



The Consulate General of Sweden,
c/o Mr Kim Zander
49, Ibn Jubir Street, Sheikh Jarrah
P.O. Box 297
Jerusalem 91002

Postal address:
Box 70375,
SE-107 24 Stockholm, Sweden
Visiting address:
Fleminggatan 14, 9th floor
Stockholm, Sweden

Tel: +46 8 545 533 00
Mobil: +46 70 586 12 63

Reg.No. 556175-6197

Stockholm, 31 May 2016

Subject: Management Response pertaining to the Mid-term Review report of the Contract concerning the management of a Secretariat to support Human Rights and International Humanitarian Law NGOs operating in the occupied Palestinian territory (oPt). (Secretariat)

Dear Ms. /Mr.

On behalf of the Managing Partner of the Secretariat, NIRAS Sweden AB presents this letter as management response pertaining to the mid-term review (MTR) report of the Secretariat, conducted by StratgiHuset (SH), April – May 2016.

NIRAS highly appreciates the recommendations in the draft report, as well as the participatory approach and professionalism that the SH team has exhibited during the course of carrying out the MTR.

Carrying out the changes based on this report will be the responsibility of the team comprising the Programme Director, Secretariat Manager, and Finance and Admin Manager. Annex 1 to this cover letter contains how we envision the changes will be done and when these will be introduced.

In order to ensure that changes start on the right track, NIRAS has already planned a QA mission in September 2016 comprising NIRAS and Birzeit staff. A key task of the upcoming QA team will be to ensure that all recommendations related to MTR are in line with the negotiations with donors pertaining to how the recommendations of the MTR will be implemented. The QA report (which shall also cover the internal audit) will be sent to the donors. Future QA mission will also continue to update the donors on progress towards fulfilling the recommendations of the MTR. An outcome mapping training for the Secretariat Staff will also take place during Sep 2016.

We have made some comments that are related to correcting factual errors, and shed light on important elements that we believe the MTR should have captured or mentioned.

Unfortunately, we have not been given enough time to review, digest and provide management response to the MTR report. Nonetheless, we expect that this management response will influence

the final version of the MTR report. Should that be impractical, and the SH team is not able to change the final report to factor this management response, we urge the donors to include this management response in its entirety in the final MTR report, when issued or published.

Please find attached Annex 1 to this management response that besides commenting on some issues, also contains our strategy for implementing the recommendations of the MTR. The Annex is divided into two sections:

- General comments on the entire MTR review process and the report as a whole. This includes some factual issues that we believe should be clarified or changed in the report.
- Comments on the Recommendations and Strategies and options for implementing certain recommendation related to the Secretariat with timelines.

Please let us know if you have questions or comments.

Finally, NIRAS would like to invite the donors for discussion around some of the recommendations of the MTR, before, during or after the upcoming QA mission.

Sincerely,



Björn Hansson

Deputy Country Director

CC:

- Mrs Dicky Methorst, The Netherlands Representative Office, 12 Hollanda Street, El Bireh, Ramallah (off Nablus road)
- Ms Miral Al Far, the Representative Office of Denmark, Ramallah, 48 Othman Ben Affan Street P.O. Box 2444.
- Ms Terry Boullata, The Swiss Cooperation Office Gaza and West Bank, P.O. Box 31840
91317 Jerusalem

Annex 1
Management Response Letter on the Mid Term Review of the Secretariat
31 May 2016

1. General Comments

On the MTR Process and Report

- The Secretariat¹ was not involved in the development of the TOR for the MTR, which we hoped we would have had in order to contribute to our learning from the MTR process. However the participatory approach that the StrategiHuset (SH) team has taken while implementing the MTR compensated for this.
- This MR is based on the main report only. The addendum to the report concerned with the scenarios for the future of the Secretariat as a mechanism for the donors was not shared with the Secretariat.
- The assumption we have is that the donors would want the Secretariat to implement all or the majority of the recommendations of the MTR; therefore, this management response should be interpreted in this way.

