

NATIONS UNIES
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HAUT-COMMISSARIAT



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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2 July 2015

Dear Mr. Jansons,

I have the honour to thank you for your letter dated 26 May 2015. I take this opportunity to congratulate your office on the recent "A" status accreditation by the International Coordinating Committee of National Human Rights Institutions Sub-Committee on Accreditation.

As required by the Paris Principles and the General Observations of the Sub-Committee on Accreditation (pages 26-29), National Human Rights Institutions must be provided with an appropriate level of funding to guarantee their independence and ability to freely determine their priorities and activities.

OHCHR fully agrees that adequate funding is critical to ensure the sustainable and independent functioning of National Human Rights Institutions, as recommended by the Sub-Committee on Accreditation in its Report and Recommendations of 16-20 March 2015.

In support to your efforts, I have the pleasure to inform you that I have sent a letter to His Excellency, Mr. Edgars Rinkevics, Minister of Foreign Affairs of Latvia, asking him to advocate for adequate funding with the relevant State Institutions.

Yours sincerely,

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

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1. Essential requirements of the Paris Principles

G.O. 1.10 Adequate funding of National Human Rights Institutions

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

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

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of well-functioning communications systems including telephone and internet;
- e) the allocation of a sufficient amount of resources for mandated activities. Where the National Institution has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

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

Government funding should be allocated to a separate budget line item applicable only to the National Institution. Such funding should be regularly released and in a manner that does not impact adversely on its functions, day-to-day management and retention of staff.

While a National Institution should have complete autonomy over the allocation of its budget, it is obliged to comply with the financial accountability requirements applicable to other independent agencies of the State.

JUSTIFICATION

Section B.2 of the Paris Principles addresses the requirement for National Institutions to be adequately funded as a guarantee of their independence. The purpose of such funding and a

definition of what it entails is stated as follows: "*The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.*"

While the provision of "adequate funding" is determined in part by the national financial climate, States have the duty to protect the most vulnerable members of society, who are often the victims of human rights violations, even in times of severe resource constraints. As such, the Sub-Committee believes that it is nevertheless possible to identify certain aspects of this Paris Principles requirement that must be taken into account in any particular context. They include the following:

- a) *Accessibility to the public* – This is particularly important for the most vulnerable sections of society, who would otherwise have particular difficulty bringing attention to any violation of their human rights.
 - o As many vulnerable persons may be geographically remote from the major cities where most National Institutions are located, establishing a regional presence increases the accessibility of National Institutions, giving them as wide a geographical reach as possible, and enabling them to have full national coverage for the receipt of complaints. It is essential that where regional offices exist, they be adequately resourced to ensure their effective functioning.
 - o Another means of increasing the accessibility of National Institutions to vulnerable groups is to ensure that their premises are neither located in wealthy areas nor in or nearby government buildings. This is particularly important where government buildings are protected by military or security forces. Where National Institution's offices are too close to government offices, this may not only compromise the perceived independence of the Institution but also risk deterring complainants.
- b) *National Institution staff* – Salaries and benefits awarded to National Institution staff should be comparable to those of civil servants performing similar tasks in other independent Institutions of the State.
- c) *National Institution members* – Where appropriate, members of the National Institution's decision-making body should receive remuneration equivalent to those individuals with similar responsibilities in other independent Institutions of the State.
- d) *Communications infrastructure* – The establishment of communications systems, including telephone and internet, is essential for the public to access the National Institutions' office. A well-functioning communications structure, including simplified complaints-handling procedures which may include the receipt of complaints orally in minority languages, increases the reach of vulnerable groups to the Institution's services.
- e) *Allocation for activities* – National Institutions should receive adequate public funding to perform their mandated activities. An insufficient budget can render an Institution ineffective or limit it from reaching its full effectiveness. Where the National Institution has been designated with additional responsibilities by the State, such as the role of National Preventive or Monitoring Mechanism pursuant to an international human rights instrument, additional financial resources should be provided to enable it to discharge these functions.

Donor funding

As it is the responsibility of the State to ensure the National Institution's core budget, the Sub-Committee takes the view that funding from external sources, such as from international development partners, should not constitute the Institution's core funding. However, it recognizes the need for the International community, in specific and rare circumstances, to continue to engage and support a National Institution in order to ensure it receives adequate funding until such time when the State will be able to do so. This is particularly applicable in post-conflict States. In these circumstances, National Institutions should not be required to obtain approval for external sources of funding, as this requirement may pose a threat to its independence.

Financial systems and accountability

Financial systems should be such that the National Institution has complete financial autonomy as a guarantee of its overall freedom to determine its priorities and activities. National law should indicate from where the budget of the National Institution is allocated, ensuring the appropriate timing of release of funding, in particular to ensure an appropriate level of skilled staff. This should be a separate budget line over which it has absolute management and control. The National Institution has the obligation to ensure the coordinated, transparent and accountable management of its funding through regular public financial reporting and a regular annual independent audit.

Excerpt from the Paris Principles

B) Composition and guarantees of independence and pluralism –

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

1. Essential requirements of the Paris Principles

G.O. 1.11 Annual reports of National Human Rights Institutions

Annual, special and thematic reports serve to highlight key developments in the human rights situation in a country and provide a public account, and therefore public scrutiny, of the effectiveness of a National Human Rights Institution. The reports also provide a means by which a National Institution can make recommendations to, and monitor respect for, human rights by government.

The importance for a National Institution to prepare, publicize and widely distribute an annual report on its national situation with regard to human rights in general, and on more specific matters, is stressed. This report should include an account of the activities undertaken by the National Institution to further its mandate during that year and should state its opinions, recommendations and proposals to address any human rights issues of concern.

The SCA considers it important that the enabling laws of a National Institution establish a process whereby the Institution's reports are required to be widely circulated, discussed and considered by the legislature. It would be preferable if the National Institution has an explicit power to table reports directly in the legislature, rather than through the Executive, and in so doing to promote action on them.

Where a National Institution has made an application for accreditation or, re-accreditation, it will be required to submit a current annual report, that is, one from the preceding year's reporting period. Where the published report is not in one of the ICC languages, a certified translation of the key elements of the report must be submitted in its application for accreditation. The Sub-Committee finds it difficult to assess the effectiveness of a National Institution and its compliance with the Paris Principles in the absence of a current annual report.

JUSTIFICATION

Section A.3(a) of the Paris Principles requires National Institutions to be responsible for, *"submit[ting] to the Government, Parliament and any other competent body, [...] reports on any matters concerning the promotion and protection of human rights."* It states that institutions *"may decide to publicize them"*, and enumerates the four areas that these reports shall relate to:

- (i) Recommendations on the creation or amendment of any legislative or administrative provisions, including bills and proposals;
- (ii) Any situation of violation of human rights;
- (iii) Human rights in general and on more specific matters; and
- (iv) Proposals to put an end to human rights violations, and its opinion on the proposals and reaction of government to these situations.

With a view to assisting National Institutions to fulfil their obligations pursuant to this provision of the Paris Principles, the Sub-committee provides the following guidance on its requirements, as based on international proven practices:

- *Purpose of reports* – Annual, special and thematic reports serve to highlight key developments in the human rights situation in a country and provide a public account, and therefore public scrutiny, of the effectiveness of a National Institution. The reports also provide a means by which a National Institution can make recommendations to, and monitor respect for, human rights by government;