



**ROYAL MINISTRY
OF FOREIGN AFFAIRS**

Your ref.:

Our ref.:

Date: 23.06.10

**TERMS OF REFERENCE FOR THE REVIEW OF THE NORWEGIAN CENTRE
FOR HUMAN RIGHTS IN ITS CAPACITY AS NORWAY'S NATIONAL HUMAN
RIGHTS INSTITUTION**

1 Introduction

The Norwegian Centre for Human Rights (NCHR), a multi-disciplinary research centre at the University of Oslo, Faculty of Law, is Norway's National Human Rights Institution (NHRI) by a Royal Decree in 2001. The Centre was granted A-status in 2006 by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The ICC has an established practice of periodically reassessing the standing of all NHRIs in terms of compliance with the founding principles of National Human Rights Institutions, the Paris Principles. The NCHR will be reassessed in 2011.

In light of the forthcoming assessment by the ICC, the NCHR requested that the Norwegian Government review the work, organizational structure and resource base of NCHR as Norway's NHRI. The Norwegian Ministry of Foreign Affairs (MFA) responded positively and will undertake the requested review in 2010. The review is undertaken in collaboration with the NCHR (thus the term 'review' rather than 'evaluation'). The NCHR has provided input to the Terms of Reference (ToR), will take part in the review as participating observer as far as feasible, and will support the review team throughout the review process as necessary.

The ToR has been developed by the MFA in collaboration with NCHR. Input on the ToR has been received from various stakeholders including the OHCHR, the ICC Sub-Committee on Accreditation, the NHRI Advisory Board (composed of various civil society actors and ombud institutions) and the NCHR's Board.

2 Background

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The review shall on an objective basis take stock of what the NCHR as NHRI has done, identify results achieved as well as potential shortcomings, examine the Centre's role in the context of the Norwegian human rights architecture and analyze how to improve this work in order to ensure implementation of human rights in Norway. At the same time, the review should provide inputs and suggestions for possible improvements in the organizational set-up of NHRI in Norway.

NCHR is one of several actors within the human rights field in Norway, which includes civil society organizations, ombud institutions, concerned citizens, professionals etc. These stakeholders' reasonable understanding of the NCHR mandate and their reflections on the ways in which the mandate could be most useful for the promotion of human rights in Norway is a crucial aspect to take into account.

Five aspects are crucial to understanding the aim and purpose of the present review: the background for establishing NCHR as Norway's NHRI; the NCHR's interpretation of its NHRI mandate and reasonable expectations from stakeholders; the multi-phaseted challenge of a university institution having the role of NHRI; the NCHR's observations on performance to date; and the more rigorous international accreditation process of NHRIs by the ICC Sub-Committee on Accreditation. These are outlined below.

The establishment of NCHR as Norway's NHRI

The Norwegian Centre for Human Rights was established in 1987 (until 2003 under the name 'The Norwegian Institute of Human Rights') and has since 1995 been part of the University of Oslo. It is presently a multi-disciplinary research centre under the Faculty of Law.

One of the recommendations in the Norwegian government's National Plan of Action for Human Rights for the five-year period 1999-2004 (St.meld.no 21 (1999-2000), p.38-40) was to designate NCHR as Norway's NHRI. The mandate of NCHR as a national institution was formulated in the Royal Decree of 21 September 2001 whereby the NCHR should "contribute to increased awareness and improved realization of human rights in Norway".¹ The subsequently amended mandate of the NCHR (approved by the Faculty of Law and University of Oslo Senate in 2005) added that the NCHR as a National Institution "... shall monitor the human rights situation in Norway and on an independent basis cooperate with similar research institutions, with non-governmental organizations and with international and national entities working with human rights questions."

NCHR's interpretation of its NHRI mandate

The mandate was formally not difficult to reconcile with the established statutes of NCHR which was (and still is) "... to promote the practice of internationally adopted human rights by means of scientific research and assessment, training, counselling/guidance, information and documentation." It was also explicitly stated that "(t)he foundation for this activity is the existing international system of norms and institutions for the protection of human rights." This stated purpose – and the active role of NCHR founders and staff in international human rights bodies and as advisers to Norwegian authorities – explains why it appeared as a natural

¹ The Royal Decree specifies that: "As a national institution for human rights, the Centre shall monitor the human rights situation in Norway and, on an independent basis, cooperate with related research centres, voluntary organisations and international and national bodies working in the field of human rights."

choice for the Norwegian government at the time to propose that NCHR should be given the status as NHRI. Significantly, it was decided that the mandate of the new NHRI should *not* include an individual complaints procedure, with reference to the already well established ombud institutions. Consequently, becoming Norway's NHRI basically meant a *continuation* of established purposes and practices of NCHR. The new status was reflected in the setting up of an NHRI unit within the Centre and a new master plan was introduced for the strengthening of its capacity and competence in research, education and dissemination related to human rights in Norway. The new activities were made possible by an addition of NOK 5 million to the core funding of the University budget approved by the Parliament.

