

APF Guidelines: NHRIs under threat

The purpose of the APF Guidelines¹ is to provide guidance to APF members and our partners, including the Global Alliance of National Human Rights Institutions (GANHRI) and the United Nations, on the procedure and the options for support to APF members under threat of reprisal.

Introduction

States, in line with their international human rights obligations, are duty-bound to protect individuals and groups defending human rights, including national human rights institutions (NHRIs), from reprisals by state actors and to exercise due diligence so as to ensure their effective protection against reprisals by non-state actors.

The United Nations General Assembly and the Human Rights Council, in their respective resolutions on NHRIs, have unequivocally condemned reprisals and other acts of intimidation against NHRIs as a result of their mandated activities.²

Scope

In line with the GANHRI Guidelines on 'Reprisals and Other Acts of Intimidation against National Human Rights Institutions, their Members and Staff', reprisals or threats may occur against NHRIs as a result of any of their activities as mandated by their constitutional or statutory legislation and/or the Paris Principles.

This can include investigating, monitoring, complaint-handling and reporting of the human rights situation at the national, regional and/or international levels.

Reprisals or other acts of intimidation may include a wide range of actions by state and/or non-state actors including, but not limited to:

- Intimidation;
- Harassment;
- Death threats;
- Travel bans or restrictions on the freedom of movement;
- Reduction of formal independence;
- Changes in mandate and/or statute;
- Severe budgetary cuts;
- Organisational changes (such as an inappropriate merger);

¹ The Guidelines were adopted by the APF Forum Council at the 22nd APF Annual Meeting; Bangkok, Thailand; 29 November 2017.

² See A/RES/70/163 of 17 December 2015, para 11; and A/HRC/33/15 of 29 September 2016.

- Removal of office holders;
- Arbitrary detention;
- Arbitrary criminal or civil prosecution;
- Electronic surveillance;
- Torture; and
- Killings.

General principles

The general principles underlying these guidelines include:

- The principle of 'do no harm' to ensure the safety and security of those under threat;
- The principle that the views of the NHRI under threat must be accorded primacy and that any action under these guidelines must follow coordination, consultation and agreement with the NHRI.

General procedure

9.5.1 Communication

APF members are encouraged to contact the APF, through the secretariat or Chairperson, by email, telephone or other means, if there is any concern about a possible threat to that NHRI.

If the APF secretariat becomes aware of a possible threat to a NHRI, the secretariat will seek to contact that NHRI to obtain information on the threat and to clarify whether the NHRI is seeking APF assistance.

9.5.2 APF Chairperson consults with APF Governance Committee

Following consultation with the NHRI under threat, the APF Chairperson will consult the APF Governance Committee on the action requested by the relevant NHRI under threat. If such action includes a proposed statement by the APF Chairperson, the NHRI under threat can propose a first draft.

The APF Governance Committee will be informed of any proposed action by email and will be given a timeline to comment on the proposed action and/or draft APF statement. Where appropriate, an emergency meeting of the APF Governance Committee can be convened.

9.5.3 Consultation and coordination with partners

Following consultation and agreement with the NHRI under threat and the APF Governance Committee, the APF will liaise with our partners, GANHRI, the United Nations (OHCHR and UNDP) and relevant CSOs to ensure clear communication and coordination.

9.5.4 Examples of APF support

The APF can offer various types of support to APF members under threat. In any possible action to support NHRIs under threat, the APF will take into account the national context and any other significant and specific factors to ensure sensitivity to the situation.

Without limiting the possible support provided, the APF can offer various types of support:

- Raising concerns privately with the relevant State authorities;
- APF Chairperson statement;
- Liaison with APF members seeking statements of support;
- Liaison and coordination with APF partners, GANHRI, the United Nations (OHCHR and UNDP) and CSOs;
- Liaison with international human rights mechanisms;
- Public information including, but not limited to, publication on the APF website;
- APF Chairperson (or his/her representative) making direct public contact with relevant national, regional or international stakeholders;
- Engaging with other relevant states;
- Requesting security measures with the United Nations in-country team if it exists; and
- A visit by an APF delegation to meet with the NHRI under threat and national stakeholders.

9.6 Discretion of APF Chairperson and Governance Committee

The APF recognises that the specificities of each case might require discretion on the part of the APF Chairperson. Possible divergence from the above procedure might include the following actions.

9.6.1 Action taken by the APF Chairperson alone

In exceptional circumstances, when the situation requires a particularly urgent response, the APF Chairperson may use his or her discretion to act alone. If this is the case, the APF Governance Committee will be informed as soon as possible of the circumstances and of the action taken.

9.6.2 More detailed review of the situation

In advance of taking action, at the discretion of the APF Governance Committee, the APF might carry out a more detailed review of the situation. The more detailed review could involve additional consultation with relevant stakeholders and desk-based research. This could be undertaken by the secretariat or by an ad hoc group of APF members.

9.6.3 Consult APF General Assembly

In advance of taking action, at the discretion of the APF Governance Committee, the APF might undertake a full consultation with the APF General Assembly. This will often not be possible, particularly in situations of urgency or confidentiality, but the appropriateness of member participation will be taken into account.