



Provisional version

## Committee on Equality and Non-Discrimination

# Improving co-operation between National Human Rights Institutions (NHRIs) and Parliament in addressing Equality and Non-Discrimination Issues

## Report<sup>1</sup>

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### A. Draft resolution

1. Parliaments and national human rights institutions (NHRIs) play a key role for the promotion and protection of equality and non-discrimination at the national level. Within their different remits and responsibilities, they develop law and policy, interact with the population, exercise oversight of the government, raise awareness on and investigate human rights violations.

2. Recalling the Principles relating to the status and functioning of national institutions for the protection and promotion of human rights (Paris Principles), as founding elements of the independence of NHRIs, the Assembly underscores that close cooperation between Parliaments and NHRIs is beneficial to both institutions and can increase the impact on the effective implementation of human rights standards.

3. In this context, the Assembly welcomes the adoption of the Belgrade principles on the relationship between NHRIs and parliaments in 2012 and encourages their implementation, with the understanding that such cooperation will not undermine the NHRIs' independence.

4. The Assembly also recalls the Brighton Declaration adopted at the High Level Conference on the Future of the European Court of Human Rights which called for consideration of the establishment of an independent National Human Rights Institution in Council of Europe member States, if they had not already done so.

5. In the light of these considerations, the Parliamentary Assembly calls on the member States of the Council of Europe to:

5.1. establish, where it does not yet exist, an independent national human rights institution in full compliance with the Paris Principles;

5.2. actively engage with NHRIs, whilst respecting their independence, on equality and non-discrimination issues, seek advice and take their findings and recommendations into consideration when developing law, policy and practice;

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<sup>1</sup> Draft resolution adopted unanimously by the committee in Vienna on 5 March 2014.

5.3. ensure adequate funding and staffing for national human rights institutions that enables them to carry out their mandate and avoid budgetary cuts that would undermine the independence of NHRIs including their ability to undertake their functions.

6. The Assembly also calls on national parliaments of the Council of Europe member States to:

6.1. set up, where it does not yet exist, a parliamentary committee responsible for human rights, equality and non-discrimination issues;

6.2. develop formal cooperation channels with NHRIs with full respect for their independence;

6.3. utilise NHRIs' reports and data, and hold a debate on the annual report of activities of the NHRI and its reports on the situation of human rights in the country;

6.4. seek advice from NHRIs in the preparation of draft legislation and use them as sources of information on equality, human rights and non-discrimination, including by inviting NHRIs' representatives to give evidence during parliamentary hearings and discussions;

6.5. seek advice from NHRIs in ensuring compliance with international human rights treaties and the decisions of their supervisory bodies and mechanisms, including the judgments of the European Court of Human Rights;

6.6. implement the basic principles for parliamentary supervision of human rights international standards contained in Assembly resolution 1823 (2011) on "national parliaments: guarantors of human rights in Europe";

6.7. monitor and scrutinise any new NHRI legislation or proposed changes to existing legislation which could undermine the full independence of the NHRI from the State and seek information from the NHRI on any threats to its independence or functioning.

7. The Assembly encourages national human rights institutions to:

7.1. submit to parliament a yearly report on the situation of equality, human rights and non-discrimination in the country and to request a debate with the parliamentarians on the key issues identified;

7.2. submit reports on specific situations, or on cases that reveal systemic human rights issues, in particular in the field of equality and non-discrimination;

7.3. send all published reports to parliamentarians as a matter of routine;

7.4. provide, when requested, comments on draft legislation and prepare human rights impact assessments of proposed legislation;

7.5. organise capacity-building events on human rights, equality and non-discrimination for members of parliaments, contributing to their empowerment on these issues;

7.6. support the enhancement of the parliamentary oversight of the executive by providing targeted information and advice to parliamentarians;

7.7. seek opportunities to meet with parliamentarians to discuss human rights concerns including requests to brief parliamentary committees and/or individual parliamentarians;

7.8. organise follow-up conferences on the implementation of the recommendations of Council of Europe monitoring mechanisms, concluding observations of United Nations treaty bodies and the outcome of the Human Rights Council Universal Periodic Review.

8. With a view to increasing the effectiveness of their exchange for concrete impact, the Assembly calls on parliaments and NHRIs to:

- 8.1. promote and implement the Belgrade principles and further develop their approach at the national level;
- 8.2. identify opportunities for joint initiatives and hold joint events to raise awareness on equality and non-discrimination issues;
- 8.3. engage in mutual information sharing on equality and non-discrimination issues;
- 8.4. appoint an officer dedicated to their cooperation;
- 8.5. establish partnerships for reporting to United Nations treaty bodies;
- 8.6. explore partnerships in engaging with supranational bodies including inter-governmental organisations and international financial institutions on human rights issues, in particular in the field of equality and non-discrimination.

## **B. Explanatory memorandum**

### **1. Introduction, scope and aim of the report**

1. Both parliaments and national human rights institutions (NHRIs) have a crucial role to play for the protection and realisation of equality, human rights and non-discrimination, as separate entities and in the framework of an efficient cooperation. "NHRIs are natural partners for parliaments in supporting their role as legislators and as a check and balance on executive and judicial power due to the range of NHRI functions - from public awareness, education and training, litigation and compliance, to research and policy review including draft legislation and interactions with national parliaments."<sup>2</sup>

2. NHRIs are important national-level institutions that have the potential to greatly enhance respect for equality and non-discrimination. They are independent institutions for the promotion and protection of human rights established by States and operating at national level. NHRIs often command considerable respect for their views and pronouncements on equality, human rights and non-discrimination, particularly where they meet the requisite standards of mandate and independence.

