



Dokumentation

Nationale Menschenrechtsinstitute im Vergleich

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1. Fragestellung und Methodik

Der Auftrag hat einen Vergleich nationaler Menschenrechtsinstitute (NMRI) zum Gegenstand. Dabei wird insbesondere – aber nicht nur – nach den spezifischen Gegebenheiten in Deutschland, Australien, Dänemark, Frankreich, Kanada, den Niederlanden, Polen und im Vereinigten Königreich gefragt. Im Einzelnen sollen dargestellt werden: Die gesetzliche und untergesetzliche Rechtsgrundlagen der NMRI, deren jeweilige Geltungsbereiche, die Stellung der NMRI im Gesamtsystem der jeweiligen öffentlichen Verwaltungen, ihr hierarchisches Verhältnis zu anderen öffentlichen Stellen, der jeweilige Grad ihrer Unabhängigkeit, genaue Kompetenzen und Zuständigkeiten (einschließlich von Ermittlungskompetenzen und Klagebefugnissen, der Vergleich zu Stellen wie etwa der Antidiskriminierungsstelle des Bundes, die Personalausstattung von NMRI (wobei zwischen institutionell geförderten und Projektmittelstellen differenziert werden soll), der Grad der Zentralisierung bzw. Dezentralisierung von NMRI in Bundesstaaten, ihre Finanzausstattung/ Jahresbudget (aufgeschlüsselt nach staatlichen/privaten Mittel). Zur Funktion der NMRI als Forschungseinrichtung wird insbesondere gefragt, wie viele Stellen und Finanzmittel den NMRI jeweils spezifisch zur Verfügung stehen, um die inhaltliche Weiterentwicklung und Forschungstätigkeit zur Verwirklichung der Menschenrechte voranzutreiben, wie hoch der Output der einzelnen NMRI an wissenschaftlichen Veröffentlichungen pro Jahr/pro einer Million Einwohnern ist und welche Kooperationsbeziehungen zum Wissenschaftssystem sowohl universitärer als auch außeruniversitärer Forschungseinrichtungen bestehen. Zusätzlich wird um eine Darstellung der nationalen zivilgesellschaftlichen Diskurse über NMRI sowie ihrer jeweiligen Entstehungsgeschichte vor dem Hintergrund bereits bestehender Strukturen der nationalen Gerichtsbarkeiten oder existierenden Ombudsstellen gebeten.

Die vom Auftraggeber angeregte wertende Betrachtung von NMRI sieht sich mit beträchtlichen methodischen Herausforderungen konfrontiert: Eine isolierte Betrachtung einzelner NMRI ist wenig zielführend, da im Grunde für sämtliche betroffenen nationalen Rechtsordnungen zu untersuchen wäre, welche Einrichtungen und Verfahren sie zum Menschenrechtsschutz bereitstellen. Dabei geht es nicht nur um Menschenrechtseinrichtungen im engeren Sinne (Menschenrechtsbeauftragte, Antidiskriminierungsstellen, Ombudsstellen, u.ä.), sondern um die Rechtsordnungen und deren Institutionen in ihrer Gesamtheit. Denn ein effektiver Menschenrechtsschutz fußt letztlich auf der allgemeinen Funktionsfähigkeit von Rechtssetzung, gerichtlicher Rechtsfindung und exekutiver Rechtsdurchsetzung, die ihrerseits von zahlreichen historischen, sozialen, wirtschaftlichen und politischen Rahmenbedingungen abhängen. Ein verfassungsrechtlicher Ausgangspunkt wäre daher z.B. die Frage, ob die untersuchten nationalen Rechtsordnungen Normen enthalten, die Art. 19 Abs. 4 und Art. 1 Abs. 2 Grundgesetz entsprechen und in der Rechtspraxis eine vergleichbare Bedeutung haben. Weiterhin wäre zu untersuchen, wie es um die Funktionsfähigkeit der nationalen Gerichtsbarkeiten sowie die rechtlichen Kompetenzen und die politische Durchsetzungsfähigkeit der nationalen Parlamente bestellt ist, kurzum: wie effektiv die nationalen Vorkehrungen zur Sicherung der Gewaltenteilung sind. Eine sinnvolle Bewertung der NMRI würde ferner eine Analyse der nationalen Zivilgesellschaften erfordern: Welche rechtlichen Möglichkeiten haben NGOs, wie sehen ihre tatsächlichen politischen Handlungsspielräume aus? Soll die Rechtsvergleichung relevante und wissenschaftlich begründete Aussagen hervorbringen, so erfordert dies also eine Untersuchung des Zusammenspiels verschiedener Teilrechtsordnungen und ihrer Akteure unter Berücksichtigung zahlreicher und vielgestaltiger Faktoren aus rechts- und sozialwissenschaftlicher Sicht. Ohne Fokus auf ein bestimmtes Menschenrecht bzw. ein bestimmtes Verfahren in

einem bestimmten Land sprengt dies den Rahmen der Möglichkeiten der Wissenschaftlichen Dienste. Überdies erfordert die empirische Beurteilung der Wirksamkeit ausländischer NMRI komplexe Sachverhaltsfeststellungen und eine rechtsgeschichtliche Betrachtung, die mit den zur Verfügung stehenden Ressourcen nicht geleistet werden können.

Angesichts der vorhandenen Möglichkeiten konnten daher in einem vertretbaren Umfang und Zeitrahmen nicht alle Fragen des Auftraggebers für alle genannten NMRI beantwortet werden. Vor dem Hintergrund der genannten Grenzen einer sinnvollen wissenschaftlichen Bearbeitung des Auftrags durch die Wissenschaftlichen Dienste beschränkt sich die nachfolgende Dokumentation daher auf die Selbstdarstellung der Nationalen Menschenrechtsinstitute (NMRI) sowie deren Bewertung durch die Globale Allianz der Nationalen Menschenrechtsinstitute (GANHRI).

2. Übersicht NMRI

Die als eine Resolution der VN-Generalversammlung angenommenen „Pariser Prinzipien betreffend die nationalen Institutionen zur Förderung und zum Schutz der Menschenrechte“ definieren im Einzelnen die Voraussetzungen der Unabhängigkeit und Effektivität der Arbeit der NMRI.¹ Die NMRI haben sich 1993 zu einer Globalen Allianz der Nationalen Menschenrechtsinstitutionen (GANHRI) zusammengeschlossen.² Der Akkreditierungsausschuss der GANHRI (SCA) gewährt NMRI, die den in den Pariser Prinzipien normierten Anforderungen vollkommen entsprechen, die Akkreditierung mit dem „A-Status“. Zu den NMRI, die diesen Status haben, zählen alle in dieser Dokumentation berücksichtigten NMRI³, einschließlich des Deutschen Instituts für Menschenrechte (DIMR).⁴ Dies bedeutet, sie erfüllen nach Ansicht des SCA hinsichtlich ihrer Unabhängigkeit und pluralistischen Zusammensetzung vollumfänglich die Anforderungen der Pariser Prinzipien:

„1. Die Zusammensetzung der nationalen Institutionen und die Ernennung ihrer Mitglieder, ob durch Wahl oder auf andere Weise, bestimmen sich nach einem Verfahren, das alle erforderlichen Garantien für die pluralistische Vertretung der an der Förderung und am Schutz der Menschenrechte beteiligten gesellschaftlichen Kräfte (der zivilen Gesellschaft) bietet, insbesondere durch die Ausstattung mit Befugnissen zur Ermöglichung einer wirksamen Zusammenarbeit mit, beziehungsweise durch die Präsenz von, Vertretern a) von nichtstaatlichen Organisationen, die für Menschenrechtsfragen und Bemühungen zur Bekämpfung der Rassendiskriminierung zuständig sind,

1 Resolution der VN Generalversammlung vom 4.3.1994, A/Res/48/134, https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/PDF-Dateien/UN-Dokumente/Pariser-Prinzipien.pdf, S. 3 ff.

2 Vgl. GANHRI, A brief history of GANHRI, <https://nhri.ohchr.org/EN/AboutUs/Pages/History.aspx>.

3 GANHRI, Chart of the Status of National Institutions Accredited by the Global Alliance of National Human Rights Institutions, Accreditation Status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>, S. 6 ff.

4 Siehe DIMR, 23.03.2016, A-Status des Instituts bestätigt, <https://www.institut-fuer-menschenrechte.de/aktuell/news/meldung/article/a-status-des-instituts-bestaetigt/>.

von Gewerkschaften und von engagierten sozialen und Berufsorganisationen, beispielsweise Verbänden von Rechtsanwälten, Ärzten, Journalisten und namhaften Wissenschaftlern; b) von philosophischen oder religiösen Denkrichtungen; c) von Universitäten und qualifizierten Sachverständigen; d) des Parlaments; e) von Ministerien (wenn diese einbezogen werden, sollten ihre Vertreter lediglich in beratender Eigenschaft an den Beratungen teilnehmen).

2. Nationale Institutionen müssen über die erforderliche Infrastruktur für die reibungslose Wahrnehmung ihrer Aufgaben verfügen, insbesondere über ausreichende Finanzmittel. Diese Finanzmittel sollen ihnen ermöglichen, über eigenes Personal und eigene Räumlichkeiten zu verfügen, damit sie von der Regierung unabhängig sind und keiner Finanzkontrolle unterworfen werden, die ihre Unabhängigkeit beeinträchtigen könnte.

3. Um die Stabilität des Mandats der Mitglieder der nationalen Institutionen zu gewährleisten, ohne die eine echte Unabhängigkeit nicht möglich ist, sind sie durch einen offiziellen Akt zu ernennen, der die genaue Dauer ihres Mandats festlegt. Dieses Mandat kann erneuert werden, solange die pluralistische Zusammensetzung der Institutionen gewährleistet ist.“⁵

Die vom Auftraggeber angeregte Differenzierung der einzelnen NMRI nach dem Grad ihrer jeweiligen Unabhängigkeit ist daher problematisch: Angesicht ihrer einheitlichen Bewertung durch den GANHRI-Akkreditierungsausschuss ist nicht ersichtlich, aufgrund welcher neutraler und objektiver sachlicher Kriterien eine solche Differenzierung vorgenommen werden sollte.

Per definitionem sind die nach Ansicht des SCA unabhängigen NMRI hinsichtlich der Erfüllung ihrer fachlichen Aufgaben nicht in den staatlichen Behördenaufbau eingegliedert und stehen daher auch in keinem hierarchischen Verhältnis zu anderen Behörden.

2.1. Deutschland

2.1.1. Nationaler Rahmen und Rechtsgrundlagen

Wichtigste besondere Rechtsgrundlage für das Deutsche Institut für Menschenrechte (DIMR) im deutschen Recht ist das Gesetz über die Rechtsstellung und Aufgaben des Deutschen Instituts für Menschenrechte vom 16. Juli 2015.⁶ Daneben spielen zahlreiche weitere allgemeine

5 Pariser Prinzipien, a.a.O., S. 5.

6 Bundesgesetzblatt 2015 Teil I vom 22. Juli 2015, S. 1194, https://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F*%5B%40attr_id%3D%27bgbl115s1194.pdf%27%5D#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl115s1194.pdf%27%5D_1552474289301.

Rechtsgrundlagen eine wichtige Rolle. Statt vieler sei hier auf die vereinsrechtlichen Regelungen des Bürgerlichen Gesetzbuches (BGB)⁷ verwiesen, die auf das DIMR in seiner Eigenschaft als eingetragener Verein anwendbar sind.⁸

Das institutionelle Umfeld des DIMR im Rahmen der zahlreichen deutschen Einrichtungen zur Förderung und Durchsetzung von Menschenrechten (u.a.: Beauftragte der Bundesregierung für Menschenrechtspolitik und Humanitäre Hilfe⁹, Fachreferate und Menschenrechtsbeauftragte der einzelnen Ministerien auf Bundesebene¹⁰, Anti-Diskriminierungsstelle des Bundes¹¹, Nationale Stelle zur Verhütung von Folter¹²) war bereits Gegenstand einer Darstellung der wissenschaftlichen Dienste.¹³ Daneben ist daran zu erinnern, dass es in Deutschland eine funktionsfähige Justiz und ein starkes Parlament gibt, die zur Wahrung der Menschenrechte beitragen. So befasst sich zum Beispiel auch der Petitionsausschuss des Deutschen Bundestages immer wieder mit Eingaben, die die Achtung von Menschenrechten im Inland und Ausland zum Gegenstand haben.¹⁴

Das Deutsche Institut für Menschenrechte hat keinen Auftrag, Anfragen von Einzelpersonen zu bearbeiten, die von Menschenrechtsverletzungen betroffen sind.¹⁵ Gegenwärtig unterfallen Auskunftersuchen des DIMR an öffentliche Stellen dem Informationsfreiheitsgesetz und sind

