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**2nd Round Table with National Human Rights Institutions /
4th European Meeting of National Institutions**

**Belfast (Hilton Hotel) and Dublin (Dublin Castle)
14-16 November 2002**

RECOMMENDATIONS

**THEME 1:
ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS IN THE PREVENTION
AND RESOLUTION OF CONFLICT AND TENSION?**

This Round Table notes that the fundamental role played by national human rights institutions in protecting and promoting human rights, across the broad spectrum of functions, is an essential contribution to the prevention of conflict.

While bearing in mind that the concepts of “conflict” and “tension” may be understood in different ways, and that the scope for national institutions to play a role in their resolution will depend on the specific situation at hand (especially whether or not violence and/or the use of force is involved), it is recognised that any process of conflict resolution involves both more direct and more indirect roles for different actors. In this context, it was agreed that while it may not be appropriate for national human rights institutions to engage directly as a party to negotiations in conflict resolution situations, an indirect and “accompanying” role for such institutions may be more easily articulated. This is particularly true for internal conflicts, the type of conflict most frequently witnessed since World War II. Such a role could include promoting conditions in society that are more conducive to the resolution of the conflict and insisting that the need to respect human rights be fully taken into account throughout the conflict resolution process.

It recognised that there is no specific “prevention of conflict” role for national human rights institutions articulated in the Paris Principles, nor any guidance as to how such role might be fulfilled. However, this fact should not be understood as excluding such a role of the national institutions, as this may be considered as a self-evident and inherent part of their general role in the promotion and protection of human rights.

In this context, it agreed that it is for each national institution to consider how best to operationalise its role in the prevention of conflict in the context of other mechanisms within the member State concerned and the particular mandate of the institution. Given the nexus between conflict and serious human rights violations, the usefulness of research into the causes of such violations was stressed.

It notes that the functions of complaint-receiving, monitoring and recording the state of respect for human rights in the country, are particularly significant tools for national human rights institutions in providing the opportunity for early warning signals of potential conflict situations to be drawn to the attention of relevant authorities and any sectors of society concerned. In this connection, the institutions’ contacts with and input from civil society are of vital importance.

It notes that the prevention role comes into play both before and after conflict and that national human rights institutions can have a different but equally important role in prevention of the recurrence of conflict.

More generally, the Round Table recognises that prevention and resolution of situations of conflict or tension cannot always be distinguished clearly, given that the resolution of situations of low-level intensity can prevent the development of more serious situations.

It notes that the degree to which individual national human rights institutions may engage in conflict resolution will necessarily depend on (a) the existence of any other mechanisms in the

member state, (b) the particular mandate of the institution and (c) the nature of each specific situation.

It recognises as a basic premise that competence, credible independence, trust of the parties and authority are pre-requisites for success in conflict situations and that this holds true also for any role national human rights institutions may play in this regard.

The Round Table recognises that this was the first time it discussed the issue of the role of national human rights in the prevention and resolution of conflict and tension and that there is a need to examine further most aspects of this theme, including the definition of concepts used. It also recognised the need for further cooperation among institutions and between them and the Council of Europe and other international organisations. There are lessons to be learned from the experiences in different countries; the effects of conflicts are frequently not limited to the country most directly concerned, and other countries may be involved in post-conflict situations, for example through peace-keeping operations.

On the basis of the discussions on this theme, participants made the following recommendations:

1. National human rights institutions should be aware of the conflict prevention dimension that may attach to many aspects of the work they undertake within their specific mandates and ensure that this dimension is taken into account, for example in their education, awareness and training activities they carry out;
2. To this end, national human rights institutions should consider whether their internal capabilities and structures are adequate and whether this dimension could usefully be articulated in their mission statements and planning;
3. The Council of Europe is invited to consider organising a future workshop dedicated to exploring further ideas as to the potential roles of national human rights institutions in the prevention, management and resolution of conflict;
4. National Human Rights Institutions are individually invited to consider whether and to what extent they might have a role in conflict resolution, bearing in mind the existence of any other relevant mechanisms in the Member State and their own particular mandate.

**THEME 2:
RIGHTS OF ASYLUM SEEKERS**

The Round Table stresses the need for vigilance as concerns respect for the rights of asylum seekers in Europe today.

