

Biljana KOTEVSKA
Dimitar NIKOLOVSKI

CASE STUDY OF FOUR NATIONAL HUMAN RIGHTS INSTITUTIONS

Introduction

A wave of National Human Rights Institutions (NHRI) emerged in the last few decades. Linda C. Reif attributes this to the growth of number of states which have turned to democratic forms of governance, or sought to improve their democratic structure. (Reif, 2000, p. 2). These institutions took many different forms with regards to their mandate, composition, local traditions, and so on. (International Council on Human Rights Policy, 2005, p. 5)

Although there is no single comprehensive hard law document on NHRI in international Human Rights law, some standards are prescribed to serve as guidance on the minimum standards in both soft and hard law. The main document containing such guidance on universal level is the 'Principles Relating to the Status of National Institutions' (Paris Principles). In relation to these principles, the Vienna Declaration and Programme of Action emphasises the importance of the local context, recognising that in the establishment and

Biljana Kotevska, MA is Programme Director and Researcher (on study leave) at the Human Rights Department of CRPRC Studiorum

Dimitar Nikolovski, MA is Junior Researcher at the Human Rights Department of CRPRC Studiorum

strengthening of NHRI ‘it is the right of each State to choose the framework which is best suited to its particular needs at the national level.’ (Vienna Declaration and Programme of Action, 1993, para. 36).

Such open space for designing or reforming of institutions makes comparative experiences even more valuable, as they can show how certain institutional designs function in certain contexts, and why and how this can be improved. Such a comparison is the subject of the present article. The findings presented herein are initial findings of a larger study considering possible reforming of the institutional Human Rights framework in Macedonia.¹ In it, four cases of NHRI are considered, with the purpose of starting a debate on the need for and ways of reforming the institutional Human Rights framework in Macedonia through comparative knowledge.

This article is divided into two parts. The first elaborates the criteria for the selection of cases, and the second one indulges into a basic comparison of the institutions.

1. Cases selection criteria

The four cases selected have been evaluated against criteria that are expected to yield most useful comparison findings to be used when discussing the case of Macedonia. These criteria are outlined in the following paragraphs. They are: ICC accreditation status of the NHRI, membership in international organizations, international legal obligations, local or regional context, political system and legal system of the country where the NHRI is based, and composition of NHRI.

1.1. ICC Accreditation Status

To manage the coordination and activities of NHRI’s at the international level, but also to serve as an evaluating body for the progress and efficiency of individual NHRI’s on national level, the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC) was created. The ICC awards, upon application, three

1 The article presents the initial findings of a comparative study done for the purposes of the project “Solving an Institutional Puzzle: What National Human Rights Institution Model for Macedonia” conducted by the Centre for Regional Policy Research and Cooperation ‘Studiorum’. The aim of the project is to give an evidence-based policy proposal for reforms of the institutional Human Rights framework in Macedonia, in order to align it with international standards for NHRI.

statuses to national institutions according to their compliance with the Paris Principles, in particular: A (compliance with Paris Principles), B (not fully in compliance or insufficient information), and C (non-compliance). (SCA, 2012).

As the purpose of the study was to draw experiences from NHRIs which will assist in compiling a proposal for the reforming of the institutional framework in Macedonia aiming to establishing an institution fully in compliance with international standards, all cases selected needed to be accredited with status A, according to the latest report of the ICC. Currently, there are over 100 NHRI's operating, and 69 of which have obtained status A. (ICC Website).

To further narrow down the selection, more criteria were employed. These are discussed below.

1.2. Membership in international organizations

In order to reach for comparable cases to Macedonia, we have chosen four NHRI's coming from countries that are members of the United Nations, the Council of Europe, and the European Union (or a candidate country). Macedonia has been a UN member since 1993, a CoE member since 1995, and an EU candidate for membership since 2005. This criterion is relevant because of the similar international obligations drawn from this membership, and accompanying hard and soft law. Moreover, the consideration of the total of the obligations stemming from a country's membership in these organisations helped to make all-encompassing recommendations, without neglecting or putting aside any of them.