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- 7 Bürgerliches Gesetzbuch in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738), das zuletzt durch Artikel 7 des Gesetzes vom 31. Januar 2019 (BGBl. I S. 54) geändert worden ist, <https://www.gesetze-im-internet.de/bgb/BJNR001950896.html#BJNR001950896BJNG000502377> , insbesondere § 21 ff. BGB.
 - 8 Siehe die „Satzung des eingetragenen Vereins Deutsches Institut für Menschenrechte“ in der Fassung vom 13. Oktober 2017, <https://www.institut-fuer-menschenrechte.de/ueber-uns/auftrag/satzung/#c3001> , insbesondere dessen § 1.
 - 9 Webseite der Beauftragten: <https://www.auswaertiges-amt.de/en/aamt/koordinatoren/mr-koordinatorin> .
 - 10 Vgl. die Liste der Beauftragten der Bundesregierung, der Bundesbeauftragten sowie der Koordinatoren / Koordinatorinnen der Bundesregierung nach § 21 Abs. 3 Gemeinsame Geschäftsordnung der Bundesministerien (GGO), https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/ministerium/beauftragte-der-bundesregierung.pdf?__blob=publicationFile&v=13
 - 11 Webseite der Anti-Diskriminierungsstelle: http://www.Anti-Diskriminierungsstelle.de/DE/Home/home_node.html .
 - 12 Webseite der Stelle: <https://www.nationale-stelle.de/de/nationale-stelle.html> .
 - 13 WD 2 - 3000 - 136/18, Zur Stärkung von menschenrechtlichen Verfahren und Einrichtungen in Deutschland, 8. November 2018, <https://www.bundestag.de/resource/blob/586144/4fcfbd52242dbf6728e3ad0e01dadf6b/WD-2-136-18-pdf-data.pdf> .
 - 14 Vgl. den Jahresbericht des Petitionsausschusses 2018, https://www.bundestag.de/blob/532460/f7bcb8aadea89e5313712fc78910c044/ausgabe_2016-data.pdf , S. 28 und S. 124, sowie den Bericht von 2017, <http://dip21.bundestag.de/dip21/btd/19/022/1902250.pdf> , S. 14 und 43.
 - 15 Siehe DIMR, <https://www.institut-fuer-menschenrechte.de/ueber-uns/oft-gestellte-fragen/#c1315> , sowie im Einzelnen die Aufgabenbeschreibung in § 2 des Gesetzes über die Rechtsstellung und Aufgaben des Deutschen Instituts für Menschenrechte vom 16. Juli 2015 (BGBl. I S. 1194), <https://www.institut-fuer-menschenrechte.de/ueber-uns/auftrag/dimr-gesetz/> .

nach diesem gebührenpflichtig.¹⁶ Bisher hat das DIMR keine Befugnis zur Klage vor dem Bundesverfassungsgericht, kann also keine Verfahren initiieren, um die Verfassungsmäßigkeit von Gesetzen im Hinblick auf internationale Menschenrechtsverpflichtungen, die Deutschland akzeptiert hat, prüfen zu lassen.¹⁷ Mitarbeiter des DIMR werden bei der Debatte menschenrechtlicher Themen in Ausschüssen des Deutschen Bundestages nicht von Amts wegen geladen.

2.1.2. Finanzielle und personelle Ausstattung

Das deutsche NMRI weist in seinem letzten auf der Webseite veröffentlichten Jahresbericht für 2017 einen Gesamthaushalt von ca. 5,62 Mio € aus.¹⁸ Umgerechnet auf Vollzeitstellen hatte das Institut in diesem Jahr Mittel für 34,2 Stellen, die aus institutioneller Zuwendung finanziert wurden, sowie 25,08 Stellen aus Projektmitteln.¹⁹ Dem DIMR wurden seit seiner Gründung mehr und mehr Aufgaben übertragen, während die institutionelle Grundfinanzierung des Instituts mit dem Zuwachs an Kompetenzen nicht Schritt hielt. Der Akkreditierungsausschuss der GANHRI bemängelt daher Umfang und Planungssicherheit der gegenwärtigen staatlichen Zuwendungen an das DIMR.²⁰ Das gegenwärtige Ausmaß der Grundausrüstung des Instituts hat zur Folge, dass die Kapazität für unabhängige Forschung, Monitoring und Analyse noch ausbaufähig ist. Auch kann das DIMR nicht in dem von ihm selbst gewünschten Umfang Informationen für staatliche Stellen, Unternehmen und entwicklungspolitische Akteure bereitstellen. Beratungsaufgaben, die das DIMR gegenwärtig erfüllt, werden zu einem großen Anteil durch Projektmittel finanziert. Im Hinblick auf die Haushaltsentwicklung 2019/2020 formuliert das DIMR daher zwei zentrale Anliegen²¹: Zum einen wird die Übernahme zentraler Verwaltungsfunktionen in die institutionelle Finanzierung gefordert. Dies entspräche unter anderem auch Anregungen des Bundesverwaltungsamtes. Es liegt nahe, dass eine gesteigerte institutionelle Grundfinanzierung die langfristige Planungssicherheit für das Institut und seine Mitarbeiter und Mitarbeiterinnen erhöhen würde. Zu erwarten ist, dass dies auch die Effizienz des Mitteleinsatzes begünstigen würde. Zum zweiten formuliert das DIMR seinen Bedarf, die Forschungs-, Monitoring- und Analysekapazitäten des Instituts

16 Siehe § 10 des Informationsfreiheitsgesetz vom 5. September 2005 (BGBl. I S. 2722), das durch Artikel 2 Absatz 6 des Gesetzes vom 7. August 2013 (BGBl. I S. 3154) geändert worden ist, <https://www.gesetze-im-internet.de/ifg/IFG.pdf>.

17 Siehe Bericht des Menschenrechtskommissars des Europarates, CommDH(2015)20, [https://rm.coe.int/ref/CommDH\(2015\)20](https://rm.coe.int/ref/CommDH(2015)20), Rz. 25.

18 Deutsches Institut für Menschenrechte, Jahresbericht 2017, https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Jahresbericht/Jahresbericht_2017.pdf, S. 57.

19 A.a.O., S. 71.

20 Global Alliance of National Human Rights Institutions, International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) Geneva, 16-20 November 2015, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20FINAL%20REPORT%20-%20NOVEMBER%202015-English.pdf>, S. 16.

21 Die nachfolgenden Ausführungen beruhen auf: Kurzvorstellung des DIMR und Erläuterungen zur finanziellen Ausstattung des Instituts (September 2018).

grundsätzlich und nachhaltig zu erhöhen und von der projektbezogenen Drittmittel unabhängiger zu machen.²²

2.1.3. Publikationen und Kontakte zur Wissenschaft

Eine Liste der Veröffentlichungen des DIMR mit Stand vom Januar 2019 weist knapp 500 Veröffentlichungen aus.²³ Die einzelnen Veröffentlichungen des Instituts sind auf dessen Webseite nach Themen und Publikationstypen gesondert abrufbar.²⁴

Zur Direktorin des DIMR führt dieses aus:

Prof. Dr. iur. Beate Rudolf [...] lehrte sechs Jahre als Juniorprofessorin für Öffentliches Recht und Gleichstellungsrecht am Fachbereich Rechtswissenschaft der Freien Universität Berlin und leitete das Teilprojekt "Völkerrechtliche Vorgaben für Governance in schwachen und zerfallenden Staaten" im Sonderforschungsbereich "Governance in Räumen begrenzter Staatlichkeit". Ihre Forschungsschwerpunkte sind Grund- und Menschenrechte sowie Staatsstrukturprinzipien nach Völkerrecht, Europarecht und deutschem Verfassungsrecht sowie in rechtsvergleichender Perspektive. Ihre über zwanzigjährige Tätigkeit in Forschung und Lehre auf diesen Gebieten (an den Universitäten Bonn, Düsseldorf, der Tulane Law School in New Orleans sowie der Freien Universität Berlin) ergänzte sie durch praktische Erfahrungen in der Menschenrechtsarbeit[...].²⁵

Als Vorsitzender des DIMR-Kuratoriums fungiert Prof. Dr. Markus Krajewski von der Friedrich-Alexander-Universität Erlangen-Nürnberg, Center for Human Rights, Erlangen-Nürnberg (CHREN).²⁶

Im Bereich der Menschenrechtsbildung kooperiert das DIMR mit nationalen und internationalen Netzwerken.²⁷

22 Entsprechend weitreichende Forderungen der Opposition zum Haushaltsentwurf/Einzelplan 02 für 2019 konnten sich bei den Beratungen im Ausschuss für Menschenrechte und humanitäre Hilfe nicht durchsetzen.

23 Publikationen des Deutschen Instituts für Menschenrechte, Stand: Januar 2019, https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/PDF-Dateien/Publikationsliste/Januar_2019.pdf .

24 DIMR, Publikationen, <https://www.institut-fuer-menschenrechte.de/publikationen/> .

25 DIMR, Kurzbiographie Beate Rudolf, <https://www.institut-fuer-menschenrechte.de/presse/biografien-mitarbeitende/#c3742> .

26 DIMR, Struktur, <https://www.institut-fuer-menschenrechte.de/ueber-uns/struktur/kuratorium/> .

27 DIMR, Menschenrechtsbildung, <https://www.institut-fuer-menschenrechte.de/menschenrechtsbildung/>

Im Rahmen von Veranstaltungen des DIMR sind regelmäßig Wissenschaftlerinnen und Wissenschaftler aus dem In- und Ausland zugegen.²⁸

2.1.4. Einschätzung durch die GANHRI

Zurzeit ist das DIMR in voller Übereinstimmung mit den Pariser Prinzipien betreffs Nationaler Institutionen zur Förderung und zum Schutz der Menschenrechte und genießt daher den sogenannten A-Status.²⁹

Der letzte periodische Überprüfungsbericht des GANHRI-Akkreditierungsausschusses, der auf der GANHRI-Webseite veröffentlicht wurde, datiert bereits vom November 2015. Der Ausschuss führt darin aus:

„3.1 Germany: German Institute for Human Rights (GIHR)

Recommendation: The SCA recommends that the GIHR be re-accredited with A status. The SCA welcomes the adoption of a new law that establishes the GIHR in primary legislation. It commends the GIHR for its sustained efforts to advocate for the passage of this legislation.

The SCA notes:

1. Selection and appointment

In accordance with section 4 of the Law and section 9 of the Statute, the Board of Trustees decides on the admission of new members of the General Assembly on the basis of written applications, guided by the principle of pluralistic representation of civil society and taking into consideration the tasks of the GIHR. The Law and Statute are otherwise silent on the process for selection and appointment of members of the General Assembly.

In accordance with Section 6 of the Law, the Board of Trustees is comprised of eighteen (18) voting member and nine (9) non-voting members: six (6) elected by the General Assembly by simple majority vote; three (3) chosen by Forum Human Rights; one (1) chosen by the German Disability Council; three (3) representatives of academic institutions in the field of human rights appointed by Parliament; three (3) human rights NGOs appointed by Parliament; two (2) members appointed from among the Federal Parliamentary Committee on Human Rights and Humanitarian Aid; and nine (9) delegated by their respective government department. Other than for the members elected by the General Assembly, the selection process is not clearly defined.

28 DIMR, Veranstaltungen, <https://www.institut-fuer-menschenrechte.de/aktuell/veranstaltungen/> .

29 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

The SCA is of the view that the process currently enshrined in the Law is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which all parties assess the merit of eligible applicants; and
- promote broad consultation and / or participation in the application, screening, selection and appointment process.

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

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of NHRIs'.

2. Political representatives on NHRIs

Two (2) members of the GIHR's Board of Trustees are members of the German Parliament, and these members have voting rights. The SCA further notes that the number of non-voting members of the GIHR's Board of Trustees, who are representatives of government ministries, has increased. The Paris Principles require that a NHRI be independent of government in its composition, operation and decision-making. It must be constituted and empowered to consider and determine its strategic priorities and activities based solely on its determination of the human rights priorities in the country, free from political interference. For these reasons, government representatives and members of parliament should not be members of, nor participate in the decision-making of, organs of a NHRI. Their membership of, and participation in, the decision-making body of the NHRI has the potential to impact on both the real and perceived independence of the NHRI.

The SCA recognizes that it is important to maintain effective working relationships, and where relevant, consult with government. However, this should not be achieved through the participation of government representatives in the decision-making body

of the NHRI. Where government representatives or members of parliament are included in the decision-making body, they should be excluded from attending parts of the meeting where final deliberations and strategic decisions are made, and they should not be able to vote on these matters.

Reiterating its previous recommendation in November 2013, the SCA encourages the GIHR to advocate for the necessary changes in its governance structure and accordingly amend the law. The SCA refers to Paris Principles B.1, B.3 and C(c) and to its General Observation 1.9 on 'Government representatives on NHRIs'.

3. Human rights mandate

The GIHR is legislatively mandated to both promote and protect human rights. However, its protection mandate appears to be somewhat limited. The SCA understands protection activities as those that address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating and reporting on human rights violations. Some NHRIs may also have an individual complaint handling mandate. The SCA acknowledges that GIHR interprets its protection mandate broadly and undertakes certain protection activities through, for example, monitoring activities, publishing research and advice on various human rights issues, submitting amicus curiae briefs, providing a legal aid fund, and interacting with international human rights mechanisms. It also acknowledges that the GIHR has been designated as the NMM under the CRPD and with monitoring functions under the CRC. However, the SCA encourages the GIHR to advocate for appropriate amendments to its enabling law that would clarify and strengthen its protection mandate. The SCA refers to Paris Principles A.1, A.2 and to its General Observation 1.2 on 'Human rights mandate'.

4. Adequate funding

The SCA notes that, during this review period, the GIHR has been entrusted with several new responsibilities, including monitoring functions under the CRC, analyzing the continuing human-rights related effects of totalitarian dictatorships as well as the situation of armed conflict and post-conflict situations, and submitting to Parliament an annual report on the situation of human rights in Germany. While additional financial means were provided for a period of two years for this first activity, no increase in funding has been provided for the other newly-mandated tasks. The SCA emphasizes that, to function effectively, an NHRI 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 realization of the improvement of the Institution's operations and the fulfillment of its mandate. Provision of adequate funding by the State should, at a minimum, include the following:

a) the allocation of funds for premises that is 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 colocated 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; and
 - e) the allocation of a sufficient amount of resources for mandated activities.

Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions. 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. The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding'.

5. Guarantee of tenure

Section 2(4) of the Statute provides that, if a voting member of the Board of Trustees leaves the organization or institution which has appointed him or her, or resigns from his or her position on the Board, then his or her replacement is elected or appointed for the remaining duration of the term of the Board. The Statute and Law are otherwise silent on the dismissal procedure for members of the Board. The SCA emphasizes that, in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of a NHRI must contain an independent and objective dismissal process similar to that accorded to members of other independent State agencies. The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the members to fulfill the institution's mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed to be based solely on the discretion of the appointing authorities. The SCA is of the view that such requirements ensure the security of tenure of members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of a NHRI. The SCA refers to Paris Principle B.3 and to its General Observation 2.1 on 'Guarantee of tenure for members of the NHRI decision-making body'.

6. Functional immunity

In accordance with section 31.5 of the Statute, personal liability of the Board of Directors towards the Association is restricted to acts of intent or gross negligence. The Statute and Law are otherwise silent on the issue of immunity, including for members of the General Assembly and the Board of Trustees. External parties may seek to influence the operation of an NHRI by initiating, or threatening to initiate, legal proceedings against a member. For this reason, NHRI legislation should include provisions to protect members from legal liability for acts undertaken in good faith in their official

capacity. Such a provision promotes:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

The SCA recognizes that no office holder should be beyond the reach of the law and thus, in certain circumstances, such as corruption, it may be necessary to lift immunity. However, the authority to do so should not be exercised by an individual, but rather by an appropriately constituted body such as the superior court or a special majority of parliament. It is recommended that the law clearly establishes the grounds, and a clear and transparent process by which the functional immunity of the decision-making body may be lifted.”³⁰

2.2. Australien

2.2.1. Nationaler Rahmen und Rechtsgrundlagen

Die Zuständigkeiten des australischen NMRI sind in mehreren Einzelgesetzen geregelt.³¹ Zentrale Bedeutung haben:

- Australian Human Rights Commission Act 1986³²
- Age Discrimination Act 2004³³
- Disability Discrimination Act 1992³⁴

30 ICC Sub-Committee on Accreditation Report – November 2015, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20FINAL%20REPORT%20-%20NOVEMBER%202015-English.pdf>.

31 Siehe die Übersicht bei Australian Human Rights Commission, <https://www.humanrights.gov.au/our-work/legal/legislation>.

32 Australian Human Rights Commission Act 1986 No. 125, 1986, Compilation No. 48, 20 December 2018, includes amendments up to Act No. 156, 2018, registered 14 January 2019, <https://www.legislation.gov.au/Details/C2019C00030>.

33 Age Discrimination Act 2004 No. 68, 2004, Compilation No. 35, 12 October 2017, includes amendments up to Act No. 108, 2017, registered 17 October 2017, <https://www.legislation.gov.au/Details/C2017C00341>.

34 Disability Discrimination Act 1992 No. 135, 1992, Compilation No. 31, Compilation date 1 July 2016, includes amendments up to Act No. 164, 2015, registered 8 July 2016, <https://www.legislation.gov.au/Details/C2016C00763>.

- Racial Discrimination Act 1975³⁵
- Sex Discrimination Act 1984³⁶

Das australische NMRI hat auf gesetzlicher Grundlage die Kompetenz, Individualbeschwerden entgegenzunehmen und im Rahmen eines Mediationsverfahrens einer Lösung zuzuführen.³⁷ Das NMRI wird durch zahlreiche weitere nationale (staatliche und zivilgesellschaftliche) Einrichtungen des Menschenrechtsschutzes ergänzt.³⁸

2.2.2. Finanzielle und personelle Ausstattung

Die Gesamtausgaben des NMRI beliefen sich im Jahr 2017-2018 auf ca. 24,9 Mio Australische Dollar, wovon ca. 16,52 Mio Australische Dollar auf Personalkosten entfielen.³⁹ Die Kommission besteht aus acht Mitgliedern (ein Präsident plus sieben Kommissare/Kommissarinnen).⁴⁰ Angaben zur Gesamtzahl der Mitarbeiter sind der Webseite und den Berichten des NMRI nicht zu entnehmen.

2.2.3. Publikationen und wissenschaftliche Kooperationen

Die Veröffentlichungen des australischen NMRI sind auf dessen Webseite nach Themen sortiert abrufbar.⁴¹

In seinen aktuellen Planungen hebt das australische NIMR an Kooperationen mit Universitäten u.a. zahlreiche Forschungsprojekte im Themenbereich der sexuellen Belästigung hervor.⁴²

35 Racial Discrimination Act 1975 No. 52, 1975 as amended, Compilation start date 1 January 2014, includes amendments up to Act No. 96, 2013, <https://www.legislation.gov.au/Details/C2014C00014>.

36 Sex Discrimination Act 1984 No. 4, 1984 as amended, Compilation start date 1 January 2014, includes amendments up to Act No. 98, 2013, <https://www.legislation.gov.au/Details/C2014C00002>.

37 Australian Human Rights Commission, Complaint information, <https://www.humanrights.gov.au/complaint-information>, sowie Legislation, <https://www.humanrights.gov.au/our-work/legal/legislation>.

38 Australian Human Rights Commission, Links to Human Rights Organisations and Resources, <https://www.humanrights.gov.au/about/links-human-rights-organisations-and-resources>.

39 Australian Human Rights Commission, Annual Report 2017-2018, <https://www.humanrights.gov.au/our-work/commission-general/publications/annual-report-2017-2018>, S. 52 und S. 61.

40 Australian Human Rights Commission, <https://www.humanrights.gov.au/about/president-commissioners>.

41 Australian Human Rights Commission, Publications, <https://www.humanrights.gov.au/publications/education>.

42 Australian Human Rights Commission, Corporate Plan 2018-2019, https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_Corporate_Plan_2018-19.pdf, S. 14.

2.2.4. Einschätzung durch die GANHRI

Das australische NMRI, die „Australian Human Rights Commission“, hat zurzeit A-Status.⁴³ Die letzte periodische Überprüfung Australiens fand im November 2016 statt.

„2.2 Australia: Australian Human Rights Commission (AHRC)

Recommendation: The SCA recommends that the AHRC be re-accredited with A status. The SCA notes with concern:

1. Selection and appointment

The Australian Human Rights Commission Act and a number of Anti-Discrimination Acts provide that the Governor-General appoints members of the Commission on the recommendation of the Attorney General. The SCA notes that some merit criteria are provided in the relevant enabling laws, and that the process for the assessment of candidates is specified in the “Merit and Transparency Guidelines” of the Australian Public Service Commission (APSC). The Guidelines include requirements to: advertise vacancies; provide detailed selection criteria; and assess candidates by a panel that includes the independent representative of the APSC whose role is to ensure the process is in accordance with the Guidelines. On the completion of the assessment process, the panel determines a pool of suitable candidates and provides a report to the Commissioner of the APSC for endorsement and transmission to the Attorney General. The Attorney-General then writes to the Prime Minister seeking approval for the candidate to be appointed as an AHRC Commissioner by the Governor-General. However, the SCA notes that: if the Attorney-General is not satisfied with the proposed candidates, he or she may unilaterally propose an alternate appointee; and that, in one instance in 2013, the Attorney-General proposed the appointment of a Commissioner without following the merit-based selection process outlined above. Such appointment has the potential to bring into question the legitimacy of the appointees and the independence of the NHRI. The SCA is of the view that it is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for an NHRI’s decision-making body, and the application of the established process in all cases. The SCA notes that AHRC has proposed amendments to formalize the above selection process in its enabling law, and that it continues to advocate for such amendments. The SCA encourages the AHRC to continue to advocate for a selection process that specifies explicit requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and /or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and

43 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

2. Dismissal process

In accordance with section 41 of the AHRC Act, section 102 of the Sex Discrimination Act, section 119 of the Disability Discrimination Act, section 34 of the Racial Discrimination Act and section 53 G of the Age Discrimination Act, the Governor-General may remove the Commissioner on the advice of the Executive Council, for the following reasons: (i) physical or mental incapacity; (ii) misbehaviour; (iii) absence from duty; and (iv) bankruptcy under their respective applicable above cited laws. The precise process for dismissal is not further described in the Act.

The SCA is of the view that, in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of an NHRI must contain an independent and objective dismissal process similar to that accorded to members of other independent State agencies. This process should apply uniformly to all nominating entities. The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the member to fulfil his or her mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by the decision of an appropriate body with independent jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed based solely on the discretion of the appointing authorities. These requirements ensure the security of tenure of the members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of an NHRI. The SCA accordingly urges the AHRC to advocate for an independent and objective dismissal process regarding the grounds already recognised in the AHRC Act. The SCA refers to Paris Principle B.3 and to its General Observation 2.1 on ‘Guarantee of tenure for members of the NHRI decision-making body’.

3. Adequate funding and financial autonomy

The SCA expresses concern about cuts to the AHRC budget since 2014-15. The SCA again notes, with concern, the impact of the application of annual efficiency dividends which erode the AHRCs base level of funding and therefore its capacity to fulfil its legislative mandate. The SCA is also concerned about the conferral of work and the appointment of additional commissioners without an additional budget allocation. The SCA reiterates that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities. Further the NHRI ought to be provided with adequate funding for its operations and ensures that the Commission retains adequate discretionary funding to independently set its own program of work. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI’s operations and the fulfilment of

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

- a) The allocation of funds for premises which are accessible to the wide community, including for persons, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) Remuneration of members of the decision-making body (where appropriate);
- d) The establishment of a well-functioning communications system including telephone and internet; and
- e) The allocation of a sufficient amount of resources for mandated activities.

Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions. The SCA encourages the AHRC to continue to advocate for an appropriate level of funding to carry out its mandate including, where appropriate, the establishment of regional offices. The SCA refers to Paris Principle B.2 and to its General Observations 1.10 on 'Adequate funding' and 2.8 on 'Administrative regulation'.

The SCA further notes:

4. Limitation on mandate

The current definition of human rights in the Act does not explicitly refer to either the Convention against Torture or the International Covenant on Economic, Social and Cultural rights. The SCA acknowledges that the AHRC interprets its mandate to encompass all human rights. The Paris Principles require that an NHRI must be legislatively mandated for both the promotion and protection of all human rights. The SCA urges the AHRC to continue advocating for amendment of the definition of 'human rights' within the AHRC Act to include the seven core human rights treaties ratified by Australia (matching the definition used by the Parliamentary Joint Committee on Human Rights). The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observation 1.2 and 2.7 on 'Human rights mandate.'

5. Tenure

The SCA notes the provisions of sections 37 of the AHRC Act, 97 of the Sex Discrimination Act, 114 of the Disability Discrimination Act, 30 of the Racial Discrimination Act and 53 B of the Age Discrimination Act, which each provide that members can be appointed for a term not exceeding seven years and that they are eligible for re-appointment, with no limit on the number of times re-appointment can occur. As a proven practice, the SCA encourages that a term of between three (3) and seven (7) years with the option to renew once be provided for in an NHRI's enabling law. The SCA refers to Paris Principle B.3 and to its

General Observation 2.1 ‘Guarantee of tenure for members of the National Human Rights Institution decision-making body’.”⁴⁴

2.3. Dänemark

2.3.1. Nationaler Rahmen und Rechtsgrundlagen

Die nationalen gesetzlichen Grundlagen definieren das dänische NMRI als unabhängige Einrichtung innerhalb der öffentlichen Verwaltung.⁴⁵ Die aktuelle gesetzliche Grundlage ist nur auf Dänisch verfügbar, siehe das „Lov om ændring af lov om Institut for Menneskerettigheder – Danmarks Nationale Menneskerettighedsinstitution og lov om Dansk Institut for Internationale Studier“.⁴⁶ Nach Angaben des dänischen NMRI soll diese Gesetzesgrundlage weitgehend identisch mit dem auch in englischer Sprache verfügbaren früheren Fassung, dem „Act on the Danish Institute for Human Rights – Denmark’s National Human Rights Institution (Act no. 553/2012)“, sein.⁴⁷ Eine wichtige Rechtsgrundlage der Tätigkeit des dänischen NMRI bildet ferner seine Satzung („bylaws“).⁴⁸

Der Schwerpunkt der Tätigkeit des dänischen NMRI liegt bei Beratung, Aufklärung, Menschenrechtsbildung und allgemein der Förderung menschenrechtsfreundlicher Rahmenbedingungen im In- und Ausland; Ermittlungen und Konfliktlösung im Einzelfall zählen nicht zu den wahrgenommenen Aufgaben.⁴⁹

44 GANHRI Sub-Committee on Accreditation Report – November 2016, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Final%20Report%20-%20Nov%202016%20-%20English.pdf>.

45 The Danish Institute for Human Rights, <https://www.humanrights.dk/about-us/acts-bylaws>.

46 Act no. 656/2013, Lov om ændring af lov om Institut for Menneskerettigheder – Danmarks Nationale Menneskerettighedsinstitution og lov om Dansk Institut for Internationale Studier, <https://www.retsinformation.dk/Forms/R0710.aspx?id=152005>.

47 Act on the Danish Institute for Human Rights – Denmark’s National Human Rights Institution (Act no. 553/2012), https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/about_us/act_on_dihr_unofficial_translation.pdf.