The report contains recommendations in the text outside the main text so we tried to also respond to these recommendations. The Secretariat would have preferred to provide comments to the MTR before the report is finalised on 1 June 2016, which is the same date given for Secretariat to submit this MR. NIRAS requests that should the MTR report not factor this MR, that this MR document be issued as a supplement or even annex to the MTR report.

The below sections are built around the structure of the MTR starting from Section 4 entitled Main Findings.

Section 4. Main Findings On page 17, the review team mentions that the Secretariat disregarded old systems and structures to build new fund management systems and structures. The Secretariat team has met with the finance manager of SDC, and the management of the HRGG, during the course of developing the basic management documents and tools and systems of the Secretariat. In doing so, the Secretariat has tried not to duplicate, but instead to complement and build on the systems and tools of the previous secretariat. The Secretariat team has also reviewed a number of documents and tools that were provided by SDC, including the template of the annual report, and other assessment documents. Some of these tools were used as reference when developing the fund management system.

In our view, the material provided was not sufficient to serve the purpose of developing the systems of the new Secretariat, including the strategy, assessment of the CSOs from HR and IHL capacity, develop the selection criteria, transparency of information, among others. The key reason for this is the fact that the Secretariat was being built based on different TORs than those of the previous HRGG secretariat. Further the Secretariat has used a number of recommendations from the evaluation of HRGG secretariat that required changes to the system.

¹ We used the term the Secretariat to mean NIRAS, Birzeit University and the staff interchangeably, unless clearly distinguished.

On the allegations related to transparency on **page 19 and 20 of the report**, the Secretariat would like to highlight two things: firstly, allegations around lack of transparency and objectivity were only present during the first cycle of project funding. No allegations were made during the first cycle of core funding, or emergency funding cycle or the second project funding cycle. Secondly, NIRAS and Birzeit conducted a QA to investigate if there are grounds for these allegations. Results of this QA was reported back to the donors. Both processes found no grounds for the allegations

On page 19, the MTR team mentioned the following: *Staff members are responsible for the monitoring and follow-up of a very high number of CSOs, while others find it difficult to spend their time in a meaningful way*. The underlined statement is not substantiated in the report; especially, that from our deep knowledge of the staff workload and performance, they are all without exception overburdened with activities and responsibilities. For instance, Gaza staff that cannot travel because of the permit regime are still assigned monitoring and coordination with organisations in Israel and the West Bank. Therefore, the Secretariat would like to remove this statement from the report.

On page 20 the MTR mentioned that one staff member said that the reason for rejection of some application is not clear to staff as it is for some CSOs. The Secretariat would like to indicate that TAC committee always provides detailed justification for rejection or approval of applications. These are documented in a report which is shared with all Secretariat staff. A detailed report on all applications is presented to the Steering Committee for final approval. When there were differences between the TAC recommendations and the SC decisions, these differences were documented and documentation is available to all members of the Secretariat team.

However, we agree that the second call for project funding deviated from the standards of previous cycles because one of the main targets of this call was to support Palestinian CSOs working in Jerusalem, despite their relative weakness. The Secretariat analysis of previous cycles revealed that Jerusalem CSOs find it difficult to meet the requirement set by the Secretariat; especially, when they compete with the relatively stronger CSOs in other areas. In the light of this and the magnitude of needs for human rights protection in Jerusalem, the Secretariat engaged in dialogue with the donors and jointly decided to take some affirmative action in Jerusalem. This has been both documented and announced.

Under **cooperation between the donors and the Secretariat on page 20**, the Secretariat will engage with the donors to unveil the reasons for some donors' belief/impression that the Secretariat did not abide by some decisions and directions of the Steering Committee. The Secretariat will put a system that allows more streamlined communication with the donors, and ensure the trust of and relationship with donors is regained and improved. This will be the task of the Programme Director, starting September 2016.

Section 4.2 capacity building. Under this section the Secretariat would highlight that the MTR should explain that the two successful activities mentioned under point number 2 are only examples of successful capacity building activities. There are more activities that have been completed: including the TOT training in 2015 and 2016.