A university institution as NHRI

Combining the role as both a university centre and NHRI was discussed with both the Faculty and the University leadership, but not considered as a basic hurdle for NCHR to take on its NHRI mandate. However, concerns have been raised from time to time if the principle of academic freedom can be practiced by an institution which is obliged to monitor and give institutional advice and recommendations to the authorities. Another concern is if a university institution has the necessary independence and integrity to be an effective advocate of human rights in Norwegian society. The NCHR's own position has been that the university connection has strengthened the NHRI's independence of the authorities and secured high quality in all aspects of its work as NHRI. However, the university connection has been debated internally at the NCHR and recently gave rise to disagreement within the NCHR Board.

In 2006 the NCHR was found to be in compliance with the Paris Principles and was granted A-status by the ICC. This approval was granted after structural adjustments had been made in response to ICC concerns. The two adjustments were earmarking the funding of NCHR as NHRI over the national budget, separating it from the general allocation to the University, and the establishment of an NHRI Advisory Board composed of representatives from civil society and ombud institutions.

NCHR observations on its performance as NHRI

The NCHR has exercised its role as National Institution over a period of eight years (2002-2009). The current strategy for NCHR as NHRI (2008-2012) approved by the NCHR Board in December 2007, takes as its point of departure that "(1) NCHR is fulfilling the tasks pursuant to its mandate and the societal needs in Norway, albeit at a minimum level; and (2) that it is desirable to increase activities based on legitimate external expectations, developments nationally and internationally, and own desire to go deeper into questions regarding human rights in Norway." The Board noted, in its consideration of a report from the former Acting Director of National Institution in February 2010, that "NCHR has had problems in fulfilling its mandate as NHRI within the current organizational and financial model". The Board also requested that issues raised in the report be given due consideration in the forthcoming NHRI review.

More rigorous international accreditation process

The ICC's Sub-Committee on Accreditation (SCA) has further developed its interpretation of the Paris Principles since Norway's NHRI was accredited in 2006. SCA has adopted General Observations which reflect an increased emphasis on core protection issues including the

relationship between NHRIs and other bodies such as ombuds-institutions and equality bodies. Both the protection as well as the promotion aspects of the NHRI mandate will be addressed in the forthcoming consideration of the NCHR's application for reaccreditation. On a similar note, the NHRI Advisory Board has recommended that the review give emphasis to the NHRI's advocacy ("pådriver") role and to the division of labour between NHRI and other stake holders, in particular the ombuds institutions as well as civil society organizations.

3 Review aim, purpose, context and intended use

The aim of the NCHR and other stakeholders is to ensure a strong, competent and well-functioning NHRI in Norway which will maintain an A-status accreditation in the international NHRI network. Towards this end the overall purpose of the review is to assess the work of NCHR as NHRI from 2002-2009 and make recommendations to strengthen Norway's NHRI. The more specific purpose is two-fold:

To provide the necessary information basis for improving NHRI work in Norway in line with the Paris Principles and ICC's Guidelines for Accreditation and Re-Accreditation ;

To explore relevant organizational adjustments and/or organizational models which would enhance the relevance and influence of NHRI in the Norwegian context.

The core concerns raised in the NCHR strategy for national institution (2008-2012) and in the report by former Acting Director of NI, in January 2010, include (1) capacity and competence to fulfill a broad mandate faced with higher national and international expectations; (2) NCHR's organizational model and priorities in terms of thematic focus and funding ; (3) increased expectations and the possible need for additional resources in terms of capacity and funding; (4) coordination and cooperation with other institutions monitoring human rights in Norway; and (5) the organizational linkage to a university institution.

