

REPORT BY NATIONAL HUMAN RIGHTS INSTITUTIONS IN EUROPE

UN Human Rights Commission, 58th Session, 18 April, 2002, Agenda item 18b.

Presented by Morten Kjaerum, chairman of the European Coordinating Group of National Human Rights Institutions (Director, the Danish Centre for Human Rights) and Jenny Olausson, The Office of the Disability Ombudsman in Sweden.

(National Institutions will submit their written reports separately)

* * * * *

Mr. Chairman, distinguished ambassadors, ladies and gentlemen

It is a great honour for me to address the UN Human Rights Commission on behalf of the European national human rights institutions. This annual dialogue between the Commission and national human rights institutions is one of the concrete, continuing outcomes of the UN World Conference on Human Rights in 1993. The World Conference recognised the need for practical measures to implement international human rights norms and standards at the domestic level. It identified national institutions as good mechanisms to achieve that. National institutions are very close to the problems that people face and they are often in a good position to suggest ways and means to remedy both individual and systemic human rights violations. Our dialogue each year reflects the common interest of both states and national institutions in an open exchange about the difficult human rights issues with which national institutions work each day.

European national institutions, therefore, are greatly disappointed that this year the time allocated to our dialogue has been drastically reduced to merely one hour. We recognise the time constraints on the Commission. However to allocate only one hour out of a total of at least 180 meeting hours is utterly disproportionate to the importance of these institutions as recognised in the Declaration and Plan of Action from the World Conference on Human Rights and in the Declaration and Programme of Action from the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. We anticipate an early discussion between the bureau of the Commission and the International Coordination Committee for National Human Rights Institutions (ICC) about the format and character of the dialogue at the

59th Session of the Commission in 2003 and subsequent sessions. The European group supports the statements made by the president of the ICC.

This unfortunate situation at this session of the Commission runs counter to the increasing recognition by other inter-governmental organisations of the importance of national institutions. Last year the Council of Europe decided to grant the European Coordinating Group for National Institutions observer status in the human rights steering committee of the Council of Europe. This is perceived as a natural development in the good dialogue between the Council of Europe and national institutions, which was reinforced by the 1998 resolution establishing the roundtable between the Council and the national institutions. The second roundtable will be held this year in Ireland and Northern Ireland. European national institutions have also been active at the global level. The Danish Centre for Human Rights and the Swedish Ombudsman against Ethnic Discrimination were very pleased to host the 6th World Conference for National Human Rights Institutions in Copenhagen last week. The Chairman of the ICC has already spoken about the Copenhagen Declaration, a forward looking and practical document.

Mr. Chairman, let me highlight, on behalf of the national institutions in Europe, four particular issues that have preoccupied us during the last year. They are (1) the impact on human rights protection of the fight against terrorism, (2) the increase in racially motivated attacks, (3) the obligation of States to fulfil the rights of people with disabilities and (4) threats to the independence of national institutions.

The impact on human rights protection of the fight against terrorism was discussed at the national level and also at the Euro-Mediterranean Meeting of National Institutions held in Athens in November last year as well as in our dialogue with the Council of Europe. The fight against terrorism is a concern for national human rights institutions as it is for everyone else when we see in so many parts of the world the continued practices of terrorism by individuals, organisations and states. Terrorism violates human rights but it will not be eliminated by other human rights violations.

Some of the laws introduced recently in European countries with the aim of combating terrorism give rise to concern and criticism that they fail to meet international human rights standards. National human rights institutions have raised these concerns in relation to new intrusive methods of investigation, wider access to surveillance and exchange of sensitive personal data between States, the extension of detention without formal charges, arbitrary limitations in the freedom of speech and freedom of assembly and so on. National institutions have warned that initiatives aimed at combating terrorism must not encroach on such fundamental rights and liberties through restrictions that are inconsistent with the objective of protecting human rights. International human rights norms, as we know them today, were developed in response to the horrors of genocide, war and other forms of conflict. They recognise that there can be a delicate balance between protecting the interests of broader society and protecting the rights of individuals. National institutions affirm that the legitimate fight against terrorism can be and must be conducted with full respect for international human rights norms.