Further it is important to note that there is a fifth type of capacity building activities that should be included in the report. This involves the coaching of certain CSOs by the Secretariat staff on programme design, financial management, and fund management, to ensure compliance. These include coaching by the Finance and Fund managers in best practice in financial management, fund management, programme cycle management, including M&E. The Secretariat will make sure through a modified M&E system to capture activities and results in this type of capacity building service.

4.2.2 Main limitation – absence of Birzeit Touch in Capacity Building. The report, in our view, must be read with the following in mind:

- NIRAS and Birzeit are equal partners in managing the Secretariat. The partnership started during the preparation for the Proposal in 2013. From day one Birzeit made available its campus to the staff that started working the day the contract was signed on July 15, 2013. Birzeit seconded its staff to the Secretariat, and this enabled rapid mobilisation and start-up. 'Birzeit touch' as described in section 4.2.2 is not accurate.
- Birzeit University as an institution is the signatory of the agreement with NIRAS, including all other departments and faculties, (Institute of Law, the Faculty of Law, the MA program on Human Rights, the Abu Lughd Institute, and the IT and media departments). These departments provide support which is often not reported. For example, the IT department designed all IT tools and the ME databases, website and portal. The Faculty of Law assisted with the design, launch and piloting of the student internship program, the Institute of law provides advice on policy dialogue issues. In addition, the Secretariat office in Gaza is the office of the University, and all staff in Gaza are those seconded by the Birzeit University. The Secretariat has the full support of the highest authority at Birzeit,
- The second important factor is that from the outset, NIRAS and Birzeit put a plan to ensure that decisions within the Secretariat on fund management are taken independently, in order to avoid any interference in decisions of the Technical Committee.

It is important to recall the original proposed work plan for 2016, in which the Secretariat has proposed increased engagement of Birzeit, and tapping into both capacity development and policy dialogue services. If the donors decide they want this to be reinstated, the Secretariat will reengage BZU departments in reviving and rescheduling these planned activities.

Limitations in section 4.3.2. We agree with the MTR on the difference of expectations among donors and among CSOs. The Secretariat recognised this, and has done two special sessions on this definition in Sep 2014. During those meetings, the Secretariat provided a modified role that is based on facilitating dialogue, as hub of knowledge, using aspects of the Secretariat's communication strategy, supporting research on this issue, providing grants that support policy dialogue, as well as organizing and convening sessions on policy dialogue when the Secretariat has an added value and its intervention is clearly needed.

On the definition of the Human Rights CSO, there is no one agreed-upon Palestinian definition. Definition of this nature tend to be generic because of rights are many, and because there is no hierarchy for rights according to HRBA. The Secretariat has had discussions with CSOs about the definition of what is a HR organisation when building its strategy. Since this strategy was built using a participatory process, CSOs and experts advised us not to go that path. It is however worth a fresh discussion about this with CSOs, as well as with the donors to analyse the pros and cons of this approach.

Section 5.3 Budget framework. We are not sure why the MTR review used an old budget to make the analysis. It would have been more accurate to analyse the efficiency using the current budget.

The Secretariat fully supports the recommendation that the MTR made at the end of page 33, which is: *" It is therefore recommended that the program continues to prioritise organisational capacity building in the future. Not in spite of budget constraints, but precisely because of these constraints."* The Secretariat will be able to carry out parts of the activities from the existing TA budget with the exception of those activities that require specific training sessions. A discussion about whether the reimbursable cost will be enough requires the donors and the Secretariat to take a fresh look at the capacity development budget. We invite the donors for discussion on this subject.

Section 5.4 the Donor Consortium. The Secretariat agrees with the MTR concerning the need to have a single agreement with the managing partner if the donors are able to follow the path that the Netherlands has taken. We also second the recommendation on page 35 concerned with the way to strengthen the consortium.

