of Korea: National Human Rights Commission of the Republic of Korea	A	2004 Nov 2008
Thailand: National Human Rights Commission	A	2004 Nov 2008
Africa		
Algeria: Commission Nationale des Droits de l'homme	A (see SCA report April 2008)	2000 - A(R) 2002 - A(R) 2003 April 2008 Will be reviewed in 2nd half of 2009
Egypt: National Council for Human Rights	A	Apr 2006 - B Oct 2006
Ghana: Commission on Human Rights and Administrative Justice	A	2001 Nov 2008
Kenya: Kenya National Commission on Human Rights	A	2005 Nov 2008
Malawi: Malawi Human Rights Commission	A	2000 March 2007

National Institution	Status	Year reviewed
Mauritius: Commission Nationale des Droits de L'homme	A	2002 April 2008
Morocco: Conseil Consultatif des Droits de L'homme du Maroc	A	1999 - A(R) 2001 October 2007 Will be reviewed in October 2010
Namibia: Office of the Ombudsman	A	2003 (A (R)) April 2006
Niger: Niger Commission Nationale des Droits de L'homme et des Libertés Fondamentales	A	2001 - A(R) 2002 - A Apr 2006 (reviewed) April 2008
Rwanda: National Commission for Human Rights	A	2001 October 2007
Senegal: Comité Sénégalais des Droits de L'homme	A	2000 October 2007 Will be reviewed in October 2010
South Africa: South African Human Rights Commission	A	1999 - A(R) 2000 October 2007
Tanzania: National Human Rights Commission	A	2003 - A(R) 2005 - A(R) October 2006
Togo: National Commission for Human Rights	A	1999 - A(R) 2000 October 2007
Uganda: Uganda Human Rights Commission	A	2000 - A(R) 2001 April 2008
Zambia: Zambian Human Rights Commission	A	2003 A (R) Oct 2006
The Americas		
Argentina: Defensoría del Pueblo de la Nación Argentina	A	1999 Oct 2006

National Institution	Status	Year reviewed
Bolivia: Defensor del Pueblo	A	1999 - B 2000 March 2007
Canada: Canadian Human Rights Commission	A	1999 Oct 2006
Colombia: Defensoría del Pueblo	A	2001 October 2007
Costa Rica: Defensoría de los Habitantes	A	1999 Oct 2006
Ecuador: Defensor del Pueblo	A (see SCA report April 2008)	1999 - A(R) 2002 April 2008 Will be reviewed in 2nd half of 2009
El Salvador: Procuraduria para la Defensa de los Derechos Humanos	A	April 2006
Guatemala: Procuraduría de los Derechos Humanos de Guatemala	A	1999 - B 2000 - A(R) 2002 April 2008
Honduras: Comisionado Nacional de los Derechos Humanos de Honduras	A	2000 October 2007
Mexico: Comisión Nacional de los Derechos Humanos	A	1999 Oct 2006
Nicaragua: Procuraduría para la Defensa de los Derechos Humanos	A	April 2006
Panama: Defensoría del Pueblo de la República de Panamá	A	1999 Oct 2006
Paraguay: Defensoría del Pueblo de la República del Paraguay	A	2003 Nov 2008
Peru: Defensoría del Pueblo	A	1999 March 2007
Venezuela: Defensoría del Pueblo	A	2002 April 2008

Europe		
Albania: Republic of Albania People's Advocate	A	2003 - A (R) 2004 Nov 2008
Armenia: Human Rights Defender of Armenia	A	Apr 2006 - A(R) Oct 2006
Azerbaijan: Human Rights Commissioner (Ombudsman)	A	Oct 2006
Bosnia and Herzegovina: Human Rights Ombudsman of Bosnia and Herzegovina	A	2001 - A(R) 2002 - A (R) 2003 - A (R) 2004 Nov 2008: deferral of review to Oct/Nov 2009
Denmark: Danish Institute for Human Rights	A	1999 - B 2001 October 2007
France: Commission Nationale Consultative des Droits de L'homme	A	1999 Oct 2006 review deferred to Oct 2007 October 2007
Georgia: Public Defender's Office	A	October 2007
Germany: Deutsches Institut für Menschenrechte	A	2001 - A(R) 2002 - A(R) 2003 Nov 2008
Great Britain: Equality and Human Rights Commission	A	Nov 2008
Greece: National Commission for Human Rights	A	2000 - A(R) 2001 October 2007 Will be reviewed in October 2009
Ireland: Irish Human Rights Commission	A	2002 - A (R) 2003 - A (R) 2004 Nov 2008

Luxembourg: Commission Consultative des Droits de L'homme du Grand-Duché de Luxembourg	A	2001 - A(R) 2002 Will be reviewed in Oct/Nov 2009
Norway: Center for Human Rights	A	2003 A(R) 2004 A(R) 2005 A(R) April 2006
Northern Ireland (UK): Northern Ireland Human Rights Commission	A	2001 - B April 2006 - B Oct 2006
Croatia: Ombudsman of the Republic of Croatia	A	April 2008
Poland: Commissioner for Civil Rights Protection	A	1999 October 2007
Portugal: Provedor de Justiça	A	1999 October 2007
Russia: Commissioner for Human Rights in the Russian Federation	A	2000 - B 2001 -B Nov 2008
Spain: El Defensor del Pueblo	A	2000 October 2007
Sweden: Equal Opportunities Ombudsman	A*	1999 Requested a deferral in October 2007

* In November 2008, the accreditation Status of Sweden lapsed due to merging of institutions into one NHRI, effective 1 January 2009.

A RESERVE STATUS INSTITUTIONS**

Asia and the Pacific		
Palestine: The Palestinian Independent Commission for Citizen's Rights	A(R)	2005
Africa		
Chad: Commission Nationale des Droits de L'homme	A (R)	2000 - A(R) 2001 - A(R) 2003 - A(R)
Democratic Republic of Congo: Observatoire National des Droits de l'Homme	A(R)	2005

** NB: This classification is no longer used by the ICC.

B STATUS INSTITUTIONS

National institution	Status	Year reviewed
Asia and the Pacific		
Qatar: National Committee for Human Rights	B	Oct 2006 Nov 2008: deferral to March 2009
Sri Lanka: Human Rights Commission of Sri Lanka	B	2000 A status placed under review March 2007 Reviewed in October 2007
Maldives: Human Rights Commission	B	April 2008
Africa		
Cameroon: National Commission on Human Rights and Freedoms	B	1999 - A Oct 2006
Burkina Faso: Commission Nationale des Droits de L'homme	B	2002 - A(R) 2003 - A(R) 2005 (B) April 2006, March 2007
Nigeria: Nigerian Human Rights Commission	B	1999 - A(R) 2000 - A October 2006 (special review) Placed under review March 2007 October 2007

