

ANNEX 5

of the Commission Implementing Decision on the adoption of a special measure for the financing of the Work Programme 2014 for the European Instrument for Democracy and Human Rights (EIDHR)

Action Document for Supporting key actors – National Human Rights Institutions (NHRIs)

1. IDENTIFICATION

Title/Number	Supporting key actors – National Human Rights Institutions (NHRIs) CRIS number:EIDHR/2014/37405		
Total cost	Total estimated cost: EUR 5 263 158 Total amount of EU budget contribution: EUR 5 000 000		
Aid method / Management mode and type of financing	Project approach Direct management – grants – direct award		
DAC-code	15160	Sector	Human Rights and Democracy

2. RATIONALE AND CONTEXT

2.1. Summary of the actions and its objectives

The objective of this Action is to strengthen the capacities of National Human Rights Institutions (NHRIs) and the cooperation with their regional and international networks in promoting and protecting human rights, in particular on human rights and business, and economic, social and cultural rights.

2.2. Context

In article 2.1 a ii) of the EIDHR regulation 2014-20, the scope of EU assistance is aimed at "supporting National Human Rights Institutions".

Moreover, in the 2012 EU Strategic Framework and Action Plan on Human Rights and Democracy, the EU acknowledges the importance of deepening its cooperation with partner countries and to promote universal adherence to human rights through the "ratification and effective implementation of key international human rights treaties, including regional human rights instruments" (4a), and the strengthening of "the capacity of national judicial systems to investigate and prosecute ... crimes" (27b).

Indeed, national human rights mechanisms have a crucial role to play in promoting universality of human rights and accountability of States and other actors in upholding their obligations. It is for this reason the EU has an interest in supporting and strengthening these mechanisms as a key element in the international and regional human rights framework.

Following the UN Vienna World Conference on Human Rights and the adoption by the UN General Assembly of the Paris Principles (A/RES/48/134) in 1993, States have been called on to establish independent national institutions for the promotion and protection of human rights (NHRIs). Under the Paris Principles, the responsibilities of NHRIs include: advising government and public authorities on any matter relating to human rights; reviewing legislation; investigating and reporting on human rights situations; promoting national compliance with international human rights instruments; human rights education; combating discrimination; and cooperating with international and regional bodies and other NHRIs. Institutionally, NHRIs may take a range of forms including human rights commissions, human rights ombudsman institutions, consultative and advisory bodies, and human rights institutes and centres. Since 1993, numerous resolutions and statements have been adopted by the UN, the Council of Europe (CoE) and the Organization for Security and Cooperation in Europe (OSCE), affirming the role, legitimacy and importance of NHRIs. In 2013, NHRIs were also recognized within the UN system as human rights defenders.

NHRIs established the International Coordinating Committee (ICC) of National Institutions for the Promotion and Protection of Human Rights in 1993. The ICC undertakes accreditation and periodic peer assessment of individual NHRIs' compliance with the Paris Principles. NHRIs have also established four regional networks: the *Asia Pacific Forum of NHRIs*, the *Network of African National Human Rights Institutions*, *Red de Instituciones Nacionales Para la Promocion de los Derechos Humanos en le Continente Americano* and the *European Network of NHRIs*.

Since 1993, the number of NHRIs has increased from a few to over 100 institutions worldwide. NHRIs have strengthened their role and actions to encourage governments and other actors to promote human rights, to ensure redress for victims, and to support democratic and post-conflict transition. New opportunities for NHRIs have arisen through their increasing integration into wider systems of human rights protection, globally and regionally, as demonstrated, for instance, by the rising number of NHRIs with additional mandates under specialised human rights instruments, such as the Convention of the Rights of Persons with Disabilities and UN Convention Against Torture, and the UN Human Rights Council's establishment of special procedural rights for NHRIs in the second cycle of the Universal Periodic Review.

However, NHRIs still face multiple challenges in fulfilling their mandates. Almost one-third of NHRIs worldwide do not fully meet the UN Paris Principles, as required for accreditation to A-status by the ICC. Lack of full cooperation or compliance by governments or other public authorities hinders NHRIs to effectively monitor and remedy human rights violations. NHRI personnel may be subject to reprisals by governments or other actors. Many NHRIs face challenges in addressing new serious and trans-boundary threats to human rights as they emerge, for example, in the areas of business and human rights, natural resource governance and climate change. In this context, this fiche aims to support NHRIs to strengthen their role as agents to promote and protect human rights in line with the UN Paris Principles.

