

## Swiss Human Rights Institution (SHRI): Draft Articles of Association

*These draft Articles of Association were adopted on 27 April 2023 by the working group tasked with undertaking the preliminary work to establish the Swiss Human Rights Institution (SHRI) and submitted to the constitutive assembly.*

### Preamble

*Human rights are fundamental to state governance and social coexistence. The federal, cantonal and communal authorities are required under the Federal Constitution and international agreements ratified by Switzerland to respect, protect and guarantee fundamental rights and human rights. The Paris Principles, adopted by the UN General Assembly in 1993 (Resolution 48/134), and the Council of Europe Recommendations of 1997 (No. R(97) 14) and 2021 (CM/Rec (2021) 1) provide that independent national human rights institutions (NHRIs) can make an important contribution to promoting and safeguarding human rights. They call on member states to establish NHRIs and ensure that they have the necessary resources and competence.*

*The Federal Parliament took the decision to create the legal basis for and establish an independent Swiss human rights institution by adopting Articles 10a–10c of the Federal Act of 19 December 2003 on Measures pertaining to Civil Peace Support and the Promotion of Human Rights, which came into force on 1 January 2023.*

### I. General provisions

#### Art. 1 Name and registered office

<sup>1</sup> An independent public corporation within the meaning of Articles 10a–10c of the Federal Act of 19 December 2003 on Measures pertaining to Civil Peace Support and the Promotion of Human Rights (**SR 193.9**) has been established under the name 'Schweizerische Menschenrechtsinstitution (SMRI)' / 'Institution suisse des droits humains (ISDH)' / 'Istituzione svizzera per i diritti umani (ISDU)' / 'Swiss Human Rights Institution (SHRI)'.

<sup>2</sup> The SHRI has its registered office at the address of its head office.

<sup>3</sup> The SHRI is entered in the commercial register.

#### Art. 2 Objective

As Switzerland's independent national human rights institution under the Paris Principles, the SHRI shall contribute to the protection and promotion of human rights in all areas of life and at all levels of government.

#### Art. 3 Tasks

<sup>1</sup> In order to achieve its objective, the SHRI shall perform the following tasks in accordance with Article 10b of the Federal Act on Measures pertaining to Civilian Peacebuilding and the Strengthening of Human Rights:

- a) providing information and documentation,
- b) conducting research,
- c) providing advice,
- d) promoting dialogue and cooperation,
- e) fostering human rights education and raising awareness,
- f) fostering international exchange

<sup>2</sup> The SHRI shall publish an annual report on work undertaken, which shall be submitted to its members, to the Federal Council and to the Federal Parliament.

#### **Art. 4 Independence**

<sup>1</sup> In performing its tasks and using the resources available, the SHRI shall operate independently and is not bound by any instructions.

<sup>2</sup> It may act on its own initiative or at the request of the authorities or third parties.

#### **Art. 5 Confidentiality**

Subject to any legal disclosure requirements, information and sources obtained from third parties in respect of which an undertaking of confidentiality has been given shall not be placed in the public domain or passed on to the authorities.

## **II. Membership**

#### **Art. 6 Members**

<sup>1</sup> Individuals and legal entities that engage in work to protect and promote human rights and endorse the objective set out in Article 2 may become members.

<sup>2</sup> The Confederation and cantons are not permitted to be members of the SHRI.

#### **Art. 7 Membership applications**

<sup>1</sup> Any individual or legal entity wishing to become a member of the SHRI shall submit an application in writing.

<sup>2</sup> The members' general meeting shall make decisions regarding new membership applications based on the recommendations of the executive committee.

<sup>3</sup> Applications may only be refused if the applicant has not met the membership requirements laid down in Article 6 paragraph 1.

<sup>4</sup> Reasons shall be provided for any decision not to admit a new member.

#### **Art. 8 Termination of membership**

<sup>1</sup> Membership may be terminated at the end of the financial year by giving three months' notice in writing to the board of directors.