3. Most Council of Europe member States have established independent national human rights institutions based on the 1993 Principles relating to the status and functioning of national institutions for the protection and promotion of human rights (Paris Principles), which set out the structure and functions of national institutions. While NHRIs can take the form of Human Rights Commissions, Ombudspersons, Consultative Commissions or Institutes for Human Rights, depending on what suits the national framework, they have common functions in promoting compliance with international human rights standards at the national level. These include: monitoring and making recommendations on legislation, raising awareness and providing human rights education, receiving and supporting individual cases and interacting independently with the international human rights system, including the Council of Europe. NHRIs are assessed against the criteria of the Paris Principles by the International Coordinating Committee of NHRI's, for their level of independence, their mandate powers and functions, and interaction with stakeholders. All NHRI's should reach the standard of full compliance with the Paris Principles (A Status).

4. Parliaments are a core part of human rights protection within any member State, particularly in scrutinising legislation and the actions of the executive. The Parliamentary Assembly has already highlighted in a number of texts the role of parliaments to protect and promote human rights, notably in its Resolution 1823 (2011) on National parliaments: guarantors of human rights in Europe. Parliaments should take a more active role to promote and protect equality and non-discrimination. One means of doing this is through improved engagement with NHRIs.

5. This report assesses existing cooperation between National Human Rights Institutions (NHRIs) and Parliaments in Council of Europe member States in addressing equality and non-discrimination. It aims at identifying best practices and proposing measures for a greater interaction between NHRIs and Parliament on these issues, with a view to multiplying mutual benefits.

6. It is based on desk research and on the replies to the questionnaire I have sent to all European NHRIs.<sup>3</sup> I would like to thank the NHRIs for their cooperation and for the information provided.

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<sup>2</sup> Dr Des Hogan, Hearing held at the meeting of the Committee on Equality and Non-Discrimination on 1 October 2013 in Strasbourg.

<sup>3</sup> I have received replies from the Albanian People's Advocate, the Human Rights Defender of Armenia, the Austrian Ombudsman Board, the Office of the Commissioner for Human Rights of the Republic Azerbaijan, the Centre for Equal Opportunities and Opposition to Racism (Belgium), the Human Rights Ombudsman of Bosnia and Herzegovina, the Ombudsman of Bulgaria, the Ombudsman of the Republic of Croatia, the Danish Institute for Human Rights, the Public Defender of Rights (Ombudsman) of the Czech Republic, the Parliamentary Ombudsman of Finland, the Public Defender of Georgia, the German Institute for Human Rights, the Greek National Commission for Human Rights, the Irish Human Rights Commission, the Commission consultative des Droits de l'Homme du Grand-Duché de Luxembourg, the Ombudsman of "The former Yugoslav Republic of Macedonia", the Netherlands Institute for Human Rights, the Northern Ireland Human Rights Commission (NIHRC), the Slovak National Centre for Human Rights, the Human Rights Ombudsman of the Republic of

7. I would also like to thank the European Network of NHRIs for its support and Dr Des Hogan, Acting Chief Officer of the Irish Human Rights Commission, who participated in a hearing with the Committee on Equality and Non-Discrimination in Strasbourg, on 1 October 2013.<sup>4</sup>

## 2. Relevant international instruments

8. The Paris Principles<sup>5</sup> set out the basic international standards for NHRIs, which are required to “protect human rights, including by receiving, investigating and resolving complaints, mediating conflicts and monitoring activities and promote human rights through education, outreach, media training and by advising governments (...) When in compliance with the Paris Principles, NHRIs are cornerstones of national human rights promotion and protection systems. NHRIs also serve as relay mechanisms between international human rights norms and the national level”.<sup>6</sup>

9. The Paris Principles also provide that NHRIs should establish “effective cooperation” with Parliaments, but did not define what such cooperation could entail. They state that NHRIs have the responsibility to “submit to the government, parliament and any other competent body (...) opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights”, and should publicise such reports..

10. The Abuja Guidelines on the relationship between parliaments, parliamentarians and Commonwealth national human rights institutions were adopted in Abuja (Nigeria) in 2004 at a meeting of NHRIs representatives and of parliaments from the Commonwealth.<sup>7</sup> They call for the development of a special working relationship, considering their contribution to the protection and realisation of human rights. According to these Guidelines, parliaments should set up an appropriate legal framework for the establishment of NHRIs, ensure resources, debate NHRIs reports and follow-up. I find particularly interesting that the Abuja Guidelines call on parliamentarians to ensure that their constituents are made aware of the work of NHRIs. NHRIs should provide independent advice to parliaments, provide on-going training to parliamentarians on human rights and advise on the human rights implications of draft legislation. The Guidelines are limited to parliaments from the Commonwealth but could be used as a source of inspiration, although they are not universal.

11. The Belgrade Principles on the relationship between NHRIs and Parliaments adopted in 2012 develop further the provisions of the Paris Principles<sup>8</sup> and can be potentially applied everywhere. They set out the responsibilities of Parliaments in the establishment and functioning of NHRIs, including ensuring that their founding legislation is strong and that they are sufficiently resourced to undertake their work. These Principles stress that NHRIs can also act as an excellent resource for Parliaments – providing information on equality and non-discrimination issues as well as racism and intolerance. As the primary national human rights body, NHRIs have access to and expertise in all human rights and are able to provide credible, accurate information to Parliament to assist it in its work. The United Nations Secretary General stressed that “Parliaments should play a critical role in securing the independence and functioning of NHRIs (...). States are encouraged to use the Belgrade Principles as guidelines to strengthen cooperation between NHRIs and parliaments for the promotion and protection of human rights at the national level”.<sup>9</sup>

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Slovenia, El Defensor del Pueblo (The Office of the People's Defender – Spain), The Swedish Equality Ombudsman (DO) and the Ukrainian Parliament Commissioner for Human Rights. I have also received some inputs from the Office of the Estonian Chancellor of Justice, which is not yet recognised as an NHRI, the Office of the Commissioner for Administration and Human Rights (Ombudsman) of Cyprus and the People's Advocate Institution of Romania.

