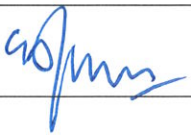




Seychelles Human Rights Commission

ADVISORY REPORT PROCEDURES

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Signature	

ADVISORY REPORTS PROCEDURES

May 2022

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1. Introduction

1.1 The Seychelles Human Rights Commission (hereinafter “the Commission”) is established under section 3 of the *Seychelles Human Rights Commission Act* of 2018 (hereinafter “the Act”). Pursuant to section 3 (2) of the Act, *the Commission shall be a self-governing, neutral and independent body and shall not be subject to the direction or control of any person or authority.*

1.2 The mandate of the Commission is to promote and protect human rights in Seychelles, and, to facilitate the Commission to execute this mandate, the Act provides the Commission with a broad range of powers and functions.

1.3 Section 14 (1) (a) (i) of the Act provides that, *in addition to any other powers and functions conferred on or assigned to it by this Act or any other written law and in order to achieve its objects-*

(a) the Commission is competent and is obliged to-

(i) make recommendations to the ministries at all levels of government where it considers such action advisable for the adoption progressive measures for the promotion of human rights within the framework of the Constitution and this Act, as well as appropriate measures for the further observance of such rights;

(ii) undertake such studies for reporting on or relating to human rights as it considers advisable in the performance of its functions or to further the objects of the Commission.

1.4 Section 14 (3) of the Act provides that

If the Commission is of the opinion that any proposed legislation or any written law is contrary to Chapter III of the Constitution or to norms of international human rights law which forms part of the laws of the Republic or to other relevant norms of international law, it shall immediately report that fact to the President.

1.5 Article 3 (a) (i) of the *Principles relating to the Status of National Institutions* (hereinafter “The Paris Principles”), adopted by the General Assembly Resolution 48/134 of 20 December 1993, provides

A national institution shall, inter alia, have the following responsibilities:

- (a) *To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:*
 - (i) *Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures.*
 - (ii) *Any situation of violation of human rights which it decides to take up;*
 - (iii) *The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;*
 - (iv) *Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government.*

1.6 As such, it is essential to recognise that the Commission has a critical role to play within the governmental structure relating to the institutionalisation of human rights within the governance mechanisms of the Government and the reinforcement of the Rule of Law.

1.7 As such, given the above the Government has an obligation to afford the Commission's Advisory Reports and the recommendations contained therein with the utmost respect, and give them serious consideration within its decision-making process.

1.8 The Commission's Procedures for issuing Advisory Reports are, therefore, critical for providing well-founded opinions and recommendations in the most effective and efficient way possible.

1.9 Thus, these Procedures aim to guide all persons as to how the Commission issues its Advisory Reports and makes its recommendations.

1.10 The Commission is continually reviewing these Procedures to be as effective and efficient as possible. As such, the Commission, from time to time, may amend these Procedures where necessary.

1.11 These Procedures shall be read with the Act, supported by internal standard operating procedures and staff directives.

1.12 For the avoidance of any doubt, any action under these Procedures that may be performed physically may also be performed electronically.

1.13 There may be times in certain circumstances when the Commission may need to deviate from these Procedures. Where such deviation is necessary, the Commission shall provide written reasons.

2. Identifying Progressive Measures and Adviseable Studies

2.1 The Commission identifies progressive measures that may need to be adopted or adviseable studies that need to be undertaken to further protect and promote human rights in the following ways:

- (a) Complaints lodged at the Commission;
- (b) During the Commission's monitoring programmes;
- (c) During the Commission's education programmes;
- (d) During the Commission's consultations with Government;
- (e) During the Commission's consultations with civil society and the public;
- (f) Analysing the media, including television, radio, print and social media;
- (g) Any other areas that may become apparent to the Commission in the daily lives of Commissioners or staff members.

2.2 Once the Commission identifies progressive measures that may need to be adopted or adviseable studies that may need to be undertaken to further the protection and promotion of human rights, as well as the responsible government body, the Commission shall identify the human rights concern(s), and the appropriate international and domestic standards concerning those human rights.

2.3 The Commission may, where it sees it necessary, request further information from the responsible government body to which the study pertains, which may involve the Commission interviewing government personnel, accessing documents and conducting site visits to government facilities where the Commission may observe and collect the necessary data, including through digital means, to enable it to analyse the potential human rights issue.

