

**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, 27-31 October 2014

SUMMARY OF RECOMMENDATIONS

<u>2. Accreditation (Art. 10 of the ICC Statute)</u>
<u>2.1 Finland: Finnish National Human Rights Institution (FNHRI)</u> Recommendation: The SCA recommends that the Finnish NHRI be accredited with A status.
<u>2.2 Hungary: Commissioner for Fundamental Rights (CFR)</u> Recommendation: The SCA recommends that CFR be accredited with A status.
<u>2.3 Libya: National Council for Civil Liberties and Human Rights (NCCLHR)</u> Recommendation: The SCA recommends that the NCCLHR be accredited with B status.
<u>3. Re-Accreditation (Art. 15 of the ICC Statute)</u>
<u>3.1 Afghanistan: Afghanistan Independent Human Rights Commission (AIHRC)</u> Recommendation: The SCA recommends that the AIHRC be re-accredited with A status.
<u>3.2 Albania: People's Advocate of Albania (PA)</u> Recommendation: The SCA recommends that the PA be re-accredited with A status.
<u>3.3 Kenya: Kenya National Commission on Human Rights (KNCHR)</u> Recommendation: The SCA recommends that the KNCHR be re-accredited with A status.
<u>3.4 Malawi: Malawi Human Rights Commission (MHRC)</u> Recommendation: The SCA recommends that consideration of the re-accreditation of the MHRC be deferred to its first session of 2015.
<u>3.5 Mauritius: National Human Rights Commission of Mauritius (NHRC)</u> Recommendation: The SCA recommends that the NHRC be re-accredited with A status.
<u>3.6 Mongolia: National Human Rights Commission of Mongolia (NHRCM)</u> Recommendation: The SCA recommends that the NHRCM be re-accredited with A status.
<u>3.7 Paraguay: Defensoría del Pueblo (DP)</u>

Recommendation: The SCA recommends that the accreditation status of the DP be suspended.
3.8 <u>Republic of Korea: National Human Rights Commission of Korea (NHRCK)</u> Recommendation: The SCA recommends that consideration of the re-accreditation of the NHRCK be deferred to its first session of 2015.
3.9 <u>Russian Federation: Office of Commissioner for Human Rights in the Russian Federation (OCHR)</u> Recommendation: The SCA recommends that the OCHR be re-accredited with A status.
3.10 <u>Thailand: National Human Rights Commission of Thailand (NHRCT)</u> Recommendation: The SCA recommends that the NHRCT be downgraded to B status.
3.11 <u>Ukraine: Ukrainian Parliament Commissioner for Human Rights (UPCHR)</u> Recommendation: The SCA recommends that the UPCHR be re-accredited with A status.
4. Review (Article 16.2 of the ICC Statute)
4.1 <u>Nepal: National Human Rights Commission of Nepal (NHRCN)</u> Recommendation: The SCA recommends that NHRCN retain its A status.
4.2 <u>Venezuela: Defensoría del Pueblo (DPV)</u> Recommendation: The SCA recommends that the Special Review of the DPV be deferred to its first session of 2015.

Report and Recommendations of the Session of the SCA on 27-31 October 2014

1. BACKGROUND

- 1.1.** In accordance with the Statute of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), the SCA has the mandate to consider and review applications for accreditation, reaccreditation and special or other reviews received by the National Institutions and Regional Mechanisms Section (NIRMS) of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in its capacity as the ICC Secretariat, and to make recommendations to the ICC Bureau members with regard to the compliance of applicant institutions with the Paris Principles. The SCA assesses compliance with the Paris Principles in law and in practice.
- 1.2.** In accordance with the SCA Rules of Procedure, the SCA is composed of NHRI representatives from each region: Canada for the Americas (Chair), Mauritania for Africa, Palestine for Asia-Pacific and France for Europe.
- 1.3.** The SCA convened from 27-31 October 2014. OHCHR participated as a permanent observer and in its capacity as ICC Secretariat. In accordance with established procedures, regional coordinating committees of NHRIs were invited to attend as observers. The SCA welcomed the participation of representatives from the Secretariat of the Network of African National Human Rights Institutions, the Asia Pacific Forum of NHRIs and the European Network of NHRIs.
- 1.4.** Pursuant to article 10 of the Statute, the SCA considered the applications for accreditation from the NHRIs of Finland, Hungary and Libya
- 1.5.** Pursuant to article 15 of the Statute, the SCA also considered applications for re-accreditation from the NHRIs of Afghanistan, Albania, Kenya, Malawi, Mauritius, Mongolia, Paraguay, Republic of Korea, Russian Federation, Thailand and Ukraine.
- 1.6.** Pursuant to article 16.2 of the Statute, the SCA reviewed certain issues regarding the NHRIs of Nepal and Venezuela.
- 1.7.** In accordance with the Paris Principles and the ICC SCA Rules of Procedure, the classifications for accreditation used by the SCA are:
 - A:** Compliance with the Paris Principles;
 - B:** Not fully in compliance with the Paris Principles or insufficient information provided to make a determination;
 - C:** Non-compliance with the Paris Principles.
- 1.8.** The General Observations, as interpretative tools of the Paris Principles, may be used to:
 - a) Instruct institutions when they are developing their own processes and mechanisms, to ensure Paris Principles compliance;

- b) Persuade domestic governments to address or remedy issues relating to an institution's compliance with the standards articulated in the General Observations;
- c) Guide the SCA in its determination of new accreditation applications, re-accreditation applications or other review:
 - i) If an institution falls substantially short of the standards articulated in the General Observations, it will be open for the SCA to find that it was not Paris Principles compliant.
 - ii) If the SCA has noted concerns about an institution's compliance with any of the General Observations, it may consider what steps, if any, have been taken by an institution to address those concerns in future applications. If the SCA is not provided with proof of efforts to address the recommendations previously made, or offered no reasonable explanation why no efforts had been made, it would be open to the SCA to interpret such lack of progress as non-compliance with the Paris Principles.

1.9. The SCA notes that when specific issues are raised in its report in relation to accreditation, re-accreditation, or special reviews, NHRIs are required to respond to these issues in any subsequent application or other review.

1.10. Pursuant to Article 12 of the Statute, where the SCA comes to an accreditation recommendation, it shall forward that recommendation to the ICC Bureau whose final decision is subject to the following process:

- i) The recommendation of the SCA shall first be forwarded to the applicant;
- ii) An applicant can challenge a recommendation by submitting a written challenge to the ICC Chairperson, through the ICC Secretariat, within twenty eight (28) days of receipt.
- iii) Thereafter the recommendation will be forwarded to the members of the ICC Bureau for decision. If a challenge has been received from the applicant, the challenge together with all relevant material received in connection with both the application and the challenge will also be forwarded to the members of the ICC Bureau;
- iv) Any member of the ICC Bureau who disagrees with the recommendation shall, within twenty (20) days of its receipt, notify the Chair of the SCA and the ICC Secretariat. The ICC Secretariat will promptly notify all ICC Bureau members of the objection raised and will provide all necessary information to clarify that objection. If within twenty (20) days of receipt of this information at least four members of the ICC Bureau coming from not less than two regional groups notify the ICC Secretariat that they hold a similar objection, the recommendation shall be referred to the next ICC Bureau meeting for decision;
- v) If at least four members coming from two or more regional groups do not raise objection to the recommendation within twenty (20) days of its receipt, the recommendation shall be deemed to be approved by the ICC Bureau;
- vi) The decision of the ICC Bureau on accreditation is final.

