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Secretariat of International Coordinating Committee of National Human Rights Institutions at National Institutions and Regional Mechanisms Section,
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Oslo, 14 October 2011

Second supplementary submission to reaccreditation application deferred to October 2011, from the Norwegian Centre for Human Rights (NCHR) as Norway's National Institution (NI)

Reference is made to our submission of 4 July 2011in lieu of your communication of 9 June 2011 whereby we were informed of the SCA's decision to defer our application to October 2011. The SCA is requesting information on developments and the forthcoming process to ensure improved NCHR compliance with the Paris Principles. We welcome the SCA's recommendations 1-5 to guide this process. We hereby submit further information for the SCA's consideration of our application for re-accreditation in its October session.

The five recommendations from the SCA are:

- An inclusive and consultative process to ensure broad support for a new NI should be initiated
 by the Government without delay, and should include the NCHR, civil society groups and other
 stakeholders;
- 2. The new NI, irrespective of institutional model chosen, must be established in conformity with the Paris Principles by an Act of parliament and preferably by Constitutional provision;
- 3. The legislation should ensure an independent body with the necessary resources and capacity to fulfill a broad mandate to protect and promote human rights;
- 4. The Government should in consultation with NCHR, develop a strategy for the interim period upholding at minimum the current level of NI work, and the existing budget earmarked for NI should go directly to NI work;
- 5. The NCHR should in the interim period make every effort to continue its NI work, particularly in relation to conducting monitoring, documentation and advocacy, and to enhance its knowledge base, work methods and independent functioning.

Primary responsibility for follow-up of recommendations 1-3 rests with the Government; the Government in consultation with the NCHR is responsible for recommendation 4 (termed the consolidated strategy for reestablishing NI in compliance with PP); and the NCHR is fully responsible for recommendation 5 (termed the plan for the transitional period).



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Status as to follow-up on the five recommendations is as follows:

1. Inclusive and consultative process

Consultations since 4 July include:

- As you were informed in our submission of 4 July 2011, the NCHR initiated a meeting with the
 MFA's political leadership (Deputy Minister) on 1 July. The MFA requested a formal
 communication from the University of Oslo (UiO) as to its intention with regard to NI. The president
 of UiO sent a letter to the MFA later the same day, 1 July, confirming the UiO's intention to
 terminate its role as NI by the end of 2012.
- The UiO received a reply from the MFA on 14 July 2011, informing us that the Ministry was assessing how it will follow-up the recommendations of the external review of NCHR as NI, both in terms of earmarking of NI-funding and the review's proposed measures to secure a PP-compliant NI.
- The NI Advisory Council met again on 28 September and its 12 members were informed of the clarification received as to the ICC/SCA's decision and recommendations. It was clarified that the ICC's assessment of the Norwegian Centre for Human Rights (NCHR) as Norway's NI was postponed until October and that more information was requested as to the work to ensure the reestablishment of NI in line with the Paris Principles (PP). The Advisory Council has received the ICC's letter of 9 June 2011 as well as the NCHRs preliminary information to the ICC on 4 July 2011. They were further informed of the NCHR's consultations with the Ministry of Foreign Affairs (MFA, see further below). The Advisory Council is awaiting the ICC's October decision and the MFA's response to the ICC's assessment, while considering appropriate follow-up measures at the national level.
- Measures undertaken over the last year, together with consultations with the MFA, the UiO, the
 Advisory Council and a range of other actors and individuals, have brought clarity in three respects
 necessary to give impetus to the political process which has not yet been initiated:
 - An external review of NCHR as NI was completed in March 2011, providing assessment and findings of the current NI and recommendations for the reestablishment of a PP-compliant NI;
 - 2) The UiO, endorsing the decision of the NCHR Board in March 2011, has formally confirmed that it will terminate its role as NI by the end of 2012;
 - 3) The need for a clear statement by the ICC/SCA as to its assessment of the NCHR as NI in relation to the Paris Principles as well as guidance as to what is needed to ensure that a reestablished NI will be PP compliant.

2. Act of parliament - legislation

Nothing to report at present (see point 4)

3. Resources and capacity

Nothing to report at present (see point 4)



4. Consolidated strategy for interim period

The follow-up of recommendations 1-3 have not moved forward as hoped for and as explained in point 1. Thus, the NCHR's proposal of 27 June that the MFA establish an inter-ministerial working group including the NCHR, to propose a strategy for establishing a PP-compliant NI by the end of 2012, as was reported to the ICC in our submission on 4 July, has not been acted upon by the MFA. There is thus a need for a clear statement from the ICC/SCA's side as to our standing vis-à-vis the Paris Principles.

Furthermore, the development of a joint strategy by MFA and NCHR for the interim period, in line with the ICC's recommendation number 4, has not taken place for the same reasons. Thus, the process for a discussion of reestablishing a PP-compliant NI, as was reported to the ICC in our submission of 4 July, has not yet been raised with the Government.