<sup>4</sup> I also wish to acknowledge the support of Ms Kirsten Roberts, Kings College London, in the development of this report.

<sup>5</sup> The Paris Principles were adopted by the United Nations General Assembly in its Resolution 48/134.

<sup>6</sup> UNDP-OHCHR Toolkit for collaboration with National Human Rights Institutions, 2010, [www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf](http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf)

<sup>7</sup> [www.agora-parl.org/sites/default/files/guidelines\\_abujaworkshop.pdf](http://www.agora-parl.org/sites/default/files/guidelines_abujaworkshop.pdf).

<sup>8</sup> The Belgrade Principles were adopted at an International Seminar organised by the Office of the United Nations High Commissioner for Human Rights, the International Coordinating Committee of National Institutions for the promotion and protection of human rights, the National Assembly and the Protector of Citizens of the Republic of Serbia, with the support of the UN Country Team in the Republic of Serbia, in Belgrade, Serbia on 22-23 February 2012.

<sup>9</sup> National institutions for the promotion and protection of human rights, Report of the Secretary-General to the

12. The role of Parliaments as human rights actors is also on the recent agenda of the United Nations Human Rights Council. In its Resolution 22/15 on 10 April 2013 on the *Contribution of parliaments to the work of the Human Rights Council and its universal periodic review*, the Council highlighted the role of parliaments in “translating international commitments into national policies and laws”.<sup>10</sup>

### 3. Current practice in Council of Europe member States

13. Within member States, there are already some excellent examples of cooperation between NHRIs and Parliaments. In the framework of the preparation of this report, I have sent a questionnaire<sup>11</sup> to NHRIs to obtain an overview of actual practice in member States and then build on the work carried out at the international level to date and make a set of proposals in a number of specific areas. Namely: awareness raising, education and training; sharing of information; partnerships including on reporting to treaty bodies.

14. In some member States, Parliament has a direct role in selecting the members of the NHRI – for example, in Portugal, Spain and Poland, Parliament plays a direct role in the election of the Ombudsman NHRIs.<sup>12</sup> A number of NHRIs have been established at the initiative of Parliaments, such as the German NHRI, which was established following a unanimous call of the lower Chamber of the Federal Parliament,<sup>13</sup> and a member of the Human Rights Committee of the Parliament sits on the NHRI’s board of trustees.<sup>14</sup> Many NHRIs provide their reports to Parliament, such as in Spain, Poland,<sup>15</sup> Bosnia and Herzegovina,<sup>16</sup> and Georgia.<sup>17</sup> In a number of member States the NHRI provides advice directly to the Parliament.<sup>18</sup>

15. In Albania, the People’s Advocate, elected by three-fifths of all the members of the Assembly, submits special and annual reports to the Assembly. He may request the Assembly to hear him on a specific topic, or be requested to prepare a report by the Speaker or a group of parliamentarians. He notably delivered a special report on the rights of LGBT persons (2012), on violence against women (2012) and the employment of persons with disabilities (2013). The People’s Advocate can be invited to submit opinions on draft laws and participate in joint activities.

16. The Human Rights Defender of Armenia, elected by the National Assembly, delivers an annual report on his/her activities and on the human rights situation to the Parliament and to the President of the Republic. On a proposal by both the lead committee and the Defender, the National Assembly can have a special procedure for a debate. The Defender also has the right to deliver special reports and can send comments on draft laws. He/she has the right to attend parliamentary sessions and can make a speech when issues related to rights and fundamental freedoms are discussed, either in plenary or within a committee. Recently, the Defender participated in a non-formal discussion in the Standing Committee on Human Rights Protection on the need to develop a comprehensive anti-discrimination legislation.

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20th session of the Human Rights Council, 2012

[www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-9\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-9_en.pdf)

<sup>10</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/128/92/PDF/G1312892.pdf?OpenElement>

<sup>11</sup> The information provided in this chapter reflects the information provided in the replies to the questionnaire.

The questionnaire is in the Annex.

<sup>12</sup> Fundamental Rights Agency, Report on National Human Rights Institutions in the EU Member States -

Strengthening the fundamental rights architecture in the EU, May 2010, p. 28, 32,

[http://fra.europa.eu/sites/default/files/fra\\_uploads/816-NHRI\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/816-NHRI_en.pdf).

<sup>13</sup> *Idem*, p. 29.

<sup>14</sup> *Ibid*, p. 32.

<sup>15</sup> *Ibidem*, p. 32, 38.

<sup>16</sup> Annual Report Ombudsman of Bosnia and Herzegovina 2011, p.5.

<http://www.rwi.lu.se/NHRIDB/Europe/Bosnia/AnnualReportonResultsoftheActivitiesoftheInstitutionofHumanRightsOmbudsmanofBosniaandHerzegovinafor2011.pdf>

<sup>17</sup> Annual Report Ombudsman of Georgia 2011

<http://ombudsman.ge/files/downloads/en/hcqkqyhblwldxcayqiwg.pdf>

<sup>18</sup> Source : FRA NHRI Report, p. 28.

