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**EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS:  
NATIONAL INSTITUTIONS AND REGIONAL ARRANGEMENTS**

**Information submitted by the European Coordinating Group of national  
institutions for the promotion and protection of human rights**

**Note by the secretariat**

The secretariat of the Commission has received the following communication,\* which is reproduced below in accordance with the decision adopted by the Commission at its fifty-seventh session that, if requested, information or reports received from national institutions on their regional meetings might be circulated as documents of the Commission (E/2001/23-E/CN.4/2001/167, para. 22).

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\* Reproduced in the annex as received, in the language of submission and English.

## **Annex**

### **EUROPEAN COORDINATING GROUP OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

#### **Introduction**

A network of independent, multiparty institutions, the European Group of national human rights institutions not only offers a space for exchange and cooperation among its members but also seeks to promote respect for and protection of human rights across the continent and in international forums.

The Group holds regular meetings and consultations. In particular, it organizes biannual round tables under the auspices of the Office of the Commissioner for Human Rights of the Council of Europe to consider one or more topics. The regional meeting of European human rights institutions, which is intended to provide an update on the activities and work of the European Group and review future projects, is held at the same time.

With the support of the Office of the United Nations High Commissioner for Human Rights, national institutions in Europe are established and strengthened as a network in order to contribute more effectively to the protection and promotion of human rights at the regional and global levels. The efforts of these institutions within the framework of the European Group will in future be aimed at consolidating the network by helping with the establishment of new national institutions and monitoring their compliance with the Paris Principles formulated by the United Nations and adopted by the Council of Europe.

#### **Activities, 2003-2005**

In 2002 the Group met at Dublin for the fourth European regional meeting of national institutions for the promotion and protection of human rights, following the second round table with the Council of Europe, held in Belfast.

The Group adopted recommendations on the role of national institutions in the prevention and resolution of conflicts and tensions, the rights of asylum-seekers, and cooperation between national human rights and between such institutions and the Council of Europe. The Group also recommended broadening the mandate of the European Commission against Racism and Intolerance (ECRI) to include homophobia based on sexual orientation, as the Parliamentary Assembly of the Council of Europe had recommended.

In addition, the French National Consultative Commission for Human Rights was designated to chair the European Coordinating Group of national human rights institutions. This made it possible to hold an ongoing dialogue within the network aimed at coordinating its work and formulating common positions. Such exchanges are welcome, and it can only be hoped that they will enhance this dialogue in the years to come.

Here follows an outline of the main activities undertaken by the European Coordinating Group during the past two years.

Much progress has been made in the area of the Group's cooperation with the Council of Europe. Two years ago a liaison office for national human rights institutions was established within the Office of the Human Rights Commissioner of the Council of Europe, and the Group's relations with the Commissioner's Office have been strengthened, as demonstrated by the meetings held during the past two days.

The European Group also enjoys observer status on the Steering Committee for Human Rights (CDDH) of the Council's Committee of Ministers. It actively participates in the Steering Committee's meetings and in those of its subsidiary bodies.

The past two years in the Steering Committee have been marked by debates on the long-term guarantee of the effectiveness of the European Court of Human Rights. Aware of the importance of these discussions in the light of their considerable impact on all residents and citizens of the States members of the Council of Europe, the European Coordinating Group undertook a coordinated consideration of the question with a view to formulating common positions, positions that were subsequently submitted to CDDH and then to the Ministerial Committee.

It will be recalled that Protocol 14 additional to the European Convention on Human Rights was drafted by CDDH and subsequently adopted by the Committee of Ministers; it is currently being signed and ratified by member States. It should be noted, however, that even though some of the concerns expressed by the Group during the preparation of Protocol 14 were not addressed, especially with regard to the introduction of a new criterion for admissibility, the Group still has a significant role to play. Ensuring the long-term effectiveness of the European Court of Human Rights and, more generally, strengthening the system for the protection of human rights is obviously a major and ongoing concern of the Council of Europe, as well as CDDH and its subsidiary bodies, particularly the Committee of Experts for the Improvement of Procedures for the Protection and Promotion of Human Rights (DH-PR). It is thus incumbent on the European Coordinating Group to remain actively involved in this area. The Group has stated during discussion on the draft text of Protocol 14 that "any reform should seek to reduce the likelihood of persons needing to apply to the Court". The mission of each institution represented on the Group is thus to ensure at the national level that States sign and ratify international human rights instruments and respect them. For the European Coordinating Group this means working together and coordinating work on more effective modalities for implementing and monitoring the standards set out in the Convention and the Court's decisions.