1.11. At each session the SCA conducts a teleconference with every NHRI. It may also consult with and seek further information from NHRIs where necessary. In

addition, OHCHR desk officers and, as appropriate, OHCHR field officers were available to provide further information, as needed.

- 1.12.** Pursuant to Article 16.1 of the Statute, an accredited NHRI is required to inform the ICC Bureau at the first available opportunity about any change in the circumstances that could affect its compliance with the Paris Principles, whether negatively or positively.
- 1.13.** Pursuant to Article 16.2 of the Statute, “[w]here, in the opinion of the Chairperson of the ICC or of any member of the Sub-Committee on Accreditation, it appears that the circumstances of any NHRI that has been accredited with an ‘A’ status under the former Rules of Procedure may have changed in a way which affects its compliance with the Paris Principles, the Chairperson or the Sub-Committee may initiate a review of that NHRI’s accreditation status”.
- 1.14.** At any time, the SCA may receive information that raises concern that the circumstances of a NHRI have changed in a way that affects its compliance with the Paris Principles, and the SCA may then initiate a special review of that NHRI’s accreditation status. When considering whether or not to initiate a special review, the SCA has adopted a new procedure whereby, in addition to written submissions made by the NHRI, civil society and any other stakeholder, the NHRI is afforded the opportunity to make an oral statement to the SCA during the session.
- 1.15.** Pursuant to Article 16(3), any review must be completed within 18 months.
- 1.16.** The SCA acknowledges the high degree of support and professionalism of the staff of the ICC Secretariat (OHCHR National Institutions and Regional Mechanisms Section).
- 1.17.** The SCA shared the summaries prepared by the Secretariat with the concerned NHRIs before the consideration of their applications and gave one week to provide any comments on them. The summaries are only prepared in English, due to financial constraints. Once the recommendations of the SCA are adopted by the ICC Bureau, the report of the SCA is placed on the ICC website (<http://nhri.ohchr.org/>).
- 1.18.** The SCA considered information received from civil society. The SCA shared that information with the concerned NHRIs and considered their responses.
- 1.19. Notes:** The ICC statute, the Paris Principles and the General Observations referred to above can be downloaded in Arabic, English, French and Spanish from the following links:
 1. The ICC Statute:
<http://nhri.ohchr.org/EN/AboutUs/Governance/Pages/Statute.aspx>
 2. The Paris Principles and General Observations:
<http://nhri.ohchr.org/EN/AboutUs/ICC Accreditation/Pages/default.aspx>

2. SPECIFIC RECOMMENDATIONS – ACCREDITATION APPLICATIONS (Art. 10 of the ICC Statute)

2.1 Finland: Finnish National Human Rights Institution (FNHRI)

Recommendation: It is recommended that the FNHRI be accredited with **A status**.

The SCA welcomes the establishment of the FNHRI.

The SCA takes note of the particular structure of the Finnish National Human Rights Institution as an umbrella structure composed of the Parliamentary Ombudsman (Ombudsman), the Human Rights Centre (HRC) and the Human Rights Delegation (HRD). The SCA understands that the government bill establishing these three components as the NHRI is a source of law in Finland. In order to avoid any confusion, it encourages the FNHRI to take steps to clearly delineate the respective roles of each component in respect of the promotion and protection of human rights domestically and internationally.

The SCA notes:

1. Functional immunity and independence

Section 115 of the Constitution provides that the Ombudsman can be held liable for official acts in the same manner as Members of the Government, that being through a hearing by the High Court of Impeachment. While the FNHRI reports that there are no judicial immunities in Finland and that it is content with this state of affairs, the SCA notes that the Constitution provides for immunity for Members of Parliament. It strongly recommends that provisions be included in national law to protect relevant office holders of the FNHRI from legal liability for 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 NHRI's 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 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 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 decision-making body may be lifted.

The SCA encourages the FNHRI to advocate for the inclusion in its enabling law of express provisions that clearly establish the functional immunity of relevant office holders.

The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity'.

2. Tenure

In accordance with Section 38 of the Constitution, Parliament, by a decision of two-thirds of the votes cast and after having obtained the opinion of the Constitutional Law Committee, can dismiss the Ombudsman for "extremely weighty reasons". The SCA is of the view that this provision is unclear.

The SCA is of the view that in order to address the Paris Principles requirement for a stable mandate, which is important in reinforcing independence, the enabling law of a NHRI must have an independent and objective dismissal process.

The SCA encourages the FNHRI to advocate for the formalization of a dismissal process that includes the following elements:

- a) Dismissal is made in strict conformity with all the substantive and procedural requirements prescribed by law;
- b) Grounds for dismissal are clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the member to fulfil their mandate; and
- c) 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'.

3. Adequate funding

The SCA notes the continued challenges faced by the HRC in securing the appropriate financial and human resources to effectively carry out its work. In particular, the SCA was advised that, due to the current financial situation in Finland, the HRC's budget has not increased and it has not been able to recruit the 8 additional staff that had been originally proposed.

The SCA further notes that the mandate of the Ombudsman has been expanded as a result of its designation as the National Preventive Mechanism under the Optional Protocol to the Convention Against Torture, and that the mandate of the FNHRI will be expanded as a result of its designation as National Monitoring Mechanism under the Convention on the Rights of People with Disabilities.

The SCA emphasizes that in order to function effectively, a 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 the improvement of 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 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 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 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.

The SCA encourages the FNHRI to advocate for the allocation of an appropriate level of funding to 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'.

4. Annual report

In accordance with Section 12 of the Parliamentary Ombudsman Act, the annual report of the Ombudsman is tabled in Parliament and is discussed in the presence of the Ombudsman. The report of the HRC is presented to the Constitutional Law Committee, to other Committees depending upon the content of the report, and to members of Parliament. However, it is neither tabled nor discussed in Parliament.

The SCA is of the view that, as a result of this difference in procedure, Parliament is not provided with a complete account of the work of the FNHRI. The SCA considers it preferable 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 Parliament.

The SCA encourages the FNHRI to provide a consolidated report to Parliament. A consolidated report will highlight the full extent of the mandate and activities of the FNHRI.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

2.2 Hungary: Commission for Fundamental Rights (CFR)

Recommendation: The SCA recommends that the CFR be accredited with **A status**.

The SCA notes that the CFR reported that Act CCXXIII of 2013, which amended Act CXI of 2011 on the Commissioner for Fundamental Rights, entered into force on 10 December 2013. The SCA further notes that these amendments address the SCA's previously stated concerns with respect to the promotional mandate of the CFR.

The SCA notes:

1. Selection and appointment

The SCA notes that, according to the legislation, vacancies for the posts of Commissioner and Deputies are neither widely advertised, nor is there broad consultation.

The SCA again stresses the importance of 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 NHRI.

The SCA again encourages the CFR 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:

- 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 again refers to Paris Principle B.1 and to its General Observation 1.8 on 'Selection and appointment of the decision-making body of a NHRI'.