17. The Austrian Ombudsman Board (AOB),<sup>19</sup> a national parliamentary Ombudsman institution, can give statements of opinions with regard to draft laws. The AOB submits an annual report of activities to the National Council and Federal Council and can report on a specific situation. A parliamentary committee deals specifically with the Ombudsman Board ("Volkanwaltschaftsausschuss") and considers the annual reports. The AOB also points out potential problems to lawmakers at the federal and regional level. At their request, the members of the AOB can be given a hearing at the parliament. The Austrian Ombudsman Board has regularly raised the issue of non-uniform enforcement of anti-discrimination laws in the federal states and the fragmentation of protection from discrimination legislation in different federal and regional laws.

18. In Azerbaijan, the Office of the Commissioner for Human Rights presents an annual report on the protection of human rights to the Parliament (Milli Mejlis). The Commissioner has regular contacts with the Parliament, participates in discussions, prepares advice on draft legislation and promotes the ratification of international conventions. Parliamentarians are invited to participate in awareness-raising campaigns. The current Commissioner has focused her interventions in parliament on violence against women, early marriages, child abuse, discrimination and gender inequality. She recommended the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence to the Parliament, as well as an increase in budget allocations for programmes to prevent and combat violence against women.

19. In Belgium, the Centre for Equal Opportunities and Opposition to Racism is undergoing changes and will be transformed into two different institutions later in 2014: the Inter-federal Centre for Equal Opportunities and Federal Centre for Migration. The Centre expressed concern over this transformation, which could affect the status of the NHRI, negatively impacting as well on its relation with Parliament. The founding legislation of the Centre does not explicitly include an engagement with the national parliament. The Centre reports to the Prime Minister on its activities, the latter sends a copy of the report to the House of Representatives and the Senate. Nevertheless, the law about the creation of the Centre foresees a role in the provision of legal advice and recommendations on the improvement of legislation. It is foreseen that the future Inter-federal Centre will report annually to the federal and regional parliaments on the execution of its mission.

20. The Centre is also an independent mechanism as required by the United Nations Convention on the rights of persons with disabilities. It was therefore invited to a hearing at the Senate to present its advice with regard to the situation of prisoners detained in the psychiatric wings of prisons in December 2013. In January 2014, the Centre was invited to present its study on the social and economic monitoring of the participation on the labour market of persons of a foreign nationality or origin to the members of the Parliamentary Committee on social affairs. It is also invited to present several of its annual reports (on discrimination and diversity, migration, trafficking in and smuggling of human beings) followed by a debate. Upon the request of the Parliament, the Prime Minister commissioned the Centre to prepare the development of a national action plan against racism. I am of the opinion that this kind of cooperation could be further encouraged.

21. In Bosnia and Herzegovina, the Human Rights Ombudsman is appointed by the Parliamentary Assembly and can carry out investigations for all cases involving violations of human rights and fundamental freedoms enshrined by the Constitution and international treaties. The Ombudsman institution submits its general annual report to the Parliamentary Assembly and an annual report dedicated to discrimination. Discussions on the reports take place at the committees' level. At times, members of parliament ask for additional information. The Ombudsman can also submit special reports such as on the rights of children, situation of persons with disabilities, elderly people, and address specific recommendations. The Ombudsman is regularly invited to attend discussions on legislative initiatives. The Ombudsman institution and the Joint Committee on Human Rights, Rights of Children, Youth, Immigration, Refugees, Asylum and Ethics began the practice of holding joint, or special sessions in order to mark some international days (International Children's Day, etc.).

22. The Bulgarian Ombudsman, elected by the National Assembly, submits an annual report of activities and participates in a parliamentary debate. He shall prepare reports on individual cases on his initiative or at the request of the National Assembly. The Ombudsman can also be asked to prepare opinions on draft laws.

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<sup>19</sup> The AOB has a B-status with the International Committee of National Human Rights Institutions.

23. The Ombudsman of the Republic of Croatia is a commissioner of the Croatian Parliament for the promotion and protection of human rights and freedoms laid down in the Constitution. The Ombudsman submits an annual report with an evaluation of the status of the protection of rights and freedoms. She has an obligation to inform the Croatian Parliament on the occurrence of discrimination in her annual and, when required, special reports. Reports submitted by the Ombudsman are discussed at the committee level and in plenary. The Ombudsman participates in discussions at the parliamentary committees every time human rights or equality issues are on the agenda and regularly submits comments when human rights and/or equality draft laws are being discussed. She shall participate in the (plenary) sessions of the Croatian Parliament when issues falling within her competence are debated. The ombudsman can also engage with the Parliament at her own initiative.

24. In the Czech Republic, the Public Defender of Rights shall be elected by the Chamber of Deputies for a term of 6 years and shall perform his/her mandate in matters of the right to equal treatment and protection against discrimination. The Defender submits an annual report on activities to the Chamber of Deputies. In addition, the Defender submits information on activities at least once every 3 months. He/she is authorised to participate in meetings at the Chamber of Deputies pertaining to matters concerning his/her mandate, even if closed to the public. Every year, the Committee on Constitutional and Legal Affairs of the Chamber of Deputies visits the Office of the Public Defender of Rights. The Defender's office participated in 2013 in a seminar on LGBT rights at the Parliament.

25. The relationship between the NHRI and Parliament in Denmark is a particularly good example of cooperation between these bodies. In 2012, the Danish Parliament made a resolution endorsing the Danish Institute for Human Rights (DIHR) as the NHRI and a new procedure was introduced whereby the Institute reports to Parliament about its work and on the situation and progress on human rights in Denmark, with a view to strengthening accountability.<sup>20</sup> The Institute is mandated to advise Parliament, and in 2012 the Institute was asked to comment on 113 government reports, ministerial directives and draft laws.<sup>21</sup> A yearly report to the Parliament by the NHRIs allows monitoring progress in human rights, it is sent directly to the members of Parliament. Its last report made detailed recommendations on access to the labour market, called for investigation on indirect discrimination at school, access to health services for refugees and immigrants, combating hate crimes and equal treatment of Greenlanders in Denmark. The DIHR is regularly asked to conduct a legal analysis and a human rights assessment of the compatibility of draft legislation with international obligations. DIHR can also be asked to provide information to a parliamentary committee. In February 2014, DIHR was asked to inform the Parliamentary Committee on Greenland on the so-called legally fatherless in Greenland.