However, further discussions between MFA and NCHR as well as internally at the NCHR, have focused on the need to uphold as a minimum, the current level of NCHR work until a new NI has been established including the need for the existing budget earmarked to NI should go directly to NI work. The following exchanges and developments have taken place since our last submission:

- The NCHR in cooperation with the UiO leadership has undertaken a study to clarify the economic and personnel related consequences of a separation of NI from the UiO. A working group has been in place since August 2011 and will present its report to the NCHR Director by 26 October 2011. The report will be discussed by the NCHR Board, the Faculty of Law and the UiO leadership. Decisions as to how to deal with the consequences identified will be taken and it is expected that necessary measures will be implemented in part in 2012 and in full by January 2013.
- The MFA, in two letters to the NCHR of 19 August, has requested feed-back on follow-up
 questions to the NCHR/NI annual report for 2010 and has asked for clarification as to how the
 NCHR will ensure that earmarked funding is used for the NCHR's functions as NI in 2012. The
 NCHR has responded to these requests in letters of 20 and 23 September 2011.
- Regarding earmarked funding the NCHR has pointed out that NI-funding presently is linked to salaries for regular positions at the NCHR. This limits the scope for short term changes. However, two measures are underway: a) the above mentioned study to clarify economic and personnel related consequences of a separation of NI from the UiO, and b) its intention to transfer a tentative amount of NOK 2,5 million to the NI-account. This will enable NI to secure a total of 3 permanent and 2 temporary staff members. This is essential to continue and further enhance the ongoing reorientation of its work in line with PP and recommendations of the external NI-review (see point 5).

5. Plan for transitional period

The NCHR/NI considers the external review of NI as a good starting point for necessary changes and priorities in its forthcoming work. We have carefully considered the recommendations of the review and in particular noted the following as areas in need of improvement:

Strengthen monitoring as a basis for strategic planning;



- Thematic reporting focusing on selected issue areas;
- Visibility and advocacy;
- Follow-up of recommendations from international monitoring mechanisms.

To follow-up on these recommendations, some measures have already been put in place while others will be initiated to ensure a forward looking reorientation of NCHR/NI in the spirit of the ICC's recommendations and expectations.

Our substantive work is being reoriented towards: 1) factually based contributions to relevant human rights issues in the Norwegian context, 2) follow-up of such contributions through advice and advocacy work targeting decision makers, and 3) stronger coordination with ombudsman institutions and NGOs.

Ref. 1) Factually based contributions on human rights issues. Three new measures:

- A systematic, publically available database over all information sources used in our Yearbook on Human Rights in Norway, with possibility for broadening the number and types of sources (e.g. local media monitoring and individual situations brought to our attention);
- Thematic reports, initial ambition two thematic reports per year. A thematic report on the use of
 isolation during imprisonment is underway and is scheduled to be completed before the end of
 the year;
- Contributions to the public debate (forthcoming). Presently only in exceptional cases.

These measures are in addition to ongoing work on our next Yearbook and international reporting (e.g. comments to state report under CAT in June, statement to HR Council hearing of Anaya's report on Nordic indigenous populations in September, and statement and meetings with HR Committee in relation to hearing of Norway on 24 October).

Ref. 2) Follow-up of factually based contributions with advice and advocacy work, three new measures:

- Developing and formulating policy memos on selected issues. Two memos have so far been published and one is forthcoming. Firstly, on Human rights in the Constitution, presented at our annual seminar launching the Yearbook (more than 200 participants) addressing this topic in light of forthcoming revision of our Constitution to strengthen human rights at its 200-year celebration in 2014. Secondly, on the establishment of the NPM required for Norway's ratification of OP CAT, where we argued a coalition model NPM and for NI to be a coalition member. Thirdly, a policy memo on ratification of OP ICESCR is forthcoming based on a thematic study conducted in the spring of 2011.
- Follow-up strategy on selected topics. Will test this now by developing a time line for the forthcoming parliamentary process to revise the Constitution;
- Systematic follow-up of recommendations from international monitoring bodies (forthcoming).
 Presently only requesting government to develop a plan of action for the follow-up of recent recommendations (CRC in 2010 and CERD in February 2011).

These measures are in addition to legislative commentaries and more ad-hoc seminars on topical issues.

Ref 3) Stronger coordination with ombudsman institutions and NGOs.

We are now holding regular (4 x per year) coordination meetings with the three ombudsman institutions to exchange information and discuss common interest areas. We are also engaging in concrete, issue-based discussions with NGO-forum. This is in addition to regular meetings with the Advisory Council.

We hope the above information is useful and look forward to the ICC/SCA's authoritative assessment of NCHR as NI, decision as to its standing in relation to the Paris Principles and guidance as to necessary improvements at its October meeting. We believe a clear statement from the ICC will facilitate the political process that we hope will be initiated thereafter.