2. Interaction with the international human rights system

The Paris Principles recognize that monitoring and engaging with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, can be an effective tool for NHRIs in the promotion and protection of human rights domestically.

The SCA notes with appreciation the efforts the CFR has made to increase its engagement with the international human rights system and acknowledges that the CFR reports that it will submit a parallel report during the 2016 UPR of Hungary. The SCA encourages the CFR to continue with these efforts. It highlights that effective engagement with the international human rights system may include:

- submitting parallel or shadow reports to the Universal Periodic review, Special Procedures mechanisms and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council;
- assisting, facilitating and participating in country visits by United Nations experts, including special procedures mandate holders, treaty bodies, fact finding missions and commissions of inquiry; and
- monitoring and promoting the implementation of relevant recommendations originating from the human rights system.

In considering their engagement with the international human rights system, NHRIs are encouraged to actively engage with the OHCHR, the ICC, its Regional NHRI Coordinating Committees, and other NHRIs, as well as international and national NGOs and civil society organization.

The SCA refers to Paris Principle A.3 and to its General Observation 1.4 on 'Interaction with the International Human Rights System'.

3. Accessibility

The SCA notes that several of the CFR's publications and links on its website are available in English only, including the amended version of its enabling law.

The SCA encourages the CFR to address these issues as soon as possible and to ensure all relevant information about its practices and procedures is easily accessible, and in relevant languages.

4. Encouraging ratification or accession to international instruments

In accordance with article 2(2) of its enabling law, the CFR may make proposals for the amendment or making of laws affecting fundamental rights and / or the expression of consent to be bound by an international treaty.

The SCA acknowledges the CFR's view that, as its Constitution is derived from the European Charter of Fundamental Rights, it does not often encounter the need for ratification of or accession to international instruments. The SCA also acknowledges the CFR's past efforts to carry out this activity.

The SCA is of the view that encouraging ratification of, or accession to, international instruments is a key function of an NHRI.

The CFR is encouraged to monitor developments in international human rights law, promote state participation in advocacy for and the drafting of international human rights instruments and take a strategic approach in recommending ratification of or accession to international 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'.

2.3 Libya: National Council for Civil Liberties and Human Rights (NCCLHR)

Recommendation: It is recommended that the NCCLHR be accredited with **B status**.

The SCA welcomes the establishment of the NCCLHR. It commends the NCCLHR for its continuing efforts to promote and protect human rights despite the volatile political and security situation in which it operates. It notes with concern attempts by militias and armed groups to threaten and intimidate the staff of the NCCLHR.

The SCA applauds the NCCLHR for submitting a parallel report for consideration during the upcoming UPR of Libya. It also welcomes its engagement with the Network of African NHRIs and with the Arab Network for NHRIs.

The SCA notes with appreciation that the NCCLHR is advocating for its entrenchment as a Constitutional human rights body and for subsequent changes to its current enabling law. The SCA encourages the NCCLHR to continue its efforts to address fundamental

deficiencies in its enabling law that limit its full compliance with the Paris Principles as outlined below.

The SCA notes:

1. Selection and appointment

Article 2 of Law No. 5/2011 (the Law) provides that the President, Vice President and Board are appointed by a decision of the National Transitional Council (NTC). The NTC was dissolved in 2012 and replaced by the General National Congress.

The SCA is of the view that the process established in the enabling law is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies for Commissioners;
- establish clear and uniform criteria upon which all nominating 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 of 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 a NHRI.

The SCA encourages the NCCLHR to advocate for the formalization of such a process in relevant laws, regulations or binding administrative guidelines, and for its subsequent application in practice, including 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. Pluralism

In accordance with Article 2 of the Law, four of the members of the Board must be women and two must be under the age of 35. The Law is otherwise silent on the requirement for pluralistic composition of the Board.

The SCA notes that pluralism refers to the broader representation of national society, for example with respect to gender balance, representation of persons with disabilities and of national and ethnic minorities. A diverse decision-making body and staff body facilitates a 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 NCCLHR to advocate for provisions in its enabling law to ensure that its Board and staff complement is representative of the diverse segments of society.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on 'Ensuring pluralism of the NHRI'.

3. Guarantee of tenure

The Law is silent on the grounds for dismissal of Board members as well as the procedure by which such dismissal would be undertaken.

The SCA is of the view that in order to address the Paris Principles requirements for a stable mandate, which is important in reinforcing independence, the enabling legislation of an NHRI must contain an independent and objective dismissal process.

The SCA encourages the NCCLHR to advocate for the formalization of a dismissal process that includes the following elements:

- a) Dismissal is made in strict conformity with all the substantive and procedural requirements prescribed by law;
- b) Grounds for dismissal are clearly defined and appropriately confined to only those actions which impact adversely on the capacity of the member to fulfil their mandate; and
- c) 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. Immunity

There are no provisions in the Law to provide members of the NCCLHR with functional immunity for actions undertaken and decisions made in good faith in the performance of their official functions.

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 NHRI's 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 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 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 decision-making body may be lifted.

The SCA encourages the NCCLHR to advocate for the inclusion of express provisions in its enabling law 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'.

5. Conflicts of interest

The Law does not include a provision to address a situation where members have an actual or perceived conflict of interest.

The avoidance of conflicts of interest protects the reputation, and the real and perceived independence of, a NHRI. Members should be required to disclose conflicts of interest and to avoid participation on decisions where these arise.

The SCA encourages the NCCLHR to advocate for the inclusion of express provisions in its enabling legislation that protect against real or perceived conflicts of interest.

6. Recommendations by NHRIs

The SCA notes that, to date, the NCCLHR has had limited success in having the Legislature and the Executive respond to its requests and recommendations. The SCA commends the NCCLHR for continuing to produce reports and recommendations in spite of the limited cooperation it has received to date.

The SCA notes that, as part of their mandate to promote and protect human rights, NHRIs should monitor and publicize detailed information on responses to and implementation of its recommendations by public authorities. These authorities are encouraged to respond in a timely manner, and to provide detailed information on practical and systematic follow-up action, as appropriate.

The SCA encourages the NCCLHR to continue its work in this regard.

The SCA refers to its General Observation 1.6 on 'Recommendations made by NHRIs'.

7. Reports

The Law is silent on the procedure by which the reports of the NCCLHR are to be provided to the appropriate authorities.

The SCA considers it important that the enabling laws of an NHRI establish a process whereby the Institution's reports are required to be widely circulated, discussed and considered by Parliament. The SCA considers it preferable that an NHRI has the explicit power to submit reports directly to parliament rather than through the government.

The SCA refers to Paris Principle A.3 and to its General Observation 1.11 on 'Annual reports of NHRIs'.

8. Interaction with the international human rights system

Article 3(8) of the Law provides that the NCCLHR will participate “within the Libyan delegation, and in meetings of the regional and international concerned in protection of the General Freedoms and Human Right”.

The SCA recognizes that an NHRI may have a role to play in assisting the State in meeting its reporting obligations before international bodies. However, the SCA emphasizes the need for NHRIs to participate in these bodies in a manner independent of the government.

The SCA encourages the NCCLHR to conduct its engagement with the international human rights system independently of government. It further encourages the NCCLHR to advocate for an amendment to the enabling law to clearly provide for independent participation.