26. The DIHR is also an interesting example of the work done by NHRIs to combat racism and discrimination, its "Stop it Now" campaign to record instances of hate crimes and compile data on the extent of discrimination in Denmark being a prime initiative.<sup>22</sup>

27. The Finnish NHRI is composed of the Parliamentary Ombudsman, the Finnish Human Rights Centre and its Human Rights Delegation. The Ombudsman and the Human Rights Centre submit one annual report each to the Parliament. The Ombudsman thereafter participates in a debate with the parliamentarians. He/she can also submit a report on a matter of importance and make recommendations with regard to legislation. The Finnish NHRI recently participated in Committee hearings at the Parliament on the government bill for police act, the government report on the realisation of linguistic rights and a government bill for the ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The work of the Ombudsman for Equality and of the future Ombudsman for Equal Treatment (currently the Ombudsman for minorities) should also be taken into consideration.

28. In Georgia, the Public Defender submits proposals, comments or recommendations on Georgian legislation or draft laws to the Parliament with the aim of ensuring observance of human

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<sup>20</sup> Danish Institute for Human Rights Annual Report 2012, <http://www.humanrights.dk/files/pdf/Aarsberetning%202012%20EN.pdf>

<sup>21</sup> Danish Institute for Human Rights Annual Report 2012, <http://www.humanrights.dk/files/pdf/Aarsberetning%202012%20EN.pdf>

<sup>22</sup> Danish Institute for Human Rights Annual Report 2012, <http://www.humanrights.dk/files/pdf/Aarsberetning%202012%20EN.pdf>



rights and freedoms. For example in 2011 the institution provided recommendations on the Law on Assembly and Manifestations, which impacted on freedom of assembly, and reported that the institutions recommendations were largely taken into account.<sup>23</sup> In special cases, the Public Defender can propose the setting up of an ad hoc parliamentary human rights investigation commission and request the Parliament to take up the matter for consideration. The Public Defender submits an annual report to the Parliament on the situation of human rights and freedoms in the country and addresses the Assembly during a plenary session. The Defender asked the Parliament to undertake sustainable activities to increase women's political participation and ensure gender equality through concrete and measurable results, ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and ratify the United Nations Convention on the Protection of the Rights of Persons with Disabilities.

29. The German Institute for Human Rights is the NHRI and does not function as the national equality body. There are no reporting obligations and there is no formal submission of the annual report. However, the Institute distributes its report among all parliamentarians and offers advice. It addresses recommendations to parliamentarians in policy papers, studies and press statements. The Parliament regularly seeks advice from the NHRI. The NHRI can engage with the parliament on its own initiative and upon request. The German Institute for Human Rights interacts as well with parliamentarians at the individual level, which could be through a confidential dialogue and private meetings, and at the parliamentary group level. Representatives of the Institute also participate in parliamentary hearings, recently in hearings on the rights of persons with disabilities, trafficking in human beings and the rights of unaccompanied minor refugees. The Institute informed me that they send written contributions to Parliament on legislative proposals and organise side events (e.g. on effectiveness of anti-discrimination legislation, human rights of elderly persons). The German Institute for Human Rights engages in follow-up to the concluding observations of treaty bodies by organising follow-up conferences with the participation of parliamentarians, government and civil society representatives to discuss implementation.<sup>24</sup>

30. The Greek National Commission for Human Rights has a formalised relationship with the Hellenic parliament. It submits recommendations and proposals, prepares opinions on legislation and examines the compliance of the national legislation with international human rights standards. The Commission is composed of representatives of trade unions, NGOs, academics, the bar association, the Chair of the Special Parliamentary Committee on Institutions and Transparency and representatives of political parties elected and represented in Parliament (each party appoints one representative). The Commission submits its annual report to the Prime Minister, the President of the Parliament and leaders of political parties, which are represented in the national, and European Parliament. The report is discussed in the Special Committee on Equality, Youth and Human Rights, however the report is not transmitted to all parliamentarians. The Commission provides the Parliament with expert advice, recommendations or reports when a human rights issue arises during the legislative process, during constitutional revision, when a bill is presented or at its own initiative. It should receive a draft bill for comments before it is submitted to Parliament. The Commission prepares a report on the draft bill, transmitted to the Parliament, most recently on the topics of racism and xenophobia, political participation of non-citizens, equal treatment of women and men.

31. In Ireland, the observations and recommendations of the Irish Human Rights Commission on draft legislation have frequently been relied upon and cited in parliamentary debates. The Commission provides briefing for parliamentarians and suggests areas of inquiry to committees. It has a function to provide formal observations on draft legislation to the Government to ensure that it complies with constitutional and international human rights standards, and comments on the human rights implications of draft legislation, as well as on legislation already in force. The Commission ensures that the observations are brought as well to the attention of parliamentarians. It can also decide to undertake a comprehensive analysis of the human rights implications of the legislation. The recommendations, which come as a result of the analysis, are sent to the authorities and published on the Commission's website and via the media. The Irish Human Rights Commission does not have reporting obligations to the Parliament. However, it seeks the opportunity to be invited to the Parliament. As an example, on 13 November 2013, the Commission made a presentation to the

<sup>23</sup> Annual Report Ombudsman of Georgia 2011 p. 53.