2.3. Lessons learnt

In the past, NHRIs were eligible for EU support in geographical and thematic programmes, e.g. through the ENPI and EIDHR. This led to several ad hoc supports. In 2013, the EIDHR's country-based support scheme provided a direct support to the establishment of the newly created NHRI in Chile, allowing for a smoother start. As of 2012 and 2013, two regional EIDHR projects helped building the capacity of NHRIs on addressing torture prevention respectively in Africa and Asia.

However, this support has remained sporadic and not in-line with the new emphasis on the matter as set out in the 2012 EU Strategic Framework on Human Rights and Democracy, nor the EIDHR priority on supporting international, regional and national human rights mechanisms. There is therefore a need to develop a specific programme that targets and strengthens NHRIs in a more comprehensive manner.

2.4. Complementary actions

The support provided to NHRIs, their regional networks and the ICC under this document is complementary to support provided to international actors, namely the UN Office of the High Commissioner for Human Rights (OHCHR) under Action document 7, as the ICC and regional networks have received support from the OHCHR and as ICC advocacy is increasingly engaging with UN structures in Geneva and New York. For instance, there is a need to strengthen input from NHRIs into the Universal Periodic Review (UPR) and the Treaty Monitoring Bodies. Moreover, the support given to the International Criminal Court (Action document 8) is complementary, as NHRIs play an important role in ensuring accountability and fighting impunity. It is also complementary to the EU's support to strengthen the African Union (AU) as a regional actor under Action document 6, its support to human rights and their defenders in Action document 1, and support to civil society through Country-Based Support Schemes under Action document 2.

For the sake of good coordination and consistency of EU action, special attention will be given to the requests made by governments and other stakeholders (see point 3.5.) during the EU human rights dialogues and consultations with third countries or organisations and other similar meetings to provide EU support to the establishment and functioning of independent NHRIs in line with the Paris Principles.

2.5. Donor coordination

Individual NHRIs are principally funded by national governments, as adequate resourcing to fulfil the NHRI mandate is a requirement under the UN Paris Principles. Historically, the ICC and regional networks of NHRIs have received limited support from the National Institutions and Regional Mechanisms Unit (NIRMs) of the OHCHR, e.g. for the administration of the ICC accreditation process, annual meetings and conferences. A Strategic Partnership between OHCHR, UNDP and the ICC has been established to strengthen their engagement in support of NHRIs. Many NHRIs have received budgetary or other support from NIRMs, OHCHR and/or UNDP at country level. Many have also received support from bilateral donors and foundations. Regional networks of NHRIs have been supported by UNDP (e.g. Asia Pacific Forum of NHRIs) and OHCHR (e.g. European Network of NHRIs), though in principle these and the ICC are primarily funded by annual fees from member NHRIs.

3. DETAILED DESCRIPTION

3.1. Objectives

The overall aim of this action is to strengthen the capacities of NHRIs individually and collectively in line with the UN Paris Principles, in order to increase their impact and effectiveness in promoting and protecting human rights, with a specific focus on their activities related to **human rights and business, and economic, social and cultural rights**.

Moreover, the objective is to strengthen the cooperation between and collective capacity of regional networks of NHRIs and the ICC and their interaction with human rights mechanisms at regional and global levels.

Specific objectives include:

- a) Increasing the number of NHRIs in conformity with UN Paris Principles requirements worldwide;
- b) Increasing the impact and effectiveness of NHRIs in fulfilling their mandates, with an emphasis on NHRI core capacities, accessibility to victims, cooperation with civil society, and emerging human rights challenges and opportunities;
- c) Boosting NHRIs' individual and collective capacities to promote and protect human rights at regional levels, including by strengthening NHRI regional networks and the ICC as international human rights stakeholders.

3.2. Expected results and main activities

The intended **expected results** include the following:

- Increased number of NHRIs worldwide with formal mandates that meet the UN Paris Principles;
- Strengthened NHRI core capacities, and increased NHRI accessibility to rights-holders and cooperation with civil society organisations;
- More effective and relevant actions by NHRIs individually and collectively to address emerging human rights challenges and opportunities in the areas of human rights and business, and economic, social and cultural rights;
- Increased institutional capacity, effectiveness and impact of NHRI regional networks and the ICC.