Europe		
Austria: The Austrian Ombudsman Board	B	2000
Belgium: The Centre for equal opportunities and opposition to racism	B	1999
The Netherlands: Equal Treatment Commission of The Netherlands	B	1999 - B 2004
Slovakia: National Centre for Human Rights	B	2002 - C October 2007
Slovenia: Republic of Slovenia Human Rights Ombudsman	B	2000
Switzerland: Federal Commission against Racism (FCR)	B	1998
Ukraine: Ukrainian Parliament Commissioner for Human Rights	B	April 2008

C STATUS INSTITUTIONS

National Institution	Status	Year reviewed
Africa		
Benin: Commission Béninoise des Droits de L'homme	C	2002
Madagascar: Commission Nationale des Droits de l'Homme de Madagascar	C	2000 - A(R) 2002 - A(R) 2003 - A(R) Apr 2006 - status withdrawn Oct 2006
Americas		
Antigua and Barbuda: Office of the Ombudsman	C	2001
Barbados: Office of the Ombudsman	C	2001
Puerto Rico: Oficina del Procurador del Ciudadano del Estado Libre Asociado de Puerto Rico	C	March 2007
Asia and the Pacific		
Hong Kong: Hong Kong Equal Opportunities Commission	C	2000
Iran: Commission Islamique des Droits de L'homme	C	2000
Europe		
Romania: Romanian Institute for Human Rights	C	March 2007

SUSPENDED INSTITUTIONS

Africa		
Americas		
Asia and the Pacific		
Fiji: Fiji Human Rights Commission	Suspended Note: Fiji resigned from the ICC on 2 April 2007	2000 Accreditation suspended in March 2007 for review in October 2007 Commission resigned from the ICC 2 April 2007
Europe		

Annex II

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

Geneva, 21 to 23 April 2008

Report and Recommendations of the Sub-Committee on Accreditation

1. BACKGROUND

1.1. In accordance with the Rules of Procedure of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC), the Sub-Committee on Accreditation (the Sub-Committee) has the mandate to consider and review applications for accreditation, re-accreditation and special reviews received by the National Institutions Unit of the Office of the High Commissioner for Human Rights (OHCHR) in its capacity as the ICC Secretariat, and to make recommendations to the ICC members with regard to the compliance of applicant institutions with the Paris Principles. The Sub-Committee mandate is to assess compliance with the Paris Principles in law and in practice.

1.2. In accordance with the Sub-Committee Rules of Procedure, the Sub-Committee is composed of representatives of each region: the National Human Rights Institutions (NHRIs) of Germany for Europe (chair), Morocco for Africa (replacing Rwanda)[1], the Republic of Korea for Asia-Pacific and Canada for the Americas. The Sub-Committee convened from 21 to 23 April 2008. OHCHR participated as a permanent observer and in its capacity as ICC Secretariat.

1.3. Pursuant to article 3(c) of the Rules of Procedure, the Sub-Committee considered applications for re-accreditation from: Algeria, Ecuador, Guatemala, Malaysia, Mauritius, Niger, Uganda, and Venezuela.

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[1] The Sub-Committee notes that for the consideration of the Commission National Consultative de Promotion et Protection des Droits de l'Homme of Algeria, Morocco did not participate in the discussion or the decision. The decision was made by the Sub-Committee with the participation of Rwanda.

1.4. Pursuant to article 3(c) of the Rules of Procedure, the Sub-Committee also considered applications for accreditation from Croatia, Great Britain, Maldives, Timor-Leste, and Ukraine.

1.5. The Sub-Committee also discussed the re-accreditation of Luxembourg and Sweden and agreed to defer consideration of these applications to the fall 2008 session.

1.6. In accordance with the Paris Principles and the ICC Sub-Committee Rules of Procedure, the different classifications[2] for accreditation used by the Sub-Committee are:

A: Compliance with the Paris Principles;

B: Observer status - Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;

C: Non-compliance with the Paris Principles.

1.7. Following the practice commenced at the meeting of the Sub-Committee in October 2006, the Sub-Committee continued to make General Observations in relation to accreditation. These General Observations have been formulated on common or important interpretative issues and are intended to be guidelines for NHRIs concerning the implementation of the Paris Principles. The list of General Observations is not exhaustive and will continue to evolve as the Sub-Committee further considers other applications. The compilation of all General Observations adopted by the ICC classified according to themes contained in the Paris Principles is attached as Annex 1 to this report. The General Observation developed by the Sub-Committee at its April 2008 session (attached as Annex 2) has yet to be adopted by the ICC. The revised General Observation 1.5 on "Cooperation with other human rights institutions" (attached as Annex 3) has yet to be adopted by the ICC.

Recommendation: The Sub-Committee recommends the adoption of the General Observation attached as Annex 2.

Recommendation: The Sub-Committee recommends the adoption of the revised General Observation attached as Annex 3.

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[2] The Sub-Committee notes that it has discontinued the use of the A(R) classification, pending formal adoption of the amendments to the rules of the ICC.

1.8. The General Observations, as interpretive 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 Sub-Committee on Accreditation in its determination of new accreditation applications, re-accreditation applications or special reviews:

i) If an institution falls substantially short of the standards articulated in the General Observations, it would be open for the Sub-Committee to find that it was not Paris Principle compliant;

ii) If the Sub-Committee 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 Sub-Committee is not provided with proof of efforts to address the General Observations previously made, or offered a reasonable explanation why no efforts had been made, it would be open to the Sub-Committee to interpret such lack of progress as non-compliance with the Paris Principles.

1.9. The Sub-Committee notes that in all applications considered reference could be made to General Observation "Interaction with the International Human Rights System" and encourages all NHRIs to interact consistently with the international human rights system (UN Human Rights Treaty Bodies, Special Procedures mandate holders and Human Rights Council, including the UPR), providing information independently of the Government and later ensuring follow up action to recommendations resulting from that system (and to rely on the services of the ICC Representative in Geneva when necessary).

1.10. The Sub-Committee notes that it received the "Guidelines for the Sub-Committee on Accreditation for the application of General Observations" (attached as Annex 4) approved in principle at the 20th session of the ICC in April 2008.

1.11. The Sub-Committee notes that when specific issues are raised in its report in relation to accreditation, re-accreditation and special review, NHRIs are required to address these issues in any subsequent application or special review.

1.12. In accordance with the ICC Rules of Procedure, the Sub-Committee encourages all accredited NHRIs to inform the ICC at the first available opportunity about circumstances that would negatively affect their ability to meet the standards and obligations of the Paris Principles.

1.13. When the Sub-Committee is to consider particular issues within a specified time-frame, the outcome of the review may affect the accreditation status.