Section 5.5. The institutional capacity of the Contract Holder. According to the Co-financing Agreement and the Special Conditions (see article 29) between the donors, Sweden was assigned according to a specific TOR to lead donor communications with the managing partner NIRAS and Birzeit University. From the outset, 'management upwards' was divided into two: the Secretariat managing the relations with the lead donor; and the latter (Sweden), in turn manages the relation with the consortium. Emails and communication material were required to be sent to the lead donor who in turn communicated with the donors, including where the subject was payment requests for donor contributions. The Secretariat communicated with the four donors directly when the lead donor indicated approval, but in other instances the Secretariat was instructed to go through the lead donor. These instructions are intended to support the work of the donors as consortium.

The role of Programme Director (PD) with other donors was related to contractual issues, and amendments of contracts, and response to requests. This set up was made to encourage the consortium of donors, to speak in one voice. In addition to contractual issues, the PD's role as mentioned in the tender document is to support the Secretariat Manager (SM) and coordinate with NIRAS, manage the budget, and manage the relationship with Birzeit. 'Management out' to CSOs was not part of PD mandate but the SM mandate, which is necessary to ensure consistency pertaining to the relationship with partner CSOs. Therefore, CSOs had one address-- the Secretariat in Ramallah and Gaza. Management of the Secretariat was done in Ramallah and Gaza, not in Stockholm. Therefore we disagree with the statement that the role of PD is in conflict with the contract with donors.

Despite the fact that the PD position was part-time with about one day a week on average billed to the donors, the PD was on weekly basis working no less than 80% of his time to support the SM, and the Finance and Admin Manager (FAM). To mention a few of the tasks of the PD: develops all operation tools and manuals, TORs and contracts with consultants and staff; facilitate all fund payments to CSOs; produces financial and progress reports and updates of the Secretariat; gives technical input on material, production and QA of reports and the newsletter; manages payment of salaries of NIRAS staff; manages audits of the programme; reviews all applications for project funding and core funding; membership in the TAC committee to review all applications; and coordination with the lead donor and QA team.

The Secretariat believes that it is more cost efficient and effective to work under a consortium of donors as opposed to individual donors. In our view, the modified PD position makes more sense if is seen as supportive to the lead donor not replacing the coordination with other donors as a role. We agree that this position requires a full time job; especially, since the recommendation of the MTR is also adding the 'upwards management'. If the PD is to take the upwards management *to all donors and support the lead donor in this regard*, then the Secretariat agrees that this position is best to be based in Palestine. The Secretariat hereby assumes that donors would want to move to this direction and presents the following short term and long term plan:

- The current PD will start taking this role immediately after the decision is taken by the donors to move in this direction.
- The current PD will increase his presence in Palestine for a transfer period, and make scheduled visits to engage with Secretariat partners.
- The current PD will begin coordinating with all donors to develop a joint Terms of Reference for the resident PD to be agreed with all donors.
- The Secretariat will try to use the current budget to cover some of the extra time that the current PD will be billing, while the position of the Fund Manager, which is currently vacant, will not be filled until a new cycle of core or project funding is initiated or otherwise the need for Fund Manager becomes apparent. However, a modification of the budget will need to be carried out to ensure that enough resources for the PD are available.
- The TOR of the SM position will also be revised to allow for more internal management and administration of the Secretariat, while the PD and SM will have clearer mandate on external management. There are additional operational and strategic engagements that will be split or clarified in the modified TORs. The SM will be supported by an admin team that is currently at the Secretariat.
- The TOR of the FAM will also be reviewed to ensure clear lines of authority with the SM.
- The TORs of the other team members will remain the same.
- By the end of September 2016, the new Secretariat staffing set-up will be introduced and the position of the resident PD will be announced, and filled by November 2016.

Section 5.6 the Institution and Management Capacity of the Secretariat.

We disagree with the statement on the experience of the Secretariat Manager, who has lots of experience as manager of staff, and programmes throughout his career. The SM has managed staff of programs with the same and larger size, and similar type and equivalent or larger amounts of technical assistance during the past 16 years. Despite this, we agree that it should be the responsibility of the PD to support or take responsibility for some of the current SM programme management tasks, especially in relation to donors, including communication, dialogue and reporting.