The following main **activities** will be undertaken:

- Developing action plans to improve the accreditation status of individual NHRIs in line with the UN Paris Principles, including through workshops and trainings to exchange best practices and lessons learnt;

- Implementing NHRI capacity development programmes, trainings, seminars and educational activities, to strengthen NHRIs' individual and collective impact, effectiveness and relevance, with regard to:
 - a) NHRI core capacities, in areas such as complaints-handling, monitoring and reporting to regional and international supervisory mechanisms, including the UN Human Rights Council's Universal Periodic Review;
 - b) improving the accessibility of NHRIs to human rights defenders and victims, with a focus on vulnerable individuals and groups at risk of discrimination and marginalisation, and increasing NHRI cooperation with civil society organizations in the promotion and protection of human rights;
 - c) increasing NHRI capacity to address emerging threats and opportunities in the areas of human rights and business, and economic, social and cultural rights;
- Producing training resources and tools to support NHRI capacity development on the selected thematic and functional issues;
- Providing technical assistance, advice, and funding support, including the possibility of re-granting, where necessary to strengthen the cooperation and actions of NHRIs via their regional networks and the ICC.

At the global level:

- Coordination of overall activities, including input into reports, tools, and training materials,
- Ensuring continued communication, review and evaluation of ongoing activities;
- Organisation of an annual dialogue between the EU, ICC, and its regional networks, tentatively in the margin of the HR Council annual meetings in Geneva to enhance human rights cooperation, with a view to strengthening the capacities of NHRIs worldwide.

A joint steering committee comprising DIHR, the ICC Chair, and ICC Secretary will be set up to coordinate implementation of activities and secure the necessary consultation and involvement of regional networks and individual NHRIs.

3.3. Risks and assumptions

Some risks that might affect the success of the programme include:

- Capacity constraints: Target NHRIs have limited resources and suffer from weak internal governance and administrative capacities and high staff turnover in some cases. It is therefore proposed to identify individual NHRIs for engagement in programme activities selectively, in coordination with regional networks. It is also proposed, where appropriate, to apply resources to mitigate NHRIs' institutional weaknesses and budgetary restrictions to allow effective implementation of project activities, including through programme management.

- Resource restrictions affecting NHRI regional networks and ICC: Cuts in donor funding or reduced payment of membership fees to NHRI regional networks and the ICC could jeopardise the support they provide to NHRIs in participating in human rights supervisory mechanisms. To address this, the programme will provide for technical assistance, advice and funding support where necessary to strengthen cooperation between NHRIs, regional networks and the ICC.
- Political environment: Formal support for NHRIs, through instruments of the UN, EU and other organisations, is increasing. However, any weakening of support for human rights processes and mechanisms generally, or targeting of individual NHRIs, CSOs, or other human rights defenders for reprisals, could affect implementation of programme activities locally. For this reason, it is proposed that actions under this fiche will be accompanied by periodic monitoring and dialogue with stakeholders to assess risks affecting NHRIs or the proposed activities and to seek support from institutional actors to respond to such risks.

3.4. Cross cutting issues

The current action focuses on strengthening the capacity of NHRIs to address emerging human rights challenges that affect disproportionately traditionally excluded and discriminated groups, e.g. indigenous peoples, representatives of minorities, children, persons with disabilities, the elderly, refugees and migrant workers, human rights defenders (including environment human rights defenders), LGBTI persons and women. The project will adopt a human rights-based approach towards its work on accessibility of NHRIs to victims and civil society organisations.

3.5. Stakeholders

UN agencies, including OHCHR and UNDP, relevant regional organisations, national government authorities, private sector, labour organisations, and national and regional civil society organisations will be closely associated.

The target groups are individual NHRIs, regional networks of NHRIs and the ICC of NHRIs. The final beneficiaries are all individuals of countries with NHRIs who will benefit from increased protection and observance of human rights in national laws, public policies, and the conduct of state, local authorities and businesses.

4. IMPLEMENTATION ISSUES

4.1. Financing agreement

In order to implement this action, it is not foreseen to conclude a financing agreement with the partner country, referred to in Article 184(2)(b) of Regulation (EU, Euratom) No 966/2012.

4.2. Indicative operational implementing period

The indicative operational implementation period of this action, during which the activities described in sections 3.2 and 4.3 will be carried out, is 36 months from the adoption of this Action Document, subject to modifications to be agreed by the responsible authorising officer

in the relevant agreements. The European Parliament and the relevant Committee shall be informed of the extension of the operational implementation period within one month of that extension being granted.

4.3. Implementation components and modules

4.3.1 Grant: direct award (direct management)

A standard grant agreement, in centralised direct management mode, will be signed with the Danish Institute for Human Rights, Denmark's National Human Rights Institution.