1.14. As provided for in the "Decision Paper on the Review of ICC Accreditation Procedures for National Human Rights Institutions (NHRI) March 2008" (attached as Annex 5) adopted by the ICC at its 20th session in April 2008 (Decision Paper), the results of the accreditation review will first be communicated to the affected NHRI with a time frame of 30 days to respond to the issues addressed by the Sub-Committee members. At the expiration of the 30 days, the report will be sent to the ICC voting members.

1.15. As provided for in the Decision Paper, the recommendations from the April 2008 session of the Sub-Committee will be communicated to all ICC voting members, and those members will be asked to adopt them by email within 20 days. All approved recommendations are final decisions. Unapproved decisions are referred for consideration at the next ICC meeting.

1.16. As provided for in the Decision Paper, in cases where the Sub-Committee considers a recommendation that would serve to remove accredited status from an applicant institution, the applicant institution is informed of this intention and given the opportunity to provide in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The concerned institution retains its "A" status during this period.

1.17. The Sub-Committee continued to consult with relevant NHRIs and regional coordinating bodies, whenever necessary. This procedure was applied in several cases during the present session. Prior to the session, all concerned NHRIs were requested to provide a name and phone number in case the Sub-Committee needed to contact the Institution. In addition, OHCHR desk officers and, as appropriate, OHCHR field officers were available to provide further information, as needed.

1.18. The Sub-Committee would like to acknowledge the high degree of support and professionalism of the staff of the ICC Secretariat (OHCHR National Institutions Unit) which has been essential for the Sub-Committee to conduct its activities.

2. ADOPTION OF NEW PROCEDURES

2.1. In the ongoing effort to be more transparent, the Sub-Committee continued to develop new procedures.

2.2. The Sub-Committee agreed, commencing with its next session, to share the summaries prepared by the Secretariat with each NHRI before the consideration of its application and to give that NHRI one week to comment on the summary. All comments received, together with the summaries, are to be then sent to the members of the Sub-Committee. Once the recommendations of the Sub-Committee are adopted by the ICC according to the procedures, the summaries and the comments will be posted on the NHRI Forum (www.nhri.net). The summaries are prepared only in English, due to current financial constraints.

2.3. The Sub-Committee also considers information received from civil society. The Sub-Committee agreed to share that information with the concerned NHRIs.

3. SPECIFIC RECOMMENDATIONS - RE-ACCREDITATION APPLICATIONS

3.1. Algeria: Commission Nationale Consultative de Promotion et Protection des Droits de l'Homme

Recommendation: The Sub-Committee informs the Commission of its intention to recommend to the ICC **status B**, and gives the Commission the opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The Commission retains its "A" status during this period.

The Sub-Committee notes the following:

1) The Commission has not provided a current annual report but only a compilation of activities covering the period from 2002 to 2004.

2) The Sub-Committee refers to General Observation "Establishment of national institutions" to stress the importance of establishing national institutions in a constitutional or legal text.

3) The Chair and the members of the Commission are appointed and dismissed without a clear and transparent process. The Sub-Committee refers to General Observation "Selection and appointment of the governing body".

4) The Sub-Committee encourages the Commission to interact effectively with the United Nations Human Rights system, especially the Treaty Bodies and the following up of the recommendations at the national level, in line with General Observation "Interaction with the International Human Rights System".

The Sub-Committee will provide the summary prepared by the Secretariat to the Commission.

3.2. Ecuador: Defensoría del Pueblo

Recommendation: The Sub-Committee informs the Defensoría of its intention to recommend to the ICC **status B**, and gives the Defensoría the opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The Defensoría retains its "A" status during this period.

The Sub-Committee notes the following:

1) It refers to General Observation "Cooperation with other human rights institutions" and stresses the need for the NHRI to cooperate with other institutions, such as NGOs, established for the purpose of promoting or protecting human rights.

2) It also refers to General Observation "Interaction with the International Human Rights System" and stresses that the Defensoría should generally make an input to and participate in these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system.

The Constitution of Ecuador is currently under review. This revision should in no way negatively affect the independence and effectiveness of the Defensoría del Pueblo of Ecuador.

The Sub-Committee will provide the summary prepared by the Secretariat to the Defensoría del Pueblo of Ecuador.

3.3. Guatemala: Procuraduría de los Derechos Humanos de Guatemala

Recommendation: The Sub-Committee recommends that the Procuraduría be accredited **status A**.

The Sub-Committee notes the following:

1) It refers to General Observation "Interaction with the International Human Rights System".

2) The Procurador should not be required to obtain prior authorization from a judge in order to carry out investigations and should have unannounced and free access to all public premises.

The enabling legislation does not provide for re-election of the Procurador. However, the current Procurador was elected a second time.

3.4. Malaysia: National Human Rights Commission of Malaysia (SUHAKAM)

Recommendation: The Sub-Committee informs the Commission of its intention to recommend to the ICC **status B**, and gives the Commission the opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The Commission retains its "A" status during this period.

The Sub-Committee notes the following:

1) The independence of the Commission needs to be strengthened by the provision of clear and transparent appointment and dismissal process in the founding legal documents, more in line with the Paris Principles. The Sub-Committee refers to General Observation "Selection and appointment of the governing body".

2) With regard to the appointment, the Sub-Committee notes the short term of office of the members of the commission (two years). It refers to General Observation "Guarantee of tenure for members of governing bodies".

3) It further refers to General Observation "Ensuring pluralism" to highlight the importance of ensuring the representation of different segments of society and their

involvement in suggesting or recommending candidates to the governing body of the Commission.

4) The Sub-Committee refers to General Observation "Interaction with the International Human Rights System".

The Sub-Committee will provide the summary prepared by the Secretariat to the Commission.

3.5. Mauritius: National Human Rights Commission

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**.

The Sub-Committee notes the following:

1) It refers to the General Observation "Selection and appointment of the governing body", in particular to the importance of having in the founding legal documents a broad and formal consultation process in the selection and appointment of members.

2) It also refers to General Observation "Guarantee of tenure for members of governing bodies" to highlight the need to entrench transparent and objective criteria for the dismissal of the Commission members in the founding legal documents.

3) It further refers to General Observation "Staffing by secondment" to highlight the importance of amending the legislation to allow the Commission to recruit its own staff.

The Sub-Committee will again consider these issues at its spring 2010 session.

3.6. Niger: Commission Nationale des Droits de l'Homme et des Libertés Fondamentales

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**.

The Sub-Committee notes the following:

1) The need for additional financial resources. It refers to General Observation "Adequate funding".

2) It also refers to General Observation “Encouraging ratification or accession to international human rights instruments”. The Sub-Committee therefore encourages the entrenchment of this function in the enabling legislation of the National Institution to ensure effective protection of human rights.

