

GLOBAL ALLIANCE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (GANHRI)

Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)

Online, 13 - 17 February 2023

Geneva, 20 - 24 March 2023

DISTRIBUTED BY VERITAS

e-mail: veritas@mango.zw; website: www.veritaszim.net

Veritas makes every effort to ensure the provision of reliable information,
but cannot take legal responsibility for information supplied.

2.6 Zimbabwe: The Zimbabwe Human Rights Commission (ZHRC)

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

The SCA commends the ZHRC for its continuing efforts to promote and protect human rights.

The SCA highlights that NHRIs that have been accredited A status should take reasonable steps to enhance their effectiveness and independence, in line with the Paris Principles and the recommendations made by the SCA during this review.

The ZHRC is encouraged to continue to actively engage with the OHCHR, GANHRI, NANHRI, other NHRIs, as well as relevant stakeholders at international, regional, and national levels, in particular, in the reform of its enabling law, in order to continue strengthening its institutional framework and working methods.

The SCA notes that the ZHRC is in the process of amending its enabling law to address previous SCA recommendations. The SCA recommends that the ZHRC strengthens its legislative framework by continuing to advocate for amendments to the law to address the recommendations outlined below.

The SCA notes:

1. Adequate funding

The ZHRC informed the SCA that its budget has increased since the last review and that this has enabled the ZHRC to recruit additional staff. The SCA also notes that the ZHRC plans to open additional regional offices to improve its geographical coverage and enhance accessibility to its services.

The SCA emphasizes that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. Provision of adequate funding by the State should, as a minimum, include the following:

- a) the allocation of funds for premises which are accessible to the wider community, including for persons with disabilities. In certain circumstances, in order to promote independence and accessibility, this may require that offices are not co-located with other government agencies. Where possible, accessibility should be further enhanced by establishing a permanent regional presence;
- b) salaries and benefits awarded to its staff comparable to those of civil servants performing similar tasks in other independent Institutions of the State;
- c) remuneration of members of its decision-making body (where appropriate);
- d) the establishment of well-functioning communications systems including telephone and internet; and
- e) the allocation of a sufficient amount of resources for mandated activities. Where the National Institution has been designated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions.

The SCA recommends that the ZHRC continue to advocate for an appropriate level of funding to carry out its mandate, including plans to enhance its field presence.

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

2. Financial Autonomy

Section 17(1)(c) of the Act requires the ZHRC to obtain approval from the Minister responsible for Justice and Legal Affairs prior to receiving external funding. The SCA notes that the proposed amendments to its enabling law will remove the requirement to seek prior approval from the Minister of Finance. The SCA emphasises that NHRIs should not be required to obtain approval from the State for external sources of funding, which may otherwise detract from its independence.

The SCA recommends that the ZHRC continues to advocate for the amendment of Section 17(1)(c) of the Act to be able to receive donor funding without prior government approval.

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

3. Annual reports

In accordance with Section 8(1) of the Act, the Commission submits an annual report to the Minister, who is obliged to table it before the Parliament. The ZHRC informed the SCA that there are proposed amendments to the Act seeking to provide it with the power to directly table reports with Parliament.

The SCA considers it important that the enabling law of an NHRI establish a process whereby its reports are required to be widely circulated, discussed, and considered by the legislature. It is preferable for the NHRI to have an explicit power to table reports directly in the legislature rather than through the Executive and, in so doing, to promote action on them. The SCA recommends that the ZHRC continues to advocate for these changes to its enabling law.

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

4. Limitations on mandate

Section 9(4)(a) of the Act prevents the ZHRC from investigating complaints related to an action or omission that occurred prior to 13 February 2009. The SCA notes reports from the ZHRC that it has signed a memorandum of understanding and collaborates with the National Peace and Reconciliation Commission (NPRC) which is constitutionally mandated to investigate such complaints. The SCA also notes reports from the ZHRC that there is a “sunset clause” in the enabling law of the NPRC which mandates it to complete its work after 10 years since its establishment.

The SCA is of the view that an NHRI’s mandate should authorize the full investigation of all alleged human rights violations and should not be unreasonably limited.

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

5. Selection and appointment

In accordance with Article 242(1) of the Constitution, the Chairperson of the ZHRC is appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders. The SCA acknowledges that the ZHRC has presented proposals requiring the advertisement of vacancies.

However, the SCA is of the view that the process as currently enshrined in the Law is not sufficiently broad and transparent. In particular, it does not:

- require the advertisement of vacancies; or
- promote broad consultation and / or participation in the application, screening, selection, and appointment process.

It is critically important to ensure the formalization of a clear, transparent, and participatory selection and appointment process 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 recommends that the NIHRC advocates 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'.