3. Advisory Report

3.1 To enable the Commission to issue any necessary recommendations relating to a potential progressive measure or study, the Commission may prepare an Advisory Report (hereinafter “the Report”).

3.2 The Report shall contain the following (see Form 1 in the Annex):

- (a) The Mandate of the Commission;
- (b) The Human Rights Issue / Background for the Study;
- (c) Information collected from Site Visit(s) (if applicable);
- (d) The Relevant Human Rights Standard;
- (e) Analysis; and
- (f) Conclusion and Recommendations.

3.3 Once the Commission has issued the Report, the Commission shall make any advice, opinion or recommendation in respect of a progressive measure or study known to the Government and the National Assembly, and may publish the same on its website.

3.4 The Commission shall be available to the Government or the National Assembly to provide any guidance necessary contained within the Report.

4. Consultation on Recommendations contained in Advisory Report

4.1 Should the responsible government body agree with the Commission’s opinion and recommendations, as contained in the Report, the responsible government body shall consult with the Commission to determine the most appropriate manner possible, founded on a Human Rights Based Approach, through which to bring effect to any such opinion or recommendation.

- The responsible government body is invited to use Form 2 in the Annex as a template for issuing its response to the Commission.

5. Transferring Matter to Another Process of the Commission

5.1 Should the responsible government body not agree with the Report, it shall provide full reasons as to why they disagree, including any supporting documents, within the time frame stipulated by the Commission, but in any event, not more than sixty (60) days after receiving notice of the Report, as per section 19 (4) of the Act.

5.2 Should the Commission receive a response from the responsible government body, the Commission may maintain its opinion and recommendations in the Report and, where it sees the need to, may transfer the matter to another process of the Commission by sending to the responsible government body a Final Position after Response. The Final Position after Response shall include the following (see Form 3 in the Annex):

- (a) The Response;
- (b) The Position of the Commission;
- (c) Conclusion, including an option for further discussion before transferring the matter to another process of the Commission.

5.3 Should the responsible government body fail to respond within the time frame stipulated by the Commission, given that the responsible government body is statutorily required to respond, as per section 19 (4) of the Act, the Commission will interpret a non-response from the responsible government body as a tacit acceptance of its opinion or recommendations and, where it sees the need to, shall transfer the matter to another process of the Commission.

6. Publication

6.1 Notwithstanding anything detailed in these Procedures, the Commission may, where the Commission deems that it is in the public interest to do so, publish on the website of the Commission any Report, Response from the responsible government body, and any other relevant document or information relating to these Procedures.

7. Annex – Forms

a) Form 1

Dreamgate Complex, Ile Du Port
P.O. Box 1423, Victoria, Mahe
Republic of Seychelles



Tel: 248 4 303 220
Email: info@seychelleshumanrights.com
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Seychelles Human Rights Commission

Advisory Report

Subject:

Reference Number:

Responsible Government Body:

Date:

- 1. The Mandate of the Commission;**
- 2. The Human Rights Issue / Background for the Study;**
- 3. Information collected from Site Visits(s) (if applicable);**
- 4. The Relevant Human Rights Standard;**
- 5. Analysis;**
- 6. Conclusion and Recommendations.**

For Seychelles Human Rights Commission

Justice Bernardin Renaud (Retired)
Chairperson of the Seychelles Human Rights Commission

b) Form 2

(Letterhead of the Responsible Government Body)

Advisory Report Response to the Initial Request of the Seychelles Human Rights Commission

Subject:

Reference Number:

Responsible Government Body:

Date:

Should the responsible government body **agree** with the Report:

- Detail that the responsible government body agrees with Report and how it wishes to consult with the Commission in respect of the same.

Should the responsible government body **disagree** with the Report:

- Detail that the responsible government body disagrees with the Report and provide full reasons as to why they disagree, including any supporting documents.

Designated signatory of Responsible Government Body

c) Form 3

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Seychelles Human Rights Commission

Final Position after Response

Subject:

Reference Number:

Responsible Government Body:

Date:

- 1. The Response;**
- 2. The Position of the Commission;**
- 3. Conclusion, including option for further discussion before transferring the matter to another process of the Commission.**

For Seychelles Human Rights Commission

Justice Bernardin Renaud (Retired)
Chairperson of the Seychelles Human Rights Commission