3) It further refers to General Observation “Interaction with the International Human Rights System”.

4) It urges the CNDHLF to comply with Article 20 of Decree No 99-530/PCRN/MJDH of 21 December 1999 by establishing regional antennas of the CNDHLF.

3.7. Uganda: Human Rights Commission

Recommendation: The Sub-Committee recommends that the Commission be accredited **status A**.

The Sub-Committee notes the following:

1) It encourages the Commission to issue public reports on all delicate and critical human rights incidents within the country.

3.8. Venezuela: Defensoría del Pueblo

Recommendation: The Sub-Committee recommends that the Defensoría be accredited **status A**.

The Sub-Committee notes the following:

1) It urges the Defensoría del Pueblo of Venezuela to strengthen its efforts to encourage ratification or accession to international human rights instruments and refers to General Observation “Encouraging ratification or accession to international human rights instruments”.

2) It also encourages the Defensoría to strengthen its engagement with civil society and refers to General Observation “Cooperation with other human rights institutions”.

3) It encourages the Defensoría to continue to interact with the International Human Rights System and stresses the importance of following up at the national level to the recommendations resulting from the international human rights system.

3.9. Luxembourg: Commission Consultative des Droits de l'Homme

The Sub-Committee agreed to defer the consideration of the re-accreditation of the Commission Consultative des Droits de l'Homme of Luxembourg until the fall 2008 session of the Sub-Committee, pending the adoption of the new law regarding the national Institution. The Sub-Committee refers to General Observation "Deferral of re-accreditation applications".

3.10. Sweden: Ombuds-Institutions of Sweden

In support of the ongoing effort to merge the existing human rights institutions in Sweden, the Sub-Committee agreed at its October 2007 session to defer the consideration of the re-accreditation of the national human rights institution of Sweden until the current Sub-Committee session. The NHRI of Sweden requested a further deferral. The Sub-Committee decided to defer the re-accreditation application to its fall 2008 session. According to General Observation "Deferral of re-accreditation applications", if the documents required supporting the re-accreditation of the NHRI of Sweden are not received before the fall 2008 session of the Sub-Committee, the accreditation status of the NHRI of Sweden will lapse.

4. SPECIFIC RECOMMENDATIONS - NEW ACCREDITATION APPLICATIONS

4.1. Croatia: Ombudsman of the Republic of Croatia

Recommendation: The Sub-Committee recommends that the Ombudsman be accredited **status A**.

The Sub-Committee notes the following:

1) It highlights the importance for the Ombudsman to cooperate with the other Ombuds-institutions to ensure coherence and effectiveness of the national human rights protection system.

2) It refers to General Observation "Human rights mandate" and urges the mandate of the Ombudsman to be broadened to include promotion of human rights.

3) It also refers to General Observation “Adequate funding”, in particular the importance of having sufficient and sustainable funding for the realisation of the organization’s mandate.

4) The Sub-Committee encourages the Commission to interact effectively with the United Nations Human Rights system, in line with General Observation “Interaction with the International Human Rights System”.

5) It further refers to General Observation “Ensuring pluralism”, in particular with regard to ethnic minorities.

6) It encourages the Ombudsman to strengthen the accessibility of the institution by opening regional offices, in conformity with article 3 of its Standing Orders.

4.2. Maldives: Human Rights Commission

Recommendation: The Sub-Committee recommends that the Commission be accredited **status B**.

The Sub-Committee notes that the founding legal documents of the Human Rights Commission of the Maldives provide that all members of the Commission must be Muslim. The Sub-Committee recommends that this requirement be removed in order for the Commission to be considered to be compliant with the Paris Principles.
The Sub-Committee notes that in practice the Commission has been generally effective in fulfilling its mandate to promote and protect human rights.

The Sub-Committee also notes the following:

1) It refers to General Observation “Human Rights mandate”, in particular to expand the mandate of the Commission to cover all human rights and fundamental freedoms.

2) It also refers to General Observations “Selection and appointment of the governing body” and “Guarantee of tenure for members of governing bodies”, in particular the need to ensure a substantiated and transparent dismissal procedure in the founding legal documents.

3) The Sub-Committee encourages the Commission to interact effectively with the United Nations Human Rights system, in line with General Observation “Interaction with the International Human Rights System”.

4) The Commission lacks sufficient office space which limits its ability to hire staff to fill the existing high vacancy.

4.3. Timor-Leste: Provedoria for Human Rights and Justice

Recommendation: The Sub-Committee recommends that the Provedoria be accredited **status A**.

The Sub-Committee notes the following:

1) It refers to General Observation "Adequate funding", in particular to allocation of funds for adequate accommodation, and ensuring the gradual and progressive realization of the improvement of the organization's operations and the fulfilment of its mandate.

2) It also refers to General Observation "NHRIs during the situation of a coup d'etat or a state of emergency", in particular highlighting the importance for the Provedoria to continue to be vigilant and independent in the exercise of its mandate.

3) The Sub-Committee encourages the Commission to interact effectively with the United Nations Human Rights system, in line with General Observation "Interaction with the International Human Rights System".

4) The Provedoria should not be required to provide prior written notice to access, inspect and examine any premises, documents, equipment and assets (per article 42 of the Law 7/2004). The Provedoria should have unannounced and free access to all public premises.

4.4. Ukraine: Ukrainian Parliament Commissioner for Human Rights

Recommendation: The Sub-Committee recommends that the Commission be accredited **status B**.

The Sub-Committee notes the following:

1) The Commission failed to submit a recent annual report as part of the accreditation requirements. The annual report provided to the Sub-Committee by the Commission is for the year 2004.

2) The Commission failed to submit a copy of its budget as part of the accreditation requirements. The Sub-Committee refers to General Observation "Application process", in particular subparagraph c).

3) It also refers to General Observation "Interaction with the International Human Rights System", in particular highlighting the importance of engaging with the Treaty Bodies in a fully independent manner.

4) It further refers to General Observation "Selection and appointment of the governing body" and General Observation "Ensuring pluralism" to ensure that social forces (of civilian society) are engaged in the process.

4.5. Great Britain: Equality and Human Rights Commission

Recommendation: The Sub-Committee recommends that consideration of the application for accreditation of the Commission be deferred to the Sub-Committee spring 2009 session.

The Equality and Human Rights Commission was established in October 2007 and has been operational for six months. The effectiveness of the Commission and its compliance with the Paris Principles could not be determined in the present session.

The Sub-Committee refers to General Observation "More than one national human rights institution in a state" developed by the Sub-Committee at its April 2008 session.
The Sub-Committee will provide the summary prepared by the Secretariat to the Equality and Human Rights Commission.