9. Financial autonomy

The NCCLHR notes in its annual report that it “is concerned about its independence due to the constant attempts by the Executive Authority to interfere in its financial performance by imposing the political controller’s policy of the Financial Controllers Department of the Ministry of Finance, in clear violation of the law of its inception in addition to being contrary to international customs and traditions in force relating to the establishment of national human rights institutions as well as the Paris Principles which represent the basic rules and the minimum guarantees to achieve independence”.

The SCA notes that the classification of a NHRI as an independent State institution has important implications for the regulation of certain practices, including reporting, recruitment, funding and accounting.

Where a State has developed uniform rules to ensure that State agencies are properly accountable for their use of public funds, the application of such rules or regulations on a NHRI is not considered inappropriate provided they do not compromise the NHRI’s ability to perform its role independently and effectively.

The administrative requirements imposed on a NHRI must be clearly defined and should be no more onerous than those applicable to other State agencies.

The SCA refers to Paris Principle B.2 and to its General Observation 2.8 on ‘Administrative regulation of NHRIs’.

10. Adequate funding

The SCA notes that, to function effectively, a 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 the improvement of 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 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 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 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.

The SCA encourages the NCCLHR to advocate for the allocation of an appropriate level of funding to 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'.

The SCA encourages the NCCLHR to seek assistance and advice from the OHCHR and engage with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

3. SPECIFIC RECOMMENDATIONS - RE-ACCREDITATION APPLICATIONS (Art. 15 of the ICC Statute)

3.1 Afghanistan: Afghanistan Independent Human Rights Commission (AIHRC)

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

The SCA acknowledges that the AIHRC continues to be an effective national human rights institution, carrying out a broad range of activities to promote and protect human rights despite operating in a particularly difficult and volatile political and security environment.

The SCA commends the AIHRC response to SCA recommendations made in November 2013, including its successful advocacy for a Presidential Decree establishing a merit-based selection and appointment process for Commissioners, and increased funding from the government.

The SCA encourages the AIHRC to continue its vigilance in monitoring, promoting and protecting human rights in Afghanistan, and its pursuit of improvements to the structure and staffing of the Commission.

The SCA notes:

1. Selection and appointment

The SCA notes the adoption on 13 September 2014 of a Presidential Decree that further elaborates the process for the selection of the AIHRC Chairperson and 8 Commissioners. The decree requires:

- the establishment of a pluralist selection committee to undertake a competency-based review of all applicants;

- that the selection committee, taking into consideration diversity in terms of ethnicity, language, gender and origin of living, nominates 27 suitably qualified candidates, and at least half of which must be women; and
- that the President, in selecting 9 Commissioners, must include at least four women.

The SCA takes note that once convened, the selection committee will also develop its rules of procedure on selection and appointment. In doing so, the SCA encourages the AIHRC Chairperson, as a member of the Selection Committee, to highlight the need for such rules to further promote a clear, transparent and participatory selection process that promotes merit-based selection and therefore public confidence in, the senior leadership of a national human rights institution. Such a process would include 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 and selection process; and
- d) Assess applicants on the basis of pre-determined, objective and publicly available criteria;
- 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 NHRIs'.

2. Staffing

The SCA notes with appreciation the AIHRC's efforts to improve gender balance, in particular by:

- the inclusion of a provision in the presidential decree requiring that 4 of its 9 members must be women;
- the adoption of a Gender Policy to promote greater gender equity and opportunities for advancement.

The SCA notes that a diverse staff facilitates an NHRI's appreciation of, and capacity to engage with all human rights issues affecting the society in which it operates, and promotes the accessibility of the NHRI to all citizens. It encourages the AIHRC to continue to accord priority to its gender initiatives and to take the necessary practical steps to implement its new Gender Policy.

The SCA refers to Paris Principles B.1 and B.2 and to its General Observations 1.7 on 'Ensuring pluralism of NHRIs' and 2.4 on 'Recruitment and retention of NHRI staff'.

3 Monitoring functions

The SCA notes that the AIHRC's power to visit certain prisons and detention facilities, or to monitor the human rights of non-nationals held in detention in certain circumstances, may be restricted.

While noting the circumstances under which these restrictions may have occurred, the SCA stresses that an NHRI should continue to seek access to all places of detention in order to effectively monitor, investigate and report on the human rights situation in a

timely manner. It should also undertake rigorous and 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.2 and A.3, and to its General Observations 1.6 “Recommendations by NHRIs” and 2.7 ‘Limitation of power of NHRIs due to national security’.

3.2 Albania: The People’s Advocate (PA)

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

The SCA commends the PA for continuing to be an effective national human rights institution, carrying out a broad range of activities to promote and protect human rights, despite the challenging political environment in which it operates. It notes in particular that the PA has spoken out consistently on a variety of controversial human rights issues. The SCA further commends the PA for its recent efforts to increase engagement with the international human rights system.

The SCA also notes with appreciation the PA’s efforts to address the concerns previously expressed by the SCA through amendments to Law no. 8454 ‘On the People’s Advocate’, which is presently before the Parliament.

The SCA notes:

1. Selection and appointment

The SCA notes that the PA has reported that it is pursuing legislative amendments to its selection and appointment process.

The SCA encourages the PA to continue to advocate for amendments, noting that the current process does not require that vacancies are advertised. Additionally, an applicant must obtain the support of 28 members of Parliament in order to be initially considered. This requirement may unreasonably exclude otherwise meritorious candidates.

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 NHRI.

Such a process would include 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.

In order to ensure its application in practice, the selection process should be formalized in relevant laws, regulations or binding administrative guidelines.

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. Adequate funding

The SCA notes the expansion of the PA’s mandate to include its new functions as NPM and the addition of a mandate on children’s rights.

The SCA acknowledges the increase in funding to the PA within a context of financial austerity. It encourages the PA to continue to advocate for funding sufficient to allow it to carry out its expanded 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 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 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.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on ‘Adequate funding of National Human Rights Institutions’.

3.3 Kenya: Kenya National Commission on Human Rights (KNCHR)

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

The SCA welcomes the entrenchment of the KNCHR in the Constitution of Kenya and acknowledges the steps taken by the KNCHR to address the issues raised by the SCA in its session of November 2008.

The SCA notes that the KNCHR is composed of a Chairperson and four other Commissioners, and that on April 7, 2014 the Chairperson and three Commissioners were sworn in, leaving one vacancy. The SCA acknowledges the steps taken and efforts made by the KNCHR to fill the vacant position, and encourages the KNCHR to continue to advocate for the resolution of this situation.

1. Adequate funding

The SCA notes that the KNCHR continues to experience challenges in maintaining a level of funding adequate to fulfil its staffing needs.

The SCA emphasizes that, to function effectively, a 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 the improvement of 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 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 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 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.

The SCA encourages the KNCHR to advocate for the allocation of an appropriate level of funding to, in particular, fulfill its staffing requirements.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs'.

2. Encouraging ratification or accession to international instruments

During its 2008 review, the SCA stressed the need for the KNCHR to entrench in its mandate the power to encourage ratification of or accession to international human rights instruments.