In 2004 and 2005 the European Coordinating Group contributed to the work of the Council of Europe in the area of counter-terrorism, specifically in the drafting of guidelines for the protection of victims of terrorist acts and the preparation of a draft convention on the prevention of terrorism. The Group will continue to follow this work closely.

In the context of the United Nations, the Group has continued to work closely during the past two years with the United Nations Commission on Human Rights, and this relationship has been facilitated and bolstered by the work of the National Institutions Unit of the Office of the United Nations High Commissioner for Human Rights. The Group attends the Commission's

session each year, since national institutions are given the floor under the agenda item dealing with effective functioning of human rights mechanisms. The author of the present report has had the honour of addressing the Commission twice on behalf of the European Group to report on the activities coordinated by the Group for the promotion and protection of human rights at the European level.

The Group also holds an annual meeting during its time in Geneva to consider the question of its participation in the work of the International Committee and to take stock of its work.

Again in the context of activities undertaken within the framework of the United Nations, the Group has for the past two years closely followed the work on the draft comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities. At its most recent meeting in Dublin the Group heard a presentation on the subject by Mr. Gerard Quinn. It then decided to pursue its work on the topic, and the Irish Human Rights Commission was entrusted with coordinating those efforts. Since the first session of the United Nations Ad Hoc Committee dealing with the draft convention, national human rights institutions have been invited to participate in the drafting of the new instrument and have actively done so. In June 2004 representatives of European national human rights institutions and non-governmental organizations (NGOs) working on behalf of disabled persons met in Stockholm at the invitation of the Swedish Disability Ombudsman to prepare contributions to be submitted to the fourth session of the Ad Hoc Committee. This process will be followed up throughout future Ad Hoc Committee sessions. As work on the convention is far from completed, the European Coordinating Group is once again called on to play an active role.

Lastly, within the European Union, the Group recently considered the question of a human rights agency that would take up the work of the European Monitoring Centre on Racism and Xenophobia. Given the nature of the project, the European Group should be closely involved in the establishment of such an agency and, once it is established, in its functioning and activities.

### **Third European Round Table of National Human Rights Institutions, Berlin, 25 and 26 November 2004**

The third European Round Table of National Institutions for the promotion and protection of human rights took place on 25 and 26 November 2004 in Berlin, Germany. It was jointly organized by the Commissioner for Human Rights of the Council of Europe, the French Consultative Commission for Human Rights, as chair of the European Group of national human institutions, and the German Institute for Human Rights.

It took place within the framework of an exchange of views and experience on the promotion and protection of human rights in Europe as provided for by the Committee of Ministers of the Council of Europe, in its resolution (97) 11 on “cooperation between member States’ national institutions for the promotion and protection of human rights, and between them and the Council of Europe”.

## The Berlin Declaration

[Original: English]

The third European Round Table of National Human Rights Institutions was the latest of a series of biannual events convened by the Council of Europe Commissioner for Human Rights with the National Human Rights Institutions (NHRIs) of Council of Europe member States.

The Round Table was competently and generously hosted and co-organized by the *Deutsches Institut für Menschenrechte* (DIMR - German Institute for Human Rights).

The Round Table included observers from the European Union, the OSCE, the United Nations, Amnesty International, the International Commission of Jurists, Medica Mondiale, the Human Rights Grouping of NGOs that hold participatory status with the Council of Europe as well as government representatives and a number of individual researchers.

The **Berlin Declaration** deals with the three main themes of the Round Table, i.e.:

- The development of the system of human rights protection within the Council of Europe;
- The protection of human rights in the context of the fight against terrorism;
- The protection of victims of trafficking in human beings.

The Berlin Declaration was drafted under the responsibility of the General Rapporteur by a drafting committee composed of the rapporteurs; on the three themes, the Director of the DIMR and a representative of the Council of Europe Commissioner for Human Rights. It was discussed and adopted by the participants.