Annex III

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

Geneva, 3-6 November 2008

1. BACKGROUND

1.1. In accordance with the Statute of the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC), the Sub-Committee on Accreditation (the Sub-Committee) has the mandate to consider and review applications for accreditation, re-accreditation and special or other reviews received by the National Institutions Unit of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its capacity as the ICC Secretariat, and to make recommendations to the ICC Bureau members with regard to the compliance of applicant institutions with the Paris Principles. The Sub-Committee assesses compliance with the Paris Principles in law and in practice.

1.2. In accordance with the Sub-Committee Rules of Procedure, the Sub-Committee is composed of representatives of each region: the National Human Rights Institutions (NHRIs) of Germany for Europe (chair), Morocco for Africa (replacing Rwanda), the Republic of Korea for Asia-Pacific and Canada for the Americas. The Sub-Committee convened from 03 to 06 November 2008. OHCHR participated as a permanent observer and in its capacity as ICC Secretariat. In accordance with new procedures, regional coordinating bodies of NHRIs were invited to attend as observers. The Sub-Committee welcomed the participation of a representative of the Asia Pacific Forum of NHRIs.

1.3. The Sub-Committee notes the new ICC Statute adopted at the 21st session of the ICC on 21 October 2008 in Nairobi, Kenya (attached as Annex 1). The Sub-Committee applied these new procedures to its work in the current session, as set out below.

1.4. Pursuant to article 10 of the Statute, the Sub-Committee considered applications for accreditation from Great Britain (Equality and Human Rights Commission), Qatar, Russia, and Switzerland (Commission fédérale pour les quéstions féminines).

1.5. Pursuant to article 15 of the Statute, the Sub-Committee also considered applications for re-accreditation from: Albania, Bosnia and Herzegovina, Germany, Ghana, Ireland, Kenya, Luxembourg, Mongolia, Paraguay, Republic of Korea, Sweden and Thailand.

1.6. Pursuant to article 17 of the Statute, the Sub-Committee reviewed certain issues regarding the NHRIs of Afghanistan and Nepal.

1.7. In accordance with the Paris Principles and the ICC Sub-Committee Rules of Procedure, the different classifications for accreditation used by the Sub-Committee are:

A: Compliance with the Paris Principles;

B: Observer status - Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;

C: Non-compliance with the Paris Principles.

1.8. The Sub-Committee formulated General Observations (attached as Annex 3).

Recommendation: The Sub-Committee recommends the adoption of General Observations attached as Annex 3, provided that, should any member of the ICC Bureau request that one or more of the General Observations be referred to the ICC22 Bureau meeting, that/those General Observation(s) shall be considered by the ICC Bureau at ICC22 in March 2009.

1.9. 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 Sub-Committee on Accreditation 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 Sub-Committee to find that it was not Paris Principle compliant;

ii) If the Sub-Committee 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 Sub-Committee is not provided with proof of efforts to address the General Observations previously made, or offered a reasonable explanation why no efforts had been made, it would be open to the Sub-Committee to interpret such lack of progress as non-compliance with the Paris Principles.

1.10. The Sub-Committee notes that in all applications considered reference could be made to the General Observation 1.4 "Interaction with the International Human Rights System" and encourages all NHRIs to interact consistently with the international human rights system (UN Human Rights Treaty Bodies, Special Procedures mandate holders and Human Rights Council, including the UPR), providing information independently of the Government and later ensuring follow up action to recommendations resulting from that system (and to rely on the services of the ICC Representative in Geneva when necessary).

1.11. The Sub-Committee notes that in all applications considered reference could be made to the General Observation on 2.6 "Adequate funding". Provision of adequate funding by the State should, as a minimum include:

a) The allocation of funds for adequate accommodation, at least its head office;

b) Salaries and benefits awarded to its staff comparable to public service salaries and conditions;

c) Remuneration of Commissioners (where appropriate); and

d) The establishment of communications systems including telephone and Internet.

Adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the institution's operations and the fulfilment of their mandate.

Funding from external sources, such as from development partners, should not compose the core funding of the NHRI as it is the responsibility of the State to

ensure the NHRI's minimum activity budget in order to allow it to operate towards fulfilling its mandate.

Financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has management and control.

1.12. The Sub-Committee notes that when specific issues are raised in its report in relation to accreditation, re-accreditation and other review, NHRIs are required to address these issues in any subsequent application or other review.

1.13. The Sub-Committee encourages all accredited NHRIs to inform the ICC Bureau at the first available opportunity about circumstances that would negatively affect their ability to meet the standards and obligations of the Paris Principles.

1.14. When the Sub-Committee declares its intention to consider particular issues within a specified time-frame, the outcome of the review may lead to a recommendation which may affect the accreditation status. In the event additional issues arise during the course of the review, the Sub-Committee will so notify the NHRI.

1.15. As per article 12 of the Statute, where the Sub-Committee on Accreditation comes to an accreditation decision, that decision shall be considered an accreditation status recommendation, with the final decision being taken by the ICC Bureau after the following process has occurred:

- The recommendation of the Sub-Committee shall first be forwarded to the applicant;
- An applicant can challenge a recommendation by submitting a written challenge to the ICC Chairperson, through the ICC Secretariat, within twenty eight (28) days of receipt;
- Thereafter the recommendation will be forwarded to the members of the ICC Bureau for decision. If a challenge has been received from the applicant, the challenge together with all relevant material received in connection with both the application and the challenge will also be forwarded to the members of the ICC Bureau;
- Any member of the ICC Bureau who disagrees with the recommendation shall, within twenty (20) days of its receipt, notify the Chair of the Sub-Committee and the ICC Secretariat. The ICC Secretariat will promptly notify all ICC Bureau members of the objection raised and will provide all necessary information to clarify that objection. If within twenty (20) days of receipt of this information a majority of members of the ICC Bureau notify the ICC

Secretariat that they hold a similar objection, the recommendation shall be referred to the next ICC Bureau meeting for decision;

- If a majority of members do not raise objection to the recommendation within twenty (20) days of its receipt, the recommendation shall be deemed to be approved by the ICC Bureau;

- The decision of the ICC Bureau on accreditation is final.

1.16. As provided for in the Statute, in cases where the Sub-Committee considers a recommendation that would serve to remove accredited status from an applicant institution, the applicant institution is informed of this intention and given the opportunity to provide in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The concerned institution retains its "A" status during this period.

1.17. The Sub-Committee continued to consult with concerned NHRIs, where necessary, during its session. Prior to the session, all concerned NHRIs were requested to provide a name and phone number in case the Sub-Committee needed to contact the Institution. In addition, OHCHR desk officers and, as appropriate, OHCHR field officers were available to provide further information, as needed.

1.18. The Sub-Committee acknowledges the high degree of support and professionalism of the staff of the ICC Secretariat (OHCHR National Institutions Unit).