The UN membership is of primary importance, due to the soft law it has generated (Paris Principles, General Assembly Resolution A/RES/48/134, CRC General Comment No. 2, CESCR General Comment No. 10, CERD General Recommendation XVII and the CEDAW Statement from its 40 Session on discrimination against women and NHRI) and the work of the Human Rights treaty and non-treaty bodies operating within it.

Membership in the CoE is important due to the ratification of the European Convention on Human Rights and the recognition of the jurisdiction of the European Court of Human Rights,² then Committee of Ministers'

2 Recent Brighton Declaration emphasizes the importance of the cooperation of the ECtHR and NHRIs, as well as the role of NHRIs for the implementation of the ECHR at the national level. See: CoE, "High Level Conference on the Future of the European Court of Human Rights Brighton Declaration". <<http://www.coe.int/en/20120419-brighton-declaration/>>. Last accessed: 10.06.2012

recommendations 85-13 (on Ombudsperson) and 97-14 (on national institutions for the promotion and protection of Human Rights), then the European Centre against Racism and Intolerance (ECRI) General Policy Recommendations No. 2 (on specialized national bodies to combat racism, xenophobia, anti-Semitism and intolerance) and General Policy Recommendation No. 7 (on national legislation to combat racism and racial discrimination). All these refer to NHRI's, and can be indirectly enforced.

Finally, Macedonia's EU bid has proven to be the greatest catalyst for Human Rights and democracy-related reforms, and brings with it a wave of reforms to be implemented and standards which need to be achieved, thus the following three EU directives prove to be especially important: Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (Art.13); Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (Art.12); and Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (Art.20).

1.3. International legal obligations of relevance for NHRI

In terms of international legal obligations, and complementing the criteria on membership in international organisations discussed above, ratification of both the Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment (OPCAT) are important.

Article 33 of CRPD provides for the establishment of a national framework to "promote, protect and monitor implementation of the [...] Convention" in accordance with the "principles relating to the status and functioning of national institutions for protection and promotion of Human Rights." Part IV (Art. 17-23) of OPCAT provides for the establishment of National Preventive Mechanisms for the prevention of torture on the domestic level, while giving, like in CRPD, "due consideration to the Principles relating to the status of national institutions for the promotion and protection of Human Rights." As Macedonia is a State party to both CRPD (2011) and OPCAT (2009), it has obligations under these two treaties. Thus, any comparative experiences would be best coming from NHRIs established in countries which are also parties to the two treaties.

1.4. Proximity of context and region

As previously mentioned, the character of NHRI's largely depends on the local context and developments in the countries. Because of the membership in the relevant international organizations, all NHRI cases had to be European countries. Proximity of contexts seemed to be also important, and best achievable by including cases from the Western Balkans region, and especially former-Yugoslav republics, as these are countries that share common history with Macedonia, including common institutional heritage. Furthermore, all of them underwent a process of democratic transition and recently European integration, and most of them are post-conflict countries.

1.5. Political system

The political system was very important because of the specific context and means of decision-making in the government, as well as the issues of plurality and representation.

Macedonia is a parliamentary democracy with a unicameral parliament, and after the signing of the Ohrid Framework Agreement has established itself as a power-sharing model, with a wider range of minority protection, a proportional electoral system, double majority, and decentralization. The electoral system is proportional, with candidate lists, divided into nine districts, designed according to the regional and ethnic composition of the country, including three electoral districts in the diaspora. The Executive is always a coalition between the majority Macedonian and Albanian parties.

Thus, any case study selected was found to be best if coming from a country with at least some forms of proportional representation, seeking to ensure proportional representation of minorities, who are concentrated in specific parts of the country.