48 Bylaws (nicht-amtliche Übersetzung), https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/about_us/bylaw_dihr_english.pdf.

49 Danish Institute for Human Rights, <https://www.humanrights.dk/about-us>.

2.3.2. Finanzielle und personelle Ausstattung

Der letzte Jahresbericht des dänischen NMRI weist ein Gesamtbudget von 138,7 Mio DKK für 2017 aus.⁵⁰ Auf der Webseite des NMRI werden 179 Personen in der Kategorie „staff“ gelistet.⁵¹

Im Berichtszeitraum 2017-2018 betrug der Anteil der Finanzierung durch Private bei den auslandsbezogenen Aktivitäten 2 Prozent.⁵²

2.3.3. Publikationen und wissenschaftliche Kooperationen

Das dänische NMRI weist wissenschaftliche Beiträge als eigene Veröffentlichungskategorie aus und stellt diese zum Teil auch auf seiner Webseite elektronisch bereit.⁵³ Daneben werden alle Institutspublikationen eigens gelistet und sind elektronisch abrufbar.⁵⁴ Forschungs-Kooperationen mit universitären und außeruniversitären Einrichtungen koordiniert das dänische NMRI im Rahmen des „Network for human rights researchers in Denmark“.⁵⁵

2.3.4. Einschätzung durch die GANHRI

Das dänische NMRI „Danish Institute for Human Rights“ hat zurzeit A-Status.⁵⁶ Eine letzte periodische Überprüfung Dänemarks fand im Oktober 2018 statt:

“2.1 Denmark: The Danish Institute for Human Rights (DIHR)

Recommendation: The SCA recommends that the DIHR be re-accredited with A status.

The SCA notes with appreciation the efforts undertaken by the DIHR to address the recommendations made in November 2017. The SCA wishes to highlight its expectation that NHRIs who have been accredited with A status will take the necessary steps to pursue continuous efforts at improvement and to enhance their effectiveness and

50 Danish Institute for Human Rights, Report 2017-2018, https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/annual_report/imr_beretning_uk_2017_web_ny.pdf, S. 35.

51 Danish Institute for Human Rights, <https://www.humanrights.dk/staff>.

52 Danish Institute for Human Rights, Report 2017-2018, https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/annual_report/imr_beretning_uk_2017_web_ny.pdf, S. 17.

53 Danish Institute for Human Rights, Research Publications, https://www.humanrights.dk/research/list-of-publications?combine=&field_rcat_value=All&field_res_topic_tid=All.

54 Danish Institute for Human Rights, All Publications, <https://www.humanrights.dk/publications>.

55 Danish Institute for Human Rights, <https://www.humanrights.dk/projects/network-human-rights-researchers-denmark> (mit weiterführenden Links).

56 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

independence, in line with the Paris Principles and the recommendations made by the SCA during the review.

The SCA notes:

1. Mandate

The SCA notes that section 2 of the Act provides the DIHR with a mandate to both promote and protect human rights, and that, in its application, the DIHR has provided details about a wide range of activities it undertakes that would be considered to be protection functions. The SCA understands ‘protection’ functions as those that address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating and reporting on human rights violations, and may include individual complaint handling. The SCA encourages the DIHR to continue to interpret its protection mandate in a broad manner and to conduct a range of protection actions, including monitoring, enquiring, investigating, and reporting. Further, the SCA notes that the DIHR is not explicitly mandated with responsibility to encourage ratification or accession to international human rights instruments. While acknowledging the activities the DIHR undertakes in this regard in practice, the SCA encourages the DIHR to advocate for amendments to its enabling law to make this mandate explicit. The SCA refers to Paris Principles A.1, A.2 and A.3, and to its General Observations 1.2 on ‘Human rights mandate’ and 1.3 on ‘Encouraging ratification or accession to international human rights instruments’.

2. Selection and appointment

The SCA notes that, in response to its previous recommendation to ensure a broad, transparent and uniform selection process across all appointing entities, 1) the DIHR has amended its Bylaws and 2) the appointing entities have adopted guidelines to better detail the process. The SCA notes that the Human Rights Council of Greenland has not yet adopted a similar guideline. It encourages the DIHR to advocate for the adoption by the Council of a guideline or similar binding administrative instrument to regulate the selection process. The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

3. Dismissal of members

In accordance with the Bylaws of the DIHR, members of the Board of Directors can be dismissed where they lack the personal and professional integrity to continue to serve on the Board of Directors. The SCA appreciates that the DIHR has indicated that there is a relevant body of Danish jurisprudence that clarifies “personal and professional integrity”. Nonetheless, and in the interests of clarity and consistency, the SCA encourages the DIHR to provide greater precision in its Bylaws or in another binding administrative guideline on the scope of this ground. The SCA refers to Paris Principle

B.3 and to its General Observation 2.1 on ‘Guarantee of tenure for members of the NHRI decision-making body’.”⁵⁷

2.4. Frankreich

2.4.1. Nationaler Rahmen und Rechtsgrundlagen

Wichtigste Rechtsgrundlagen für die Tätigkeit des französischen NMRI im nationalen Recht sind:

- Décret n° 2008-925 du 11 septembre 2008 modifiant le décret n° 2007-1137 du 26 juillet 2007 relatif à la composition et au fonctionnement de la Commission nationale consultative des droits de l’homme;⁵⁸
- Circulaire n°5267/SG du 28 novembre 2007 décrivant le dispositif interministériel de suivi des avis émis par la Commission nationale consultative des droits de l’homme;⁵⁹
- Décret n° 2007-1137 du 26 juillet 2007 relatif à la composition et au fonctionnement de la Commission nationale consultative des droits de l’homme;⁶⁰
- Loi n° 2007-292 du 5 mars 2007 relative à la Commission nationale consultative des droits de l’homme;⁶¹
- Circulaire du 12 mars 2001 relative au dispositif interministériel de suivi des avis émis par la Commission nationale consultative des droits de l’homme;⁶²

57 GANHRI Sub-Committee on Accreditation Report – October 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20October%202018-Eng%20FINAL%20.pdf> .

58 Décret n° 2008-925 du 11 septembre 2008 modifiant le décret n° 2007-1137 du 26 juillet 2007 relatif à la composition et au fonctionnement de la Commission nationale consultative des droits de l’homme, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000019463676&fastPos=2&fastReqId=1352750459&categorieLien=id&oldAction=rechTexte> .

59 Dispositif interministériel de suivi des avis émis par la Commission nationale consultative des droits de l’homme, <http://circulaire.legifrance.gouv.fr/index.php?action=afficherCirculaire&hit=1&r=25593> .

60 Décret n°2007-1137 du 26 juillet 2007 relatif à la composition et au fonctionnement de la Commission nationale consultative des droits de l’homme, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000791293&dateTexte=20190313> .

61 LOI n° 2007-292 du 5 mars 2007 relative à la Commission nationale consultative des droits de l’homme, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000646724&dateTexte=&categorieLien=id> .

62 Circulaire du 12 mars 2001 relative au dispositif interministériel de suivi des avis émis par la Commission nationale consultative des droits de l’homme, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000221028&fastPos=1&fastReqId=1158875335&categorieLien=id&oldAction=rechTexte> .

- Circulaire du Premier ministre du 22 octobre 1999 relative à l'association de la Commission nationale consultative des droits de l'homme aux initiatives gouvernementales;⁶³
- Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xenophobe;⁶⁴
- Décret n° 84-72 du 30 janvier 1984 relatif à la Commission consultative des droits de l'homme;⁶⁵
- Règlement intérieur de la CNCDH.⁶⁶

Der Schwerpunkt der Tätigkeit des französischen NMRI liegt in Stellungnahmen, Studien und Anhörungen.⁶⁷

2.4.2. Finanzielle und personelle Ausstattung

Der letzte auf der Webseite des NMRI veröffentlichte Jahresbericht zu 2017 enthält keine näheren Angaben zur finanziellen und personellen Ausstattung des NMRI.⁶⁸ Laut Gesetz vom 5. November 2007 [sic] besteht die Kommission aus 64 Mitgliedern.⁶⁹

2.4.3. Publikationen und wissenschaftliche Kooperationen

Auf der Webseite der „Commission nationale consultative des droits de l'homme“ (CNCDH) sind 651 Institutsveröffentlichungen in elektronischer Fassung abrufbar, davon 15 wissenschaftliche Studien („études“).⁷⁰

63 Circulaire du 22 octobre 1999 relative à l'association de la Commission nationale consultative des droits de l'homme aux initiatives gouvernementales, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000744748&dateTexte=&categorieLien=id> .

64 Loi n° 90-615 du 13 juillet 1990 tendant à réprimer tout acte raciste, antisémite ou xénophobe, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006076185&dateTexte=20190313> .

65 Décret n°84-72 du 30 janvier 1984 relatif à la commission consultative des droits de l'homme, <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000327887&dateTexte=20190313> .

66 Règlement intérieur de la CNCDH, <https://www.cncdh.fr/fr/reglement-interieur-de-la-cncdh> .

67 CNCDH, L'institution, <https://www.cncdh.fr/fr/linstitution> .

68 CNCDH, Rapport d'Activité 2017: 70 ans d'expertise au service des droits de l'homme, https://www.cncdh.fr/sites/default/files/cncdh_rapport_dactivites_2017_vdef.pdf .

69 CNCDH, Membres, <https://www.cncdh.fr/fr/membres> .

70 CNCDH, Publications, <https://www.cncdh.fr/fr/publications> .

Forschungskooperationen mit in- und ausländischen Menschenrechtsexperten werden durch zahlreiche Kolloquien befördert.⁷¹

Im Bereich der Menschenrechtsbildung bietet das französische NMRI Fortbildungen für Justiz und Verwaltung an.⁷²

2.4.4. Einschätzung durch die GANHRI

Das NHRI in Frankreich, die “Commission nationale consultative des droits de l’homme”, hat zurzeit A-Status⁷³. Der Status soll im 1. Halbjahr 2019 überprüft werden.⁷⁴ Der letzte Bericht des GANHRI-Akkreditierungsausschusses zu Frankreich, der auf der GANHRI-Webseite veröffentlicht wurde, datiert vom Mai 2013:

“3.4 France: National Consultative Commission on Human Rights (CNCDH)

Recommendation: The SCA recommends that CNCDH be re-accredited A status. The SCA commends the CNCDH for responding to the majority of its concerns expressed at its re-accreditation in October 2007.

The SCA notes:

1. Human Rights Mandate

All National Human Rights Institutions should be legislatively mandated with specific functions to both promote and protect human rights. The ‘protection’ functions have been defined in General Observation 1.2 as those that address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating and reporting on human rights violations, and may include individual complaint handling. The SCA is of the view that a National Institution’s mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments. The SCA notes that Article 1 of the CNCDH’s enabling legislation [Loi no. 2007-292 du 5 mars 2007] states: “La

71 CNCDH, <https://www.cncdh.fr/fr/travaux-en-cours/education-aux-droits-de-lhomme-la-cncdh-partenaire-du-ministere-de-leducation> .

72 Siehe statt vieler: CNCDH, Formation des magistrats “Le racisme en France”, <https://www.cncdh.fr/fr/travaux-en-cours/formation-des-magistrats-le-racisme-en-france> ; CNCDH, Formation à l’ENA “La protection des droits de l’homme”, <https://www.cncdh.fr/fr/travaux-en-cours/formation-lena-la-protection-des-droits-de-lhomme> ; CNCDH, Education aux droits de l’homme : la CNCDH partenaire du ministère de l’Education autour de projets pédagogiques, <https://www.cncdh.fr/fr/travaux-en-cours/education-aux-droits-de-lhomme-la-cncdh-partenaire-du-ministere-de-leducation> .

73 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf> .

74 GANHRI Sub-Committee on Accreditation Report – October 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20October%202018-Eng%20FINAL%20.pdf> , S.4., Abs.1.2. (a.E.).

Commission nationale consultative des droits de l'homme assure, auprès du Gouvernement, un rôle de conseil et de proposition dans le domaine des droits de l'homme, du droit international humanitaire et de l'action humanitaire. Elle assiste le Premier ministre et les ministres intéressés par ses avis sur toutes les questions de portée générale relevant de son champ de compétence tant sur le plan national qu'international. Elle peut, de sa propre initiative, appeler publiquement l'attention du Parlement et du Gouvernement sur les mesures qui lui paraissent de nature à favoriser la protection et la promotion des droits de l'homme.”

The SCA understands this provision invests the CNCDH with powers, among others, to advise the Parliament and Government publicly on the protection and promotion of human rights. The SCA acknowledges that the CNCDH fulfills its protection mandate through, for example, the review of and advice on draft legislation; publishing reports on national human rights issues; and interacting with international human rights mechanisms, including treaty body reporting and the submission of amicus curiae briefs to competent courts. The SCA encourages the CNCDH to broaden its activities in its protection mandate. The SCA encourages the CNCDH to advocate for amendments to its law that provide it with the powers necessary to fulfill a broad protection mandate. It is acknowledged that such action may have staffing and resource implications for the National Institution. The SCA refers to Paris Principles A.1 and A.2 and to its General Observation 1.2 on 'Human rights mandate'.

