

NHRCK's Opinion on the CAT's Concluding Observations on the 3rd to 5th Periodic Reports of the Republic of Korea

NHRCK's opinion in regard of Paragraphs 19

According to Table 26 annexed to the State party's periodic reports, out of the total complaints which were lodged in relation to detention facilities, 26 were 'accepted' and this figure may seem to point to a low rate of acceptance of complaints, as it accounts for a mere 0.4% of 6,322 'closed' complaints.

However, the number of 'accepted' complaints in the table appended to the periodic reports does not include the cases which were 'settled during investigation': that is, the cases where a complaint, after being brought before the NHRCK, was called off by the complainant while the NHRCK's investigation was still underway because the damage done was remedied, including due to the alleged perpetrator's corrective action. The NHRCK has counted the number of the complaints 'settled during investigation' into the number of accepted complaints, for the purpose of compiling official statistical data on the complaints filed to the NHRCK since 2013.

As a consequence, the number of accepted complaints, as revised due to inclusion of the complaints settled during investigation, totaled 202 in the period of 2012~2015, which takes up 3% of 6,582 closed cases (the number of closed complaints increased from 6,322 to 6,582, with additional complaints coming to a close after the submission of the periodic reports).

[Revised Annex Table 26 of the Periodic Reports]

(with the ‘complaints settled during investigation’ being included)

(Number of complaint cases)

Classification	Received	Closed	Accepted (remedies taken)					Rejected	Transferred	Dismissed	Investigation suspended
			Sub-total	Request for investigation	Recommendation	Closure by agreement	Settlement during investigation				
Violence /cruel acts	662	650	14	1	-	4	9	369	18	249	-
Treatment / violation of personal rights	2,121	2,114	70	-	6	3	61	1,256	1	787	-
Investigation/ disciplinary punishment/ protective equipment	1,026	986	9	-	1	1	7	453	8	516	-
Restriction on the right to communicate with outside parties	400	396	8	-	1	-	7	211	1	176	-
Health/ medical care	1,693	1,621	72	-	4	5	63	796	10	742	1
Facilities/ environment	407	373	18	-	-	-	18	247	-	108	-
Others	456	442	11	1	2	1	7	307	2	122	-
Total	6,765	6,582	202	2	14	14	172	3,639	40	2,700	1

The tendency is that the complaints filed in relation to detention facilities record a lower acceptance rate than the other categories of complaints, largely because detention facilities are hardly accessible to outside people and it is not possible to secure witnesses to the alleged incidents. A look at the acceptance rates for different alleged perpetrators during the same period of time reveals that the prosecution (4.2%), the police (9.1%), the military (11.8%) and protection/care facilities (12.1%) have a relatively higher acceptance rate. It is important that these considerations should be comprehensively made in reviewing the figures concerning the extent to which the complaints lodged have been accepted or settled.

□ NHRCK's opinion in regard of Paragraphs 43

The NHRCK drew up a revision bill of the National Human Rights Commission Act which, with focus on the guarantee of the NHRCK's independence, sets forth the qualifications of the NHRCK members and the process for the selection and appointment of the members and provides for their immunity from responsibility for the remarks they make in the course of their NHRCK activities. This revision bill attained the parliamentary approval on January 8, 2016 and was promulgated and entered into force on February 3 of the same year.

NATIONAL HUMAN RIGHTS COMMISSION ACT

Act No. 14028, Feb. 03, 2016

Article 5 (Organization of Commission)

(3) Commissioners shall be persons with expert knowledge and experience who are deemed to be capable of carrying out duties for the promotion and protection of human rights in a fair and independent manner, and shall be selected from among persons with one of the following qualifications:

1. Persons who have more than ten years of experience at a position equivalent to or higher than associate professor at a university or certified research institution.
2. Persons with more than ten years of experience as a judge, prosecutor or lawyer.
3. Persons with more than ten years of experience in the human rights field, including at human rights-related non-governmental organizations, corporate bodies or international organizations.
4. Revered persons who are recommended by civil society organizations.

(4) The National Assembly, the President of the Republic of Korea, and the Chief Justice of the Supreme Court shall ensure a selection that reflects the diversity of our nation's social stratum related to the promotion and protection of human rights, after receiving recommendation or opinion from diverse social

groups.

Article 8-2 (Commissioner's Immunity from Liability) Commissioners shall not assume civil or criminal responsibility for remarks made or resolutions adopted while performing duties in the Commission, or Standing Committee or Sub-Committee pursuant to Article 12, unless an unlawful resolution is adopted or remark is made purposefully or with gross negligence.

Article 18 (Organization and Operation of Commission)

(1) Except as provided by this act, matters necessary for the organization of the Commission shall be prescribed by Presidential Decree in a way that fully guarantees the independence of the Commission and the effectiveness of its work.

(2) Except as provided by this Act, matters necessary for the operation of the Commission shall be prescribed by the rules of the Commission.

Thanks to the NHRCK's efforts as mentioned above, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institution (GANHRI) informed the NHRCK, on May 24, 2016, that the NHRCK was accredited a Grade A status.

Please note that this revised law is not reflected in the 3rd to 5th periodic reports because it was drawn up and enacted after the periodic reports were prepared and submitted.