1.6. Legal system

The legal system of a country stems from the legal traditions and historical developments of that country and/or the region. The legal systems of nearly all countries generally modelled upon elements of four main types: civil law; common law; religious law, or a combination of these. It is important to select the cases in accordance with this criterion since the targeted reform of the Human Rights system needs to be done within the legal system of the country, and this institution (although a quasi-judicial one) needs to be able to function within this system.

Macedonian legal system is defined as civil law (or European continental law), one characterised by a written constitution and systematised written codes, where legislation, i.e. constitutions and statutes enacted by govern-

ments, are recognized as principal sources of law. Accordingly, all cases selected needed to share this feature.

1.7. Composition of NHRI

Although the composition and structure of the specific NHRI's are inspected in more detail in the second part of the text, another criterion for selection was whether a NHRI is an individual or a collective institution. Six models of NHRIs exist across all regions of the world today, namely: Human Rights commissions, Human Rights Ombudsperson institutions, Hybrid institutions, Consultative and advisory bodies, Institutes and centres and multiple institutions. (ICC Website).

However, here we have chosen to look at NHRI's in terms of their composition and sharing of main responsibilities: individual (most commonly an Ombudsperson or a Commissioner) and collective (Commission or Institute), and they reflect issues such as whether the NHRI is coming from a constitutional or a legal act, whether it is a state institution/body or an NGO, and how the principle of plurality is respected within the institution. In order to have equal perspectives of the features of both individual and collective NHRIs included in the study, it seemed best to select two individual and two collective NHRI cases.

1.8. Cross-check of compliance of selected cases against selection criteria

On the basis of the criteria, outlined above, the following case studies were selected:

- Ombudsperson of the Republic of Croatia (Pučki Pravobranitelj Republike Hrvatske);
- Danish Institute for Human Rights (Danske Instiut for Menneskeret-tigheder);
- German Institute for Human Rights(Deutsche Institut für Menschen-rechte);
- Ombudsperson of Spain (Defensor del Pueblo).

The cross-check of the compliance of all cases with the criteria as outlined above is given in Table 1.

All of the four cases selected have Status A accreditation, according to the last ICC report. The Ombudsperson of the Republic of Croatia was awarded the status A in 2008. The Danish Institute for Human Rights was awarded B status in 1999, but holds A status since 2001. The German Institute for Human Rights holds A status since 2001. Defensor del Pueblo (Ombudsperson of Spain) holds A status since 2000.

Table 1: Cross-check of compliance of cases against selection criteria

NHRI Criteria	ICC 'A status' accreditation	Membership in int'l org. (UN, CoE, EU member/EU candidate country)	Ratification of relevant international law treaties	Proximity of context and region	Political system (prop. repress.)	Legal system	Composition of NHRI
Ombudsperson of the Republic of Croatia, Croatia	Yes	Yes	Yes	Country in Europe (Western Balkans)	Yes	Civil law	Individual
Danish Institute for Human Rights, Denmark	Yes	Yes	Yes	Country in Europe	Yes	Civil law	Collective
German Institute for Human Rights, Germany	Yes	Yes	Yes	Country in Europe	Yes	Civil law	Collective
Defensor del Pueblo (Ombudsperson), Spain	Yes	Yes	Yes	Country in Europe	Yes	Civil law	Individual

All of the four cases are NHRIs in states which are members of the international organisations of relevance, as described in section 1.2 above. Namely, Croatia has been a member of the UN since 1992, a CoE member since 1996, and has been invited to join the EU in 2013. Denmark has been a UN member since 1945, a CoE member is one of the founding members of CoE, and has joined the EU in 1973. Germany has been a member of UN since 1973, a CoE member since 1950, and one of the founding members of the EU. Finally, Spain has joined the UN in 1955, the CoE in 1977, and the EU in 1986.

All of the countries have ratified CRPD (Croatia and Spain in 2007, and Denmark and Germany in 2009). Also, all of them have ratified OPCAT (Croatia in 2005, Denmark in 2004, Germany in 2008, and Spain in 2006).

