

Implementing the Council of Europe Recommendation on National Human Rights Institutions: the state of play in 2025

The situation in Switzerland



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Information from the Swiss Human Rights Institution

Overview

Good practices and improvements:

- The Swiss authorities have taken **positive steps towards the establishment of an NHRI** in Switzerland. In fall 2021, Parliament passed a revision of the Federal Act on Measures in Support of Civilian Peacebuilding and Strengthening Human Rights, which stipulates the establishment and financing of a national human rights institution. The Swiss Human Rights Institution (SHRI) had its founding meeting on 23 May 2023, and a Board has been appointed. Following the set-up of an office, long-term strategy and staffing of the Institution, it is meanwhile fully operational within the limits that its resources allow for.

Key areas where improvement is needed:

- **Adequate resources to carry out full breath of mandate:** at the same time, national civil society, members of Parliament as well as regional and international human rights actors have called for national authorities to provide the Swiss Institute with sufficient funding to ensure that it can fulfil its mandate and safeguard its independence and compliance with the UN Paris Principles.
- **Enabling environment:** The SHRI itself maintains that in order to fully live up to the mandate of an NHRI it would be necessary to receive substantially better funding; allow for a greater variety of sources of public funding (not just from one Ministry for instance) with no strings and conditions attached ; and extend the mandate of the institution to investigate individual cases.

1. Establishment of NRHIs

Establishment and accreditation in compliance with the UN Paris Principles

At present, Switzerland does not have an internationally accredited National Human Rights Institution. However, the Swiss Human Rights Institution (SHRI) was formally established in May 2023, with the goal of becoming the Swiss NHRI. The SHRI Secretariat has been operational since February 2024.

In 2023, the SHRI became a member of ENNHR, signalling its intention to work towards accreditation in full compliance with the Paris Principles. ENNHR stands ready to further provide information to the SHRI and any relevant authorities on NHRI standards and the accreditation process.

The accreditation status of the SHRI will be considered for the first time by the SCA during its first session of 2026.

Broad mandate to promote and protect human rights, preferably through constitution

The SHRI reports that its regulatory framework should be strengthened. Although its mandate is materially broad and covers all human rights issues, investigations in specific cases and ombuds-functions are excluded from the mandate, which basically hinders the institution from working in individual cases in general.

2. Strengthening of NHRIs

Selection and appointment of NHRI leadership: competence-based, transparent and participatory selection process based on publicly available and clear criteria

Selection of the members of the General Assembly

The SHRI is composed of the Members' General Meeting, the Executive Committee, and the Auditors. Additionally, the SHRI includes a Secretariat (consisting of the Director and the staff members) and may establish advisory bodies appointed by the Executive Committee. At this early stage of the SHRI, no such advisory bodies have been established. Based on the Civil Code, the Members' General Meeting constitutes the highest decision-making body of any association. The Members' General Meeting is composed of all admitted members.

The SHRI welcomes applications for membership from individuals or legal entities engaged in the promotion and protection of human rights in Switzerland.

The threshold for entry to the NHRI's General Assembly is low. Low-threshold access, including minimal membership fees, is important to prevent socio-economic barriers to membership and enhance representativity. The membership criteria are the following:

- The potential member must be an individual or a legal entity.
- The potential member must not be the Confederation or the cantons.
- The potential member must adhere to the goal of the SHRI, namely the protection and promotion of human rights.

In accordance with the enabling law (Art. 10c(3)), the Members' General Meeting decides on admission, based on recommendations from the Executive Committee (Art. 11(a) Statutes).

Election of members of the Executive Committee

The Executive Committee, as set out in the Statutes, serves as the SHRI's strategic decision-making body.

The Members' General Meeting elects the five to nine members of the Executive Committee. The Statutes (Art. 15(4)) stipulate a diverse composition of the Executive Committee regarding gender, age, linguistic communities and professional competences.

The election procedure is described in detail in Article 13 of the NHRI Status.

The Debate Rules, contained in the Rules of Procedures, stipulate that:

- It is the responsibility of the Executive Committee to ensure that a sufficient number of qualified candidates are available and that these candidates reflect the diversity of the SHRI.
- New candidates are recruited based on the competencies required for the role.
- Vacancies are widely advertised to ensure that everyone can express their interest.
- Diversity is a key consideration throughout the process.

The Executive Committee plays an important role in preparing for vacant positions on the Committee as well as for the admission of new members of the SHRI. The members of the SHRI – the highest decision-making organ – so far respect and follow its recommendations when electing new candidates.

The Executive Committee is responsible for ensuring an adequate pool of qualified candidates who reflect SHRI's diversity. This involves recruiting new applicants based on the competencies required for the role. The Committee advertises vacancies and conducts the entire selection process in a democratic manner, with a focus on diversity.

Duration of mandate / transitional measures: the term of mandate is clearly set out so that the leadership post of the NHRI does not stay vacant for any significant period of time

Each member serves a term of four years and may be re-elected once (Art. 14(4)).