We await your feed-back as to when the Director of NI should be prepared to answer further questions from the SCA at the October meeting.

Yours faithfully)

Nils A. Butenschøn

Director

| Kriştin Høgdahl

Director of National Institution a.i.

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Ms. Sisi Shahidzadeh Secretary of the ICC SCA

Your ref.:

Our ref.:

Date:

18 October 2011

Re-accreditation of the Norwegian Centre for Human Rights

Dear Ms Shahidzadeh,

With reference to the upcoming re-accreditation of the Norwegian Centre for Human Rights, to be considered at the October session of the ICC Sub-Committee on Accreditation (SCA), the Norwegian Ministry of Foreign Affairs kindly requests that you forward the following information to the SCA:

The Norwegian Ministry of Foreign Affairs refers to the recommendations made by the SCA regarding the re-accreditation of the Norwegian Centre for Human Rights (NCHR), which was considered at the SCA's session in Geneva from 23–27 May 2011. The Ministry was informed of these recommendations in a letter from the NCHR dated 27 June 2011.

It is the understanding of the Ministry that the SCA deferred its decision to the next SCA Session, which will take place from 24 to 28 October 2011. The SCA refers to the intention of the University of Oslo "to terminate the NCHR's role as a NHRI by the end of 2012". The SCA "notes that the NCHR, as presently constituted, may not be fully Paris Principle compliant, but given the stated intention of the NHRC to develop a strategy for the establishment of a Paris Principles compliant NHRI by the end of 2012, the SCA wishes to provide guidance to the NCHR and the Norwegian Government for matters to consider in developing the strategy".

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The Ministry is grateful for SCA guidance in matters concerning the Norwegian National Human Rights Institution (NHRI). The Ministry would furthermore like to make the following clarifications:

During the 2009 Universal Periodic Review of Norway, the NCHR submitted a stakeholder report in which it requested that the Norwegian Government review the work of the NCHR and its organisational structure and resource base. The Ministry of Foreign Affairs responded positively to this request and decided to conduct an external review of the mandate and functioning of the NCHR in its capacity as the Norwegian National Human Rights Institution.

The Ministry of Foreign Affairs received the report from the external review in March 2011. This report is currently under consideration by the Ministry of Foreign Affairs.

The findings of the external review, together with the recommendations from the ICC/SCA in connection with the re-accreditation of the NCHR as Norway's National Human Rights Institution, will constitute the basis of the Ministry's assessment of any possible changes in the organisational structure of the NCHR and other measures to strengthen Norway's National Human Rights Institution. Throughout this process, the Ministry has emphasised its commitment to securing a well functioning National Human Rights Institution in Norway, in close dialogue with the NCHR. The Ministry was informed in an email of 1 July 2011 from the Rector of the University of Oslo that the University intends to terminate the NCHR's function as National Human Rights Institution. The Ministry has taken note of this position and responded to the University in a letter dated 14 July 2011.

The Ministry would like to emphasise that it has not at this point made any formal decision to make changes in the organisational structure of the National Institution or to establish a new NHRI. The Royal Decree of 21 September 2001 that designated the NCHR as Norway's National Human Rights Institutions is still valid and has not been replaced by any new regulations. Furthermore, the Ministry cannot at this stage commit to establishing a legal act or to specific measures that will necessitate increased funding. This would require a thorough inter-ministerial process, as well as the consent of the Storting (the Norwegian parliament).

Meanwhile, the Ministry has taken steps to secure that the annual budgetary appropriation to the NCHR goes directly to its work to carry out its mandate as Norway's National Human Rights Institution as also recommended by the SCA (recommendation 4). In the grant letter dated 19 August 2011 to the NCHR regarding the contribution for 2011–2012, the Ministry has made clear that the grant is earmarked for the NCHR's work in its capacity as National Human Rights Institution in accordance with the Royal Decree of 2001. The Ministry has asked to be informed of the steps the NCHR will take to ensure that the funding goes directly to its work as National Human

Rights Institution. The NCHR has submitted the requested information in a letter to the Ministry dated 23 September 2011.

Furthermore, the Ministry has, based on the NCHR's activity report from 2010 and the findings of the external review, asked for further details and clarifications regarding the use of funding earmarked for the NCHR's work as National Institution in a letter dated 19 august 2011. The NCHR has responded to these questions in a letter dated 20 September 2011, which is currently being examined by the Ministry.

The Ministry looks forward to the assessment by the ICC Sub-Committee on Accreditation, including as to whether the Norwegian National Institutions is in compliance with the Paris Principles. The recommendations from the SCA will be given due consideration by the Ministry in dialogue with other relevant ministries and in consultation with the NCHR.

Yours sincerely

Helga Ervik

Assistant Director General

Monica Furnes
Senior Advisor

Copy:

Vladlen Stefanov

Chief, National Institutions and Regional Mechanisms Section

OHCHR