Regarding the proximity of context and region, all of the countries where the selected NHRIs are based are European countries. Denmark, Germany and Spain are Western European countries, and all are older members of the EU. Representation of the Western Balkans region is achieved by selecting Croatia, a country that shares common history with Macedonia in former Yugoslavia, as well as common institutional heritage. Furthermore, it is a post-conflict country, like Macedonia, but it has been going through the process of democratic transition and European integration more successfully.

With regards to the political system criteria, both Germany and Spain are federal states with bicameral legislative bodies, both representing citizens and the regions/lands, in order to ensure the necessary representation of the country. Whereas the Bundestag (lower house) has a mixed-member proportional representation voting system, the representatives in the Bundesrat (upper house) are delegated by the respective state governments. In Spain, on the other side, the lower house (Congress of Deputies) is elected by proportional representation where the regions serve as electoral districts, and

the upper house (the Senate) is chosen through majoritarian partial block voting and state administration appointment. Denmark and Croatia have unicameral legislative bodies and proportional systems (while Denmark has open list proportional representation, Croatia has 10 districts with party lists, plus representation of the diaspora, plus secured seats for minorities). Two of these are parliamentary monarchies (Spain and Denmark) and two are parliamentary democracies (Croatia and Germany).

All of the countries from where the NHRIs come are civil law countries. In Spain there are small sections in the north of the country where the system is not a clear civil law one, but a mix; however this is without relevance for the overall system in Spain.

Finally, two of the NHRI cases are individual (Ombudspersons from Croatia and from Spain) and two are collective (Institutes from Denmark and Germany).

2. Comparison of the four cases

The second part will be divided into two parts, the first outlining the status and structure of the institutions, and the second one reviewing their competences.

2.1. Character and positioning

This part discusses the legal grounds of the selected institutions, as well as the guarantees for independence, internal composition, financing and accountability.

2.1.1. Legal grounds

According to the Paris Principles, NHRI's mandate shall be "set forth in a constitutional or legislative text, specifying its composition and its sphere of competence." Therefore, among the four selected cases, two of them have their legal basis in the national constitutions (the two Ombudspersons), while the legal basis of the other two (the Institutes) are particular legal acts.

The Ombudsperson of Croatia's legal basis is in Article 92 of the Constitution of the Republic of Croatia, which defines it as 'a commissioner of the Croatian Parliament responsible for the promotion and protection of Human Rights and freedoms enshrined in the Constitution, laws and international legal instruments on Human Rights and freedoms ratified by the Republic of Croatia.' Furthermore, the specific mandate and competences of the Ombudsperson are defined in the specific People's Ombudsperson Act from 1992.

Similarly, Article 54 of the Spanish Constitution establishes that an organic act shall regulate the Defensor del Pueblo institution as a High Commissioner of Parliament, appointed by it in order to defend basic rights, and authorised to supervise the activities of the public administration. Subsequently, the abovementioned act was adopted in 1981 - Organic Act 3/1981, April 6th, regarding the Ombudsperson.

Unlike the Ombudspersons, the two Institutes have been established with domestic laws. The Danish Institute of Human Rights (DIHR), successor of the Danish Centre for Human Rights (1987-2003), has a law as its legal ground, namely the Act governing the Establishment of the Danish Centre for International Studies and Human Rights. It is part of a larger institution - The Danish Centre for International Studies and Human Rights.

The German Institute for Human Rights (GIHR) was established through a unanimous decision of both houses of the German Federal Parliament, after a long consultative process directed towards creating a NHRI. It is registered under German law as an Association (Verein).³

2.1.2. *Independence*

Regarding the independence of the institutions, it is important to note that NHRIs are not established as part of either the legislative or the executive branch of government. Also, as indicated in the previous section, it is important to have their grounds established in either a constitution (later regulated in details in law) or in a special law, in which their independence will be guaranteed more particularly.