<http://ombudsman.ge/files/downloads/en/hcqkqyhblwldxcayqiwg.pdf>

<sup>24</sup> FRA Handbook on the establishment and accreditation of National Human Rights Institutions in the European Union, October 2012, [http://fra.europa.eu/sites/default/files/fra-2012\\_nhri-handbook\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2012_nhri-handbook_en.pdf).

Oireachtas Joint Committee on Justice, Defense and Equality on the recognition of the Irish Traveller Community as an ethnic minority.

32. In Luxembourg, the Commission Consultative des Droits Humains prepares opinions, studies and recommendations for the attention of the government. However, in practice, opinions on draft laws are sent in parallel as well to the Parliament and to the relevant parliamentary committees.

33. The Netherlands Institute for Human Rights provides advice about law proposals that relate directly or indirectly to human rights at the request of the Parliament or on its own initiative. As an example, it advised the Parliament on a law proposal submitted by an MP on restricting the direct effect of international treaties. It submits an annual report of activities to the Parliament although there is no legal obligation. In addition, the NIHR submitted for the first time a status report in July 2013. I welcome the pro-activeness of the NIHR, which invited MPs to ask more often for advice, and for meeting regularly with several parliamentary committees.

34. The Northern Ireland Human Rights Commission provides advice to parliamentary committees.

35. The Ombudsman of "The former Yugoslav Republic of Macedonia" submits an annual report on human rights and can submit a special report to the Assembly. The Ombudsman can initiate proceedings in cases of violations of the principle of non-discrimination and participate in parliamentary hearings.

36. In the Slovak Republic, the act n. 308/1993 on the establishment of the Slovak National Centre for Human Rights includes an explicit provision on the engagement and cooperation between the Centre and the Slovak Parliament (Slovak National Council).<sup>25</sup> The Slovak National Council adopts the budget for the Centre. The Centre does not submit its annual report of activities to the Parliament but it sends its annual report on the observance of human rights, equality and rights of the child, which is kept, in the Parliament's library. Staff members of the Centre can participate in the session of the Committee for Human Rights and National Minorities at any time as observers. They participate as guest speakers in expert seminars, such as one recently on housing for Roma.

37. The Human Rights Ombudsman of the Republic of Slovenia shall be elected by the Parliament with the two-third majority of votes. He is required to present to the Parliament a general annual report and can also present special reports. The Ombudsman's annual report gives a general picture of the human rights situation in the country. He is often invited by the Parliamentary Committee for Petitions, Human Rights and Equal Opportunities to present his views on equality, human rights, non-discrimination and racism. In 2012, he presented a special report to the Parliament on the living conditions of Roma in the country.

38. The Spanish Ombudsperson can give advice and recommendations to the authorities, remind legal obligations and present suggestions with regard to new measures and legislation. The authorities and officials are obliged to reply to the Ombudsperson. A joint Congress-Senate Committee has been set up to liaise with the Ombudsperson. The Ombudsperson reports annually to the Parliament in a report, including on the number and type of complaints received, those rejected, reasons for rejection and those investigated with results of the investigation. He may submit a special report when required by the situation. In 2012, he presented 548 recommendations and suggestions to the administration.<sup>26</sup>

39. The Ukrainian Commissioner for Human Rights is appointed by the Verkhovna Rada (Parliament). The Commissioner has the right to submit recommendations on amendments to laws concerning human rights and fundamental freedoms and present an annual report on the human rights situation in Ukraine to the Parliament. This report can identify gaps in legislation impacting human rights protection and presents concrete recommendations. The Commissioner can as well present reports on specific issues. The Commissioner has the right to be heard during a plenary sessions if the issue discussed is covered by the mandate and can participate in hearings during committees' meetings (as an example on labour migration and equality between women and men last

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<sup>25</sup> Information received in response to the questionnaire by the Slovak National Centre for Human Rights.

<sup>26</sup> Information provided by the office of the Spanish Ombudsperson, in reply to the questionnaire.

year). In 2013, the Commissioner recommended to the Parliament to oppose the draft law on the ban of homosexual propaganda.

#### **4. Proposals for practical engagement and improving cooperation on equality and non-discrimination issues**

40. While these examples I have given focus on the cooperation between Parliament and the structure of the NHRI and their interaction on legislative proposals, there are a considerable number of other ways in which NHRIs and Parliaments can and do engage with each other with the shared goal of improving human rights. I will particularly focus on proposals for increasing the effectiveness of the exchange between NHRIs and Parliament for concrete impact.

41. A first proposal would be to encourage parliaments to establish, where it does not yet exist, a specific committee dealing with equality, human rights and non-discrimination issues. In addition, parliaments could also demonstrate a systematic, cross-cutting engagement on equality issues, by engaging several committees in this matter. These committees could hold joint events with NHRIs to increase awareness-raising on equality and non-discrimination issues, which could be done when the NHRI issues a report on these issues, or when there is a report going from the state to a relevant treaty monitoring body. These events could take the form of a conference, seminar or a roundtable.

42. NHRIs can play an important role with regard to reporting and to the follow-up given to recommendations by international monitoring bodies and treaty bodies, by presenting and explaining them to parliamentarians.

43. I can only encourage the submission of an annual report by the NHRI to the Parliament on the situation with regard to equality, human rights and non-discrimination in the country. A general parliamentary debate on equality and non-discrimination, based on the NHRI annual report, could be held during a time slot receiving attention in order to increase visibility. As a consequence, more parliamentarians would feel engaged on these issues.