2. Selection and Appointment

Article 5 of Decree no. 2007-1137 specifies that the members of the CNCDH are appointed by decision of the Prime Minister after seeking the opinion of an Independent Committee. The SCA emphasizes the requirement for a clear, transparent and participatory selection process that promotes merit based selection, ensures pluralism and promotes the independence of, and public confidence in, the senior leadership of a national human rights institution. The SCA encourages the CNCDH to advocate for the formalization of a transparent and participatory selection process in relevant legislation, regulations or binding administrative guidelines, and for its subsequent application in practice. This should include requirements to:

- Publicize vacancies broadly;
- Maximize the number of potential candidates from a wide range of societal groups;
- Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- Assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- Select members to serve in their own individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of National Human Rights Institutions'.

3. Full-time members

The CNCDH has 64 members. This ensures members reflect the diversity of views of human rights stakeholders in France. Due to financial considerations, and in order to ensure

diversity, all 64 members are part-time. Nevertheless, the SCA highlights that the enabling law of the National Human Rights Institution should provide that members of its decision-making body include full-time remunerated members. The Sub-Committee is of the view that the appointment of members on a full-time basis promotes stability, an appropriate degree of management and direction, and limits the risk of members being exposed to conflicts of interest upon taking office. Furthermore, it clearly establishes the terms and conditions of service, including proper remuneration of members, and serves to reinforce their independence and integrity. The SCA encourages the CNCDH to advocate for the appointment of full-time remunerated members. It refers to its General Observation 2.2 on 'Full-time members of a National Human Rights Institution'.

4. Cooperation with other human rights bodies

The SCA wishes to highlight that regular and constructive engagement with all relevant stakeholders is essential for NHRIs to effectively fulfil their mandates. NHRIs should develop, formalize and maintain working relationships, as appropriate, with other domestic institutions established for the promotion and protection of human rights, including sub-national statutory human rights institutions, thematic institutions, as well as civil society and non-governmental organizations. In this respect, the SCA acknowledges the CNCDH's cooperation with the Defender on Human Rights, to which it transmits individual petitions. It refers to General Observation 1.5 on 'Cooperation with other human rights bodies'.⁷⁵

2.5. Kanada

2.5.1. Nationaler Rahmen und Rechtsgrundlagen

Wichtigste gesetzliche Grundlage für die Tätigkeit des kanadischen NMRI, der „Canadian Human Rights Commission“, ist der „Canadian Human Rights Act“.⁷⁶

Das kanadische NMRI hat Untersuchungs-, Ermittlungs-, Schlichtungs- und Klagebefugnisse in Menschenrechtsfragen in den gesetzlich vorgesehenen Fällen.⁷⁷ Es ist eingebettet in ein System weiterer Einrichtungen zum Menschenrechtsschutz, wie etwa das kanadische „Human

75 ICC Sub-Committee on Accreditation Report – May 2013, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAC-creditation/Documents/Report%20May%202013-Consolidated-English.pdf> .

76 Canadian Human Rights Act, R.S.C., 1985, c. H-6, <https://laws-lois.justice.gc.ca/eng/acts/h-6/FullText.html>, insbesondere § 26 ff.

77 Canadian Human Rights Commission, Complaints, <https://www.chrc-ccdp.gc.ca/eng/content/about-process> .

Rights Tribunal⁷⁸ oder die Menschenrechtsagenturen auf Ebene der kanadischen „provinces and territories“.⁷⁹

2.5.2. Finanzielle und personelle Ausstattung

Der letzte veröffentlichte Jahresbericht zum Berichtszeitraum 2017 enthält keine Angaben zur finanziellen und personellen Ausstattung des NMRI.⁸⁰ Finanzberichte werden vierteljährlich erstellt und veröffentlicht. Der letzte zur Verfügung gestellte Bericht für 1. Oktober bis 31. Dezember 2018 weist für das Gesamtjahr 2018 Ausgaben in Höhe von 17,09 Mio Kanadische \$, davon 15,12 Mio Kanadische \$ für Personalkosten aus.⁸¹ Die Kommission besteht aus sechs Kommissaren und Kommissarinnen sowie weniger als 200 Mitarbeitern und Mitarbeiterinnen.⁸²

2.5.3. Publikationen und wissenschaftliche Kooperationen

Die weniger als 100 Veröffentlichungen des kanadischen NMRI, die dieses seit 2010 auf seiner Webseite eingestellt hat, sind eher praktische Leitfäden und institutionelle Berichte.⁸³

2.5.4. Einschätzung durch die GANHRI

In Kanada genießt das NMRI, die „Canadian Human Rights Commission“, A-Status.⁸⁴ Die letzte periodische Überprüfung des NMRI fand im Mai 2016 statt:

“Canada: Canadian Human Rights Commission (CHRC)

Recommendation: The SCA recommends that CHRC be re-accredited with A status.

The SCA notes:

78 A.a.O.

79 Canadian Human Rights Commission, Complaints, Provincial & Territorial Human Rights Agencies, <https://www.chrc-ccdp.gc.ca/eng/content/provincial-territorial-human-rights-agencies> (mit Links zu 16 regionalen Menschenrechtseinrichtungen).

80 The Canadian Human Rights Commission's 2017 Annual Report to Parliament, http://chrcreport.ca/assets/pdf/CHRC_rapport_annuel_2017_ang.pdf,

81 Canadian Human Rights Commission Quarterly Financial Report - For the quarter ended December 31, 2018, <https://www.chrc-ccdp.gc.ca/eng/content/canadian-human-rights-commission-quarterly-financial-report-quarter-ended-december-31-2018>.

82 Canadian Human Rights Commission, <https://www.chrc-ccdp.gc.ca/eng/content/our-people>.

83 Canadian Human Rights Commission, <https://www.chrc-ccdp.gc.ca/eng/content/publications>.

84 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

1. Mandate

The SCA notes that provisions in the Act provide the CHRC with a mandate to undertake activities in relation to human rights and freedoms. The SCA acknowledges that the CHRC interprets its mandate broadly, and undertakes a wide range of promotion and protection activities. However, it is of the view that the Act should enumerate its mandate and functions more clearly, as was noted by the CHRC in relation to the encouraging ratification and implementation of international standards and engagement with the international human rights system. An NHRI should be legislatively mandated with specific functions to both promote and protect human rights. Promotion activities are understood to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy. Protection functions may be understood as those that address and seek to prevent actual human rights violations. Such functions include monitoring, inquiring, investigating and reporting on human rights violations, and may include individual complaint handling. The SCA notes that its previous recommendation from 2011 concerning the amendment of the law has not been implemented, therefore reiterates its recommendation to encourage the CHRC to advocate for amendments in order to clearly establish a broad mandate to promote and protect all human rights set out in international, regional and domestic instruments. The SCA refers to Paris Principle A.3 and to its General Observation 1.2 on 'Human Rights mandate' and General Observation 1.3 on "Encouraging ratification or accession to international human rights instruments".

2. Selection and appointment

In accordance with section 26 of the Act, CHRC members are appointed by the Governor in Council. Section 1.1 of the Governor in Council Appointments Procedures Guide provides that appointments by the Governor in Council are made on recommendation of the Minister of Justice. The SCA notes that in practice, the vacancy, job description, and selection criteria are prepared in coordination with the CHRC, the Director of Appointments and the Minister of Justice pursuant to section 9 of the Guide Book for Heads of Agencies, and that vacancies are advertised on the internet, and in the Canada Gazette with the related selection criteria. The SCA reiterates its recommendation of 2011 that the process currently enshrined in the Act is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which the merit of eligible applicants is assessed; or
- promote broad consultation and / or participation in the application, screening, selection and appointment process.

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

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

3. Guarantee of tenure

Section 26(4) of the Act provides that CHRC members hold office during good behaviour but may be removed by the Governor in Council on address of the Senate and House of Commons. While ‘good behaviour’ is not defined in the Act, its meaning is circumscribed by other statutes, guidelines and judicial decisions. The SCA emphasizes that, in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of a NHRI must contain an independent and objective dismissal process similar to that accorded to members of other independent State agencies.

The grounds for dismissal must be clearly defined and appropriately confined to those actions that adversely impact on the capacity of the members to fulfil the institution’s mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed to be based solely on the discretion of the appointing authorities. The SCA is of the view that such requirements ensure the security of tenure of members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of a NHRI. The SCA refers to Paris Principle B.3 and to its General Observation 2.1 on ‘Guarantee of tenure for members of the NHRI decision-making body’.

4. Accessibility

The CHRC has a central office in Ottawa, three regional offices and a variety of staff operating out of other locations across Canada. The CHRC notes that its offices are accessible through a variety of means. The SCA notes that measures introduced to provide security to the building have meant that individuals must request prior approval to access the Ottawa premises. The SCA encourages the CHRC to ensure that this security measure does not limit the accessibility of the Ottawa premises. The SCA also notes that the CHRC has a separate website, but the CHRC indicated that the government has proposed that the CHRC website be integrated into a whole of government web portal. The SCA is of the view that this may impact on the public perception of the CHRC’s independence and has the potential to dissuade individuals from filing human rights complaints against government or

from accessing the website to obtain information on human rights. The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding'.

5. Annual report

In accordance with section 61(1) of the Act, the CHRC shall prepare and submit an annual report to Parliament on its activities within three (3) months from 31 December. The SCA considers it important that the enabling laws of a NHRI establish a process whereby the Institution's reports are required to be widely circulated, discussed and considered by the legislature. The SCA encourages the NHRC to advocate for changes to the Act to provide the explicit power to table all reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them. The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

6. Access to CHRC's complaints process

Section 40(1) of the Act empowers the CHRC to receive and process complaints related to discrimination. However, the SCA notes that no complaint in relation to a discriminatory practice may be dealt with by the CHRC unless the act or omission that constitutes the practice occurred in Canada and the victim of the practice was at the time of the act or omission either lawfully present in Canada or, if temporarily absent from Canada, entitled to return to Canada. The CHRC has noted that this restriction is inconsistent both with the principle that all human rights laws are universal and with the Canadian Charter of Rights and Freedoms which applies to anyone present in Canada regardless of the legality of that presence. The SCA encourages the CHRC to advocate for changes to the Act to permit all individuals, regardless of their legal status, to access to its compliant process. The SCA refers to Paris Principle D(c) and to its General Observation 2.10 on 'The quasijudicial competence'.⁸⁵

85 GANHRI Sub-Committee on Accreditation Report – May 2016, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20FINAL%20REPORT%20-%20MAY%202016-English.pdf>.

2.6. Niederlande

2.6.1. Nationaler Rahmen und Rechtsgrundlagen

Das „Netherlands Institute for Human Rights“ findet seine gesetzliche Grundlage im nationalen Recht im „Netherlands Institute for Human Rights Act“.⁸⁶ Die Vorstandsmitglieder werden vom König ernannt.⁸⁷ Das Ministerium für Justiz und Sicherheit stellt die Grundfinanzierung bereit, weitere Beiträge kommen aus den Ressorts für Inneres, Gesundheit, Wohlfahrt, Sport, Bildung, Kultur, Wissenschaft sowie auswärtige Angelegenheiten. Das NMRI ist ein unabhängiges Verwaltungsorgan und im Rahmen seiner Zuständigkeiten frei in der Verwendung seiner Mittel.⁸⁸ Die Beschwerdeverfahren vor dem NMRI sind formell betrachtet rechtlich unverbindlich, führen jedoch in etwa 80 Prozent der behandelten Fälle zur Konfliktlösung.⁸⁹

2.6.2. Finanzielle und personelle Ausstattung

Der letzte in englischer Sprache veröffentlichte Jahresbericht des niederländischen NMRI datiert aus dem Jahr 2016.⁹⁰ Im Berichtszeitraum verfügte das niederländische NMRI über einen Gesamthaushalt von ca. 6,76 Mio €. ⁹¹ Der Bericht weist für 2016 insgesamt 53,33 Beschäftigte aus.⁹² Nach Angaben auf der Webseite arbeiten am niederländischen NMRI neun Mitglieder des Kollegiums und rund 50 Fachleute mit einem breiten Spektrum an Fachkenntnissen, darunter Anwälte, Forscher, Politik- und Kommunikationsberater, Finanzmitarbeiter sowie IT- und Facility-Mitarbeiter.⁹³

86 Establishment of the Netherlands Institute for Human Rights (Netherlands Institute for Human Rights Act), Amended Bill, file:///P:/_unverschluesst/Eigene%20Dateien/AmendedBill%20april%202011.pdf .

87 Netherlands Institute for Human Rights, <https://www.mensenrechten.nl/nl/onze-organisatie> .

88 A.a.O.

89 Netherlands Institute for Human Rights, <https://www.mensenrechten.nl/nl/college-voor-jou> .

90 Netherlands Institute for Human Rights, 2016 Report, file:///P:/_unverschluesst/Eigene%20Dateien/001%20Organisation/Banken/Annual%20Report%202016.pdf .

91 A.a.O., S. 48

92 A.a.O., S. 44.

93 Netherlands Institute for Human Rights, <https://www.mensenrechten.nl/nl/onze-organisatie> .

2.6.3. Publikationen und wissenschaftliche Kooperationen

Bei den Institutsveröffentlichungen des niederländischen NMRI, die auf dessen Webseite publiziert wurden, handelt es sich um Berichte, Reden, Untersuchungen und Mitteilungen, während dort keine wissenschaftlichen Arbeiten im engeren Sinne gelistet sind.⁹⁴ Auf wissenschaftliche Kooperationen des NMRI wird auf dessen Webseite nicht verwiesen.