The Croatian Constitution states that the Ombudsperson will be autonomous and independent in her/his work, will be elected by the Croatian Parliament (for a 8-year term, and one possible re-election), and s/he and her/his deputies shall enjoy the same immunity as the Members of Parliament (Article 93). This is elaborated further in Article 2 of the People's Ombudsperson Act, which adds that the Ombudsperson cannot receive instructions or directions on her/his work from anyone.

Article 54 of the Spanish Constitution, providing for the establishment of the institution of the Spanish Ombudsperson, provides that s/he is appointed by the Parliament as a High Commissioner to defend the fundamental rights and freedoms. This is further defined with the 1981 law, which reads that the Ombudsperson will be appointed by both chambers with a three-fifths majority in each, for a five-year term. Much like the act in Croatia, the 1981 law gives full autonomy and independence to the Defensor, and adds that

3 It also includes a sister institute to the DIHR, the Danish Institute of International Studies.

s/he shall not receive instructions from any authority, and shall be given immunity. However, this Act is more specific in defining the independence of the Ombudsperson in Article 7.1, through positioning this function as “incompatible with any elected office; with any political position or activities involving political propaganda; with remaining in active service in any Public Administration; with belonging to a political party or performing management duties in a political party or in a trade union, association or foundation, or employment in the service thereof; with practicing the professions of judge or prosecutor; and with any liberal profession, or business or working activity.”

The independence of the DIHR is established in the Act governing the Establishment of the Danish Centre for International Studies and Human Rights, Denmark/Act No. 411, which defines the Centre (of which the DIHR is a constitutive part) as “an independent self-governing institution” (Section 3). The independence of the GIHR stems from both the unanimous decision of the Federal Parliament (following a broad process of consultation), and the registration of the GIHR as an Association (similar to any other CSO).

2.1.3. Composition

The two Ombudspersons are not identical in their composition. The Croatian Ombudsperson has three deputies, each responsible for one of the three services: advisory, general and documentation and records service, and together they comprise the collegiums of the Ombudsperson. Together with her/his two deputies and the Secretary General of the Office, the Spanish Ombudsperson forms the Coordination and Internal Regime Board, in which the matters of the work and the activities of the Ombudsperson are discussed. Unlike the Croatian Ombudsperson, the Spanish one has a more complex structure. Thus, the Technical and Press Offices work directly under the Ombudsperson, while the Internal Regime and Register, Economy Regime, Studies and Modernization, and IT Services work under the Secretary General. The two Deputies have divided responsibilities in terms of specific areas of work. The First Deputy manages the work of the following offices: Security and Justice, Administration of the Economy, Migrations and Equality of Treatment, and the National Preventive Mechanism. The Second one manages the work of the Function and Public Employment, Territory Regulation, Health and Social Policy and Education and Culture. While the Croatian law proscribes that the Ombudsperson should be a lawyer with a minimum of 15 years of experience in the field, under the Spanish law any person of legal age may be elected Ombudsperson. In both Ombudsperson institutions, the employees are employed in an open and transparent proce-

ture, and have a status of civil servants.

The two Institutes are collective bodies. They have more divided responsibilities and take into account a wider representation of actors.