44. NHRIs are well placed to provide education and training on human rights to new parliamentarians, or parliamentarians who may not have had the opportunity to develop adequate knowledge of human rights prior to being elected. They can contribute to empowering parliamentarians who are members of the committees dealing with equality, non-discrimination and human rights. Parliamentarians should understand the scope and the importance of equality and non-discrimination in order to contribute to their effective implementation.

45. Parliaments should make greater use of NHRIs as information resources on equality and non-discrimination issues, including by inviting NHRIs to give evidence during parliamentary discussions, and utilising NHRI reports and data. This would support and supplement the work parliamentarians are already doing, and provide a reliable source of up to date expertise to enrich parliamentary debates.

46. Holding regular, or rather systematic debates on the reports and recommendations by the NHRIs would increase the engagement of members of parliaments on equality, human rights, and non-discrimination issues. A regular interaction would also contribute to developing formal and informal contacts. The requirement to submit reports, participate in debates and comment on draft legislation could be formalised in legislation.

47. NHRIs can help establishing an accountability mechanism at the Parliament to oversee governments' engagement in the international human rights monitoring system. Hearings held with the participation of NHRIs' representatives could lead to parliamentary questions. NHRIs can contribute to the consideration of equality and non-discrimination in legislation and policy making.

48. NHRIs could inform parliamentarians about judgments of the European Court of Human Rights and the decisions of other human rights bodies and mechanisms, so as to monitor effective compliance. They can also provide support to parliaments with work on harmonisation of the existing legislation with international standards. NHRIs could engage in the preparation of human rights impact assessment of draft legislation. I have in this regard received a suggestion to include such an assessment into the legislative cycle.

49. With a view to having an efficient cooperation, both NHRIs and Parliaments could appoint a liaison officer who would deal with their cooperation. He/she could also report to parliament on individual cases that show the existence of a systemic issue. NHRIs could relay information to the Parliament following its monitoring, notably of places of detention.

50. Human rights protection entails receiving and investigating complaints. The Austrian Ombudsman Board cooperates with the Parliament in dealing with petitions and citizens' initiatives lodged with the National Council. I would encourage this type of cooperation in other countries to enable citizens to more directly interact with parliaments on human rights concerns.

51. There can be no politicisation of the views of the NHRIs, although they often deal with highly political issues they must take care to avoid perceptions of political bias. Thus, any development of cooperation with parliaments should respect the Paris Principles in particular as regards independence. NHRIs should continue acting as a bridge between international human rights norms and the national level. NHRIs and Parliaments can work together, enhance their cooperation and contribute to raising awareness on equality and non-discrimination. NHRIs can cooperate with parliaments with a view to improving the respect for human rights; however, parliaments can also contribute to protecting NHRIs.

## **5. Parliaments protecting NHRIs**

52. As I mentioned in the introduction, Parliaments play a crucial role in protecting their NHRI from the potential negative attentions of the executive. As independent institutions, NHRIs do not infrequently come into conflict with the government as a result of publicly challenging the human rights situation in the country. This conflict has the potential to negatively impact on the NHRI, for example, if the executive were to take measures to reduce the NHRIs independence, limit its mandate or powers or reduce its budget or staffing to render it less effective.

53. Parliaments have an important role in supporting NHRIs, in particular protecting undue cuts to its budget and resources, or when there are proposals to merge an NHRI with other national bodies in a way that would weaken its work, and protecting the NHRI's independence including holding the executive to account for any moves that may weaken the NHRI's compliance with the Paris Principles. In States without an "A" status NHRI, parliaments should identify - including through reference to any findings of the ICC Sub-Committee on Accreditation - how the NHRI can become fully compliant with the Paris Principles.

54. The merging of institutions may have negative consequences on the institutions' staffing level, undermining the ability of the institution to respond to the demands of the population. Drastic budget cuts may affect the level of protection provided to the most vulnerable and should be avoided. Parliaments, when voting on the budget allocated to NHRIs, have the power to ensure that sufficient funding is allocated.

55. Parliaments should improve their support for NHRIs by monitoring threats to their independence in relation not only to budget but also to appointments and to changes to their mandates and powers. They should ensure that they play an active role in the appointments of the NHRI Chair/Head. In general, parliaments should promote the Paris Principles and compliance with them.

56. I also wish to mention the basic principles for parliamentary supervision of international human rights standards adopted by the Parliamentary Assembly in 2011, calling for the establishment of human rights parliamentary committees and for the organisation of human rights trainings for parliamentarians. The better parliamentarians are informed, the better they will protect NHRIs. Parliaments should also ensure that sufficient time is given to the consideration of the work of NHRIs, as recommended in the Abuja Guidelines.

## **6. Case study on Ireland**

57. I have decided to include a case study on Ireland, showing an example of concrete cooperation between parliamentarians and an NHRI in the reform of the NHRI structure and strengthening of the

parliamentary oversight. Parliamentary engagement with National Human Rights Institutions (NHRIs) on equality and non-discrimination is even more pertinent given that a number of Member States have to plan to integrate the functions of their national equality body and human rights institutions (including the UK, Belgium, France, Denmark, the Netherlands and Ireland).

58. In 2008 Ireland was officially deemed to be in recession. This prompted a radical rationalisation of state boards and agencies. Initially it was proposed that the Irish Human Rights Council and Equality Authority be merged with three other bodies, the Data Protection Commissioner, the National Disability Authority and the Equality Tribunal. This proposal faced considerable opposition and was eventually dispensed of. In 2009 funding to both the Human Rights Commission and the Equality Authority was cut significantly. The Commission received a 32% reduction with the Equality Authority suffering a 42% reduction. The Commission described the cuts as “disproportionate and excessive”. As a result of these budgetary cuts the Commission had little to no operational resources after non-discretionary expenses. Budget cuts to both bodies have followed year on year since 2008. With a new government elected in 2011, details of the merger of the bodies were finally published and outline legislation following in May 2012. The new Government acknowledged the difficulties faced by the two bodies and undertook a process of consultation on the proposed legislation. The completed legislation is due for publication in 2014.