The SCA acknowledges that article 59, paragraph (2)(g), of the Constitution and Section 8, paragraph (f), of the KNCHR Act of 2011, establish the KNCHR as the principal organ of the State in ensuring compliance with obligations under international treaties and conventions in respect of human rights. However, the SCA urges the KNCHR to advocate for legislative amendment to provide for an explicit mandate to encourage ratification of 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'.

3.4 Malawi: Malawi Human Rights Commission (MHRC)

Recommendation: The SCA recommends that consideration of the reaccreditation of the MHRC be **deferred** to its first session of 2015.

The SCA commends the MHRC for its ongoing work in promoting and protecting human rights in Malawi, and notes that the MHRC continues to retain its A Status during the reaccreditation process.

The SCA acknowledges the October 6, 2014 letter received from the Solicitor General of Malawi that outlines the proposed amendments to the Human Rights Commission Act (HRCA) and provides an update of the current status of the draft Bill. The SCA notes with appreciation the confirmation of a recent proposal to amend article 131(b) of the HRCA to remove the voting rights of the Law Commissioner and Ombudsman, who are ex-officio members of the MHRC.

The SCA notes that the Government intends to have the proposed amendments considered in Parliament during its February 2015 session.

The SCA acknowledges that, through the ongoing efforts of the MHRC, the draft Bill now addresses all of the SCA's previous recommendations. The SCA encourages the MHRC to continue to advocate for passage of the draft Bill in February 2015.

3.5 Mauritius: National Human Rights Commission (NHRC)

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

The SCA welcomes the expansion of the NHRC's mandate through amendments made to the Protection of Human Rights Act (the Act), and through the adoption of the Police Complaints Act 2012 and the National Preventive Mechanism Act 2012.

The SCA further notes with appreciation the efforts made by the NHRC to address the issues raised by the SCA in 2008 with respect to the selection and appointment process and its ability to hire staff.

The SCA notes:

1. Mandate

The NHRC reports that it does not have an express mandate to address violations of economic, social and cultural rights. However, the SCA notes that the NHRC is undertaking a range of activities that promote the realization of economic, social and cultural rights.

The SCA emphasizes that a NHRI'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, including economic, social and cultural rights. The SCA encourages the NHRC to continue to interpret its mandate in a way that promotes the realization of all 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 Section 3(8)(a) of the Act, the Chairperson, Deputy Chairperson and

the members of every Division shall be appointed by the President, acting on the advice of the Prime Minister. In accordance with Section 3(8)(b), the Prime Minister will consult with the Leader of the Opposition prior to tendering his or her advice to the President.

The SCA does not consider that the selection and appointment process contained in the enabling law is sufficiently transparent and inclusive.

The SCA further notes that the enabling law is silent on the requirement for pluralism in the composition of the NHRC.

The SCA emphasizes the requirement for a clear, transparent and participatory selection and appointment process that promotes merit based selection, ensures pluralism and promotes the independence of, and public confidence in, the senior leadership of a NHRI.

Such a process would include 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.

In order to ensure its application in practice, the selection process should be formalized in relevant laws, regulations or binding administrative guidelines.

The SCA encourages the NHRC to advocate for the adoption of a transparent and participatory selection and appointment process, for its formalization, and for its subsequent application in practice.

The SCA refers to Paris Principle B.1 and to its General Observations 1.7 on 'Ensuring pluralism of NHRIs.' and 1.8 on 'Selection and appointment of the decision-making body of NHRIs'.

3. Guarantee of tenure

In accordance with Section 3(10) of the Act, the President may, on the advice of the Prime Minister, remove the Chairperson, any Deputy Chairperson or any member of a Division from office for inability to perform the functions of his office, whether arising from infirmity of body or mind, or for misbehavior. The Act does not specify the procedure for removal.

During its 2008 review of the NHRC, the SCA emphasized the need to entrench transparent and objective criteria for dismissal of members in the enabling law of the NHRC. The SCA notes that this has not been done.

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 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 member to fulfill their 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 based solely on the discretion of the appointed authorities.

The SCA is of the view that such 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 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. Terms and conditions of service

In accordance with Section 3(8)(a) of the Act, the Chairperson, Deputy Chairperson and the members of every Division shall be appointed by the President, acting on the advice of the Prime Minister, on such terms and conditions as the President thinks fit.

The SCA emphasizes that, in order to ensure the stability of the mandate and the independence of members of its decision-making body, the terms and conditions of service should be equivalent to office holders with similar responsibilities in other independent State agencies. Further, these terms and conditions should not be modified to their detriment during the period of appointment.

The SCA refers to Paris Principle B.3 and to its General Observation 2.2 on 'Full-time members of a National Human Rights Institution'.

5. Interaction with the International Human Rights System

The SCA notes that the NHRC did not provide independent submissions during the 2013 UPR of Mauritius, nor has it provided independent submissions during the periodic reviews of Mauritius before the treaty bodies.

The Paris Principles recognise that monitoring and engaging with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, can be an effective tool for National Human Rights Institutions in the promotion and protection of human rights domestically.

The SCA notes that the NHRC states that it has contributed to State reports to these bodies. However, the SCA considers it important that the NHRC engage with the international human rights system independent of government. This may include:

- submitting parallel or shadow reports to the Universal Periodic review, Special Procedures mechanisms and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council;
- assisting, facilitating and participating in country visits by United Nations experts, including special procedures mandate holders, treaty bodies, fact finding missions and commissions of inquiry; and

- monitoring and promoting the implementation of relevant recommendations originating from the human rights system.

The SCA refers to Paris Principle A.3 and to its General Observation 1.4 on 'Interaction with the International Human Rights System'.

6. Staffing

In accordance with Section 5(1) of the Act, the Secretary to the Cabinet shall make available to the Commission an officer of the rank of Principal Assistant Secretary who shall be the Secretary of the Commission and such other administrative and other staff as the Commission and any Division may require.

The SCA notes with appreciation the NHRC's efforts to recruit its own staff. However, the NHRC reports that 50% of its staff are seconded.

A fundamental requirement of the Paris Principles is that a NHRI is, and is perceived to be, able to operate independent of government interference. Where a NHRI's staff members are seconded from the public service, and in particular where this includes those at the highest level in the NHRI, it brings into question the capacity of the NHRI to function independently.

NHRIs should be legislatively empowered to determine the staffing structure, the skills required to fulfill the Institution's mandate, set other appropriate criteria, and select their staff in accordance with national law.

The SCA is of the view that senior level posts should not be filled with secondees, the number of secondees should not exceed 25% except in exceptional circumstances.

The SCA refers to Paris Principle B.2 and to its General Observations 2.4 on 'Recruitment and retention of NHRI staff' and 2.5 on 'Staffing of the NHRI by secondment'.

7. Conflicts of interest

The Act does not include a provision to address a situation where members have an actual or perceived conflicts of interest.

The avoidance of conflicts of interest protects the reputation, and the real and perceived independence of, a NHRI. Members should be required to disclose conflicts of interest and to avoid participation on decisions where these arise.

The SCA encourages the NHRC to advocate for the inclusion in the Act of express provisions that protect against real or perceived conflicts of interest.