The GIHR's main bodies are the General Assembly, Board of Trustees, and the Board of Directors, while it also contains advisory bodies appointed for a specific subject or project. The General Assembly comprises of 22 members of the GIHR – 20 natural and 2 legal persons. The members are retired civil servants, civil society representatives, and representatives of academia, political parties and the legal profession. The legal persons are CSO's active in the field of Human Rights. The Board of Trustees is comprised of 13 members with voting rights: three representatives of the Forum Human Rights, two members of the German Federal Parliament's Committee on Human Rights and Humanitarian Aid, one representative appointed by the Office of the Federal Government Commissioner for Migration, Refugees and Integration, one representative delegated by the German Disability Council, and Six representatives elected by the General Assembly, of which at least one must be a representative of academia. Additionally, the Board of Trustees has 5 members without voting rights, comprising of one representative of each of the Federal Foreign Offices, the Federal Ministry for Justice, the Federal Ministry for Economic Cooperation and Development, the Federal Ministry for Labour and Social Affairs as well as a representative nominated by the Bundesrat (the Second Chamber of the German parliament that represents the federal states). The Board of Directors comprises a chair and deputy chair, one of whom should be a lawyer. One of the two positions should be filled by a woman. The Institute has seven departments (library, communication, administration, international department, Human Rights education, CRPD monitoring body, and domestic and European issues). According to its status as a civil association, the GIHR's internal structure has features of an NGO.

The DIHR, although it does not have a General Assembly, is governed by a thirteen member Board, similar to the GIHR's Board of Trustees. An Institute Director, to be responsible for the daily management of the Institute in substantial and professional matters, is elected by the Board following a public call. The Institute is divided into six departments: Freedoms and civic participation, Equality and Monitoring, Communication and Education, Justice, Human Rights and Business, and Research.

2.1.4. *Finances and reporting duties*

The financing of a NHRI needs to be designed so as to ensure the institution's independence and successful functioning. Funds need to be sufficient,

and each increase in mandate needs to be accompanied by an increase in funds; rationalisations of service cannot be used as an excuse for cutting funds. Reporting duties are important as they ensure transparency in the work of the institution, but also its accountability. Annual reports, submitted to the Parliament, and widely presented in media and on the internet, are also a needed step towards such accountability.

The two Ombudsperson institutions again share similar features. They are both financed through special allocations in the state annual budgets, and from other funds from international organizations upon projects. In that regard, the Ombudspersons have the duty to submit an annual report on their work, with an open possibility for submitting special reports if such a need or situation arises. The report by the Spanish Ombudsperson is discussed in the Spanish Parliament, while in Croatia the Parliament's conclusions on the Report oblige the Government to submit a report on the measures taken to remove the causes of the violations of rights.

The Institutes, on the other hand, are directly financed by state institutions. Thus, the GIHR receives non-earmarked funding from several federal ministries.⁴ DIHR is financed by the State as well, but can also receive funding from funds, donations and other sources, and may carry out income-generating activities, subsidised research, consultancies and counselling, to the extent that it is compatible with the performance of the Centre's other obligations. In terms of financial accountability, the DIHR is audited once per year. Both the GIHR and the DIHR are not required to submit reports on their activities to any state institutions (unlike the Ombudspersons). However, they must publish a public report on their annual activities.

2.2. Human Rights Mandate

The main difference between the individual and collective NHRI's in these four cases is in the primary focus of work and their competences. While the Ombudspersons have quasi-judicial functions and their mandate is mostly focus on the protection aspect, the two Institutes focus on education and promotion of Human Rights.

In this regard, the two Ombudspersons serve as classical (parliamentary) Ombudspersons. The Ombudsperson in Croatia: considers individual cases in which citizens' rights may be imperilled by action of governmental administration bodies, bodies vested with public powers or officials in such

⁴ These are: Ministry of Justice, the Foreign Office, and the Ministry of Economic Cooperation and Development. The Ministry of Labour and Social Affairs has been financing the work of National Monitoring Body for CRPD since 2008.

bodies when they deal with tasks ensuing within their respective competence; considers other problems which may be of interest to the protection of the rights proclaimed by constitution and law, about which s/he has obtained information from other sources of knowledge (by means of public communication, etc.), if those problems refer to the wrongdoing of state administrative bodies and legal entities vested with public powers. If s/he establishes that a question is an infringement of right containing traits of a criminal act or violation or an infringement of work discipline, the Ombudsperson may make request about it for the purpose of starting the criminal proceedings or other proceedings being appropriate.