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The participants of the Round Table:

- Recalled the Recommendations made at the previous meeting in Belfast and Dublin in November 2002 on the “Role of NHRIs in the prevention and resolution of conflict and tension”, “The rights of asylum-seekers” and “Cooperation between NHRIs and between them and the Council of Europe and other international organizations”;
- Recalled the Seoul Declaration that was adopted by the NHRIs at their Seventh International Conference held in Seoul on 14-17 September 2004;
- Took note of the activities of the Council of Europe in the field of human rights protection, including those of the Council of Europe Commissioner for Human Rights, as well as of the new perspectives opened by Protocol 14 to the European Convention on Human Rights;

- Took note of the activities of the EU in the field of human rights protection, in particular concerning the Network of Independent Experts, the European Monitoring Centre on Racism and Xenophobia and the foreseen extension of its mandate that will transform it into the “Fundamental Rights Agency”;
- Took note of the activities of the Office of the United Nations High Commissioner for Human Rights, in particular its role in facilitating engagement among NHRIs and relevant United Nations bodies;
- Expressed satisfaction with the cooperation among them and the Council of Europe Commissioner for Human Rights, especially the manner in which the Commissioner exercises his functions in the context of his official visits to their countries;
- Expressed satisfaction with the newly established cooperation with NGOs, academia and individual experts;

and adopted the following conclusions and recommendations:

**Regarding the system of human rights protection within the Council of Europe**

1. Participants called on the Council of Europe Commissioner for Human Rights to pursue his efforts to assist member States in setting up truly independent NHRIs pursuant to the Paris Principles and to intensify his good cooperation with them, especially by convening round-table meetings at yearly (and not biannual) intervals and by facilitating engagement among NHRIs and Council of Europe forums in their field of competence, as is foreseen in the agreement on the establishment of the Liaison Office between the Commissioner’s Office and the Presidency of the European Coordinating Committee.
2. Participants called on the Council of Europe Commissioner to develop strategies for assisting national institutions which are threatened by closure, by limits to their mandate or by a dramatic cut to their budget as well as assisting individuals being threatened due to their work for a national institution.
3. Participants called on the Council of Europe Commissioner for Human Rights to consider ways of fostering cooperation on the European level among NHRIs and national ombudspersons with a general competence.
4. Participants called on the Council of Europe Commissioner for Human Rights to ensure that his actions received more public attention in their countries, inter alia by having his reports translated into the language(s) of the country in question and by using all available means of user-friendly communication.
5. The NHRIs agreed to inform the Council of Europe Commissioner for Human Rights of the human rights situation in their countries in order to help him prepare his country visits and reports, and to draw his attention to emergency situations as they arise.

6. The NHRIs agreed to consider adequately and give publicity to the Council of Europe Commissioner's reports on their country, to monitor the implementation of his recommendations and to inform him in case human rights violations addressed by him continue.
7. The NHRIs agreed to request the Council of Europe Commissioner's opinion on draft legislation or draft regional or international instruments whenever there is concern that they may be in conflict with the need to ensure respect for human rights and fundamental freedoms.
8. The NHRIs agreed to exchange information and coordinate their positions with respect to intended national, regional or international instruments which, if adopted, could endanger the exercise of human rights and fundamental freedoms and invited the Council of Europe Commissioner to facilitate their coordination.
9. The NHRIs agreed to draw the Council of Europe Commissioner's attention to possible cases before the European Court of Human Rights in which, in the interest of the defence of human rights in Europe, he could consider intervening pursuant to article 13 of Protocol 14 to the European Convention on Human Rights.
10. The NHRIs called on the Council of Europe to ensure greater transparency of and add qualified outside expertise, including from NHRIs, to its work, particularly in standard setting. They agreed to use their best endeavours to participate actively and efficiently in Council of Europe forums that are or will be opened to their participation, directly or via the Presidency of their European Coordinating Committee, as applicable. To this end, they asked the European Coordinating Committee to propose a strategy.
11. The NHRIs agreed to be ready to account publicly for the efforts undertaken by them in the above areas.

#### **Regarding the protection of human rights in the context of the fight against terrorism**

12. NHRIs stressed the State obligation to uphold human rights standards in the context of counter-terrorism measures. They underlined that invasive measures call for stronger legal safeguards, and critically addressed the widespread approach of "striking a balance" between human rights and security issues. It is internationally recognized that the protection of human rights is fundamental and a prerequisite for any counter-terrorism measure. As such it is part of, rather than contradictory to, fulfilling the State obligation to protect people within its jurisdiction.
13. In order to avoid abuses by authorities, NHRIs underlines the importance of the principle of the rule of law, as anchored in the European Convention on Human Rights. This includes, inter alia, the requirement of precise legal definitions of terrorism-related and other crimes. Furthermore, NHRIs stress the need for remedies and judicial review in cases of alleged infringement of human rights in counter-terrorism measures.

14. The NHRIs affirmed that they will scrutinize measures taken or proposed by States to combat terrorism, in particular those reported to the United Nations Counter-Terrorism Committee and those prepared within the Council of Europe and the EU, with a view to ensuring that there are corresponding safeguards adequately protecting human rights and the rule of law, as are laid down, inter alia, in the Council of Europe Guidelines on Human Rights and the Fight against Terrorism.