2. ADOPTION OF NEW PROCEDURES

2.1. The Sub-Committee continued to develop its procedures in the ongoing effort to advance the principles of rigour, transparency, and fairness of the accreditation process.

2.2. The November 2008 session of the Sub-Committee was open to NHRI regional coordinating committees to attend as observers. All four committees were invited to participate. A representative of the Asia Pacific Forum of NHRIs attended the session. The Sub-Committee encourages the participation of all regional coordinating committees in future sessions.

2.3. The Sub-Committee shared the summaries prepared by the Secretariat with the concerned NHRIs before the consideration of their applications and they were given one week to comment on them. All comments received, together with the summaries, were then sent to the members of the Sub-Committee. Once the recommendations of

the Sub-Committee are adopted by the ICC Bureau, according to the procedures, the summaries and the comments and the statement of compliance will be posted on the NHRI Forum (www.nhri.net). The summaries are currently only prepared in English, due to current financial constraints.

2.4. The Sub-Committee considered information received from civil society. The Sub-Committee shared that information with the concerned NHRIs and considered their responses.

2.5. The Sub-Committee agreed, commencing with its next session, to consider only that information from civil society that is received by the National Institutions Unit at least four (4) months prior to the next session of the Sub-Committee.

3. SPECIFIC RECOMMENDATIONS - NEW ACCREDITATION APPLICATIONS

3.1. Great Britain: Equality and Human Rights Commission (EHRC)

Recommendation: The Sub-Committee recommends that the EHRC be accredited with **status A**.

The Sub-Committee acknowledges the EHRC met all of the mandatory requirements set out in General Observation 6.6 “More than one National Institution in a State”. It emphasizes the importance of further developing cooperation between the EHRC, the Northern Ireland Human Rights Commission and the Scottish Human Rights Commission. It also refers to General Observation 1.5 “Cooperation with other human rights institutions”.

The Sub-Committee notes the following:

1) In the current effort to unify the different anti-discrimination and equality legislation, it is important that the views of the EHRC be considered. It recommends that:

   a) The functions of the EHRC be expanded to give it an explicit mandate to protect human rights, including the power to receive and determine complaints on human rights violations;

   b) The EHRC’s mandate be expanded to include explicit powers regarding the harmonisation of national legislation with international human rights instruments and principles, and the encouragement of their ratification and

implementation. The Sub-Committee refers to General Observation 1.3 "Encouraging ratification or accession to international human rights instruments";

c) The Equality Act include a specific reference to pluralism with regard to the oppointments process. The Sub-Committee refers to General Observations 2.1 "Ensuring pluralism" and 2.2 "Selection and appointment of the governing body";

d) The grounds for dismissal of a Commissioner be more clearly defined. The Sub-Committee refers to General Observation 2.9 "Guarantee of tenure for members of governing bodies".

The Sub-Committee also notes the requirement for the Minister's consent in relation to the following issues: payment of Commissioners; the numbers, terms and conditions of staff appointments; and the appointment of investigating commissioners. The Sub-Committee emphasizes that this relationship should not negatively influence the EHRC's ability to function independently. The Sub-Committee refers to General Observation 1.6 "Recommendations by NHRIs".

3.2. Qatar: National Committee for Human Rights (NCHR)

Recommendation: The Sub-Committee recommends that consideration of the application of the NCHR **be deferred** to the March 2009 Sub-Committee session **while keeping its current accreditation B Status**.

The Sub-Committee notes that insufficient information was provided for it to make a determination and encourages the NCHR to seek advice and assistance from OHCHR and the Asia Pacific Forum of NHRIs.

3.3. Russia: Office of the Commissioner for Human Rights (OCHR)

Recommendation: The Sub-Committee recommends that the OCHR be accredited with **status A**.

The Sub-Committee notes the following:

1) It recommends that the OCHR engage systematically with the international human rights system as well as the European human rights system. The Sub-Committee emphasizes the importance of General Observation 1.4 "Interaction with the international human rights system";

2) It encourages the continued interaction of the OCHR with civil society organizations;

3) It encourages the OCHR to institutionalize the cooperation with the regional human rights institutions of the subjects of the Russian Federation and refers to General Observation 1.5 “Cooperation with other human rights institutions”. The Sub-Committee acknowledges the existence of the Coordination Council;

4) It refers to General Observation 2.2 “Selection and appointment of the governing body” and in particular the need for the appointment process to be transparent;

5) It refers to General Observation 1.6 “Recommendations by NHRIs”.

3.4. Switzerland: Commission fédérale pour les quéstions féminines (CFQF)

Recommendation: After consideration of the application of the CFQF, the Sub-Committee is not satisfied that the CFQF is in compliance with the Paris Principles and recommends that the application be **deferred**, to allow the CFQF to take such steps as necessary to expand its powers. The Sub-Committee encourages the CFQF to also consider consolidating together with other existing human rights commissions in Switzerland into a comprehensive NHRI with a broad mandate in line with the Paris Principles.

4. SPECIFIC RECOMMENDATIONS - RE-ACCREDITATION APPLICATIONS

4.1. Albania: People’s Advocate (PA)

Recommendation: The Sub-Committee recommends that the People’s Advocate (PA) be re-accredited with **status A**.

The Sub-Committee notes the following:

1) It recommends that the mandate of the PA be strengthened to include human rights promotion and refers to General Observation 1.2 “Human rights mandate”;

2) It refers to the importance for the PA to be accessible as requested by the Paris Principles and in this regard recommends the establishment of a permanent regional presence, for example through regional offices;

3) It refers to the need for the PA to systematically interact with the international human rights system and further refers to General Observation 1.4 “Interaction with the International Human Rights System”;

(4) It stresses the importance for the PA to have a transparent appointments process, ased on a broad advertisement of the vacancy and a broad consultation. It further refers to General Observation 2.2 “Selection and appointment of the governing body”.

The Sub-Committee notes with concern the lack of dialogue and follow up by the Parliament to the work of the PA despite the provisions contained in the Law on the People’s Advocate.

4.2. Bosnia and Herzegovina: Human Rights Ombudsman (HRO)

Recommendation: The Sub-Committee recommends that consideration of the application for re-accreditation of the HRO **be deferred**.

In support of the ongoing effort to merge the existing human rights institutions in Bosnia and Herzegovina, the Sub-Committee agreed to defer the consideration of the re-accreditation of the national human rights institution of Bosnia and Herzegovina until the October/November 2009 session of the Sub-Committee. The Sub-Committee refers to General Observation 6.2 “Deferral of re-accreditation applications”, in particular to stress the timeframe contained in the General Observation and adopted by the ICC.

4.3. Germany: German Institute for Human Rights (GIHR)

The Sub-Committee reviewed this application in the absence of the German representative on the Sub-Committee.