Mr Chairman, national human rights institutions in Europe are concerned about the persistence of racism, racial discrimination and racially based violence. This is

evident in discriminatory treatment of people with Roma background, the difficulties in accessing education for children of asylum seekers and people without residence permits, and the double discrimination that many women from racial and ethnic minorities face in their daily lives. We are particularly worried by the increase in recent months in anti-Semitic and anti-Islamic assaults. As it was set out in the Durban Declaration and Programme of Action national institutions realise that they have an important role to play in combating the hostile stereotyping leading to these assaults by working with the media, focussing education to special target groups, in particular young people, and reminding politicians about their leadership responsibilities. Finally, national institutions in several European countries have urged their governments to reconsider new more restrictive asylum legislation, because draft laws have not complied with international human rights standards.

We welcome the initiative of the European Union to address the issue of racism and discrimination through the Charter of Fundamental Rights. We welcome in particular the broad scope of the non-discrimination article, which covers areas such as disability, age and sexual orientation in addition to race, colour and ethnicity. This is an important development in the fight against discrimination, because discrimination in one area can only be combated if the very notion and acceptance of any form of discrimination is effectively addressed. Equally important is the new protocol 12 to the European Human Rights Convention adopted by the Council of Europe

Mr. Chairman, in relation to this broader issue of discrimination the third issue European national institutions wish to address is the rights of people with disability. Allow me to hand over to Jenny Olausson, representing the Swedish Disability Ombudsman.

Human rights are the foundation on which to prevent discrimination against people with disabilities and to ensure everybody full participation and equal opportunities in society. Disability policy measures must be seen as a natural part of the efforts to live up to human rights. Disability policy is still often viewed primarily as a social issue. People with disabilities are still far too often seen solely as object of care. National human rights institutions have an important role to play in changing this perspective towards a rights-based perspective and in preventing and fighting discrimination against people with disabilities.

The right to vote is a fundamental citizen's and democratic right. Despite this disabled people cannot always take it for granted that they will be able to vote on the day of election. This is the case when polling stations have shortcomings what accessibility is concerned. When premises used for municipal council meetings do not provide access for disabled people, or do not make adapted information available on request citizens are excluded from information about and participation in political debate and are prevented from being politically active. But against the background of human rights no one can assert that creating an accessible environment to enable disabled persons to take full part in community life is merely a socio-political issue.

The European national human rights institutions welcome that the Commission has invited the High Commissioner for Human Rights, in co-operation with the Special Rapporteur on Disability, to examine measures to strengthen the protection and monitoring of the human rights of persons with disabilities. We also welcome the

Study on Human Rights and disability written by the Professors Gerard Quinn and Theresia Degener.

The future development towards improved living conditions for persons with disabilities must build on strong international promotion of human rights and democratic values. We appeal to this Commission to use this opportunity to introduce measures, which in a tangible way will strengthen the protection of the human rights of persons with disabilities. Through the study by Professors Quinn and Degener the Commission have a unique opportunity to initiate a number of effective and reasonable measures, which would mean a difference.

In December 2001 the UN General Assembly decided to establish an ad hoc committee to consider proposals for an integral and comprehensive international convention to protect and promote the rights and dignity of disabled people. It is of fundamental importance that organisations of disabled people and national human rights institutions will be given real possibilities to actively participate in the elaboration of a convention. Furthermore, we would like to emphasise that the elaboration of a convention must take place within the context of established United Nations human rights norms and principles.

Mr Chairman, national human rights institutions have important roles in implementing international norms at the national level. We have so far discussed three issues – ensuring human rights during the fight against terrorism, action against racism and racial discrimination and protecting the rights of people with disability. These issues can be addressed by effective, independent national human rights institutions that comply with the Paris Principles. The 6th World Conference for National Institutions recognised this. The Copenhagen Declaration adopted by the Conference appealed to states to respect the independence of national institutions. Unfortunately, recently in Europe some States have proposed changes in the laws governing their national institutions that would have hampered their independence and effectiveness. Fortunately, so far none of these proposals have been implemented. This Commission and the General Assembly have called again and again for States to establish and support independent national institutions because they recognise the importance of these institutions in advancing respect for human rights. Any action against existing institutions that restricts or removes their independence is contrary to the increased international focus on the implementation of human rights in all societies. National institutions at the regional level and internationally will follow this situation closely. We are committed to mutual support in these human rights efforts and seek a similar commitment from all States.

Thank you very much for your attention.