

## Financial evaluation research of the Dutch national human rights institute

The research institute of the ministry of Security and Justice commissioned Pro Facto to perform this financial evaluation.

Research team: prof.dr. Jacobus de Ridder (supervisor), mr. Niko Struiksma en mr. Mark Hollander. Advisor: drs. Theo van der Zee.

# English summary

## Introduction

In 2012 the Dutch national human rights institute (NHRI) was instituted under the name of College voor de rechten van de mens (hereafter to be referred to as the College or CRM). The College is an NHRI as specified in the "Paris Principles", endorsed in 1993 by VN resolution 48/13. The International Coordinating Committee for National Human Rights Institutions (ICC) is the international association of NHRIs from all parts of the globe. Established in 1993, the ICC promotes and strengthens NHRIs to be in accordance with the Paris Principles, and provides leadership in the promotion and protection of human rights. The ICC undertakes accreditation of NHRIs in accordance with the Paris Principles; accreditation can result in either an A, B or C status. The A status, granted when an institute entirely complies with the Paris Principles, entitles to participation and the right to speak in various UN bodies and panels. Of the more than hundred operational NHRI's worldwide, more than sixty have been conferred the A-status.

The Paris Principles contain the conditions the NHRI has to comply with in order to be eligible for ICC accreditation. In order to acquire the A status, a national institution shall be granted the competence to promote and protect human rights and be given as broad a mandate as possible, specified by law. Furthermore, the Paris Principles specify a set of tasks, the requirements independence and of a pluralist representation of social forces. Independence implies adequate funding, enabling the NHRI to have its own staff and premises and to conduct its activities smoothly. The NHRI should not be subject to forms of governmental financial control which might affect its independence. In May 2014, the ICC conferred the A status to the College.

The College has the legal status of an autonomous agency under Dutch law. The body has a chairperson, eight members and nine substitute members. Its supporting office is headed by a Director who

controls three departments: Front Office & Rulings, Research & Advice and Management. The explanatory memorandum that went with the bill that founded the College, explicitly states that two years after the initiation of the College, an evaluation will be commissioned to assess whether the funding of the College is adequate for the execution of its statutory tasks. Depending on the outcome of the evaluation, the budget legislator may adjust the budgetary frame of the College. The provision stems from concerns uttered during the conception of the bill regarding the sufficiency of the funding. The research institute of the ministry of Security and Justice commissioned Pro Facto to perform this financial evaluation.

### **Research questions and research design**

The goal of the evaluation research is an appraisal of the accomplishments of the College set against the ambitions vested in the institute at its inception and given the financial means available. The core evaluation questions were:

What was the ambition for which the College for human rights was established, how does the College function and how should the allocation of the budget of the College be appraised?

What is the appraisal of the size of the College's budget, set against the ambitions for the College, in the view of the College itself, in the view of its stakeholders and according to independent experts?

In order to collect the data for answering these questions, documents were studied, financial data were analysed, 33 key informants inside and outside the College were interviewed and a survey was conducted amongst stakeholders and independent experts.

### **Ambitions, goals, tasks**

The legislator granted the College the broad mandate and the set of tasks stipulated in the Paris Principles. The tasks outlined in the founding law can be clustered as follows:

1. Adjudicative: investigating and judging on complaints concerning equal treatment;
2. Advisory: stimulating and undertaking research, reporting and advising on issues over the broad range of human rights;
3. Normative: promoting and encouraging the ratification of or accession to human rights treaties and other such instruments and promoting and ensuring their implementation;
4. Informative: increasing public awareness of human rights, especially through information and education.

The first of the four tasks used to be performed by the Committee on equal treatment. After the commencement of the College in 2012 this task was transferred to the College. The adjudicative task is demand driven, meaning that the actual input in the execution of this task is determined by the number of complaints to be adjudicated and the requests for information to be dealt with.

The other three tasks are input driven. The College has (in accordance with the Paris Principles) total discretion within the framework of the tasks stipulated by the law, to select and prioritize issues and to design and execute measures and activities. During the initial stage of the institution, a founding task force developed a strategic plan, identifying goals and priorities within the broad mandate of the College. This plan specifies the issues and activities that will have priority attention of the College in the years 2013-2015. In doing so, the College thoughtfully and meticulously searched for a framework to optimize the implementation of its tasks, given the means available. The resulting scheme stipulates five strategic goals:

1. In government policies, in laws and regulations, human rights are respected and secured.
2. Violations of human rights, either by public authorities or other parties, are being prohibited or corrected.
3. All people in the Netherlands understand their human rights and those of others and are capable to enjoy those rights.

4. Public authorities, parliament, organizations and individuals actively assume responsibility for respecting and securing human rights.
5. The College for human rights matures into the authority on human rights in the Netherlands.

