



**OFFICE OF THE COMMISSIONER  
FOR HUMAN RIGHTS**

**BUREAU DU COMMISSAIRE  
AUX DROITS DE L'HOMME**



Berlin, 26 November 2004

CommDH/NHRI(2004)1  
Original version

**3<sup>RD</sup> ROUND TABLE  
OF NATIONAL HUMAN RIGHTS INSTITUTIONS**

**Berlin, 25 – 26 November 2004**

**organized jointly by**

**the German Institute for Human Rights  
and  
the Commissioner for Human Rights of the Council of Europe**

**The Berlin Declaration**

The 3<sup>rd</sup> Round Table of National Human Rights Institutions was the latest of a series of bi-annual events convened by the Council of Europe Commissioner for Human Rights with the National Human Rights Institutions (NHRIs) of Council of Europe member states.

The Round Table was competently and generously hosted and co-organized by the *Deutsches Institut für Menschenrechte* (DIMR - German Institute for Human Rights).

The Round Table included observers from the European Union, the OSCE, the United Nations, Amnesty International, the International Commission of Jurists, Medica Mondiale, the Human Rights Grouping of NGO's that hold participatory status with the Council of Europe as well as Government representatives and a number of individual researchers.

The **Berlin Declaration** deals with the three main themes of the Round Table, i.e.

- The development of the system of human rights protection within the Council of Europe,
- The protection of human rights in the context of the fight against terrorism,
- The protection of victims of trafficking in human beings.

The Berlin Declaration was drafted under the responsibility of the General Rapporteur by a drafting committee composed of the rapporteurs on the three themes, the Director of the DIMR and a representative of the Council of Europe Commissioner for Human Rights. It was discussed and adopted by the participants.

\* \* \*

The participants of the Round Table

- recalled the Recommendations made at the previous meeting in Belfast and Dublin in November 2002 on the “Role of NHRIs in the prevention and resolution of conflict and tension”, “The rights of asylum seekers” and “Co-operation between NHRIs and between them and the Council of Europe and other international organisations”;
- recalled the Seoul Declaration that was adopted by the NHRIs at their Seventh International Conference held in Seoul on 14 – 17 September 2004;
- took note of the activities of the Council of Europe in the field of human rights protection, including those of the Council of Europe Commissioner for Human Rights, as well as of the new perspectives opened by Protocol 14 to the European Convention on Human Rights;
- took note of the activities of the EU in the field of human rights protection, in particular concerning the Network of Independent Experts on Fundamental Rights, the European Monitoring Centre on Racism and Xenophobia and the

foreseen extension of its mandate that will transform it into the “Fundamental Rights Agency”;

- took note of the activities of the Office of the UN High Commissioner for Human Rights, in particular its role in facilitating engagement among NHRIs and relevant UN bodies;
- expressed satisfaction with the co-operation among them and the Council of Europe Commissioner for Human Rights, especially the manner in which the Commissioner exercises his functions in the context of his official visits to their countries;
- expressed satisfaction with the newly established co-operation with NGOs, academia and individual experts;

and adopted the following conclusions and recommendations:

### **Regarding the system of human rights protection within the Council of Europe**

1. Participants called on the Council of Europe Commissioner for Human Rights to pursue his efforts to assist member States in setting up truly independent NHRIs pursuant to the Paris Principles and to intensify his good co-operation with them, especially by convening round table meetings at yearly (and not bi-annual) intervals and by facilitating engagement among NHRIs and Council of Europe fora in their field of competence, as is foreseen in the agreement on the establishment of the Liaison Office between the Commissioner’s Office and the Presidency of the European Co-ordinating Committee.

2. Participants called on the Council of Europe Commissioner for Human Rights to develop strategies for assisting national institutions which are threatened by closure, by limits to their mandate or by a dramatic cut to their budget as well as assisting individuals being threatened due to their work for a national institution.

3. Participants called on the Council of Europe Commissioner for Human Rights to consider ways of fostering co-operation on the European level among NHRIs and national ombudspersons with a general competence.

4. Participants called on the Council of Europe Commissioner for Human Rights to ensure that his actions received more public attention in their countries, *inter alia* by having his reports translated into the language(s) of the country in question and by using all available means of user friendly communication.

5. The NHRIs agreed to inform the Council of Europe Commissioner for Human Rights of the human rights situation in their countries in order to help him prepare his country visits and reports, and to draw his attention to emergency situations as they arise.

6. The NHRIs agreed to consider adequately and give publicity to the Council of Europe Commissioner’s reports on their country, to monitor the implementation of his

recommendations and to inform him in case human rights violations addressed by him continue.

7. The NHRIs agreed to request the Council of Europe Commissioner's opinion on draft legislation or draft regional or international instruments whenever there is concern that they may be in conflict with the need to ensure respect for human rights and fundamental freedoms.

8. The NHRIs agreed to exchange information and co-ordinate their positions with respect to intended national, regional or international instruments which, if adopted, could endanger the exercise of human rights and fundamental freedoms and invited the Council of Europe Commissioner for Human Rights to facilitate their co-ordination.

