

## NHRI for National Human Rights Institutions

In a Nutshell: General Comment No. 2 of the Committee on the Rights of the Child

This summary for development practitioners provides:

- information on the →topic of General Comment No. 2 and its legal foundation;
- an overview of the →Committee's key recommendations addressed to States parties;
- →key contents of General Comment No. 2;
- →recommendations for development practitioners on how to use this General Comment;
- an excerpt of the →relevant article of the CRC and an overview of →State party obligations.

### What is this General Comment about?

In its →General Comment No. 2 of 15 November 2002, the →Committee on the Rights of the Child (short: Committee) describes the role and characteristics of independent human rights institutions for children. The Committee is of the opinion that all States should have an independent human rights institution with the aim of promoting and protecting the rights of children. The Committee issued General Comment No. 2 to encourage States parties to establish such independent human rights institutions. Where such institutions already exist, the General Comment serves to support them in exercising their mandate. In this General Comment, the Committee describes the characteristics of such an institution and the tasks it should assume.

General Comment No. 2 mainly relates to art. 4 sentence 1 of the →Convention on the Rights of the Child (short CRC or Convention). This article addresses the steps needed to realise the respect, protection and provision of the rights of the child as enshrined in the

Convention. States parties must take all appropriate measures to ensure these rights. To give examples, art. 4 mentions legislative and administrative measures. A further example is the establishment of an independent human rights institution for children. The Committee considers this an obligation of the States parties as well.

### How can States parties implement the Convention?

The Committee's **key recommendations** in this General Comment:

- **Ensure the most effective use of available resources** for the establishment of an independent human rights institution for children; ideally for the **establishment of a national human rights institution (NHRI)** for the protection and promotion of all human rights, which fulfils the UN Paris Principles. Such an institution should have the competence and resources to work on children's rights.
- **Make use of the UN's assistance** available for the establishment and strengthening of independent human rights institutions for children; the Office of the UN High Commissioner for Human Rights offers a programme supporting States parties in the development of NHRIs; the UN Children's Fund also offers expert advice to States parties.



## Key contents of General Comment No. 2

### 1. Why an independent human rights institution for children?

Independent human rights institutions for children have the task of promoting and protecting the rights of the child as well as monitoring whether the State respects and implements these rights. Such an independent human rights institution should also promote and protect the rights of the child with respect to private institutions and to business, for example in an advisory capacity.

Children's rights require special protection and promotion because children often cannot defend their rights on their own, due to their young age or developmental state. Another problem is that their opinions are not taken seriously or not heard at all by adults. An independent human rights institution for children should thus be easily accessible for children, who should be able to contact the independent human rights institution's employees easily and directly.

### 2. When is an independent human rights institution for children independent?

A human rights institution is considered independent if it is not controlled by the government of a State. This is the case if the human rights institution disposes of sufficient funding, chooses its employees itself and defines the content of its work autonomously. Independent human rights institutions for children should be financed by their respective governments; however, the State should not make any specifications as to the use of the budget in order to safeguard the independence of the human rights institution.

### 3. What should the organisational structure of an independent human rights institution for children look like?

The Committee makes two proposals in its General Comment for the organisational structure of an independent human rights institution for children.

Independent human rights institutions for children could be ombudspersons, commissioners or other institutions for children's rights, which are dedicated exclusively to the promotion and protection of the rights of the child. All these bodies are specialised institutions for children's rights. An example is the Ombudsman for Children in Norway.

NHRIs can also be tasked with the mandate of an independent human rights institution for children. Such NHRIs base their work on the so-called Paris Principles. In 1993, the UN General Assembly adopted a resolution concerning national institutions for the promotion and protection of human rights (resolution with the UN document number A/Res/48/134). The appendix to this resolution describes the basic principles for the establishment of such an institution, including its responsibilities, its independent status, the appointment of its members from different areas of society, and its methods of operation. The Paris Principles determine that an NHRI must have a wide-ranging mandate in human rights and should concern itself with as many different areas of human rights as possible. On this basis, a number of NHRIs have adopted the promotion and protection of children's rights as part of their work.

The Committee emphasises that even on a limited budget, States parties must promote and protect all areas of human rights in an effective way. A NHRI commensurate with the Paris Principles, which also concerns itself with the rights of the child, appears to best fulfil these requirements. Depending on the size of the NHRI, one person or even an entire department may be responsible exclusively for children's rights. In any case, the NHRI's independent status is essential, along with the fact that it effectively promotes and protects children's rights and also monitors the implementation of the Convention on the Rights of the Child. For this particular organisational structure of an independent human rights institution for children, the Committee requires that the State designate a certain amount of the funds earmarked for the NHRI for the remit of children's rights. Aside from this one exception, NHRIs as defined in the Paris Principles work independently of state guidelines for the use of their budgets.



#### 4. Some principles for independent human rights institutions for children

In line with the Paris Principles, the composition and mandate of NHRIs should be set out in the constitution of a State party or in a legislative text. The Committee requires that, where possible, States parties also codify a children's rights mandate. The remit of an NHRI should encompass the protection and promotion of human rights from a number of different areas. These include civil and political rights such as the right to be heard (art. 12 CRC) as well as economic, social and cultural human rights, for example the right to education (art. 28 and 29 CRC).