3.6 Mongolia: National Human Rights Commission of Mongolia (NHRCM)

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

The SCA commends the NHRCM's continued vigilance in monitoring, promoting and protecting human rights in Mongolia. It notes with appreciation the continued efforts of the NHRCM to advocate for amendments to its enabling law.

The SCA notes:

1. Selection and appointment:

In November 2013, the SCA noted that the selection and appointment process did not include provisions requiring broad consultation or advertisement of vacancies during the selection process, and it reiterated its 2008 recommendations emphasizing the requirement for a clear, transparent and participatory selection process.

The SCA acknowledges that the NHRCM has advocated for changes to its selection and appointment process. However, the SCA is of the view that the proposed amendments will not ensure a sufficiently transparent process in that they do not require broad consultation with civil society.

The SCA emphasizes the requirement for a clear, transparent and participatory selection and appointment process that promotes merit based selection, ensures pluralism and promotes the independence of, and public confidence in, the senior leadership of a NHRI.

Such a process would include 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.

In order to ensure its application in practice, the selection process should be formalized in relevant laws, regulations or binding administrative guidelines.

The SCA encourages the NHRCM to continue to advocate for the formalization of a clear, transparent and participatory selection and appointment process, and for the subsequent application of this process in practice.

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. Adequate funding:

With the expansion of the NHRCM's mandate to include functions under the Law on the Promotion of Gender Equality, the SCA notes that additional funding may be required.

The SCA acknowledges that the NHRCM has advocated for changes to its enabling law to ensure that the State will provide appropriate funding for its mandated activities.

The SCA emphasizes that, to function effectively, a 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 the improvement of 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 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 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 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.

The SCA encourages the NHRM to advocate for the allocation of an appropriate level of funding to carry out its mandate.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs'.

3. Access to the NHRM's complaint process:

The SCA notes that article 10.1 of the Human Rights Act (HRA) provides that complainants who do not know the Mongolian language may file their complaints in their mother tongue and that these complaints will be translated to the Mongolian language. The SCA understands that this provision has not been enforced to the detriment of complainants and is to be amended. It encourages the NHRM to amend this provision to allow complainants to file a complaint in their mother tongue without restriction.

Further, article 11.1.2 of the HRA provides that a complainant must indicate which rights and freedoms guaranteed by the Constitution of Mongolia, the laws and international treaties have been violated. The SCA acknowledges that the NHRM had indicated that it provides advice and assistance to complainants in making this determination. The SCA requests that the NHRM assess whether this requirement may unduly restrict complainants and, if so, that it advocate for an appropriate amendment. The SCA encourages the NHRM to continue to interpret and apply this provision in a manner that does not restrict access to its complaints process.

3.7 Paraguay: Defensoría del Pueblo (DP)

Recommendation: The SCA recommends that the accreditation status of the DP be suspended.

At its first session in 2014, the SCA recommended that consideration of the re-accreditation of the DP be deferred to its second session in 2014. The SCA noted that the DP had responded to some serious concerns raised by civil society as to the effective performance of the DP, however the SCA remained concerned about the DP's effectiveness in some areas including:

- providing recommendations to the State to ensure a clear and effective mandate to provide assistance to victims of human rights violations, including those arising from the dictatorship;
- interpreting its mandate in a broad, liberal and purposive manner;
- proactively providing information and assistance to victims of the dictatorship; and
- advocating strongly for the appointment of a new Defensor, given that the current Defensor's fixed term ended in 2008.

The SCA stressed the importance of the DP addressing the above noted concerns, failing which the SCA would recommend that the DP be accredited with B status at its second session in 2014.

In response to this request for information on developments on implementation of the above recommendations, the DP withdrew its application for re-accreditation.

Given the withdrawal of the DP's application for re-accreditation, the SCA recommends that the accreditation status of the DP be suspended in accordance with article 19 of the ICC Statute. In accordance with article 23 of the Statute, all rights and privileges conferred on the DP through accreditation would immediately cease.

The SCA notes that pursuant to article 20 of the ICC Statute, the accreditation of the DP will lapse if it fails to submit an application for re-accreditation within one year (1) of the suspension of its accreditation status.

3.8 Republic of Korea: National Human Rights Commission of the Republic of Korea (NHRCK)

Recommendation: The SCA recommends that consideration of the re-accreditation of the NHRCK be **deferred** to its first session of 2015.

In November 2008 the SCA expressed concerns about whether the enabling law was in compliance with the Paris Principles. These included a number of fundamental deficiencies in provisions dealing with the process for the selection of Commissioners, pluralism and immunity.

In March 2014, the SCA considered the application for re-accreditation. It noted that the 2008 recommendations on selection, pluralism and immunity had not been implemented. It deferred its consideration of the application to provide the NHRCK with an opportunity to address these concerns. In so doing, the SCA emphasized the need for its previous recommendations to be actively considered and implemented where appropriate, even when 'A' status had been granted.

In considering additional information provided for this session, the SCA noted with appreciation that in the last six months the NHRCK has taken initial steps to promote changes to its enabling law to address these concerns. These include establishing an

internal team with responsibility for preparing potential amendments to the National Human Rights Commission Act, the preparation of a Guideline on selection, and consulting with the key stakeholders on the need for relevant changes.

However, the SCA notes that at this stage no changes have been made.

As an interim measure prior to the passage of legislative amendments, the NHRCK has prepared a Guideline for use in the selection of members. It notes that the proposed Guideline may not sufficiently ensure Paris Principles compliance. The proposed Guideline is not binding and does not provide:

- clear and uniform criteria;
- that such criteria are uniformly used to assess the merit of all eligible applicants;
- a mechanism which would promote broad consultation in the screening and selection process;
- a mechanism which would promote broad participation in the application, screening and selection process.

In addition, the NHRCK proposes that the three (3) nominating authorities develop their own rules of procedure based on this Guideline. This may create three different processes for the selection of members.

The SCA is also concerned about the proposed draft amendments, as these too may not sufficiently ensure Paris Principles compliance for the reasons outlined above.

The SCA encourages the NHRCK to advocate for the use of a transparent and participatory selection process in the selection of two new Commissioners in January and February 2015. It again encourages the NHRCK to seek advice and assistance from OHCHR and the APF in addressing these concerns.

The SCA reiterates its previous concerns from 2008 and 2014 as follows:

1. Selection and appointment

Article 5(2) of the enabling law specifies very limited 'eligibility' criteria and provides that members of the Commission are selected separately as follows:

- persons by the National Assembly,
- persons by the President, and
- 3 persons by the Chief Justice of the Supreme Court.

The SCA has previously expressed concern that this provision does not establish a sufficiently transparent and participatory selection process that promotes merit-based selection. In particular, it notes that the existing law does not:

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

A clear, transparent and participatory selection and appointment process for the selection of Commissioners must be included 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 a NHRI.

The SCA encourages the NHRCK to advocate for the formalization of a detailed process in its enabling law 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 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. Pluralism

While the enabling law contains a provision regarding gender diversity in the selection of NHRCK members, it does not contain provisions to ensure diversity in other ways.

Diversity in the membership and staff of a NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI for all citizens.

While the SCA notes that the NHRCK indicated that its membership reflects the diversity of Korean society, it encourages the NHRCK to advocate for the inclusion of provisions in its enabling law to ensure diversity in its membership and staff.