(a) Objectives, fields of intervention, priorities of the year and expected results

As described in point 3.1 the objectives of the grant is to strengthen the capacities of NHRIs and to strengthen their cooperation between regional networks of NHRIs and their international network the ICC. Its field of intervention will address capacity building, human rights and business, and economic, social and cultural rights.

As described in point 3.2, the expected results of this grant consist in an increased number of NHRIs that meet the UN Paris Principles, with strengthened core capacities to address Human Rights issues.

(b) Justification of a direct grant

The Danish Institute for Human Rights (DIHR) has been mandated by the ICC to implement this project. The direct award is justified by the monopoly of the ICC which is the secretariat of the international network of NHRIs in compliance with the Paris Principles. DIHR is a member of the ICC Bureau and the ICC's management committee.

Therefore DIHR will be the main implementing partner and assume overall responsibility for the implementation of activities, and management of funds (including providing timely acquittals). DIHR has a mandate under national law as Denmark's NHRI, which includes promoting human rights in Denmark and internationally, and is accredited to A-status by the ICC.

(c) Eligibility conditions

DIHR is an independent institution operating at national level and therefore eligible for EIDHR funding (cf. Article 11.2.(a) CIR).

(d) Essential selection and award criteria

The essential selection criteria are the financial and operational capacity of the beneficiary. The essential award criteria are relevance of the proposed action to the objectives of the instrument, in particular its Article 2.1(a)(ii); design, effectiveness, feasibility, sustainability and cost-effectiveness of the action.

(e) Maximum rate of co-financing

The maximum possible rate of co-financing for this grant is 95%.

The maximum possible rate of co-financing may be up to 100 % in accordance with Articles 192 of Regulation (EU, Euratom) No 966/2012 if full funding is essential for the action to be carried out. The essentiality of full funding will be justified by the responsible authorising officer in the award decision, in respect of the principles of equal treatment and sound financial management.

(f) Indicative trimester to contact the potential direct grant beneficiary

Third trimester of 2014.

4.4. Indicative budget

Direct management with DIHR	Amount in EUR	Third party contribution
4.4.1. – Activities directed at individual NHRIs	3 000 000	157 895
4.4.2. – Activities directed at strengthening regional networks of NHRIs and the ICC	2 000 000	105 263
Total	5 000 000	263 158

4.5. Performance monitoring

The project will be monitored according to standard procedures and be achieved through the European Commission monitoring system (ROM - Results Oriented Monitoring). Project monitoring and evaluation will be based on periodic assessment of progress on delivery of specified project results and towards achievement of project objectives. Clear indicators will be identified.

Reporting will be done in accordance to the requirements set in the General Conditions for grants.

Progress reports will be prepared during the period of implementation of the tasks. They will be provided along with the corresponding invoice, the financial report and an expenditure verification report, if foreseen, defined in the General Conditions for grants. There must be a final report, a final invoice and the financial report accompanied by an expenditure verification report, if foreseen, at the end of the period of implementation of the tasks.

Each report shall consist of a narrative section and a financial section. The financial section will contain details of the time inputs of the experts, of the incidental expenditure and of the provision for expenditure verification, if foreseen.

4.6. Evaluation and audit

The DIHR will maintain an accounting system and related controls to provide reasonable assurance that financial records are a reliable basis for preparing financial statements. The system includes a programme of internal audit to provide assurance that proper procedures and methods of operations are being used.

As a self-governing state institution, DIHR's accounts are also audited by the Danish Auditor General. The Auditor General is authorised to audit all accounts, funds and operations of DIHR. The Auditor General's opinion on the financial statements is based on accounting procedures which include a review of internal control and selected tests of transactions and records. These procedures are intended to provide a reasonable level of assurance that the financial statements are fair in all material respects. The Auditor General has unrestricted access to all records maintained by DIHR and has the right to undertake unannounced audits.

Where provided for in the applicable General Conditions, expenditure verification will have to be submitted as part of the contract requirements. Evaluations of the results achieved may be done by external experts hired by the European Commission as well as external audits at the initiative of the Commission, if necessary.

4.7. Communication and visibility

Communication and visibility of the EU is a legal obligation for all external actions funded by the EU. This action shall contain communication and visibility measures which shall be based on a specific Communication and Visibility Plan of the Action, to be elaborated before the start of implementation and supported within the budget of a particular project.

The measures shall be implemented (a) by the Commission, and/or (b) by the contractor in close cooperation with partner countries, grant beneficiaries and entrusted entities. Appropriate contractual obligations shall be included in procurement contracts.

The Communication and Visibility Manual for European Union External Action shall be used to establish the Communication and Visibility Plan of the Action and the appropriate contractual obligations.