Similarly, the Spanish Ombudsperson, at receiving complaints from citizens, forwards them to the ministry dealing with the rights in question, for the purpose of investigating their credibility and adopting the necessary measures in accordance with the law, or passing it on to the General Council of the Judiciary.

On the other hand, the Institutes have no mandate to act upon individual cases. Their main interests lie in the promotion of Human Rights by conducting studies, documentation and academic research projects. The GIHR competences are: information and documentation, research, policy advice, Human Rights-related education, international cooperation, and promotion of dialogue and cooperation in Germany. Its Danish counterpart competences fall along similar lines. It does have, however, part of its mandate vested also in protection of Human Rights, namely on discrimination cases related to race and ethnicity, stemming from Denmark's obligations under Directive 2000/43. Its founding act, (The Act governing the Establishment of the Danish Centre for International Studies and Human Rights), defines its closer mandate to be in: carrying out independent and autonomous research in the area of Human Rights; advising the Parliament and the government on the country's Human Rights obligations; conducting and promoting education at all levels in relation to Human Rights, including public information; promoting equal treatment of all persons without discrimination on the basis of race or ethnic origin, including the provision of assistance to victims of discrimination to have their complaints dealt with initiating independent analyzes on discrimination, publishing reports and making recommendations on issues relating to discrimination, providing information on Human Rights to volunteer organisations, researchers, public authorities and the interested public; ensuring a modern, publicly accessible library and documentation facilities relating to Human Rights; promoting the coordination among and assisting the volunteer organisations' work in the area of Human Rights; supporting and strengthening Nordic and other international cooperation in

the area of Human Rights; and contributing to the implementation of Human Rights domestically as well as internationally.

What all institutions have in common, however, is their mandate to monitor the Human Rights situation in the country, communicate with the public authorities on issues of interest, and a role in the promoting international Human Rights standards and ensuring alignment and harmonization of domestic regulation with international Human Rights standards, ratification of new instruments, and international cooperation.

Conclusion

This article presents the initial findings of a comparative study yet to be finalised. The selection of cases was conducted according to criteria by which they would be relevant for a broader study aimed at reforming the Human Rights system of Macedonia. Therefore, the selection of cases was based upon the following criteria: NHRI ICC accreditation status, membership in international organizations, international legal obligations, local or regional context, political system and legal system of the country where the NHRI is based, and composition of NHRI. Although the countries where the NHRIs are based might not share the exact same local context, political systems or internal composition with Macedonia, the cross-checking of criteria has yielded the closest results providing relevant comparability.

These initial findings point to a dependence of NHRI mandate from the NHRI composition, as well as of these two from the local context in which the NHRI functions. Efforts were made to avoid bias in the selection of cases as much as possible through the establishment of a list of strict criteria for the selection of the four cases. Such strict criteria helped avoid the pitfalls of deliberate selection of cases.

The four case studies show a repetitive general pattern of characteristics with NHRIs depending on whether the institution is established as an individual or as a collective body, i.e as an Ombudsperson or as an Institute in this case. They also confirm that conforming to international standards, in the case of NHRI, does not require a unified approach. On the contrary, as the four NHRI cases show, many different formulations of the mandate and positioning will be in conformity with international standards, including the Paris Principles, as long as the minimum requirements are respected. Adjusting the NHRI as much as possible to the local context also seems to assist addressing better the Human Rights protection, promotion and advancement needs in a specific country.

Abstract

This article presents the initial findings of a comparative study of four cases of National Human Rights Institutions: the Ombudsperson of Croatia, Ombudsperson of Spain, Danish Institute of Human Rights, and German Institute of Human Rights. It shows that conforming to international standards, in the case of NHRI, does not require a unified approach, as long as the minimum requirements are respected. The initial findings also show that there is a repetitive general pattern of characteristics with NHRIs depending on whether the institution is established as an individual or as a collective body.