The SCA refers to Paris Principle B.1 and to its General Observation 1.7 on 'Ensuring pluralism of NHRIs'.

3. Immunity

There is no provision in the National Human Rights Commission Act to provide immunity for its members from legal liability for actions undertaken in good faith in their official capacity.

The SCA has previously noted that 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 NHRI's 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 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 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 decision-making body may be lifted.

The SCA encourages the NHRCK to advocate for the inclusion in its enabling law 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'.

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 civil society and non-governmental organizations.

The SCA encourages the NHRCK to maintain and strengthen these relationships and refers to Paris Principle C(g) and to its General Observation 1.5 on 'Cooperation with other human rights institutions'.

It requests the NHRCK to provide information on its engagement with civil society including any formal and informal mechanisms, the organisations with which it has regular engagement and the frequency of that engagement.

3.9 Russian Federation: Office of the Commissioner for Human Rights (OCHR)

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

The SCA welcomes the appointment of a new Commissioner, Ella Pamfilova, in March 2014.

Given the current volatile situation, the SCA commends the cooperation between the OCHR and the Ukrainian Parliamentary Commissioner for Human Rights. It encourages the OCHR to continue and expand this cooperation as the need arises.

The SCA applauds the work of the OCHR in developing a model law for Regional Ombudspersons in order to promote consistency and increased institutional compliance with the Paris Principles by regional ombudspersons.

The SCA notes:

1. Selection and appointment

The SCA acknowledges that the OCHR reports that its selection and appointment process is open and transparent, and that the current Commissioner was nominated using a process that involved consultations with civil society. It further acknowledges that the OCHR has indicated that it is developing proposed amendments to its legislation to formalize this process.

However, the process as currently enshrined in the enabling law does not:

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

The SCA emphasizes that a clear, transparent and participatory selection and appointment process that promotes merit-based selection ensures pluralism and promotes the independence of, and public confidence in, the senior leadership of a NHRI.

The SCA encourages the OCHR to continue to advocate for 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'.

2. Interaction with the International Human Rights System

The Paris Principles recognize that monitoring and engaging with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures and Universal Periodic Review) and the United Nations Human Rights Treaty Bodies, can be an effective tool for NHRIs in the promotion and protection of human rights domestically.

The SCA highlights that effective engagement with the international human rights system may include:

- submitting parallel or shadow reports to the Universal Periodic Review, Special Procedures mechanisms and Treaty Bodies;
- making statements during debates before review bodies and the Human Rights Council;
- assisting, facilitating and participating in country visits by United Nations experts, including special procedures mandate holders, treaty bodies, fact finding missions and commissions of inquiry; and

- monitoring and promoting the implementation of relevant recommendations originating from the human rights system.

In considering their engagement with the international human rights system, NHRIs are encouraged to actively engage with the OHCHR, the ICC, its Regional NHRI Coordinating Committees, and other NHRIs, as well as international and national NGOs and civil society organization.

The SCA encourages the OCHR to continue to increase its engagement with international and regional human rights institutions, and civil society organizations. In particular, the SCA encourages the OCHR to increase its engagement with the ICC and with the European Network of NHRIs.

The SCA refers to Paris Principle A.3 and to its General Observation 1.4 on 'Interaction with the International Human Rights System'.

3.10 Thailand: National Human Rights Commission of Thailand (NHRCT)

Recommendation: The SCA recommends that the NHRCT be downgraded to **B status**. In accordance with Article 18.1 of the ICC statute, a recommendation to downgrade does not take effect for a period of one year. This allows an opportunity for the NHRCT to provide the documentary evidence necessary to establish its continued conformity with the Paris Principles. The SCA notes that the NHRCT maintains A status for the one year period.

The SCA notes:

1. Selection and appointment

The SCA has previously expressed serious concerns about the selection process for Commissioners. In particular, the SCA noted that:

- There is no requirement to advertise vacancies on the NHRCT;
- The selection committee established by Section 8(1) of the enabling law is composed of officials from a very small number of public institutions, with no clear representation, or a requirement for consultation with key stakeholder groups or civil society;
- There is no provision for broad consultation and / or participation, in the application, screening and selection process;
- There does not appear to be clear and detailed criteria upon which to assess the merit of eligible applicants.

In its response, the NHRCT had acknowledged concerns about the lack of participation in the selection process and indicated that it is advocating that the General Meeting of the Supreme Court of Justice and the General Meeting of the Arbitrators of the Supreme Administrative Court select two members from civil society.

The SCA is of the view that this proposal alone is not sufficient to address the SCA's concerns and does not establish a transparent and participatory selection process that promotes merit-based selection.

The SCA encourages the NHRCT to continue to advocate for the formalization of a comprehensive selection process in relevant laws, regulations or binding administrative guidelines, and for its subsequent application in practice. Such changes should address the issues raised above.

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. Functional immunity and independence

The SCA had previously expressed concerns about whether members of the NHRCT are immune from prosecution for actions taken in good faith in the course of their official duties.

The NHRCT provided information to suggest that provisions in a number of laws may provide immunity from prosecution. These laws included the Public Law, the Penal Code, Section 59, Paragraph 1, and Section 329; the NHRCT Act, 1999, Section 33, the Civil Code, Section 420; the Act on Liability for Wrongful Act of Official, B.E. 2539 (1996), Section 5.

The SCA is concerned that the NHRCT is forced to rely on a variety of provisions in various laws to ensure its functional immunity and independence.

The SCA has previously expressed concerns that 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, and given the unique role of NHRIs, the SCA is of the view that NHRI legislation should include a clear and unequivocal provision 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 encourages the NHRCT to advocate for the inclusion of provisions in its founding legislation that clearly establish functional immunity by protecting members from legal liability for actions undertaken in good faith in the course of their official duties.

The SCA refers to Paris Principle B.3 and to its General Observation 2.3 on 'Guarantee of functional immunity'.

3. Addressing human rights issues in a timely manner

The SCA has previously expressed concerns that the NHRCT has not been addressing serious human rights violations in a timely manner.

In 2010, violent demonstrations and civil unrest resulted in a significant number of deaths and injuries as a result of alleged violations of human rights by law enforcement agencies. Despite the serious nature of these violations, the NHRCT took three years to complete and publish a report into the alleged human rights violations that occurred in 2010.

In late 2013, further demonstrations also resulted in a significant number of deaths and injuries. The NHRCT provided the SCA with a summary of actions taken in response to the ongoing unrest. While these show that the NHRCT is operating in extremely difficult circumstances and has taken some steps to improve its monitoring operations, the SCA notes that the NHRCT is yet to complete and publish a report into alleged serious human rights violations that occurred in 2013.

The SCA notes that in the situation of a coup d'état or a state of emergency, NHRIs are expected to conduct themselves with a heightened level of vigilance and independence, and to promote and ensure respect for human rights, democratic principles and the strengthening of the rule of law in all circumstances and without exception. Their actions may include monitoring, documenting, issuing public statements and releasing regular and detailed reports on human rights violations through the media in a timely manner. Furthermore, an NHRI should also undertake rigorous and systematic follow up activities and advocate for the consideration and implementation of its findings and recommendations in order to ensure the protection of those whose rights have been violated. These actions, in particular the release of public reports, serve to combat impunity for human rights violations.