2. Comments on the Summary comments on Key recommendations and lessons learnt and timeframe for implementation

Recommendation	Comment	Timeframe and responsibility
<i>1. The program invests in the full-time local presence of the program director, so as to ensure sufficient program management 'internally', 'externally' and 'upwards towards the consortium'. The latter is to take place in close</i>	We agree. We have set up a plan to increase presence of the current PD, to take the upward management role. Devise with all the donors a new TOR of the new PD to be placed	Current PD starts the short term solution immediately, and the TOR of the resident PD will be finalised in Sep

<p><i>cooperation and coordination with the lead donor, who is ultimately responsible for ensuring the members of the consortium are maintained as one united group.</i></p>	<p>in Palestine. This is also coupled with review of the TOR of the Secretariat Manager, and the Finance and Admin Manager. The Fund Manager position will not be filled temporarily to allow that the financing the increase presence of the PD.</p>	<p>2016, and recruitment to start in October.</p>
<p><i>2. The Steering Committee formulates terms of reference for its work that clearly describe its mandate, and the division of work between the committee and the Secretariat, as well as the expectations and mandate of the lead donor and other donors in the consortium.</i></p>	<p>We agree and will be ready to support this process. The current PD and the upcoming resident PD can contribute to, or carry out this work, per agreement with the donors.</p>	<p>NA</p>
<p><i>3. The program management and the Steering Committee formulate a theory of change and a results' framework that can guide the prioritisation and reporting of human rights' developments. It is advisable to include members of the Secretariat in this effort, in order to ensure ownership and commitment.</i></p>	<p>We agree and work will start once the go ahead from the donors is attained. Training on outcome mapping will also be given to staff in September 2016 to support this process.</p>	<p>PD. If approved, the changes will be introduced in October 2016.</p>
<p><i>4. The program continues to prioritise capacity building. Because of (and not, in spite of) budgetary constraints that may be necessary, CSOs should prepare themselves to adopt new approaches to resource mobilisation and use in the future. This may be vital if the sector is to remain sustainable.</i></p>	<p>We agree and will be ready to modify the 2016 work plan, especially its capacity building component, if the go ahead is given by the donors to move in this direction.</p>	<p>Secretariat Manager. Date to be determined with the donors.</p>
<p><i>5. The program defines its added value related to the program's affiliation with Birzeit University, and specifies the purpose, targets and hoped-for results of future capacity building</i></p>	<p>We will do and it will be part of any modification of the work plan as well as the results framework.</p>	<p>Secretariat Manager. Date to be determined with the donors.</p>
<p><i>6. The program management and the Steering Committee jointly defines and communicates the purpose, meaning and scope of policy dialogue, as well as the potential role and contribution of the/a reference group in this work.</i></p>	<p>The Secretariat supports this recommendation and the PD will be joining the efforts with the donors to define this role in participation of partner CSOs.</p>	<p>TBD</p>
<p><i>7. The current Secretariat continues its work until at least the end of 2017 – and possibly beyond – provided that a successful implementation of the above recommendations leads to the desired improvements.</i></p>	<p>We support this recommendation awaiting direction from the donors.</p>	<p>TBD</p>
<p><i>8. The program invests in leadership-supervision and coaching for the manager of the Secretariat, given the complex task and responsibilities that are associated with this position.</i></p>	<p>See comment on recommendation 1 above, and response to section 5.6 of the MTR report.</p>	
<p><i>9. The donor consortium considers the possibility to employ a program director –(an expatriate or local) directly by consortium itself.</i></p>	<p>We do not see this necessary if the PD employed by the Secretariat will carry this role.</p>	
<p><i>The program continues to provide core funding to 3rd generation/big CSOs1 and provide joint project funding to smaller, 1st and second generation CSOs in order to stimulate closer cooperation between them.</i></p>	<p>We agree.</p>	