15. The NHRIs affirmed that they will seek to ensure that Governments do not permit anti-terrorism measures to be applied abusively in contexts such as immigration control and criminal activities resulting in unjustifiable discrimination, and also that Governments do not disregard international human rights standards for reasons of foreign policy.

16. The NHRIs affirmed that they will use their best endeavours to scrutinize the activities of police and surveillance agencies, the decisions taken by data protection authorities and the judgements of courts to assess their compliance with international human rights standards. In particular, the NHRIs agreed to draw attention to the need to exclude in any proceedings evidence obtained by the use of torture or other cruel, inhuman or degrading treatment of any person by the agent of any State.

17. The NHRIs agreed to engage with media organizations, with political parties and with civil society to raise awareness and understanding of international human rights standards relevant to the fight against terrorism and to study the causes of terrorism.

18. The NHRIs agreed to share their expertise in this area and to strive to work together to achieve the commitments in this Declaration.

19. In the face of an increasingly negative attitude towards human rights and those who defend them, the NHRIs emphasized the need for greater solidarity among them and asked the European Coordinating Committee to come forward with a strategy to achieve this.

### **Regarding the protection of the victims of trafficking in human beings**

20. The NHRIs agreed to help raise awareness that trafficking in human beings, as a modern form of slavery, is a major violation of human rights - especially the right to respect for dignity and integrity - which States are obliged to combat and prevent.

21. The NHRIs agreed on the need to contribute in the negotiations of the draft Convention of the Council of Europe on action against trafficking in human beings so as to request the strengthening of the provisions to ensure the rights of trafficked persons and the respect for dignity throughout said instrument. They agreed to encourage the adoption and ratification of such instrument.

22. The NHRIs agreed to call upon States to sign and ratify the United Nations Convention on the Rights of All Migrant Workers and Their Families, the United Nations Convention against Transnational Organized Crime and its Protocol as well as the International Convention on the Elimination of Discrimination against Women (CEDAW) and its Optional Protocol.



23. The NHRIs agreed to monitor the adequate implementation of international standards that affect the protection against trafficking in national practice and legislation. On the international level, they agreed to participate actively as observers in the United Nations Working Group on Contemporary Forms of Slavery as well as in CEDAW.

24. The NHRIs underlined that combating the root causes of trafficking requires an integral approach encompassing gender and minority rights in the protection of victims and their families. This includes investigating the adverse effects of legislative proposals on vulnerable groups exposed to trafficking. The NHRIs agreed to pay attention to the impact of poverty on trafficking as well as sexual exploitation.

25. The NHRIs agreed to aim at ensuring that the illegal recruitment, transportation, transfer, harbouring or receipt of persons is prevented and repressed effectively. They agreed to promote the necessary assistance to victims of trafficking, including rehabilitation, without discrimination.

26. The NHRIs agreed to monitor and investigate the conduct of deployed military and civilian personnel from their respective countries that encourages or leads to trafficking and other forms of violence or sexual exploitation, especially of women and children. They also agreed to enter into dialogue with States to strengthen preventive measures, including education, information and the development of codes of conduct.

27. The NHRIs agreed on the need of establishing a European strategy of combating trafficking in human being that respects and protects the rights of the victims. This should include studies of the effect of sanctioning the perpetrators of sexual exploitation.

#### **Fifth European Meeting of National Institutions for the Promotion and Protection of Human Rights, Berlin, 26 and 27 November 2004**

The fifth European Meeting of National Institutions for the Promotion and Protection of Human Rights was held in Berlin, Germany, on 26 and 27 November 2004.

The meeting was co-organized by the French National Consultative Commission for Human Rights, as current chair of the European Coordinating Group, and by the German Institute for Human Rights. Participants represented the national institutions of the following countries: Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Croatia, Denmark, Finland, France, Germany, Georgia, Greece, Hungary, Ireland, Latvia, Netherlands, Poland, Romania, Russian Federation, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom.

Four topics were considered during the meeting:

1. Cooperation with the liaison office established within the Office of the Commissioner for Human Rights of the Council of Europe and the participation of national institutions in the work of the bodies of the Council dealing with human rights issues;

2. Cooperation with the Office of the United Nations High Commissioner for Human Rights;
3. Cooperation with the Organization for Security and Cooperation in Europe;
4. Cooperation with the future Agency on Fundamental Rights of the European Union.