The SCA refers to Paris Principles A.3 and C.c as well as to its General Observations 1.6. 'Recommendations by NHRIs', and 2.6 'NHRIs during the situation of a coup d'état or a state of emergency'.

4. Independence and neutrality

The SCA had previously raised concerns that staff members of the NHRCT were displaying publicly their political affiliations whilst undertaking official functions.

In response, the NHRCT indicated that it had "encouraged" staff to perform their duties impartially and in a manner consistent with the NHRCT's Code of Conduct.

The SCA is of the view that displaying one's personal political affiliation whilst at work clearly impacts adversely on the real and perceived independence, impartiality and accessibility of an NHRI, particularly when the country is undergoing a period of political unrest. At such times, victims of human rights violations may find it difficult to approach the NHRCT if it is clear that some staff are politically affiliated with the alleged perpetrators. The SCA therefore stresses that the NHRCT has a responsibility to 'ensure' rather than 'encourage' its staff to work impartially.

The SCA notes that in the situation of a coup d'état or a state of emergency, it is expected that a National Human Rights Institution will conduct itself with a heightened level of vigilance and independence, and in strict accordance with its mandate.

The SCA refers to Paris Principles A.3 and to its General Observation 2.6 'NHRIs during the situation of a coup d'état or a state of emergency'.

5. Legislative process

The SCA notes that the NHRCT is actively involved in the current constitutional reforms and that it intends to re-submit a proposal to amend its enabling law.

The on-going legislative process provides an opportunity for the NHRCT to advocate for full legislative compliance with the Paris Principles. The SCA encourages the NHRCT to

address all issues raised above, including through amendments to the draft constitution and its enabling law.

The SCA refers to Paris Principle A.2 and to its General Observation 1.1 on 'Establishment of NHRIs'.

The NHRCT is encouraged to seek advice and assistance from the OHCHR and the Asia Pacific Forum of NHRIs.

3.11 Ukraine: Ukrainian Parliament Commissioner for Human Rights (UPCHR)

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

The SCA commends the UPCHR for continuing to be an effective national human rights institution, carrying out a broad range of activities to promote and protect human rights, despite the volatile political situation in which it currently operates.

Given the current volatile situation, the SCA notes with particular appreciation the cooperation between the UPCHR and the Office of the Commissioner for Human Rights of the Russian Federation. It encourages the UPCHR to continue and expand this cooperation as the need arises.

1. Mandate

In accordance with article 3.7 of the Law on the Ukrainian Parliament Commissioner for Human Rights (the Law), the UPCHR is mandated to promote the "legal awareness of the public".

The SCA acknowledges that the UPCHR has interpreted this provision in a broad manner and that it carries out a wide variety of activities to promote human rights.

The SCA emphasizes that an NHRI'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, including economic, social and cultural rights.

The SCA encourages the UPCHR to continue to interpret this provision in this manner, and to advocate for changes to this provision to broaden its scope.

The SCA refers to Paris Principles A.1, 2 and 3 and to its General Observation 1.2 on 'Human rights mandate'.

2. Selection and appointment

In accordance with article 5 of the Law, the Commissioner is appointed to their post by the Parliament of Ukraine by a secret ballot. Article 6 of the Law indicates that proposals for candidates shall be made by the Chairman of the Parliament or by no less than one-fourth of People's Deputies. -This may unreasonably exclude otherwise meritorious candidates.

The SCA acknowledges that the UPCHR states that, in practice, the selection and appointment process is conducted in an open, transparent and competitive manner. However, the process as stated in the law does not:

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

A clear, transparent and participatory selection and appointment process for membership of the NHRI's decision-making body must be included 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 a NHRI.

The SCA encourages the UPCHR to advocate for 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. Adequate funding

The SCA notes that the mandate of the UPCHR has been greatly expanded as a result of new laws relating to anti-discrimination and data protection, and because it has been named as National Preventive Mechanism under the Optional Protocol to the Convention Against Torture. The SCA further notes that the UPCHR reports that it will soon acquire new functions to represent before the civil court those unrepresented individuals who may be unable to represent themselves.

The SCA encourages the UPCHR to advocate for adequate funding with which to carry out these functions.

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 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 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.

The SCA refers to Paris Principle B.2 and to its General Observation 1.10 on 'Adequate funding of NHRIs'.

4. SPECIFIC RECOMMENDATIONS - Review under Article 16.2 of the ICC Statute

4.1 Nepal: National Human Rights Commission of Nepal (NHRCN)

Recommendation: The SCA recommends that NHRCN retain its **A status**.

The SCA commenced a special review of the NHRCN in May 2013 on the basis of information received from civil society and stakeholders. The NHRCN has provided information to subsequent SCA sessions on the concerns raised by the SCA; namely, (1) Complaints within the jurisdiction of the Army Act, (2) Selection and appointment, (3) Financial autonomy and (4) staffing.

On the issue of complaints within the jurisdiction of the Army Act, the SCA is satisfied that under Article 132 (4) of the Interim Constitution, the NHRCN is empowered to and is in fact, taking up and investigating cases of violation of human rights by armed forces. As regards financial autonomy, the SCA without endorsing the requirement for the NHRCN to obtain approval from the government for expenses from the allocated budget, take note of the fact that this is a standard financial rule in Nepal intended to prevent misuse of Government funds, which is applicable to all constitutional bodies including the Supreme Court. On staffing, the SCA takes note of the recent decision of the Supreme Court which allows the NHRCN to recruit its own staff, the proposed changes to legislation governing public service recruitment and the decision to prioritize the recruitment of staff to fill vacant positions.

The SCA recognizes that the NHRCN has been actively engaged in the promotion and protection of human rights in Nepal, and in particular acknowledges the strong role played by the Acting Secretary and his staff during the recent gap in the appointment of new Commissioners.

The SCA welcomes the recent appointment of five new Commissioners, and congratulates them on their decision to prioritize the recruitment of staff to fill vacant positions.

The SCA notes:

1. Selection and appointment

Although advertisements were issued during the selection and appointment of the new Commissioners, the SCA continues to be of the view that the existing provisions regarding selection and appointment do not ensure a sufficiently transparent and participatory process.

In particular, the SCA notes the absence of constitutional or legislative provisions requiring:

- the advertising of vacancies for members; and
- the assessment of all applicants by the selection committee (Constitutional Council) and Parliament, against pre-determined, objective and publicly available criteria that promotes merit-based selection.

The SCA encourages the NHRCN to advocate for these improvements to its enabling law. It notes that existing good practice, as outlined in the ICC's General Observation 1.8, would include a comprehensive selection 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 Observations 1.7 on 'Ensuring pluralism of NHRIs' and 1.8 on 'Selection and appointment of the decision-making body of NHRIs'.

4.2 Venezuela: Defensor del Pueblo (DPV)

Recommendation: The SCA recommends that the Special Review of the DPV be **deferred** to its first session of 2015.

The SCA had scheduled a Special Review of the DPV to be undertaken at its second session of 2014 however, based on correspondence received from the ICC Chair, the SCA recommends deferral of the Special Review to its first session of 2015.