The Committee recommends high-level support for the establishment process of an NHRI with a children's rights mandate as well as the participation of all relevant societal and political stakeholders; these include representatives from the parliament and government, and civil society, including children.

A NHRI, which also serves as an independent human rights institution for children, should ensure pluralistic representation of the various national civil society organisations, which work for the protection and promotion of children's rights. Examples of these organisations are non-governmental organisations (NGOs) for human and children's rights, organisations led by children and youths, and professional associations of doctors or scientists, and the media.

An independent human rights institution for children should be accessible to children. This means that children are able to reach the institution's staff easily and directly, and are able to speak with them and obtain information from them. Such institutions should actively reach out to children, for example by involving them in their activities and asking for their opinion. One option here is the establishment of children's councils which advise the independent human rights institution in a consultative capacity. The inclusion of children in the work of an independent human rights institution corresponds with art. 12 CRC: children should be heard in all matters affecting them, and should be given the opportunity to express their opinion.

#### 5. What are the tasks of an independent human rights institution for children?

The Committee gives a number of examples in its General Comment of the activities of independent human rights institutions for children.

In particular, independent human rights institutions for children should:

- Conduct **investigations** into violations of children's rights and carry out **research** in topics concerning children's rights.
- Receive and handle **complaints** about violations of children's rights.
- Offer **legal advice** to victims of children's rights violations and ensure that the interests of the affected child are represented by a lawyer in court.
- Publish **statements and recommendations** on the promotion and protection of children's rights or provide expertise on children's rights to the courts.
- **Critically monitor** whether the government implements children's rights and **advise** the government on these matters.
- Strive for children's rights to be respected in **national economic and development plans**.
- **Review whether the laws** of the State party are in line with the CRC and other human rights conventions aimed at protecting the rights of the child.
- Contribute to the state **reporting process** under the Convention before the Committee in a capacity independent of the States parties; review the States parties' reports for correctness and completeness and report to the Committee about these topics.
- Promote the **participation of NGOs for children's rights**, including organisations led by children and youths, in the development of domestic legislation and international instruments.
- Undertake **human rights education** and strive for the integration of children's rights in the curricula of schools and universities.

## Approaches for bilateral development cooperation based on this General Comment

- Human rights-based development cooperation aims at promoting the respect, the protection and the fulfilment of human rights, including children's rights. Human rights-based development cooperation should thus **support partner countries in establishing an independent human rights institution for children**. The preferable model for such an institution is an NHRI with a broad human rights mandate which promotes and protects all human rights in the given country.
- When **advising partner countries on governance reforms**, development cooperation should assist in creating the political, legal and financial **framework for an independent human rights institution for children** in order to ensure that the standards of the Paris Principles are met, with particular respect to the independence of the institution. This support is also relevant regarding the constitutional and/or legal basis, which grants the institution its independent status, its broad mandate in human rights and/or children's rights, guarantees a clearly-defined relationship to relevant institutions in government and secures its funding.
- In addition to **professional advice to and training of the institution's staff** on children's rights, **capacity development** can help such institutions in carrying out their mandate to its full potential both within the institution and in the public domain. Complaints management, the processing of individual cases and the participation of children in the work of the institution all require **innovative approaches within the independent human rights institution for children**.
- Development measures can advise independent human rights institutions for children on **communication and participatory procedures with civil society** – most notably with children and youths – in promoting, protecting and monitoring the implementation of the CRC.
- In order to strengthen the right of the child to participation (art. 12 CRC), human rights-based development cooperation should advise independent human rights institutions for children on **improving access for children to the institution**. This can, for example, be achieved by setting up a toll-free phone, an internet hotline or emergency app, by which children can reach qualified staff at the institution.
- Development measures should also promote the **participation of children and youths in the work of the independent human rights institution for children**. One possible form of children's representative participation is the establishment of national and – most importantly – local **children's councils**, which advise independent human rights institutions for children on topics which affect children. Another approach are **consultations** with children and youths, where they can express their views and be heard.



## Article 4 sentence 1 of the Convention

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the present Convention.

## Which State party obligations are emphasised by the Committee in this General Comment?

- **Establish an independent human rights institution for children;** the remit of an existing NHRI may alternatively be extended to cover the promotion, protection and monitoring of children's rights. The primary concern, however, is that the institution has an independent status, and effectively promotes, protects and monitors the implementation of children's rights.
- Provide the independent human rights institution for children with a **normative basis**, either in the State party's constitution or by way of a legislative text.

- **Provide sufficient funding** for the independent human rights institution for children. For NHRIs with a wide-ranging human rights mandate, the State party should designate a specific proportion of the funds exclusively for children's rights work.
- **Take into account children's opinions** in all matters affecting them. This includes independent human rights institutions for children meaningfully involving children in their work.

## Where can you find this General Comment?

→ General Comment No. 2 is available in Arabic, Chinese, English, French, Russian, and Spanish on the Committee's website.

You can also find it by its UN document number CRC/C/GC/2.

### Imprint

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