Having discussed a wide range of questions relating to this theme, the Round Table makes the following recommendations:

A. National institutions themselves:

1. should insist on the need for all member States to ratify all relevant human rights treaties, in particular ICERD, including the acceptance of the right of individual petition under Article 14 thereof; the UN Convention on Migrant Workers and their families; Protocols Nos. 4, 7 and 12 to the European Convention on Human Rights; and, after its adoption, the 2nd Optional Protocol to the UN Convention against Torture;
2. should insist on full respect by member States of relevant international obligations in particular the Refugee Convention and its Protocol;
3. should make an active contribution during the drafting and implementation process of new EU Directives in this field and to this end, national institutions agree to intensify their co-operation;
4. agree to increase their vigilance as concerns the full implementation of international standards on the rights of asylum seekers and internally displaced persons, and notably:
 - the right to seek asylum and to enjoy protection from persecution;
 - the right to fair and effective asylum procedures;
 - the social, economic and cultural rights, including the right to work, the rights necessary for their material well-being, etc.;
 - the right to liberty and security of persons, recalling that any detention measure must be exceptional, of limited duration, and strictly necessary and that restrictions in freedom of movement within the country, including for internally displaced persons, should be limited to those strictly necessary; bearing in mind that seeking asylum should, in no circumstances, be considered as a criminal act which should be reflected in detention conditions;
 - the right to equality and non-discrimination, including as regards the application of the Refugee Convention, which implies the duty of the States to fight racism and xenophobia and to promote a culture of respect for diversity, refraining from any comment that may lead to stigmatisation or provoke hostility vis-à-vis asylum seekers, whilst giving special attention to the situation of internally displaced persons and working to avoid any policy of forced returns.
5. agree to intensify their work and co-operation as regards:
 - their access to all places where asylum seekers may be detained;
 - obtaining and exchanging information about countries of origin and following individual cases.

6. agree to play an active role in the context of national action plans against racism.

B. Member States should:

1. ratify all relevant human rights treaties, in particular ICERD, including the acceptance of the right of individual petition under Article 14 thereof; the UN Convention on Migrant Workers and their families; Protocols Nos. 4, 7 and 12 to the European Convention of Human Rights; and, after its adoption, the 2nd Optional Protocol to the UN Convention against Torture;
2. fully respect relevant international obligations in particular the Refugee Convention and its Protocol;
3. make it possible for National Human Rights Institutions to contribute actively during the drafting and implementation process of new EU Directives in this field;
4. fully implement international standards on the rights of asylum seekers and internally displaced persons, and notably:
 - the right to seek asylum and to enjoy protection from persecution;
 - the right to fair and effective asylum procedures;
 - the social, economic and cultural rights, including the right to work, the rights necessary for their material well-being, etc.;
 - the right to liberty and security of persons, recalling that any detention measure must be exceptional, of limited duration, and strictly necessary and that restrictions in freedom of movement with the country, including for internally displaced persons, should be limited to those strictly necessary; bearing in mind that seeking asylum should, in no circumstances, be considered as a criminal act which should be reflected in detention conditions;
 - the right to equality and non-discrimination, including as regards the application of the Refugee Convention, which implies the duty of the States to fight racism and xenophobia and to promote a culture of respect for diversity, refraining from any comment that may lead to stigmatisation or provoke hostility vis-à-vis asylum seekers, whilst giving special attention to the situation of internally displaced persons and working to avoid any policy of forced returns.
5. take due account of the Recommendation of the Council of Europe Commissioner for Human Rights concerning the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders¹ when drawing up and applying their legislation and practices in this field;
6. should ensure that, in any legislative response to the terrible events of 11 September 2001, and other terrorist activities, there is no unjustifiable or disproportionate interference with the right to seek asylum or any right

¹ CommDH/Rec(2001)1

guaranteed by the European Convention on Human Rights and other international instruments.

THEME 3:
CO-OPERATION BETWEEN NATIONAL HUMAN RIGHTS INSTITUTIONS AND
BETWEEN THEM AND THE COUNCIL OF EUROPE AND OTHER
INTERNATIONAL ORGANISATIONS

This Round Table reaffirms the need to strengthen the co-operation between national human rights institutions and between the Council of Europe and national institutions. It welcomes the increased opportunities for cooperation with the Council of Europe as a result of the fact that their European Coordinating Group has been granted observer status with the Steering Committee for Human Rights (CDDH) of the Council of Europe, in accordance with the request expressed at the First Round Table (Strasbourg, 16-17 March 2000). It also welcomes the fact that, as from 2003, the organisation of the Council of Europe Round Tables with national institutions will be the responsibility of the Office of the Commissioner for Human Rights and it expresses its gratitude to the Directorate General of Human Rights for having organised the present and past Round Tables. It invites Member States to create, develop and strengthen independent national institutions, in accordance with the Paris Principles and the 1997 Council of Europe Recommendation and encourages the Council of Europe to contribute further to these efforts.