<sup>2</sup> The executive committee may terminate a membership if the member no longer meets the requirements laid down in Article 6 paragraph 1, if the member acts contrary to the SHRI's objective, or the member repeatedly fails to pay membership fees despite payment reminders being issued. Reasons shall be provided for terminating any membership.

<sup>3</sup> An appeal against a decision by the executive committee under paragraph 2 may be brought to the member's general meeting within 30 days of the decision being notified.

<sup>4</sup> Membership shall also terminate in the event of the death of an individual or the dissolution of a legal entity.

## **III. Organisation**

### **a) General provisions**

#### **Article 9**

<sup>1</sup> The governing bodies of the SHRI are as follows:

- a) the members' general meeting,
- b) the executive committee,
- c) the auditors.

<sup>2</sup> The organisational structure also comprises

- a) the directorate and head office,
- b) advisory bodies appointed by the executive committee.

## **b) The members' general meeting**

### **Art. 10 Convening meetings**

<sup>1</sup> The executive committee shall convene the members' general meeting at least once a year.

<sup>2</sup> The executive committee may convene additional meetings. One fifth of the members may request that an extraordinary meeting be convened, specifying the nature of the business to be transacted.

<sup>3</sup> The notice in writing convening the meeting, stating the business to be transacted, shall be sent by post or email at least 30 days in advance.

<sup>4</sup> No later than 15 days prior to the meeting, any member may request in writing the transaction of other business falling within the remit of the general meeting. The members shall be informed immediately of any such requests.

<sup>5</sup> The Confederation and the cantons are invited to send representatives to the members' general meeting as delegates attending the meeting, without the right to put forward motions or to vote.

### **Art. 11 Responsibilities**

The members' general meeting is responsible for:

- a) electing members of the executive committee and the chair,
- b) selecting the auditors,
- c) approving the annual report and the annual accounts,
- d) formally discharging the executive committee,
- e) determining membership fee levels,
- f) making recommendations regarding the general direction of the SHRI's work,
- g) amending the Articles of Association,
- h) making decisions regarding membership applications,
- i) making decisions to expel members in the event that such decision taken by the executive committee is referred to the members' general meeting,
- j) removing other governing bodies.

### **Art. 12 Quorum, procedure**

<sup>1</sup> The chair shall preside at the general meeting.

<sup>2</sup> The members' general meeting shall constitute a quorum irrespective of the number of members present.

<sup>3</sup> Votes and elections shall be carried out by a show of hands unless the general meeting determines that a secret ballot or election should be held.

<sup>4</sup> The resolutions adopted by the general meeting shall be recorded in the minutes.

### **Art. 13 Voting and elections**

<sup>1</sup> Each member shall have one vote.

<sup>2</sup> Resolutions shall be passed by a majority of the votes cast. In the event of a tie, the chair shall have the casting vote.

<sup>3</sup> Any amendments to the Articles of Association shall be approved by two thirds of the members present.

<sup>4</sup> Votes in elections shall be decided in the first ballot by an absolute majority of the votes cast.

<sup>5</sup> In a second ballot, there shall be at least twice as many candidates as the number of seats to be filled following the first ballot. The number of votes cast in the first ballot shall be decisive. The candidates who have received the majority of votes shall be elected (relative majority).

### **c) The executive committee**

#### **Art. 14 Number of members, chair, term of office**

<sup>1</sup> The executive committee, including the chair, shall be composed of five to nine members.

<sup>2</sup> Subject to Article 11 letter a, the executive committee shall constitute itself.

<sup>3</sup> One or two persons may be appointed as chair.

<sup>4</sup> Members of the executive committee shall be elected for a term of four years. Members may be re-elected for one additional term.

#### **Art. 15 Composition**

<sup>1</sup> Members of the executive committee shall be members of the SHRI and elected in a personal capacity.

<sup>2</sup> They shall perform their function without being required to follow instructions and independently of any other offices they may hold or work they carry out. In particular, members of the executive committee are not permitted to perform any other role or work that could compromise their independence.