2.6.4. Einschätzung durch die GANHRI

Das NMRI in den Niederlanden, „The Netherlands Institute for Human Rights“, hat zurzeit A-Status.⁹⁵ Der letzte Bericht des GANHRI-Akkreditierungsausschusses zu den Niederlanden, der auf der GANHRI-Webseite veröffentlicht wurde, datiert vom März 2014:

“2.1 Netherlands: Netherlands Institute for Human Rights (NIHR)

Recommendation: The SCA recommends that the NIHR be accredited with A status. The SCA commends the NIHR for successfully advocating for its establishment in law.

The SCA notes:

1 Selection and appointment

While the NIHR advises that it does have selection criteria for its members, these criteria are not formalized in legislation, regulations or binding administrative guidelines. The SCA encourages the NIHR to advocate for changes to address the concerns outlined above and notes the requirement for a NHRI to have a clear, transparent and participatory selection and appointment process in relevant legislation, regulations or binding administrative guidelines, as appropriate, which includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria; and
- e) Select members to serve in their own individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of National Human Rights Institutions’.

94 Netherlands Institute for Human Rights, Publicaties, <https://www.mensenrechten.nl/nl/publicaties>

95 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

2 Functional immunity and independence

Although the NIHR considers that the general law and jurisprudence provide its members with sufficient immunity to perform its duties, the SCA strongly recommends that express provisions be included in national law to protect the members of the NIHR's decision making body from legal liability for the actions and decisions that are taken in good faith in their official capacity. External parties may seek to influence the independent operation of a NHRI by initiating, or by threatening to initiate, legal proceedings against a member. For this reason, NHRI legislation should include provisions to protect members from legal liability for acts undertaken in good faith in their official capacity. Such a provision promotes:

- security of tenure;
- the NHRIs ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of the senior leadership; and
- public confidence in national human rights institution.

The SCA recognises that no office holder should be beyond the reach of the law and thus, in certain exceptional circumstances, such as corruption, it may be necessary to lift immunity. However, the authority to do so should not be exercised by an individual, but rather by an appropriately constituted body such as the superior court or by a special majority of parliament. It is recommended that the law clearly establishes the grounds, and a clear and transparent process, by which the functional immunity of the decisionmaking body may be lifted. The SCA encourages the NIHR to advocate for the inclusion in its founding legislation of express provisions that clearly establish the functional immunity of its members. The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity'.⁹⁶

2.7. Polen

2.7.1. Nationaler Rahmen und Rechtsgrundlagen

Das polnische NMRI findet seine Rechtsgrundlage im „Act on the Commissioner for Human Rights“.⁹⁷ Neben seinen präventiven und politikberatenden Aufgaben leistet das NMRI auch

96 ICC Sub-Committee on Accreditation Report – March 2014, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAC-creditation/Documents/SCA%20MARCH%202014%20FINAL%20REPORT%20-%20ENGLISH.pdf> .

97 Act on the Commissioner for Human Rights, Journal of Laws Dz.U. of 2014, item 1648, the Act of 15 July 1987 on the Commissioner for Human Rights, <https://www.rpo.gov.pl/en/content/act-commissioner-human-rights> .

Rechtsbeistand in individuellen Diskriminierungsfällen.⁹⁸ Das Amt des Menschenrechtskommissars ist verfassungsrechtlich abgesichert, der Kommissar ist unabhängig von anderen staatlichen Stellen.⁹⁹

2.7.2. Finanzielle und personelle Ausstattung

Die statistischen Angaben in den letzten beiden veröffentlichten Jahresberichten des polnischen NMRI schließen keine Daten zur finanziellen und personellen Ausstattung mit ein.¹⁰⁰ Das polnische NMRI ist mit sieben Commissioners und zwei Deputy Commissioners¹⁰¹ ausgestattet, Das Büro, das diese unterstützt, verfügt über 17 gesetzlich vorgesehene Organisationseinheiten, die sich in weitere Unterabteilungen („departments“ und „sections“) gliedern.¹⁰²

2.7.3. Publikationen und wissenschaftliche Kooperationen

Im Jahre 2017 veröffentlichte das NMRI u.a. Unterrichtsmaterialien, Konferenzberichte und diverse Broschüren.¹⁰³ Weitere Veröffentlichungen sind auf der englischsprachigen Fassung der Webseite des NMRI nicht verfügbar. Im Jahresbericht zu 2017 werden Kooperationen mit wissenschaftlichen Einrichtungen nicht genannt; das NMRI arbeitet jedoch mit Experten aus der öffentlichen Verwaltung, Sozialpartnern, Kirchenvertretern und Betroffenen zusammen.¹⁰⁴

2.7.4. Einschätzung durch die GANHRI

In Polen fungiert der „Human Rights Defender/ Commissioner for Human Rights“ als NMRI. Zurzeit hat die Einrichtung A-Status.¹⁰⁵ Die letzte periodische Überprüfung des NMRI fand im November 2017 statt:

98 Commissioner for Human Rights, <https://www.rpo.gov.pl/en/content/what-does-commissioner-human-rights-do> .

99 Commissioner for Human Rights, <https://www.rpo.gov.pl/en/content/commissioner> .

100 Office of the Commissioner for Human Rights, Summary of the Report on the Activity of the Commissioner for Human Rights/Ombudsman in 2017, with Comments on the Observance of Human and Civil Rights and Freedoms, https://www.rpo.gov.pl/sites/default/files/Summary_2017_EN.pdf , S. 85-92, sowie zu 2016 https://www.rpo.gov.pl/sites/default/files/Summary_2016_EN.pdf , S. 94-104.

101 Office of the Commissioner for Human Rights, <https://www.rpo.gov.pl/en/sitemap> .

102 Office of the Commissioner for Human Rights, <https://www.rpo.gov.pl/en/content/office> .

103 Office of the Commissioner for Human Rights, Report on the Activity of the Commissioner for Human Rights in 2017, https://www.rpo.gov.pl/sites/default/files/Summary_2017_EN.pdf , S. 77, 79 und 82.

104 A.a.O. (passim).

105 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf> .

“2.6 Poland: The Commissioner for Human Rights (CHRP)

Recommendation: The SCA recommends that the CHRP be reaccredited with A status. The SCA commends the efforts of the CHRP in discharging its mandate effectively despite the challenging political context in which it operates and expresses appreciation to the current Commissioner, Dr. Adam Bodnar, for his continued commitment and good work in fulfilling his mandate. The SCA wishes to highlight its expectation that NHRIs who have been accredited with A status will take the necessary steps to pursue continuous efforts at improvement and to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during the review. With respect to ongoing issues of concern, the SCA notes:

1. Mandate

The Constitution and the founding law mandate the CHRP with some responsibility to promote human rights. However, this mandate does not cover the full range of functions that a NHRI should undertake in exercising its promotional mandate. All NHRIs should be legislatively mandated with specific functions to both promote and protect human rights. The SCA understands ‘promotion’ to include those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy. The SCA acknowledges that the CHRP has provided some examples of activities it has undertaken that would be considered promotional in nature. However, it encourages the CHRP to continue interpreting its mandate in a broad manner and to advocate for amendments to its enabling legislation to give it a more comprehensive mandate to promote human rights. The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observations 1.2 on ‘Human rights mandate’.

2. Pluralism

In 2012, the SCA noted that the Act does not require a pluralistic composition of the CHRP, including representation of ethnic or minority groups, women, and persons with disabilities. The SCA notes that the CHRP has provided information about the gender balance and presence of persons with disabilities amongst its staff. The SCA also acknowledges that the CHRP states that it is prohibited by law from inquiring about citizens’ ethnic, religious or other background, but reports that its staff is inclusive of members of these groups. The SCA emphasizes that a diverse decision-making and staff body facilitates an NHRI’s appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI for all citizens. The SCA encourages the CHRP to advocate for amendments to its enabling legislation to require a pluralistic composition in its membership and staff. The SCA refers to Paris Principles B.1 and to its General Observation 1.7 on ‘Ensuring pluralism of the NHRI’.

3. Functional Immunity

Article 211 of the Constitution provides that the Commissioner shall not be subject to penal liability nor deprived of liberty without the earlier consent of Parliament. In

2012, the SCA noted that the officers, including Deputy Commissioners, and staff of the CHRP do not enjoy similar protections. External parties may seek to influence the independent operation of an NHRI by initiating, or by threatening to initiate, legal proceedings against a member. For this reason, NHRI legislation or applicable national law should include provisions to protect members from legal liability for acts undertaken in good faith in their official capacity. Such provisions promotes:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

The SCA also acknowledges that no office holder should be beyond the reach of the law and that in certain exceptional circumstances, it may be necessary to lift immunity. However, the decision to do so should not be exercised by an individual, but rather by an appropriately constituted body such as the superior court or by a special majority of parliament. It is recommended that national law provide for well-defined circumstances in which the functional immunity of the decision-making body may be lifted in accordance with fair and transparent procedures. The SCA encourages the CHRP to advocate for amendments to its enabling legislation to protect the Deputy Commissioners and staff members of the CHRP from legal liability for actions undertaken by them in good faith in their official capacity. The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity.'

4. Adequate funding

The CHRP reports that it does not have adequate resources to effectively fulfil its mandate, including as the NPM. The SCA emphasizes that, to function effectively, an NHRI 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 these priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the NHRI's operation and the fulfillment of its mandate. Provision of adequate funding by the State should, at a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the 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 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 a well-functioning communications system including telephone and internet; and
- e) the allocation of a sufficient amount of resources for mandated activities. Where an

NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA encourages the CHRP to advocate for the funding necessary to ensure that it can effectively carry out its mandate. The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on ‘Adequate funding of NHRIs’.¹⁰⁶

2.8. Vereinigtes Königreich

2.8.1. Great Britain: Equality and Human Rights Commission

2.8.1.1. Nationaler Rahmen und Rechtsgrundlagen

Das britische NMRI, die “Equality and Human Rights Commission”, findet ihre gesetzliche Grundlage im „Equality Act 2006“.¹⁰⁷ Primäre Kompetenzen des NMRI sind Rechtsberatung, Aufklärung und Forschung.¹⁰⁸ Soweit (z.B. in Angelegenheiten von grundsätzlicher Bedeutung zur Erzielung von Rechtsklarheit) erforderlich, kann das NMRI auch Ermittlungen durchführen und Prozessvertretungen vor den zuständigen Gerichten übernehmen.¹⁰⁹

106 GANHRI Sub-Committee on Accreditation Report – November 2017, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Report%20November%202017%20-%20ENG.pdf>.

107 Equality Act 2006, https://www.legislation.gov.uk/ukpga/2006/3/pdfs/ukpga_20060003_en.pdf.

108 Equality and Human Rights Commission, <https://www.equalityhumanrights.com/en/our-legal-action/our-powers>.

109 Equality and Human Rights Commission, <https://www.equalityhumanrights.com/en/our-legal-action/our-powers>.

2.8.1.2. Finanzielle und personelle Ausstattung

Die Gesamtausgaben des NMRI beliefen sich im Haushaltsjahr 2017-2018 auf £ 19,02 Mio (nach £ 17,93 Mio für 2016-2017).¹¹⁰ Für Forschung und Politikentwicklung („policy development“) wurden £ 1,07 Mio ausgegeben.¹¹¹ Als Personalmittel wurden £ 10.422.000 eingesetzt.¹¹² Am 31. März 2018 waren bei den NMRI 196 Personen angestellt.¹¹³ Zusätzlich hatte das NMRI im Berichtszeitraum 2017-2018 durchschnittlich sieben Kommissionsmitglieder.¹¹⁴

2.8.1.3. Publikationen und wissenschaftliche Kooperationen

Zahlreiche wissenschaftliche Veröffentlichungen des britischen NMRI sind auf dessen Webseite erhältlich.¹¹⁵ Auf seiner Webseite benennt das NMRI akademische Institutionen nicht ausdrücklich als Kooperationspartner.¹¹⁶ Das NMRI erteilt Forschungsaufträge zu menschenrechtlichen Themen.¹¹⁷ Mit der Forschungs-Datenbank des NMRI wurde ein Netzwerk aus etwa 2.000 nationalen und internationalen, universitären und außeruniversitären Menschenrechtsexperten aufgebaut.¹¹⁸

2.8.1.4. Einschätzung durch die GANHRI

Das britische NMRI, die „Equality and Human Rights Commission“, hat zurzeit A-Status.¹¹⁹ Die letzte periodische Überprüfung fand im November 2015 statt:

110 Equality and Human Rights Commission, Annual Report and Accounts, 1 April 2017 – 31 March 2018, <https://www.equalityhumanrights.com/sites/default/files/annual-report-and-accounts-2017-2018.pdf>, S. 106.

111 A.a.O., S. 122.

112 A.a.O., S. 93.

113 A.a.O., S. 92.

114 A.a.O., S. 79.

115 Equality and Human Rights Commission, List of all our research reports, <https://www.equalityhumanrights.com/en/our-research/list-all-our-research-reports> .

116 Equality and Human Rights Commission, <https://www.equalityhumanrights.com/en/what-we-do/our-achievements> .

117 Equality and Human Rights Commission, <https://www.equalityhumanrights.com/en/our-work/our-research> .

118 A.a.O.

119 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf> .