It expresses concern at the steep increase in the workload of the European Court of Human Rights and the risk that it poses for the continued effectiveness of the European Convention of Human Rights control system. The National Human Rights Institutions express their willingness to seek to contribute, through their work at national level and in full respect of the principle of subsidiarity of the European control system, to alleviating the problems facing the Court as well as to elaborate proposals for measures which could be adopted at European level.

It notes the need to strengthen, within the Council of Europe, the relevant texts governing the role and activities of National Human Rights Institutions.

The Round Table reaffirms the recommendations concerning cooperation made at the First Round Table and now

A. agrees:

1. to strengthen the contribution made by National Human Rights Institutions to treaty and other human rights mechanisms of the Council of Europe, the UN and the OSCE and to strengthen their cooperation with the Council of Europe Commissioner for Human Rights and other organs of the Council of Europe, as well as with the UN and the OSCE including the UN High Commissioner for Human Rights and OSCE-ODIHR;
2. to set up an informal rapid consultation mechanism for consultation among National Human Rights Institutions with a view to making optimal use of their observer status with the CDDH;
3. to seek to make more effective the implementation of the European Convention of Human Rights at national level;
4. to develop, as soon as possible, common proposals on the reform of the European Convention of Human Rights control system with a view to their submission to the Council of Europe;

5. to develop proposals for an update of the 1997 Recommendation, *inter alia*, to reflect any new roles of National Human Rights Institutions in assisting the work of the Court;
 6. to create a rapid emergency procedure to protect National Human Rights Institutions from any threats to their existence or independence and to elaborate a manual on this subject;
 7. in view of the fact that 2003 will be the European Year of People with Disabilities, to strengthen their cooperation in this field, in particular with a view to efforts to draft a new international convention on rights of people with a disability;
- B. welcomes and accepts the offers of cooperation made by the Council of Europe Commissioner for Human Rights, i.e. (1) to organise the feeding-in of national institutions' contributions to the on-going discussions in the Council of Europe on solutions to the workload problems of the Court; (2) to make the systematic consultation of national institutions part of the Commissioner's standard procedure for his official visits to member States; (3) to serve as the national institutions' focal point for organising a common response to threats against any of them; (4) to help in defining and interpreting the roles and powers of national institutions by providing his independent opinion if and when so requested;
- C. recommends that the Council of Europe proceed to a revision of the 1997 Recommendation on National Human Rights Institutions.

**RECOMMENDATION TO EXTEND THE TERMS OF REFERENCE OF THE
EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI) TO
COVER HOMOPHOBIA FOUNDED ON SEXUAL ORIENTATION**

The participants in this Round Table take note of the following:

1. Recommendation 1474 (2000) of the Parliamentary Assembly of the Council of Europe on the situation of lesbians and gays in Council of Europe member states and of the report of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly leading up to that Recommendation. In the Recommendation, the Parliamentary Assembly recommended that the Committee of Ministers extend the terms of reference of the European Commission against Racism and Intolerance (ECRI) to cover homophobia founded on sexual orientation.
2. Opinion No. 216 (2000) of the Parliamentary Assembly of the Council of Europe on draft Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, in which it recommended that the Committee of Ministers include sexual orientation among the expressly forbidden grounds for discrimination in Article 14 of the Convention, considering it to be one of the most odious forms of discrimination.
3. The case law of the European Court of Human Rights, in particular its judgements in the cases of *Dudgeon v. United Kingdom* (judgment of 22 October 1981), *Lustig-Prean & Beckett v. United Kingdom*, *Smith & Grady v. United Kingdom* (judgment of 27 September 1999) and *Salgueiro Da Silva Mouta v. Portugal* (judgment of 21 December 1999), in which the Court has consistently upheld a strict justification test for differences in treatment based on an individual's sexual orientation not to be considered a violation of the Convention.
4. Article 21 of the Charter of Fundamental Rights of the European Union, according to which any discrimination based on sexual orientation shall be prohibited.
5. Council directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation, according to which discrimination on grounds of sexual orientation is prohibited.
6. As the Parliamentary Assembly noted in its Recommendation 1474 (2000), gays, lesbians and bisexuals are still all too often subjected to discrimination and violence, e.g. at work, in schools or in the street. Homophobia is sometimes even propagated by certain politicians or religious leaders, in order to justify the continued existence of discriminatory laws and, above all, aggressive or contemptuous attitudes.

The participants in this Round Table therefore recommend that the Committee of Ministers of the Council of Europe extend the terms of reference of the European Commission against Racism and Intolerance (ECRI) to cover homophobia founded on sexual orientation, as recommended by the Parliamentary Assembly of the Council of Europe in its recommendation 1474 (2000). Member states are urged to allocate adequate funding for ECRI in order to ensure that it be able to carry out its mandate effectively.