9. The NHRIs agreed to draw the Council of Europe Commissioner's attention to possible cases before the European Court of Human Rights in which, in the interest of the defence of human rights in Europe, he could consider intervening pursuant to Article 13 of Protocol 14 to the European Convention on Human Rights.

10. The NHRIs called on the Council of Europe to ensure greater transparency of and add qualified outside expertise, including from NHRIs, to its work, particularly in standard setting. They agreed to use their best endeavours to participate actively and efficiently in Council of Europe fora that are or will be opened to their participation, directly or via the Presidency of their European Co-coordinating Committee, as applicable. To this end, they asked the European Co-coordinating Committee to propose a strategy.

11. The NHRIs agreed to be ready to account publicly for the efforts undertaken by them in the above areas.

### **Regarding the protection of human rights in the context of the fight against terrorism**

12. NHRIs stressed the State obligation to uphold human rights standards in the context of counter-terrorism measures. They underlined that invasive measures call for stronger legal safeguards, and critically addressed the widespread approach of 'striking a balance' between human rights and security issues. It is internationally recognized that the protection of human rights is fundamental and a prerequisite for any counter-terrorism measure. As such it is part of, rather than contradictory to, fulfilling the State obligation to protect people within its jurisdiction.

13. In order to avoid abuses by authorities, NHRIs underline the importance of the principle of the rule of law, as anchored in the European Convention on Human Rights. This includes, *inter alia*, the requirement of precise legal definitions of terrorism-related and other crimes. Furthermore, NHRIs stress the need for remedies and judicial review in cases of alleged infringement of human rights by counter-terrorism measures.

14. The NHRIs affirmed that they will scrutinise measures taken or proposed by States to combat terrorism, in particular those reported to the UN's Counter-Terrorism Committee and those prepared within the Council of Europe and the EU, with a view to ensuring that there are corresponding safeguards adequately protecting human rights and

the rule of law, as are laid down, *inter alia*, in the Council of Europe Guidelines on Human Rights and the Fight Against Terrorism.

15. The NHRIs affirmed that they will seek to ensure that governments do not permit anti-terrorism measures to be applied abusively in contexts such as immigration control and the fight against criminal activities and resulting in unjustifiable discrimination; they will also seek to ensure that governments do not disregard international human rights standards for reasons of foreign policy.

16. The NHRIs affirmed that they will use their best endeavours to scrutinise the activities of police and surveillance agencies, the decisions taken by data protection authorities and the judgments of courts to assess their compliance with international human rights standards. In particular, the NHRIs agreed to draw attention to the need to exclude in any proceedings evidence obtained by the use of torture or cruel, inhuman or degrading treatment of any person by the agent of any State.

17. The NHRIs agreed to engage with media organisations, with political parties and with civil society to raise awareness and understanding of international human rights standards relevant to the fight against terrorism and to study the causes of terrorism.

18. The NHRIs agreed to share their expertise in this area and to strive to work together to achieve the commitments in this Declaration.

19. In the face of an increasingly negative attitude towards human rights and those who defend them, the NHRIs emphasized the need for greater solidarity among them and asked the European Co-ordinating Committee to come forward with a strategy to achieve this.

### **Regarding the protection of the victims of trafficking in human beings**

20. The NHRIs agreed to help raise awareness that trafficking in human beings – as a modern form of slavery – is a major violation of human rights, especially the right to respect for dignity and integrity, which States are obliged to combat and prevent.

21. The NHRIs agreed on the need to participate in the negotiations of the draft Convention of the Council of Europe on action against trafficking in human beings so as to request the strengthening of the right to respect for dignity throughout said instrument. They agreed to encourage the adoption and ratification of such instrument.

22. The NHRIs agreed to call upon States to sign and ratify the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the UN Convention Against Transnational Organized Crime and its Protocols as well as the International Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and its Optional Protocol.

23. The NHRIs agreed to monitor the adequate implementation of international standards that affect the protection against trafficking in national practice and legislation.

On the international level, they agreed to participate actively as observers in the UN Working Group on Contemporary Forms of Slavery as well as in the Committee on Elimination of Discrimination against Women.

24. The NHRIs underlined that combating the root causes of trafficking requires an integral approach encompassing gender and minority rights in the protection of victims and their families. This includes investigating the adverse effects of legislative proposals on vulnerable groups exposed to trafficking. The NHRIs agreed to pay attention to the impact of poverty on trafficking as well as sexual exploitation.

25. The NHRIs agreed to aim at ensuring that the illegal recruitment, transportation, transfer, harbouring or receipt of persons is prevented and repressed effectively. They agreed to promote the necessary assistance to victims of trafficking, including rehabilitation, without discrimination.

26. The NHRIs agreed to monitor and investigate the conduct of deployed military and civilian personnel from their respective countries that encourages or leads to trafficking and other forms of violence or sexual exploitation, especially of women and children. They also agreed to enter into dialogue with States to strengthen preventive measures, including education, information and the development of codes of conduct.

27. The NHRIs agreed on the need of establishing a European strategy of combating trafficking in human being that respects and protects the rights of the victims. This should include studies of the effect of sanctioning the perpetrators of sexual exploitation.