Resolutions and motions were adopted at the conclusion of the meeting.

## **Resolutions**

The fifth European meeting of national institutions for the promotion and protection of human rights (NHRIs) took place on 26 and 27 November in Berlin, Germany. The event was co-organized by the French National Consultative Commission for Human Rights, president of the European coordinating group of NHRIs, and by the German Institute for Human Rights, host of the meeting.

Were present at the meeting:

- The fully accredited European NHRIs;
- Other European NHRIs invited as observers;
- The Office of the United Nations High Commissioner for Human Rights, the Office of the Commissioner for Human Rights of the Council of Europe, the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Directorate-General for Justice, Freedom and Security of the European Commission, the EU Monitoring Centre on Racism and Xenophobia, the EU network of independent experts on fundamental rights.

It was decided to:

1. Adopt the activity report 2002-2004 of the European coordinating group of NHRIs, presented by its president;
2. Form the new European Coordination Committee for two years with the fully accredited NHRIs of Denmark, France, Greece, Ireland, which will represent the European group at the ICC;

Renew the mandate of the French institution's presidency;

3. Renew the mandate of the Danish institution as representative of the European group to the accreditation committee of the ICC;
4. Entrust the four members of the European Committee to draft these resolutions;
5. Adopt the conclusions of the third round table of NHRIs with the Office of the Commissioner for Human Rights of the Council of Europe, called the "Berlin declaration".

## **Thematic resolutions**

### **A. Cooperation with the liaison office within the Council of Europe Commissioner for Human Rights**

6. After having acknowledged the proposals put forward by the Director of the Office of the Commissioner for Human Rights, NHRIs agreed to:
- Assist the Commissioner for Human Rights within the negotiations held at the Council of Europe;
  - Ask the Commissioner to continue to promote the participation of NHRIs in the work of all the relevant bodies of the Council of Europe dealing with human rights issues;
  - Ask the presidency of the European group to continue coordinating for the involvement of NHRIs in the work of the Council of Europe, and to try to find common positions, where appropriate.

### **B. Cooperation with the National Institutions Unit of the High Commissioner for Human Rights of the United Nations**

7. After having acknowledged the report and analysis of the chief of unit, it was:
- Noted with satisfaction the improvement prospects for the involvement of NHRIs within the annual session of the Commission for Human Rights of the United Nations;
  - Wished that NHRIs be able to participate to the work of other human rights bodies of the United Nations; and NHRIs committed to participate actively and in a constructive way if need be;
  - Suggested to continue and enhance the alert procedure for the case where a national institution is being threatened to disappear or be arbitrarily modified;
  - Proposed to ask our respective Governments to grant voluntary contributions - of a substantial amount - for the functioning and operations carried out by the High Commissioner for Human Rights in support of NHRIs;
  - Wished that training and information programmes for NHRIs be strengthened.

### **C. Cooperation with the OSCE**

8. After having acknowledged the presentation of the Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), it was agreed to:
- Set up a regular and institutionalized cooperation with the ODIHR, as well as with the High Commissioner on national minorities and the representative on freedom of the media;

- Ask the ODIHR to create a liaison with NHRIs, and cooperate with the European coordinating committee;
- Participate to the thematic activities of the OSCE, with observer status;
- Organize common thematic events (round tables, seminars, ...) on current issues (such as racism, anti-Semitism and Islamophobia);
- To provide input to the OSCE, upon request, regarding the human rights and democracy situation in our countries, particularly regarding electoral processes.

**D. Cooperation with the future Agency on Fundamental Rights of the European Union**

9. After having acknowledged the information submitted by the Directorate-General for Justice, Freedom and Security of the European Commission, and by the Director of the EU Monitoring Centre on Racism and Xenophobia (EUMC), and after having heard the coordinator of the EU network of independent experts on fundamental rights, it was agreed to:

- Actively participate in the consultation and negotiation process launched by the European Commission;
- Support the extension of the mandate of the EUMC in view of its conversion into a Fundamental Rights Agency of the European Union, independent and well-anchored at national level with National Human Rights Institutions, in compliance with the Paris Principles;
- Subscribe to the current positions of the European Commission regarding:
  - The need to avoid the duplication with activities carried out by other regional and international bodies;
  - The need to put aside any competency to deal with individual complaints;
  - The mission of data analysis, and that of proposal, as a tool for decision-making within the European Union;
  - The need to include the activities of the EUMC as a priority subject matter for the future Agency;
- Pursue the drafting of a common position of European NHRIs, which is to be submitted promptly to the European Commission.

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