59. The outline legislation for the merger of the Human Rights Commission and the Equality Authority does not set out a formal framework for co-operation between parliament and the new human rights and equality body. No formal specification of parliamentary committee oversight of human rights and equality is contained in the current legislative outline. This is despite an international trend towards closer co-operation between national parliaments and NHRIs. The Belgrade Principles 2012 recommend the establishment of a formal framework. They also recommend that parliaments consult with NHRIs on human rights and equality matters when considering draft legislation and reports of international human rights mechanisms, eg. UN Committee or Universal Periodic Review reports.

60. With the objective of strengthening parliamentary oversight of the Executive’s work and co-operation with NHRIs, in my capacity as member of the Parliamentary Committee on Justice, Equality and Defence, I facilitated a meeting between the Chair of the Justice Committee, Deputy David Stanton and the respective heads of the Human Rights Commission and Equality Authority. Discussions are currently on-going but among the initial proposals to emerge from the meeting were the following:

- Establishment of a Sub Committee on Human Rights and Equality within the Justice Committee. A member from each Oireachtas Committee would join/attend this Sub Committee on Human Rights and Equality in relation to issues from their own Committee.
- Pre-Legislative Stage: committees engage with the new Irish Human Rights Equality Commission (IHREC) at a pre-legislative stage. A Memorandum of Understanding could be used to structure this.
- Training for Parliamentary Members  
The IHREC will make training available to Members of Parliament on Human Rights and Equality issues.
- Role for the Committee  
Parliamentary Committees would have an involvement with the Commission’s role in relation to the supporting of public bodies in their duty to have due regard to equality and human rights in the exercise of its functions.
- Identification of a legislative basis for the IHREC’s interaction/engagement/exchange with Committees/Parliament. A possible amendment to the forthcoming legislation could be considered in this regard

## **7. Conclusions and main recommendations**

61. Parliaments and NHRIs share a common responsibility to promote and guarantee the respect of equality, human rights and non-discrimination.

62. In order to fulfil this objective, an efficient cooperation is essential. Parliaments should identify the most appropriate structural means of engaging with the NHRI, for example, through a committee

system. They should actively try to engage with and seek information from the NHRI on equality and non-discrimination issues. In conjunction with their NHRI, parliaments should identify a clear framework for engagement and support that would allow them to develop their interaction in a collegial and constructive manner. I can therefore only encourage Parliaments and NHRIs to transform the Belgrade principles into a concrete working tool, for concrete cooperation and to formalise reporting requirements through legislation.

63. NHRIs have a responsibility to inform the parliamentarians on the human rights situation. Parliamentarians in their turn have a responsibility to seek information. NHRIs should warn Parliaments of upcoming challenges and threats in the field of equality and non-discrimination. They should also advise parliaments on whether a draft law or a law already in force have conflicts with international human rights standards. By doing so, they can help parliaments in being an oversight mechanism.

64. They also both have a responsibility to raise awareness on equality and non-discrimination issues to the general public. A political decision to hold parliamentary debates on equality and non-discrimination in plenary at times of high interest could also increase parliamentarians' and the general public's attention to these matters.

65. In countries without a NHRI, Parliaments should prioritise efforts towards encouraging establishment, ensuring that the NHRI is created with strong links to parliament both in terms of interaction and support.

66. The improvement of cooperation will not happen without an efficient and realistic allocation of financial resources to NHRIs, which would allow for better interaction, advice and the provision of training. I therefore also wish with this report to call on member States not to deprive NHRIs of the financial means necessary to enable them to carry out their mandates. NHRIs are unfortunately often underfunded and need robust support from Parliament to ensure their independence and sufficiency of resources.

67. Both parliaments and national human rights institutions are protectors and guarantors of equality and non-discrimination. They should make the full use of this potential and further explore cooperation possibilities. A constructive dialogue in the fields of equality and non-discrimination would have a multiplier effect, contributing to an enhanced level of protection for all.

**Annex: Questionnaire sent to NHRIs**

This questionnaire seeks information about the relationship between your NHRI and national Parliament, with a view to providing an overview of current practice in Europe and making specific proposals for improved engagement including in the areas of legislative reviews, training and human rights education, compliance with ECHR judgments, awareness raising and treaty body reporting. It has a specific focus on issues relating to equality and non-discrimination. Please provide as much information as possible, including hyperlinks to relevant reports or online information where available.

1. Does your founding legislation include an explicit provision for engagement by your national parliament (1) in relation to the mandate and functioning of your NHRI (e.g. budget, appointments) (2) on human rights issues raised by the NHRI? Please provide additional information if there is a specific mention of equality, non-discrimination and racism.
2. Do you submit your annual report of activities to Parliament? If yes, is the report debated or discussed in Parliament?
3. Do you provide any advice, recommendations or reports to your Parliament? Please give examples.
4. Do you engage with debates in Parliament on equality, human rights, non-discrimination and racism? If yes, is this at the invitation of parliament or the initiative of the NHRI?
5. Please provide some specific examples of your NHRI's engagement with your Parliament in the past 12 months. In particular, please provide information on any engagement on issues of equality, human rights, non-discrimination and racism.
6. How do you consider your parliament could improve its engagement on equality, human rights, non-discrimination and racism issues in general?
7. Are there any impediments to increasing your NHRI's engagement with Parliament? Do you consider there any potential negative consequences from increasing your engagement with Parliament?