Dismissal of NHRI leadership: objective dismissal process for the NHRI leadership, with clearly defined terms in law

The primary mechanism for the removal of Executive Committee members is non-re-election, which can occur every four years. As with all members, Executive Committee members may be expelled under certain circumstances. As another option for removal, Article 8(2) and Article 11(i) of the Statutes provide for the possibility of exclusion of members. For the theoretical case that a member of the Executive Committee would be excluded as a member, it would also cease to be a member of the Executive Committee.

Thus, while a member can terminate his or her membership simply by written communication to the Executive Committee, a written explanation from the Executive Committee is required to terminate a member's membership. Such an exclusion is possible if the membership criteria are no longer met. If the member acts contrary to the purpose of the SHRI, or if the member repeatedly fails to pay membership fees despite reminders.

The final decision regarding the exclusion of members rests with the Members' General Meeting.

NHRI access to information, law- and policymaking processes

The Swiss NHRI has in principle adequate access to information and to policy makers and it is involved in all stages of legislation and policy making with human rights implications. It is building up the network necessary to be involved and consulted in early stages of law making processes.

Adequate resources to fulfil breadth of its mandate, including new mandates

The Institution is structurally and systematically underfunded. The staff the institution can hire (just above 5 FTEs) is clearly insufficient to fulfil even the narrowest understanding of its general mandate, required by the Paris Principles and stipulated by the law. What's more: the funds at its disposal come with strings attached. The funding from the federal state (1 Mio CHF) must in principle be returned if not used-up by the end of the fiscal year; the funding received from the cantons (300 000 CHF) is restricted to the financing of infrastructure costs. This legal basis for the institution has been created in 2021 and has not been changed since.

In addition, the cost of living in Switzerland is very high, and the work must be carried out in several national languages and within a complex federalist system. These factors add to the severe underfunding – also in comparison to other European NHRIs.

Independent budget

The enabling law allows different sources of funding for the SHRI (Art. 10a(2)):

"Every four years, the Federal Council proposes to the Federal Assembly, after hearing the cantons, an expenditure ceiling for the financing of the organisation and activities of the NHRI. The aim is for the cantons to cover the infrastructure costs and for the NHRI to be located in one or more universities."

Moreover, the FAHR states in Article 10b(2) that:

"(The Swiss NHRI) may provide services to authorities and private actors, generally for a fee."

This is concretised in Article 22 of the Statutes, which define the following potential sources of funding:

"(a) annual contributions from the Confederation, (b) contributions from cantons and municipalities, (c) membership fees, (d) remuneration received for services provided to private authorities and actors, (e) other income, provided that it does not undermine the independence of the SHRI."

In practice, the SHRI receives funding from the Federal Administration and the Cantons. Some financial resources are also obtained through external assignments, and a small amount of monetary resources is obtained through membership fees. Up to this day, the SHRI has not received any donations.

Follow-up to NHRI recommendations - legal framework: It is a legal obligation to provide a reasoned reply within an appropriate time frame

Relevant parties, including the federal and cantonal parliaments, government authorities, and public bodies, are not legally obliged to formally respond to the recommendations and reports issued by the SHRI. However, the SHRI maintains active and ongoing dialogue with these stakeholders, as far as the currently very limited resources allow, which enables it to regularly provide feedback and foster a constructive exchange. This collaborative approach enables the SHRI to encourage responses and engagement, even without formal, binding obligations.

Follow-up to NHRI recommendations - practice: NHRIs' recommendations are implemented. There are processes to facilitate follow-up of NHRI recommendations, in a timely fashion

It is too early in the existence of the institution to make substantive statements regarding the follow-up to the NHRI's recommendation. However, where the NHRI has so far issued specific recommendations in legal consultation processes, these recommendations have been considered insofar as they have been referred to in the subsequent report of the administration as a free-standing category of recommendations, not lumped together with those of the civil society for instance.

3. Securing and expanding an enabling and safe environment for NHRIs

Awareness of NHRIs' role and mandate: states foster awareness and cooperation in relation to NHRIs' mandates, independence, and role

With regards to state authorities' awareness of the NHRI's mandate, independence and role, the SHRI reports that this is a very young and very small institution, and as such authorities do not always have good awareness. Authorities who were not directly involved in setting it up, have often no awareness of its existence, let alone of its mandate and special prerogatives. Experience shows that this will take time and need much more resources to establish.

Protection and support against threats, harassment and intimidation: states take all measures necessary to protect and support NHRIs against threats and harassment

There are no measures in place to specifically protect the leadership and the staff of the institution from harassment or intimidation. At this point, the institution may well be too small and obscure in order to attract specific risk of harassment and intimidation.

Functional immunity: the national legal framework or enabling legislation includes provisions for functional immunity of the Head and staff

Whereas there are no special immunities in place that protect the head(s) of the institution or staff in addition to other individuals in society (i.e., parliamentary immunity), there are also no relevant criminal offenses (i.e., defamation, etc.) in the criminal code that can be committed in good faith. The criminal law side of the immunity is ensured, therefore. Regarding civil liability, it should be underlined, that head(s) of institutions and staff are employed under private law, not public administrative law. Members of the board are elected by the members of the institution,

not by the administration, and there is no involvement by the administration in that process whatsoever. Staff is appointed by the board. Their risk of liability is therefore no more elevated than that of the workforce of the private sector. There is no potential liability as representatives of states to be shielded from.