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HAUT-COMMISSARIAT



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HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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25 November 2015

Dear Mrs. Pirom Sriprasert,

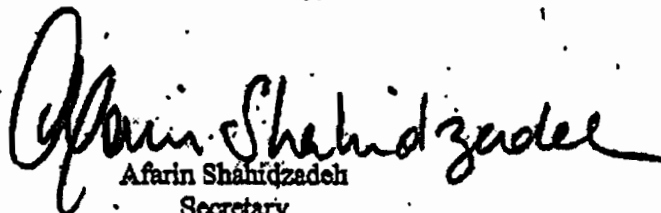
As Secretariat of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), I am writing to inform you of the recommendations that the ICC Sub-Committee on Accreditation (SCA) has made regarding the re-accreditation of your institution, which was considered at the SCA session in Geneva from 16 to 20 November 2015.

In accordance with article 12 of the ICC Statute, your institution may challenge the recommendations by submitting a letter to the ICC Chairperson, through OHCHR National Institutions and Regional Mechanisms Section, within twenty-eight (28) days from the date of this letter.

Thereafter, the recommendations will be forwarded to the members of the ICC Bureau for approval. If a challenge is received from your institution, the challenge together with all relevant materials will also be forwarded to the ICC Bureau. The decision of the ICC Bureau on accreditation will be considered final. The report will be made public following its adoption by the ICC Bureau.

Please direct any future correspondence on the recommendations to sshahidzadeh@ohchr.org, ekacaj@ohchr.org and nifellow1@ohchr.org.

Yours sincerely,


Afarin Shahidzadeh
Secretary

ICC Sub-Committee on Accreditation
Deputy Chief, National Institutions and Regional Mechanisms Section

Mrs. Pirom Sriprasert
Secretary-General
Office of the National Human Rights Commission
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36/2015
- 1 U.A. 2550

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

Recommendation: The SCA recommends that the NHRCT be downgraded to B status.

At the SCA's session in October 2014, it gave the NHRCT the opportunity to provide, in writing, within one year of such notice, the documentary evidence deemed necessary to establish its continued conformity with the Paris Principles. The SCA is of the view that the information provided by the NHRCT has not adequately addressed its concerns.

The SCA reiterates its concerns as follows:

1. Selection and appointment

The SCA expressed 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.

The SCA notes that these concerns have not been addressed.

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

The SCA encourages the NHRCT to continue to advocate for the formalization and application of a process that includes requirements to:

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

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

2. Functional immunity and independence

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

The SCA notes 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:

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- 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 expressed concern that the NHRCT had not addressed 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. In October 2014, the SCA expressed concern that despite the serious nature of these violations, it took NHRCT three years to complete investigations and publish its report into the alleged human rights violations that occurred in 2010.

From July 2013 to May 2014, further demonstrations also resulted in a significant number of deaths and injuries. While acknowledging that the NHRCT has been operating in difficult circumstances, the SCA notes that the NHRCT completed and released its investigation report in November 2015.

The SCA reiterates its concern that the NHRCT has not been addressing human rights violations in a timely manner.

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 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

During its October 2014 session, the Chairperson confirmed that staff members of the NHRCT were displaying publicly their political affiliations whilst undertaking official functions.

The SCA welcomes the report of the NHRCT that the Chairperson has directed that staff should not publicly display their political affiliations whilst undertaking official functions and that such conduct would be contrary to the Code of Conduct.

The SCA is therefore satisfied that this issue of concern has been addressed.

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