Recommendation: The Sub-Committee recommends that the GIHR be re-accredited with **status A**.

The Sub-Committee notes the following:

1) It refers to the importance for the GIHR to further broaden its mandate to include complaint handling functions;

2) It stresses the importance of ensuring pluralism at all levels in the GIHR on a more permanent and formal basis and in a manner distinct from the length of the contracts of the staff in particular with regard to gender balance and ethnic diversity. It also underlines the need to clarify the contradiction between articles 9(1) and 11(3) of the GIHR Statutes in order to ensure that the Board of Trustees provides a written explanation for rejecting an application for General Membership or for expelling a member. In this context the Sub-Committee refers to General Observation 2.1 "Ensuring pluralism";

3) While article 24(2) of the GIHR's Statute provide that the German Government's representatives on the Board of the Trustees have no voting rights, article 24(1) indicates that two of the GIHR's Trustees must be members of the German's Bundestag's Committee on Human Rights and Humanitarian Aid. The Statute does not exclude these representatives from voting on decisions made by the Board of Trustees. The Sub-Committee refers to General Observation 2.3 "Government representatives on national institutions".

The Sub-Committee expresses its concern that the GIHR is founded by a Motion of the Bundestag (Motion 14/4801). Notwithstanding the fact that the Motion was unanimously adopted and that the GIHR is functioning independently and effectively under this arrangement, the Sub-Committee reiterates the need for an NHRI to be established in a constitutional or legal text and therefore recommends the adoption of a stronger legal basis for the Institute. It refers to General Observation 1.1 "Establishment of national institutions".

It also highlights the need for the GIHR to broaden its mandate to include the protection functions as contained in General Observation 1.2 "Human rights mandate".

4.4. Ghana: Commission of Human Rights and Administrative Justice (CHRAJ)

Recommendation: The Sub-Committee recommends that the CHRAJ be re-accredited with **status A**.

The Sub-Committee notes the following:

1) The CHRAJ's most recent annual report is for the year 2005. This made it more difficult for the Sub-Committee to review the CHRAJ. The Sub-Committee refers to General Observation 6.7 "NHRI Annual Report";

2) It highlights the desirability of ensuring that the composition of the Council of State explicitly includes members of civil society and other social forces and, in this regard, refers to General Observation 2.1 “Ensuring Pluralism”.

4.5. Ireland: Irish Human Rights Commission (IHRC)

Recommendation: The Sub-Committee recommends that the IHRC be re-accredited with **status A**.

The Sub-Committee notes the following:

1) The process for appointing Commissioners adopted by the Government in 2006 ought to be formalized in the IHRC’s enabling legislation to guarantee ongoing transparency. It refers to General Observation 2.2 “Selection and appointment of the governing body”;

2) The grounds for dismissal of a Commissioner ought to be more clearly defined. The Sub-Committee refers to General Observation 2.9 “Guarantee of tenure for members of governing bodies”;

3) The IHRC should be able to independently conduct its affairs without undue interference from the Government. This could include having direct accountability to Parliament. The Sub-Committee refers to General Observation 2.10 “Administrative regulation”.

The Sub-Committee notes that under Section 22 of the IHRC’s enabling legislation, its financial grant is determined by the Minister for Justice with the consent of the Minister for Finance.

The Sub-Committee expresses deep concern about plans to significantly reduce the IHRC’s budget for 2009. This would undermine the IHRC’s capacity to carry out its mandate effectively and threatens its financial autonomy. The Sub-Committee urges that this plan be reconsidered. It refers to General Observation 2.6 “Adequate funding”.

4.6. Kenya: National Commission on Human Rights (NCHR)

Recommendation: The Sub-Committee recommends that the NCHR be re-accredited with **status A**.

The Sub-Committee notes the following:

1) It highlights the need for the NCHR to have financial autonomy, including by submitting its budget directly to Parliament;

2) It stresses the importance for the NCHR to receive adequate funding in order to hire the necessary staff and to be able to establish a permanent regional presence, for example through regional offices. It refers to General Observation 2.6 “Adequate funding”;

3) It underlines the need to entrench in the mandate of the NCHR the encouragement of ratification or accession to international human rights instruments and refers to General Observation 1.3 “Encouraging ratification or accession to international human rights instruments”.

4.7. Luxembourg: Commission Consultative des Droits de l’Homme (CCDH)

Recommendation: The Sub-Committee informs the CCDH of its **intention to recommend to the ICC Bureau status B**, and gives the CCDH the opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The CCDH **retains its “A status” during this period**.

The Sub-Committee acknowledges that the Draft Law of 2008 (*Projet de Loi No. 5882*) was unanimously adopted by the Chamber of Deputies on 22 October. The Sub-Committee further acknowledges the CCDH is developing an internal regulatory document.
The Sub-Committee considers the following issues need to be addressed:

1) Neither the Règlement de 2000 nor the *Projet de Loi* imposes any legal requirements to ensure the pluralism of the institution’s membership and staff composition. The Sub-Committee refers to General Observation 2.1 “Ensuring pluralism”;

2) Article 4 (1) of the *Projet de Loi* establishes the exclusive authority of the Government to nominate members of the CCDH without consultation. The Sub-Committee refers to General Observation 2.2 “Selection and Appointment of the Governing Body”;

3) The grounds for dismissal of the CCDH's members are not specified in the *Projet de Loi*. The Sub-Committee refers to General Observation 2.9 "Guarantee of Tenure for Members of Governing Bodies";

4) None of the CCDH's members occupies a permanent full-time position. The Sub-Committee refers to General Observation 2.8 "Full-time Members";

5) The CCDH's annual budget for non-post expenditures has been set for the past 3 years at 12,500 EUR. The Sub-Committee refers to General Observation 2.6 "Adequate funding". There is also no indication that the CCDH exercises budgetary autonomy;

6) The *Projet de Loi* does not provide CCDH members with functional immunity. The Sub-Committee refers to General Observation 2.5 "Immunity";

7) The CCDH should further develop relationships with civil society. The Sub-Committee refers to General Observation 1.5 "Cooperation with other human rights institutions".

4.8. Mongolia: National Human Rights Commission (NHRC)

Recommendation: The Sub-Committee recommends that the NHRC be re-accredited **status A**.