<sup>3</sup> The procedure to appoint members of the executive committee shall ensure, in accordance with the Paris Principles, the pluralist representation of the social forces involved in the protection and promotion of human rights.

<sup>4</sup> In selecting individual members of the executive committee, consideration must be given to ensure an appropriately balanced composition, as far as possible, namely in terms of gender, age, language communities and professional competencies.

#### **Art. 16 Responsibilities**

<sup>1</sup> The executive committee is specifically responsible for:

- a) the strategic direction of the SHRI's work,
- b) the general annual planning principles for the SHRI,
- c) financial planning and the budget,
- d) reviewing applications for membership and expelling members, subject to referral to the members' general meeting,
- e) preparing for the members' general meeting,
- f) producing reports for the general public and the authorities (Art. 3 para. 2) in consultation with the directorate,
- g) appointing members of the directorate,
- h) monitoring the work performed by head office,
- i) adopting rules and regulations,
- j) establishing advisory bodies.

<sup>2</sup> The executive committee may delegate individual tasks to the directorate.

#### **Art. 17 Profile, working methods, procedures**

<sup>1</sup> The executive committee shall issue a set of rules defining the required profile for its members and the working methods to be used.

<sup>2</sup> The Confederation and the cantons may be represented at executive committee meetings by one person each as a delegate attending the meeting, without the right to put forward motions or to vote.

<sup>3</sup> The executive committee may adopt resolutions by circular letter unless one of its members objects to this procedure.

### **d) The auditors**

#### **Article 18**

- <sup>1</sup> The members' general meeting shall appoint the auditors on an annual basis. The auditors may be re-appointed.
- <sup>2</sup> The auditors shall audit the accounts and annual financial statements, report to the members' general meeting and put forward motions.
- <sup>3</sup> The scope of the audit shall be determined by the provisions of the Swiss Code of Obligations governing audits of companies limited by shares.
- <sup>4</sup> The auditors are permitted to inspect all accounting records at any time.

#### **e) The directorate**

##### **Article 19**

- <sup>1</sup> One or two persons may be appointed to the directorate.
- <sup>2</sup> The employment of the members of the directorate shall be governed by private law. They shall be employed on a full-time basis and the posts shall be publicly advertised.
- <sup>3</sup> The directorate shall manage the head office and its staff.
- <sup>4</sup> It shall prepare the meetings of the executive committee and implement the resolutions adopted.
- <sup>5</sup> It shall attend the members' general meetings and meetings of the executive committee in an advisory capacity and has the right to put forward motions.
- <sup>6</sup> In addition, the directorate shall carry out any responsibilities that are not specifically assigned to a governing body or another authority.
- <sup>7</sup> The executive committee shall issue a set of detailed rules and procedures.

#### **f) The head office**

##### **Article 20**

The head office is responsible for business operations.

#### **g) Advisory bodies**

##### **Article 21**

- <sup>1</sup> The executive committee may appoint advisory bodies.
- <sup>2</sup> It shall determine the tasks to be performed and the resources available and make decisions regarding any other requirements.

### **IV. Finances**

#### **Art. 22 Funding for the SHRI's work**

The SHRI shall fund its work through

- a) annual contributions from the Confederation,
- b) contributions from the cantons and communes,
- c) membership fees,
- d) charges for services provided to public authorities and individuals,
- e) other income, provided that the activities generating such income does not compromise the SHRI's independence.

#### **Art. 23 Membership fees**

- <sup>1</sup> SHRI shall charge fees to its members.
- <sup>2</sup> The members' general meeting shall determine separate fee levels for individuals and legal entities.

**Art. 24 Liability, claim on assets**

<sup>1</sup> The financial liability of the SHRI for its debts is limited to the value of its assets.

<sup>2</sup> Members leaving the SHRI shall have no claim on its assets.

**V. Final provision**

**Art. 25 Establishment of the SHRI**

The SHRI shall be established on adoption of the Articles of Association by the constitutive assembly.