

Working Session 2: Fundamental freedoms I, including:

- **Freedom of peaceful assembly and association**
- **National human rights institutions and the role of civil society in the protection of human rights**

Rapporteur: Ms. Annemie Lelie, Deputy Permanent Representative, Permanent Representation of the Kingdom of Belgium to the OSCE

No. of statements: 49

Delegations: 12

Civil Society: 37

OSCE Institutions: -

International Organizations: -

Media: -

Rights of reply: 14

The first introducer, Ms. Milena Costas Trascasas, human rights law expert and member of the ODIHR Panel of Experts on Freedom of Peaceful Assembly, emphasized the importance of the freedom of assembly and association for the rule of law and for our democratic societies more generally. When societies are deprived of these rights, the views of the privileged and those in power will become the dominant view. A robust civil society on the contrary, will make our communities more resilient. Freedom of assembly and association therefore plays a key role in driving human rights forward and achieving social change. An example was given from Spain, where a platform to help people affected by mortgages in the wake of the financial crisis, resulted in a change of the national legislation to protect the rights of debtors against unfair mortgages.

In the OSCE region, there is a trend towards the curtailing of the freedom of assembly and association. Ms. Trascasas gave a number of examples from across the region, amongst others new and pending legislation in the United States restricting the freedom of association, the high number of fines related to assemblies in Spain in 2006 and restrictive measures in France related to the state of emergency. The fight against terrorism is leading to an increasing number of restrictions and is being abused to silence criticism. Small NGOs are often especially affected by changes in national legislation.

How can this trend be reversed? According to the UN Special Rapporteur on Freedom of Peaceful Assembly and Freedom of Association, all necessary instruments and oversight bodies are in place. Ms. Trascasas pointed out that, also in the OSCE, we have the instruments we need, amongst others the Guidelines on Freedom of Association, the Panel of Experts and the work of ODIHR. Finally Ms. Trascasas emphasized the urgent need for a change of mindset. She quoted the former UN Special Rapporteur on Freedom of Peaceful Assembly and Freedom of Association, who said that we were facing an "epic global struggle" and a "fight for the future of democracy".

The second introducer, Ms. Danuta Przywara, Chair of the Board of the Helsinki Foundation for Fundamental Rights and member of the Helsinki Committee in Poland, also emphasized the importance of the freedom of assembly and association for the good functioning of our democracies. However, the OSCE decisions and principles are not being respected, we are witnessing a shrinking space for the work of human rights defenders. The new authoritarianism from the Russian Federation is spreading to countries across the region, including former USSR countries, Turkey and countries from Central Europe. Guarantees on paper are being overturned to limit the civil society. NGOs are facing discreditation and administrative measures are used to limit their work. Ms. Przywara is worried about the situation of human rights defenders: their main role is to control the respect of participating States for their international obligations, but they are often the first target through media campaigns discrediting them. The same goes for national human rights institutions.

Participants highlighted that the OSCE participating States should implement the recommendations of the civil society parallel conference at the 2016 Hamburg Ministerial Council, and create a group of experts on human rights defenders; that ODIHR should closely monitor the implementation of the relevant engagements by the participating States in close cooperation with civil society; and to more systematically work with NGOs in order to increase the space for civil society.

Many delegations from participating States and representatives of civil society expressed concern about the increasing restrictions on freedom of assembly and association in the OSCE region, limiting the space for civil society, as well as the increasing attacks on human rights defenders. These restrictions and attacks, they said, are in violations of the OSCE principles and commitments.

Many different undue restrictions and challenges to the freedom of assembly across the OSCE region were highlighted, including the arrests and detention of peaceful participants to assemblies, the prohibition of peaceful assemblies, the intimidation of participants to assemblies or of their family members and the challenge to protect peaceful participants against attacks from counter-protesters.

With regards to the freedom of association, many concerns were raised pertaining to restrictive laws and administrative measures affecting the work of NGOs or forcing them to close down. The restrictions on the freedom of association of the Crimean Tatars were also addressed in various interventions.

A number of interventions focused on the precarious situation of human rights defenders in various countries in the OSCE region, where they are subject to arbitrary detention, politically motivated trials, intimidation and threats online (with a disproportionate burden on female human rights defenders). Concerns were also raised about actions against lawyers who are defending human rights activists.

One civil society organization encouraged participating States to do more to support the work of national human rights institutions, some of which are becoming under threat themselves.

Recommendations made by participants during this session include (non-exhaustive list):

Recommendations to the OSCE participating States:

- Use the OSCE/ODIHR Venice Commission Guidelines on Freedom of Association;
- Guarantee the right of freedom of peaceful assembly more proactively and protect peaceful assemblies against intimidations, threats and attacks;
- Investigate and prosecute violent groups attacking the freedom of peaceful assembly;
- Protect LGBTI persons seeking to associate and assemble from attacks and reprisals through preventive measures and by investigating attacks, prosecuting perpetrators and ensuring remedy for victims;
- Guarantee a free and active participation of civil society and free civil society space, as well as promote more systematic co-operation with civil society;
- Guarantee an enabling environment for the work of human rights defenders so that they can work safely and without fear and harassment, with a particular attention to women human rights defenders;
- Support and promote the implementation of the ODIHR Guidelines on the Protection of Human Rights Defenders;
- Ensure that OSCE co-operation programmes feature human rights conditionality;
- React when human rights defenders or their families are retaliated against for participating in HDIM.

Recommendations to the OSCE/ODIHR:

- Restore its focal point for human rights defenders and establish an expert panel on the protection of human rights defenders;
- Study the implementation of the Guidelines on the Protection of Human Rights Defenders by participating States in co-operation with civil society, using reports and information from such organizations.