The Sub-Committee notes the following:

1) It stresses the need for adequate funding provided by the state and refers to General Observation 2.6 "Adequate Funding";

2) It acknowledges that the NHRC is seeking to secure premises that are separate from government offices and which are accessible, including for persons with disabilities;

3) It stresses the importance for the NHRC to establish a permanent regional presence, for example through regional offices;

4) It expresses its appreciation to the NHRC for having carried out its mandate in a difficult and volatile political and security related situation and stresses the need for the NHRC to be vigilant in monitoring, promoting and protecting human rights. It refers to General Observation 5.1 "NHRIs during the situation of a coup d'état or a state of emergency";

5) It recommends that the appointments process be transparent and that consultation and engagement with civil society be enhanced. It refers to General Observation 2.2 “Appointments procedure”;

6) It notes the requirement to provide the Sub-Committee with a translated executive summary of the annual human rights report. The Sub-Committee refers to General Observation 6.7 “NHRI annual report”.

4.9. Paraguay: Defensoría del Pueblo (DP)

Recommendation: The Sub-Committee recommends that the DP be re-accredited with **status A**.

The Sub-Committee notes the following:

1) Salaries of staff members of the DP are lower than those of civil servants performing similar tasks in other institutions of the State. The Sub-Committee emphasizes the need to allocate a sufficient amount of resources for activities. It refers to General Observation 2.6 “Adequate funding”;

2) It encourages the DP to interact consistently with the international human rights system, in particular the UN Human Rights Treaty Bodies, Special Procedures Mandate Holders and Human Rights Council, including the UPR. It refers to General Observation 1.4 “Interaction with other human rights institutions”;

3) It also encourages the DP to consistently interact with civil society and refers to General Observation 1.5 “Cooperation with other human rights institutions” in this regard.

4.10. Republic of Korea: National Human Rights Commission (NHRCK)

The Sub-Committee reviewed this application in the absence of the Korean representative on the Sub-Committee.

Recommendation: The Sub-Committee recommends that the NHRCK be re-accredited with **status A**.

The Sub-Committee notes the following:

1) The NHRCK is considered a "central government institution" under the National Fiscal Act and as such does not enjoy complete functional autonomy from the Government. This is in contrast to "independent institutions", which are constitutionally entrenched;

2) Under article 5 of the founding Act, the process of appointing Commissioners, on nomination from the President, the National Assembly or the Chief Justice of the Supreme Court, does not provide for formal public consultation in the recruitment and scrutiny of candidates nor for the participation of civil society. The Sub-Committee refers to General Observations 2.1 "Ensuring pluralism" and 2.2 "Selection and appointment of the governing body" and encourages the adoption of procedures that ensure a broad and transparent appointment process. This should be done through public advertisement and a broad consultation procedure;

3) It acknowledges the action taken during the recent Candle Light Vigils and encourages the NHRCK to consider issuing public statements and reports through the media in a timely manner to address urgent human rights violations;

4) It stresses the need for the NHRCK to have more autonomy to appoint its own staff in a manner that does not unnecessarily delay the fulfilment of the NHRCK needs. The Sub-Committee refers to General Observation 2.7 "Staff of an NHRI".

The Sub-Committee expresses its concern about the recent proposal to place the Commission directly under the Office of the President and subsequent interventions in the Commission's financial and administrative affairs. It refers to General Observation 2.10 "Administrative regulation".

4.11. Sweden: Equal Opportunities Ombudsman (EOO)

Recommendation: The Sub-Committee recommends that the accreditation status of the EEO **lapse**.

The Sub-Committee on Accreditation has been informed that legislation consolidating the four current ombuds-institutions will come into force and effect on 1 January 2009. As per General Observation 6.2 "Deferral of re-accreditation applications", the Sub-Committee recommends the lapse of the accreditation status of the EEO. It invites the new institution to apply for accreditation.

4.12. Thailand: National Human Rights Commission (NHRC)

Recommendation: The Sub-Committee recommends that the NHRC be re-accredited **status A**.

The Sub-Committee notes the following:

1) The NHRC is located at the Anti-Money Laundering Office, which is heavily guarded by police forces. The Sub-Committee acknowledges that the NHRC is seeking to secure separate premises. It recommends that accessibility be further enhanced by establishing permanent regional presence, for example through regional offices. It refers to General Observation 2.6 “Adequate Funding”;

2) The Sub-Committee emphasizes the need for broad consultation in the nomination and selection of Commission members, including with civil society and vulnerable groups. It refers to General Observations 2.1 “Ensuring pluralism” and 2.2 “The selection and appointment of the governing body”;

3) The NHRC’s permanent staff members are seconded from various government ministries. The Sub-Committee refers to General Observations 2.4 “Staffing by secondment” and 2.7 “Staff of an NHRI”;

4) The UN Human Rights Committee expressed its concern that many of NHRC’s recommendations to the relevant authorities have not been implemented and given serious follow-up. The Sub-Committee refers to General Observation 1.6 “Recommendations by NHRIs”;

5) The grounds for dismissal of a Commissioner ought to be more clearly defined. The Sub-Committee refers to General Observation 2.9 “Guarantee of tenure for members of governing bodies”.

5. SPECIFIC RECOMMENDATIONS - REVIEWS UNDER ARTICLE 17

5.1. Afghanistan: Afghanistan Independent Human Rights Commission (AIHRC)

Recommendation: The Sub-Committee confirms the **status A** accreditation of the Commission.

The Sub-Committee notes the following:

1) It expresses its appreciation to the AIHRC for carrying out its mandate in a difficult and volatile political and security related context and encourages the AIHRC to continue its vigilant role in monitoring, promoting and protecting human rights. The Sub-Committee refers to General Observation 5.1 “NHRIs during the situation of a coup d’état or a state of emergency”;

2) It recognizes the need for the international community to continue to engage and support the AIHRC in order to ensure it receives adequate funding, until such time when the State will be able to cover the AIHRC’s adequate funding. The AIHRC should ensure the coordinated, transparent and accountable management of funding.

The Sub-Committee expresses its concern over any attempt to undermine the effectiveness and independence of the AIHRC, in particular through financial or budgetary constraints and/or amendments of its legal structure. Any reform, particularly to the appointment process, should only aim at enhancing the AIHRC’s independence, transparency and effectiveness.

5.2. Nepal: National Human Rights Commission (NHRC)

Recommendation: The Sub-Committee confirms the **status A** accreditation of the NHRC.
The Sub-Committee acknowledges NHRC's response to the concerns it raised in October 2007, particularly with regard to the issue of financial autonomy. Having completed its review, it also reiterates the comments it made in its October 2007 report regarding adequate funding and selection and appointment of the governing body.
In the course of the review, the Sub-Committee noted that the NHRC legislation has not yet been adopted by the Parliament and therefore it encourages the NHRC to promote the development of legislation in full compliance with the Paris Principles.
The Sub-Committee encourages the NHRC to increase its cooperation with statutory institutions for the promotion and protection of human rights as well as civil society organizations. It refers to General Observation 1.5 “Cooperation with other human rights institutions”.

The Sub-Committee will again consider these issues at its October/November 2009 session.