“3.2 Great Britain: Equality and Human Rights Commission (EHRC)

Recommendation: The SCA recommends that EHRC be re-accredited with A status. The SCA notes:

1. Selection and appointment

In accordance with paragraph 1(1) of Schedule 1 of the Act, the Secretary of State shall appoint members of the EHRC. Paragraph 2(1) provides that an individual may be appointed if he or she (i) has experience or knowledge relating to a relevant matter (discrimination or human rights) or (ii) is suitable for appointment for some other special reason, having regard to the desirability of the Commissioners together having experience and knowledge relating to relevant matter (discrimination or human rights). The SCA notes that in practice the appointment process is subject to detailed guidance from the Office of the Commissioner for Public Appointments. The Commissioner for Public Appointments regulates the processes by which ministers make appointments on merit to the boards of national and regional public bodies. The appointment process is undertaken by the EHRC’s sponsor department, the Government Equalities Office within the Department for Culture, Media and Sport. The SCA is of the view that the process currently enshrined in the Law is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which the merit of eligible applicants is assessed; or
- promote broad consultation and / or participation in the application, screening, selection and appointment process.

Further, while the SCA acknowledges that the EHRC has provided as an example of “some other special reason” ensuring pluralist representation, the SCA is concerned that provision is not sufficiently defined in the law and may be open to abuse. It is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for an NHRI’s decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI. The SCA encourages the EHRC to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

2. Full-time members

All members of the EHRC work on a part-time basis. The number of days members are expected to work each year is determined by the Secretary of State in consultation with the EHRC, and is set out in members' terms and conditions of appointment. According to paragraph 1(3) of Schedule 1 of the Act, EHRC members hold office for a fixed term ranging from two (2) to five (5) years, and a member whose period of membership has expired may be re-appointed. The SCA is of the view that the enabling law of an NHRI should provide that members of its decision-making body include full-time remunerated members. This assists in ensuring:

- a) the independence of the NHRI from actual or perceived conflicts of interest;
- b) a stable tenure for the members;
- c) regular and appropriate direction for staff; and
- d) the ongoing and effective fulfillment of the NHRI's functions.

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of the NHRI, and to ensure the continuity of its programs and services. An appointment period of three years is considered to be the minimum that would be sufficient to achieve these aims. As a proven practice, the SCA encourages that a term of between three (3) and seven (7) years with the option to renew once be provided for in the NHRI's enabling law. The SCA encourages the EHRC to advocate for changes to its enabling law to provide for remunerated full-time members amongst its decision-making body, with a term of between three (3) and seven (7) years, with the option to renew once. The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on 'Full-time members of a NHRI'.

3. Guarantee of tenure

In accordance with paragraph 2(3) of Schedule 1 of the Act, the Secretary of State may dismiss a Commissioner who is, in the opinion of the Secretary of State, unable, unfit or unwilling to perform his functions. The SCA acknowledges that the EHRC has indicated that Commissioners can only be dismissed for a very narrow range of reasons, and that such a dismissal could be challenged by judicial review or in an employment tribunal. However, The SCA emphasizes that, in order to address the requirement for a stable mandate, which is important in reinforcing independence, the enabling law of a NHRI must contain an independent and objective dismissal process similar to that accorded to members of other independent State agencies. The grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the capacity of the members to fulfill the institution's mandate. Where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law. It should not be allowed to be based solely on the discretion of the appointing authorities. The SCA is of the view that such requirements ensure the security of tenure of members of the governing body and are essential to ensure the independence of, and public confidence in, the senior leadership of a NHRI. The SCA refers to Paris Principle B.3 and to its General Observation 2.1 on 'Guarantee of tenure for members of the NHRI decision-making body'.

4. Annual report

In accordance with paragraph 32 of Schedule 1 of the Act, the annual report of the EHRC is sent to the Secretary of State, who then lays it before Parliament. The SCA acknowledges that the EHRC has indicated that the Minister's role is limited to laying the document before Parliament, and that he or she is not permitted to modify the report or require that modifications be made. However, the SCA considers it important that the enabling laws of a NHRI establish a process whereby the Institution's reports are required to be widely circulated, discussed and considered by the legislature. It is preferable for a NHRI to have the explicit power to table reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them. The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

5. Adequate funding and financial independence

The EHRC has experienced a significant cut in its budget since 2010. The SCA acknowledges the EHRC's report that most public bodies have experienced a cut in funding. However, the SCA notes that the EHRC has experienced a cut in funding, equivalent to approximately seventy percent (70%) of its 2010 budget. The SCA also notes that the number of staff have been reduced from 500 in 2010 to 204 in 2015. The SCA emphasizes that, to function effectively, an NHRI 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 realization of the improvement of the Institution's operations and the fulfillment of its mandate. Further, in accordance with paragraph 38 of Schedule 1 of the Act, the Secretary of State shall pay to the EHRC such funds as appear to the Secretary of State to be reasonably sufficient for the purpose of enabling it to perform its functions. The SCA is concerned that the Secretary of State has significant discretion over the allocation of funds to the EHRC, and that this has the potential to impact on its effectiveness and independence. The SCA encourages the EHRC to advocate for appropriate amendments to its enabling law in order to ensure the adequacy of the EHRC's funding and safeguard its financial independence. Government funding should be allocated to a separate budget line applicable only to the NHRI. 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. The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding'.

6. Encouraging ratification or accession to international human rights instruments

The Law does not provide the EHRC with an explicit mandate to encourage ratification or accession to international human rights instruments. While acknowledging the activities the EHRC has undertaken in this regard, the SCA encourages it to advocate for changes to its enabling law to mandate it with explicit responsibility to encourage ratification or accession to international human rights instruments. The SCA refers to Paris Principles

A.3(b) and (c) and to its General Observation 1.3 on ‘Encouraging ratification or accession to international human rights instruments’.¹²⁰

2.8.2. Northern Ireland (UK): Human Rights Commission

2.8.2.1. Nationaler Rahmen und Rechtsgrundlagen

Die „Northern Ireland Human Rights Commission“ findet ihre gesetzliche Grundlage im „Northern Ireland Act 1998“.¹²¹ Das nordirische NMRI bietet Rechtsberatung an.¹²² Zu seinen Aufgaben zählt u.a. die strategische Prozessführung zur gerichtlichen Durchsetzung von Menschenrechten in Fällen von grundlegender Bedeutung.¹²³ Bei der Erfüllung seiner Aufgaben kooperiert das NMRI auch mit anderen nationalen Einrichtungen des Menschenrechtsschutzes, einschließlich der „Criminal Justice Inspection Northern Ireland“ und des „Prisoner Ombudsman for Northern Ireland“.¹²⁴

2.8.2.2. Finanzielle und personelle Ausstattung

Die Gesamtausgaben des nordirischen NMRI beliefen sich auf für das Jahr 2017-2018 auf £ 1,21 Mio (nach £ 1,22 Mio für das Jahr 2016-2017).¹²⁵ Zu Forschungszwecken verwandte Mittel werden nicht separat ausgewiesen. Einschließlich der sieben Mitglieder der Kommission beschäftigte das NMRI im Berichtszeitraum 21 Mitarbeiter und Mitarbeiterinnen.¹²⁶

2.8.2.3. Publikationen und wissenschaftliche Kooperationen

Wissenschaftliche und menschenrechtspolitische Institutspublikationen sind auf der Webseite des nordirischen NMRI abrufbar.¹²⁷ Das nordirische NMRI benennt in seinem letzten

120 ICC Sub-Committee on Accreditation Report – November 2015, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAcreditation/Documents/SCA%20FINAL%20REPORT%20-%20NOVEMBER%202015-English.pdf> .

121 Northern Ireland Act 1998, <http://www.legislation.gov.uk/ukpga/1998/47/section/69?view=plain> .

122 Northern Ireland Human Rights Commission, <http://www.nihrc.org/advice-for-you> .

123 Northern Ireland Human Rights Commission, <http://www.nihrc.org/about-us/what-we-do> .

124 A.a.O. sowie http://www.nihrc.org/uploads/general/MoU_NIHRC_and_CJL.pdf und http://www.nihrc.org/uploads/general/MoU_NIHRC_and_Prisoner_Ombudsman.pdf .

125 Northern Ireland Human Rights Commission, Annual Reports and Accounts 2017-2018, http://www.nihrc.org/uploads/publications/NIHRC_Annual_Report_and_Accounts_2017-18_20.07.18.pdf, S. 46.

126 A.a.O., S. 36.

127 Northern Ireland Human Rights Commission, Publications, <http://www.nihrc.org/publications> .

Veröffentlichten Jahresbericht die Universität Ulster als Hauptpartner gemeinsamer Forschungsprojekte.¹²⁸ Zu den institutionellen Partnern, mit denen Kooperationsvereinbarungen (*memoranda of understanding*) getroffen wurden, zählen jedoch keine universitären oder außeruniversitären Forschungseinrichtungen.¹²⁹

2.8.2.4. Einschätzung durch die GANHRI

Auch das zweite NMRI im Vereinigten Königreich, die nordirische „Human Rights Commission“ hat zurzeit A-Status.¹³⁰ Die letzte periodische Überprüfung fand im Mai 2016 statt:

„3.8 Northern Ireland (UK): Northern Ireland Human Rights Commission (NIHRC)

Recommendation: The SCA recommends that the NIHRC be re-accredited with A status.
The SCA notes:

1. Selection and appointment

In accordance with Section 68 of the Act, the Commission shall consist of a Chief Commissioner and other Commissioners appointed by the Secretary of State. The SCA notes that the NIHRC reports that, in practice, the appointment process is subject to detailed guidance from the Office of the Commissioner for Public Appointments, and includes the advertising of vacancies, the use of a selection panel who make recommendations to the Secretary of State, and the ability to appeal the process for selection of the Chief Commissioner through the Employment Tribunal. However, this process is undertaken by the NIHRC's sponsor department, and is not set out in the legislation, in regulations, or in binding administrative guidelines. The SCA is of the view that the process currently enshrined in the Law is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies;
- establish clear and uniform criteria upon which the merit of eligible applicants is assessed; or
- promote broad consultation and / or participation in the application, screening, selection and appointment process.

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

128 Northern Ireland Human Rights Commission, Annual Report and Accounts 2017-18, http://www.nihrc.org/uploads/publications/NIHRC_Annual_Report_and_Accounts_2017-18_20.07.18.pdf, S. 15 und 19.

129 Northern Ireland Human Rights Commission, Working with others, <http://www.nihrc.org/about-us/working-with-others>.

130 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf>.

NIHRC to advocate for the formalization and application of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and
- e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

2. Full-time members

In accordance with Schedule 7 (2)(2) of the Act, the Chief Commissioner shall be appointed for a maximum of five (5) years and other Commissioners for not more than three (3) years. The SCA notes that the Act is silent on whether the members serve in a full-time or part-time capacity, though it notes that the NIHRC reports that the Chief Commissioner serves on a full-time basis. The SCA is of the view that the enabling law of the NHRI should provide that members of its governing body include full-time remunerated members. This assists in ensuring:

- a) the independence of the NHRI from actual or perceived conflict of interests;
- b) a stable tenure for the members;
- c) regular and appropriate direction for staff; and
- d) the ongoing and effective fulfilment of the NHRI’s functions.

An appropriate minimum term of appointment is crucial in promoting the independence of the membership of the NHRI, and to ensure the continuity of its programs and services. An appointment period of three (3) years is considered to be the minimum that would be sufficient to achieve these aims. As a proven practice, the SCA encourages that a term of between three (3) and seven (7) years with an option to renew once be provided for in the NHRI’s enabling law. The SCA encourages the NIHRC to advocate for amendments to enabling law to provide for full-time members with an appropriate term of office. The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on ‘Full-time members of an NHRI’.

3. Annual report

In accordance with Schedule 7 (5) of the Act, the NIHRC submits its annual report to the Secretary of the State. Thereafter, the Secretary of State tables the NIHRC’s report before Parliament. The SCA acknowledges that the NIHRC has indicated that the Minister’s role is limited to tabling the document before Parliament, and that he or she is not permitted to modify the report or require that modifications be made. However, the SCA considers it important that the enabling laws of a NHRI establish a process whereby the Institution’s reports are required to be widely circulated, discussed and considered by the legislature. It

encourages the NIHRC to advocate for changes to its enabling law to provide the explicit power to table reports directly in the legislature, rather than through the Executive, and in doing so to promote action on them. The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

4. Adequate funding and financial independence

The NIHCR reports that its funding from the government is not sufficient to effectively carry out its mandate. The SCA notes that the NIHRC has experienced a significant cut in its budget since 2009 and acknowledges the NIHRC's report that, in line with other non-departmental public bodies, it will continue to have budgetary cuts until 2019. Further, in accordance with Schedule 7 (6) of the act, the Secretary of State may make grants to the NIHRC from the budget provided by the Parliament. The SCA is concerned that the Secretary of State has significant discretion over the allocation of funds to the NIHRC, and that this has the potential to impact on its effectiveness and independence. The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI's operations and the fulfillment of its mandate. Provision of adequate funding by the State should, at a minimum, include the following:

- a) The allocation of funds for premises which are accessible to the wide community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) Remuneration of members of the decision-making body (where appropriate);
- d) The establishment of a well-functioning communications system including telephone and internet; and
- e) The allocation of a sufficient amount of resources for mandated activities.

Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions. The SCA emphasizes that funding from external sources, such as from international development partners, should not compose the core funding of the NHRI, as this is the responsibility of the State. However, the SCA recognizes the need for the international community, in specific and rare circumstances, to continue to engage and support an NHRI to ensure it receives adequate funding until such time when the State will be able to do so. In such unique cases NHRIs should not be required to obtain approval from the state for external sources of funding, which may otherwise detract from its independence. Such funds should not be tied to donor-defined priorities but rather to the pre-determined priorities of the NHRI. The SCA encourages the NIHRC to advocate for an appropriate level of funding to effectively carry out its mandate. It further encourages the NIHRC to advocate for amendments to its enabling law to allow it to receive donor funding without prior government approval. The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs'.