The first three concerns should be examined in order to address the first purpose of improving NHRI work in Norway. The two last concerns should be examined to address the second purpose of strengthening relevance and influence through organizational design. In parallel with the MFA review, NCHR has initiated discussions with the Faculty of Law and the University leadership in order to examine the organizational aspect from the university point of view. These discussions will be shared with the review team.²

² Note: The present review will examine the organisational aspect including the university linkage, from the perspective of the Paris Principles. As seen from the perspective of the University of Oslo, an equally relevant question is whether and how the NCHR's role as National Institution has impacted on its role as a university centre and, most importantly, its ability to function as the academic focal point for future human rights research and education at the university, particularly at the Faculty of Law. Can NCHR be the principle institutional mechanism in this regard or does its role as NHRI come in the way? The two perspectives – one as seen from the Paris Principles, the other as seen from the university – illustrate that a *comprehensive* review of Norway's NHRI in the current situation is a rather complex task since it involves concerns on two different yet interdependent institutional levels. Combining the two roles now seems more challenging than before, and the aim must be to find an organizational model that solves the challenges. In parallel with the MFA review, NCHR has already initiated discussions with the Faculty of Law and the University leadership in this regard.

The findings and recommendations of the review will be used to improve Norway's NHRI and to determine whether these improvements will be implemented by the NCHR or within another organizational model.

4 Review questions

The review shall consider standard evaluation criteria in accordance with the OECD/DAC Evaluation Quality Standards.

More specifically the review shall:

Assess compatibility of Royal Decree with Paris Principles and ICC Guidelines for Accreditation and Re-Accreditation;

Assess whether adjustments in mandate are needed;

Document NCHR activities and assess results in fulfillment of its mandate as NHRI. Key issues are visibility, accessibility and effectiveness in protecting (monitoring, referring complaints etc) and promoting human rights in Norway. Identify reasonable expectations and analyze reasons for results above/below these expectations. Comment on additional results expected given international developments in the role of NHRIs;

Document and assess the NCHR's organization of its NHRI-work and financial priorities made within available NHRI-funding;

Document and assess the role played by the NCHR as NHRI in relation to government and other Norwegian institutions and organizations, including civil society, promoting human rights in Norway. Particular attention should be given to compatibility of roles and cooperation with entities with individual complaints procedures;

Document and assess the participation of NCHR as NHRI in international work to promote and protect human rights, including through the ICC, cooperation with other NHRIs and cooperation with OHCHR;

Explore alternative organizational models for NHRI in Norway which can maximize the potential for impact on human rights implementation;

Make recommendations that will increase the likelihood of renewed A-status accreditation in 2011 and a more effective NHRI in a longer term perspective

5 Implementation of the review

Review team: There should be a team of 3-4 persons to be identified for an assignment of 2-4 weeks duration to be carried out as soon as possible and no later than October-November 2010. The team will be supported by a Secretary assigned for a period of 4-8 weeks. The team must have competence on NHRI standards and practices, human rights law and implementation, organizational management and ability to read Scandinavian language since most documentation is available in Norwegian only. The team should consist of 1-2 international and 1-2 national consultants giving due consideration to gender balance and balance between legal and non-legal backgrounds. The NCHR's Acting Director of NI will be an observer, taking part in the review as feasible and supporting the review team as necessary.

Reference groups: Two reference groups will be consulted. It is suggested that the NHRI's Advisory Board serve as a national reference group for 2-3 consultation/comments to the review team. Additional actors can be included in the national reference group subject to the approval of the Advisory Board. An international reference group of 2-5 representatives will be appointed for 2-3 consultations/comments to the review team.

Methodology: Reviewing documents and conducting interviews with selected stakeholders; to explore alternative organizational models in comparable countries in a cost-efficient manner; and other information gathering means deemed appropriate and possible within available budget.

Division of responsibility between the MFA and the NCHR: The review was requested by NCHR and the MFA has complied with this request. The MFA is the owner of the present review and is responsible for developing ToR, selecting and contracting review team, ensuring the quality of the final report and securing funding of the review. The NCHR as an independent NHRI is a cooperating partner contributing to the development of the ToR, identification of potential members of the review team, support to the review team as requested and taking part in the review as a participating observer as feasible.

Timetable for preparation, field work and finalization of report: First planning meeting June/August; data collection in Oslo in the period August-November; final report submitted no later than 1 December.

Budget: To be determined by MFA

Reporting: Report to be written in English so as to be available for all stakeholders, including the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights and its Sub-Committee on Accreditation.

Regards

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