Beyond that, in its strategic agenda the College prioritized six issue areas:

1. Elderly care and human rights
2. Migration and human rights
3. Discrimination at the entrance to the labour market
4. Ratification and implementation of the UN Convention on the Rights of Persons with Disabilities
5. Human rights education
6. Ratification of other treaties

The strategic plan is operationalized in sets of activities that are de facto being implemented. Thus all statutory tasks and ambitions of the College are transformed into actions. However, not all parts of the statutory duties receive sufficient coverage, according to the College itself. In particular, the College is dissatisfied with the progress in the domain of “human rights education”. The initial course of action was aimed at making human rights a required subject in the curriculum of primary and secondary education. When the ministry of education let it be known that it saw no room for such a regulated incorporation in the curricula, the College felt that the only other route available was to take human rights education in its own hands. However, the College lacks the resources to really apply itself to this labour-intensive task.

### **Organisation and resources**

In 2014, the budget of the College amounted to € 5.7 million. This equals the budget previously available to the Committee on equal treatment : € 5,6 million in 2010. The initial enlargement of this budget with € 0.9 million (of which € 0.6 permanent) at the start of the College was virtually wiped out by consecutive rounds of civil service wide cutbacks. To meet this reduction in financial resources, the College decided on a number of austerity measures, both in personnel and equipment. In 2015, of the personnel entitlement of 57.6 fte, only 48,5 fte have been filled. The reduction of personnel was realized by decreases in the College and the senior management. In the area of adjudication efficiency was greatly enhanced, both in terms of personnel input and in terms of lead time. The Chairperson of the College has expressed her concerns about insufficient resources in a number of letters to the minister and in consultations with the ministry. The ministry however takes the view that general budget cuts regard the whole civil service and that there is no reason to make an exception for the College.

The financial reporting of the College to the ministry is done according to the regular practices of the departmental P&C cycle. The College is subject to the common accountancy instruments of the civil service such as the annual audit, the planning and control cycle and the regulations concerning outsourcing, procurement and invoicing. However, in deference to the special autonomous position of the College, the annual reporting is highly aggregated in nature while the financial consultations with the ministry are limited to basics.

### **Perceptions**

The stakeholders and independent experts that contributed their views for this evaluation generally hold a positive view of the way the College has selected its priorities and deals with the discharge of its statutory functions. A negative exception is human rights education, one of the six prioritized domains: 42% of the respondents who offered an opinion on the subject considered the performance of the College in this area wanting. The College acknowledges that human rights education has not been sufficiently developed.

Beyond that, a relatively large number of respondents notes that the College might give more attention to co-production. More cooperation with other institutions and organizations in the field of human rights for the realisation of the ambitions of the College might partly address the issue of limited resources and enhance the effectiveness of the College. The College, in response to these suggestions, asserts that there is a limit to what cooperation can achieve, given the independent position of the College and the College's holistic approach to human rights promotion and protection.

### **Efficiency**

The core question of this evaluation is, whether the financial means available to the College are sufficient for an adequate execution of all its statutory functions. It is essentially not possible to provide this question with a definite answer: there is no measuring rod available to determine whether the execution is adequate. The College's broad mandate and autonomous status make the College itself the judge of what is a satisfactory performance. In last resort the ICC, as accrediting institution, can authoritatively assess the performance of the Dutch NIHR. So in the end, deciding on the annual budget of the College is a value call for the budgetary legislator. Still, this evaluation provides a number of insights that can benefit the budgetary legislator in its decision making.

The legislator deliberately did not substantially increase the amount of money available for the institution when it transformed the Committee on equal rights into the Dutch NHRI. The assumption was that efficiency measures and cutbacks in the adjudication function would make sufficient funds available for the new human rights tasks. The College managed accordingly and took efficiency measures that released resources for the new functions. Since then the financial allotment from the state budget has shrunk rather than grown, due to several rounds of overall cutbacks in national spending. Thus the College is now operating on a budget far smaller than the legislator initially deemed adequate.

Given the budget initially allotted, the College set out to develop a strategic plan with prioritized domains, issues and goals. The evaluation shows that the College proceeded purposefully and well considered when deciding on the allocation of its resources on different alternative courses of action. So throughout its three years of existence, the College deliberately sought for ways to make ends meet. Still there are indications, primarily derived from the interviews, that the College could strengthen its capabilities for promoting human rights if it would more actively seek cooperation with other institutions and organisations in the field of human rights – both in its strategic planning and in the organization of activities on the ground.

The College itself explicitly holds the position that the present budget, depleted by rounds of cutbacks, is far too limited for an adequate discharge of its statutory duties. Effectively increasing public awareness of human rights, especially through information and education and by making use of all press organs, no doubt invokes far more resources than the College has at its command right now. The adjudication task still sequesters a large part of the budget, the efficiency measures in the adjudication processes notwithstanding.

The guidelines on NHRI resources and independence in the Paris Principles do not provide direct support for the position of the College; they are too general to derive specifics on the size of an NHRI budget from. It is not likely however that the present budget is endangering the accreditation of the College yet.

The interviews and the survey among stakeholders and experts did not provide strong indications that the budget of the College has sunk below a minimum threshold. Actually most respondents were reluctant to express straightforward views, since they lack insight in the spending of the College. It will be useful if the College extended its financial reporting to the outside world, creating more transparency about the allocation of its resources and the spending on various activities.