5. Encouraging ratification or accession to international human rights instruments

The Act does not provide the NIHRC with an explicit mandate to encourage ratification or accession to international human rights instruments. While acknowledging the activities the NIHRC has undertaken in this regard, the SCA encourages it to advocate for changes to its enabling law to mandate it with explicit responsibility to encourage ratification or accession to international human rights instruments. The SCA refers to Paris Principles A.3(b) and (c) and to its General Observation 1.3 on 'Encouraging ratification or accession to international human rights instruments'.

6. Functional Immunity

The Act does not provide functional immunity for NIHRC members for actions undertaken in good faith in their official capacity. The SCA notes that external parties may seek to influence the operation of an NHRI by initiating, or threatening to initiate, legal proceedings against a member. For this reason, NHRI legislation should include provisions to protect members from legal liability for acts undertaken in good faith in their official capacity.

Such a provision promotes:

- security of tenure;
- the NHRI's ability to engage in critical analysis and commentary on human rights issues free from interference;
- the independence of senior leadership; and
- public confidence in the NHRI.

The SCA recognizes that no office holder should be beyond the reach of the law and thus, in certain circumstances, such as corruption, it may be necessary to lift immunity. However, the authority to do so should not be exercised by an individual, but rather by an appropriately constituted body such as the superior court or a special majority of parliament. It is recommended that the law clearly establishes the grounds, and a clear and transparent process by which the functional immunity of the decision-making body may be lifted. The SCA again encourages the NIHRC to advocate for the inclusion in the Act of a provision providing for the functional immunity of members. The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity'.

7. Visiting places of deprivation of liberty

In accordance with section 69(C) of the Justice and Security Act 2007, the NIHRC must be authorized to enter a specified place of detention. While the SCA notes that, in some circumstances, it may be necessary to provide notice for security reasons, it encourages the NIHRC to conduct 'unannounced' visits as this limits opportunities for detaining authorities to hide or obscure human rights violations and facilitates greater scrutiny. Reiterating its previous concern, the SCA encourages the NIHRC to continue to access all places of deprivation of liberty to effectively monitor, investigate and report on the human rights situation in a timely manner, and to undertake systematic follow-up activities and advocate for the consideration and implementation of its findings and recommendations in order to ensure the protection of those detained. The SCA refers to Paris Principles A.3 and D(d) and to its General Observation 1.6 on 'Recommendations by NHRIs'.

8. Mandate

In accordance with Section 69B of the Justice and Security Act 2007, the NIHRC is prevented from using its formal investigative powers to inquire into matters relating to ‘national security’. The SCA notes that the NIHRC has expressed concern that this limitation is unnecessary and may impact on its ability to deal with certain violations of human rights involving policing, security and the intelligence services. The SCA further notes that Section 20 of the 2007 Act prohibits the NIHRC from investigating matters prior to 1 August 2007. The SCA notes that the NIHRC has expressed concern with this limitation on its mandate. It is the view of the SCA that an NHRI’s mandate should authorize the full investigation of all alleged human rights violations, including those involving the military, police and security officers. While limitations on the mandate of an NHRI relating to national security are not inherently contrary to the Paris Principles, it should not be unreasonably or arbitrarily applied and should only be exercised under due process. The SCA refers to Paris Principles A.2 and A.3 and to its General Observations 1.2 and 2.7 on ‘Human rights mandate’ on ‘Limitation of power of NHRIs due to national security’.¹³¹

2.8.3. Scotland: Scottish Human Rights Commission

2.8.3.1. Nationaler Rahmen und Rechtsgrundlagen

Rechtsgrundlage der Tätigkeit des schottischen NMRI, der „Scottish Human Rights Commission“, ist der „Scottish Commission for Human Rights Act 2006“.¹³² Das unabhängige, dem Schottischen Parlament verantwortliche NMRI widmet sich vor allem der Aufklärung, Forschung und allgemein der Förderung der Menschenrechte.¹³³ Die Unterstützung bei individuellen Beschwerden nimmt das gesetzliche Mandat ausdrücklich aus.¹³⁴

2.8.3.2. Finanzielle und personelle Ausstattung

Im Haushaltsjahr 2017-2018 bewilligte das „Scottish Parliamentary Corporate Body“¹³⁵ der „Scottish Human Rights Commission“ Mittel in Höhe von £ 991.000 (nach £ 972.000 für

131 GANHRI Sub-Committee on Accreditation Report – May 2016, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20FINAL%20REPORT%20%20MAY%202016-English.pdf> .

132 Scottish Commission for Human Rights Act 2006, 2006 asp 16, http://www.legislation.gov.uk/asp/2006/16/pdfs/asp_20060016_en.pdf .

133 Scottish Commission for Human Rights Act 2006, 2006 asp 16, http://www.legislation.gov.uk/asp/2006/16/pdfs/asp_20060016_en.pdf , § 2-5.

134 Scottish Commission for Human Rights Act 2006, 2006 asp 16, http://www.legislation.gov.uk/asp/2006/16/pdfs/asp_20060016_en.pdf , § 6: “(1) The Commission may not provide assistance to or in respect of any person in connection with any claim or legal proceedings to which that person is or may become a party. (2) In subsection (1), “assistance” includes advice, guidance and grants.”

135 Zu dessen Rolle und Aufgaben siehe <https://www.parliament.scot/abouttheparliament/16231.aspx> .

2016-2017).¹³⁶ Davon wurden 2017-2018 £ 700.000 (nach £ 711.000 für 2016-2017) für Personal verwendet.¹³⁷ Zusätzlich erhielt das NMRI £ 6.000 für Forschungsaufträge.¹³⁸ Am 31. März 2018 beschäftigte die Kommission vier Kommissarinnen und Kommissare, davon einen in Vollzeit, sowie sechs Vollzeitangestellte und sechs Teilzeitangestellte.¹³⁹

2.8.3.3. Publikationen und wissenschaftliche Kooperationen

Etwa 300 Institutsveröffentlichungen, die zum Teil auch wissenschaftlicher Natur sind, sind auf der Webseite des schottischen NMRI veröffentlicht.¹⁴⁰ In seinem Zehn-Jahres-Rückblick 2008-2018 hebt das schottische NMRI seine Forschungszusammenarbeit mit Regierungsstellen, Zivilgesellschaft und öffentlichen Einrichtungen hervor.¹⁴¹ Daneben wird auch die Zusammenarbeit mit Wissenschaftlern zu dem Thema Missbrauch von Kindern in Betreuungseinrichtungen oder -verhältnissen genannt.¹⁴²

2.8.3.4. Einschätzung durch die GANHRI

Auch das dritte NMRI des Vereinigten Königreiches, die „Scottish Human Rights Commission“ hat zurzeit A-Status.¹⁴³ Die letzte periodische Überprüfung dieses NMRI fand im März 2015 statt:

“3.3 Scotland: Scottish Human Rights Commission (SHRC)

Recommendation: The SCA recommends that the SHRC be re-accredited with A status. The SCA notes:

1. Mandate

Section 2(2) of the SCHR Act defines human rights as (a) the Convention rights within the meaning of section 1 of the Human Rights Act 1998 (c.42), (that is the rights in articles 2-12 and 14 of the European Convention on Human Rights as well as articles 1

136 Scottish Commission for Human Rights, Annual Reports and Accounts, Year Ended 31 March 2018, <http://www.scottishhumanrights.com/media/1821/shrc-accounts-201718.pdf>, S. 2.

137 A.a.O., S. 3.

138 A.a.O., S.3.

139 A.a.O., S. 16.

140 Scottish Commission for Human Rights, Policy & Publications, <http://www.scottishhumanrights.com/policy-publications/?> .

141 Scottish Commission for Human Rights, Promoting and Protecting Human Rights in Scotland: Ten Years in Review, 2008-2018, http://www.scottishhumanrights.com/media/1818/ten_year_review.pdf , S. 24

142 A.a.O., S. 19.

143 GANHRI, Accreditation status as of 21 February 2018, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Status%20Accreditation%20Chart.pdf> .

to 3 of the First Protocol and articles 1 and 2 of the sixth Protocol), and (b) other human rights contained in any international convention, treaty or other International instrument ratified by the United Kingdom. The definition of human rights is therefore restricted to conventions ratified by the UK. The SCA acknowledges that the SHRC interprets its mandate more broadly than the formal reading of this provision. It encourages the SHRC to continue to interpret its mandate in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights. The SCA recommends that the SHRC advocate for appropriate amendments to its enabling law to include a more expansive definition of human rights. The SCA refers to Paris Principles A.1, A.2 and A.3 and to its General Observation 1.2 on 'Human rights mandate'.

2. Selection and appointment

In accordance with paragraph 1(2) of Schedule 1 of the Act, the Chair of the SHRC is appointed by Her Majesty on the nomination of the Scottish Parliament. In accordance with Rule 3.11 of the Standing Orders of the Scottish Parliament, a selection panel consisting of the convener of the most relevant Committee of the Scottish Parliament and between four and seven other Members of Parliament makes a recommendation on the appointment. Further, in accordance with paragraph 1(3) of Schedule 1 of the Act, the other members of the SHRC are appointed by the Scottish Parliamentary Corporate Body, which is chaired by the Presiding Officer of the Scottish Parliament and consist of four other Members of Parliament drawn from government and the opposition parties. While acknowledging that, in practice, the selection and appointment processes for the Chair and Members are conducted in an open and transparent manner, the SCA is of the view that these processes, as provided for in the enabling law, are not sufficiently broad and transparent. In particular, they do not:

- require the advertisement of vacancies;
- establish clear and uniform criteria;
- ensure that such criteria are uniformly used to assess the merit of all eligible applicants; and
- promote broad participation in the application, screening, selection and appointment process.

It is critically important to ensure the formalization of a clear, transparent and participatory selection and appointment process for the NHRI's decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. A process that promotes merit-based selection and ensures pluralism is necessary to ensure the independence of, and public confidence in, the senior leadership of an NHRI. The SCA encourages the SHRC to advocate for amendments to its enabling law to ensure the formalization of a process that includes requirements to:

- a) Publicize vacancies broadly;
- b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications;
- c) Promote broad consultation and / or participation in the application, screening, selection and appointment process;
- d) assess applicants on the basis of pre-determined, objective and publicly-available

criteria; and

e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.

The SCA refers to Paris Principle B.1 and to its General Observation 1.8 on ‘Selection and appointment of the decision-making body of NHRIs’.

3. Tenure

In accordance with paragraph 5 of Schedule 1 of the Act, the Chair or Members may be dismissed if Parliament decides by a 2/3 vote that 1) the Chair or relevant Member has breached the terms of appointment, or 2) that the Parliament has lost confidence in the member’s willingness, suitability or ability to perform the member’s functions. The SCA notes that these requirements may be open to misuse. The SCA is of the view that in order to address the Paris Principles requirement for a stable mandate, which is necessary to ensure independence, the enabling legislation of a NHRI must have an independent and objective dismissal process. The SCA emphasizes, in particular, that the grounds for dismissal must be clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the member to fulfill its mandate. The dismissal must be made in strict conformity with all the substantive and procedural requirements as prescribed by law and, where appropriate, the legislation should specify that the application of a particular ground must be supported by a decision of an independent body with appropriate jurisdiction. The SCA refers to Paris Principle B.3 and to its General Observation 2.1 on ‘Guarantee of tenure for members of the NHRI decision-making body’.

4. Annual report

Section 15 of the Act indicates that the SHRC is required to comply with any directions given by the Parliament as to the form and content of the report. The SCA notes that this provision could allow undue influence by Parliament in the reporting process. Annual, special and thematic reports serve to highlight key developments in the human rights situation in a country and provide a means by which a NHRI can make recommendations to, and monitor respect for human rights, by government. It is important that an NHRI be able to freely determine the form and content of such reports, absent government direction. The SCA encourages the SHRC to advocate for amendments to its enabling law to ensure that it can freely determine the form and content of all of its reports, including the annual report. The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on ‘Annual reports of National Human Rights Institutions’.

5. Adequate funding

During its 2010 review, the SCA noted that the SHRC faced limitations in terms of its staffing and resources. The SCA notes that the SHRC continues to employ the same number of staff at present as it did in 2010 and has experienced a 15% reduction in its budget over the last 3 years. The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its

ability to freely determine its priorities and activities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of improvement in the NHRI's operations and the fulfillment of its mandate. Provision of adequate funding by the State should, at a minimum, include the following:

- a) The allocation of funds for premises which are accessible to the wide community, including for persons, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) Salaries and benefits awarded to staff comparable to those of civil servants performing similar tasks in other independent institutions of the State;
- c) Remuneration of members of the decision-making body (where appropriate);
- d) The establishment of a well-functioning communications system including telephone and internet; and
- e) The allocation of a sufficient amount of resources for mandated activities.

Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions. The SCA encourages the SHRC to continue to advocate for an appropriate level of funding to carry out its mandate. In addition, the SCA notes the possible devolution of further powers to Scotland. Should this occur, the SCA encourages the SHRC to advocate for the appropriate additional funding necessary to effectively fulfill this expanded mandate. The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs'.¹⁴⁴

144 ICC Sub-Committee on Accreditation Report – March 2015, <https://nhri.ohchr.org/EN/AboutUs/GANHRIACcreditation/Documents/SCA%20MARCH%202015%20FINAL%20REPORT%20-%20ENGLISH.pdf>.