Резиме

Овој труд дава приказ на почетните наоди од компаративна студија на четири случаи на Национални институции за Човекови права: Народниот правобранител на Хрватска, Народниот правобранител на Шпанија, Данскиот институт за Човекови права и Германскиот институт за Човекови права. Овие првични наоди покажуваат дека, кога се работи за Национални институции за Човекови права, не е потребен униформен пристап за една институција да биде во согласност со меѓународните стандарди, се додека минималните стандарди се запазени. Почетните наоди исто така покажуваат и дека постои шема на повторување во однос на карактеристиките на овие институции, а во зависност од тоа дали се основани како индивидуални или колективни тела.

Bibliography

A Brief History of NHRIs. Website of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. <http://nhri.ohchr.org/EN/AboutUs/Pages/HistoryNHRIs.aspx>

Committee on Economic, Social and Cultural Rights. General Comment No. 10: The role of national Human Rights institutions in the protection of economic, social and cultural rights. 19th Session, 1998.

Committee on the Elimination of Discrimination Against Women. Statement from its 40 Session on discrimination against women and NHRI, 2008.

Committee on the Elimination of Racial Discrimination. General Recommendation No. 17: Establishment of national institutions to facilitate implementation of the Convention. 42nd Session, 1993.

Committee on the Rights of the Child. General comment No. 2: The role of independent national Human Rights institutions in the promotion and protection of the rights of the child. 31st Session, 2002.

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Eur-lex. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0043:EN:HTML>. Accessed on June 08, 2012.

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services. Eur-lex. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0113:en:NOT>. Accessed on June 08, 2012.

Countries, Website of the European Union. http://europa.eu/about-eu/countries/index_en.htm. Accessed on June 08, 2012.

Defensor del Pueblo, Reports and Documents. Website of the Defensor del Pueblo. <http://www.defensordelpueblo.es/en/Documentacion/Opcion3/index.html>. Accessed on June 08, 2012.

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Eur-lex. <http://eur-lex.europa.eu/Notice.do?checktext=s=checkbox&val=430497>. Accessed on June 08, 2012.

German Institute on Human Rights, Statutes of the German Institute on Human Rights, a registered Association, 2009. Website of the German Institute on Human Rights. <http://www.institut-fuer-menschenrechte.de/en/about-us/structure/statutes.html#c3006>. Accessed on June 08, 2012.

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, March 2012

International Council on Human Rights Policy. Assessing the Effectiveness of National Human Rights Institutions. Geneva, 2005

Member States of the United Nations. Website of the United Nations. <http://www.un.org/en/members/index.shtml>. Accessed on June 08, 2012.

Principles relating to the Status of National Institutions (The Paris Principles). Website of the Office of the United Nations High Commissioner for Human Rights. <<http://www2.ohchr.org/english/law/parisprinciples.htm>>.

Pucki Pravobranitelj, Republika Hrvatska. Regulation. Website of the Pucki Pravobranitelj. <http://www.ombudsman.hr/en/regulation.html>. Accessed on June 08, 2012.

Reif, Linda C, "Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection". 13 Harvard Human Rights Journal 1 (2000).

The Council of Europe in Brief. Website of the Council of Europe. <http://www.coe.int/aboutcoe/index.asp?page=47pays1europe>. Accessed on: 08. 06. 2012

The Danish Folketing. Act governing the Establishment of the Danish Centre for International Studies and Human Rights. Act no. 411, 2002. http://www.diis.dk/graphics/DIIS_generelt/Act%20of%20Parliament%20DCISM.pdf. Accessed on June 08, 2012.

United Nations. Vienna Declaration and Programme of Action. <[http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en)>. Accessed on June 08, 2012.

United Nations, 1993 General Assembly Resolution 48/134, <http://www.un.org/documents/ga/res/48/a48r134.htm>

United Nations, Convention on the Rights on Persons with Disabilities. United Nations, Treaty Series, vol. 2515.

United Nations, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. United Nations, Treaty Series, vol. 2375.