Kyiv Declaration on the Role of National Human Rights Institutions in Conflict and Post-Conflict Situations and its follow-up

After the beginning of conflict in Ukraine in 2014 we understood very quickly that in such conditions the political, judicial, law-enforcement and other systems of the state failed in settling disputes and were unable to adequately protect human rights and fundamental freedoms. We have to deal with such negative phenomena as: humanitarian issues of the protection of civil population, missing persons, summary executions, enforced disappearances, unlawful and arbitrary detention, tortures and ill-treatment etc.

Therefore, in conflict and post-conflict situations national human rights institutions have to play a special role and at the same time face particular challenges. They are often required to act in a different way than usually during the peacetime being guided first and foremost by the best interests of people, their rights and fundamental freedoms. So in their activities aimed at human rights promotion and protection national institutions often have to go outside the scope of their authorities and functions defined by national legislation, in particular to negotiate with representatives of the armed groups, self-proclaimed authorities of unrecognized republics, even sometimes to work in areas of conflict or so-called grey zones, located near the conflict line.
The Paris Principles and other core international documents regulating the status and activities of national human rights institutions do not provide sufficient guidance on the role of NHRIIs in such situations, especially when we are dealing with hybrid type of the conflict.

That is why I initiated a discussion on this topical issue.

On 21-22 October 2015 the International Conference on the role of national human rights institutions in conflict and post-conflict situations took place in Kyiv. The Conference was organized by me with the assistance of the United Nations Development Programme in Ukraine. The International Co-ordinating Committee and its European network actively participated in this event and made a valuable input in the success of the Conference and drafting of the final document.

Representatives of 18 national human rights institutions from countries in conflict or post-conflict situations (the Balkan region, Caucasus, Moldova, Latin America and Asia), international organizations, NGOs and independent experts attended the Conference, shared their experience and discussed the ways to make the work of national human rights institutions efficient, professional and independent in the conflict environment, to overcome major challenges to human rights.

As a result of this work the Kyiv Declaration on the Role of National Human Rights Institutions in Conflict and Post-Conflict Situations was adopted.
The Declaration establishes that national human rights institutions while in pre-conflict, conflict or post-conflict situation are required to undertake a number of preventive, protection and remedial actions aimed at ensuring human rights and fundamental freedoms.

In particular they have to identify early signs of possible conflict and try to prevent it by addressing the violations of human rights, using mediation and negotiations with conflicting parties.

It is extremely important for national institutions to properly document and respond to violations regardless of which party in the conflict allegedly committed them, and report thereon to international and regional human rights mechanisms.

We agreed that National human rights institutions have to systematically communicate with conflicting parties, first of all with the authorities, to inform them and advise on measures to be taken to ensure protection of human rights and humanitarian law, and to eliminate their violations.

They can play an important role in promoting a dialogue between and with conflicting parties paying particular attention to vulnerable and marginalized groups.

According to the opinion of the participants of the conference the establishment of close partnership with civil society organizations and communication with representatives of authorities and non-state actors who de facto act on behalf of the parties to the conflict are crucial to ensure human rights protection in conflict situations.
Also National institutions have to promote protection and respect of the rights of refugees and internally displaced persons, on the regular basis carry out the monitoring of their rights observance and promptly respond to violations.

They have to take measures aimed at overcoming the consequences of conflict in society, address past human rights violations that occurred in the context of conflicts, contribute to the fight against impunity, promote transitional justice processes, facilitate access to justice for those affected by the conflict, including through effective investigations and reparations, to build peace, reconciliation and strengthen social cohesion;

National institutions should hold relevant information campaigns, undertake human rights education, training etc.

National Human Rights Institutions in their activities in conflict and post-conflict situations may be subject to strong criticism by state authorities for underlining and advising on the state’s human rights actions to be compliant with international standards, for calling to fight impunity as regards violations committed by law-enforcement and other authorities.

Accordingly, national human rights institutions should enjoy protection from any interference, reprisals or intimidation as a result of their mandated activities. They also have to enjoy functional immunity to perform their functions in conflict areas.
With that national institutions should be provided with sufficient resources to carry out their activities in conflict areas, including financial and human resources, capacity building, and training for staff.

In this regard the Kyiv Declaration would provide important guarantees for the work of National Human Rights Institutions during conflicts.

It is equally important to strengthen the support of international bodies and international cooperation between NHRI s, including through the ICC and its regional networks.

So I would like to underline that the Kyiv Declaration with the support of international organizations was the beginning of an important and much needed process (I would call it the "Kiev process") aimed at development of new approaches and international standards on the activities of national human rights institutions in conflict and post-conflict situations.

As a follow-up I would like to suggest establishment of a working group on the implementation of the Kiev Declaration including representatives of national human rights institutions, international organizations, ICC and its regional networks, independent experts.

Within implementation process it is important to disseminate information about the Kyiv Declaration among public authorities and civil society at the national level as well as international community; to conduct international and regional events on the role of NHRI s in conflict and post-conflict to deepen the dialogue on this subject; to develop relevant draft Resolution of the UN General Assembly.
I do hope that the ICC Annual meeting will give a good start to the promotion of this initiative as, unfortunately, conflicts continue to occur in different parts of the world, creating serious challenges to human rights and fundamental freedoms.

Thank you for your attention!