



Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights

ODIHR and the Rule of Law

“...[T]he development of societies based on pluralistic democracy and the rule of law are prerequisites for a lasting order of peace, security, justice and co-operation in Europe.”

(Moscow Document, 1991)

What is the Rule of Law?

As defined by the Organization for Security and Co-operation in Europe (OSCE), the rule of law is not merely a formal legality but “justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression” and that “democracy is an inherent element of the rule of law” (1990 Copenhagen Document).

The OSCE participating States subscribe to the notion of rule of law that requires that all persons, institutions and entities, including states themselves, are accountable to laws that are equally enforced and independently adjudicated, and are consistent with international human rights norms and standards.

Why is the OSCE involved?

The OSCE's security and conflict prevention mandate covers matters related to the rule of law as part of its “human dimension of security” – its set of norms and activities related to human rights and democracy. To counter threats to security and prevent conflicts that may arise from practices that fall short of rule of law standards, participating States have made a number of commitments. As the Organisation's institution focusing on the human dimension, the Office for Democratic Institutions and Human Rights (ODIHR) seeks to assist the participating States in living up to their rule of law commitments, for example, those related to an independent judiciary and fair trial rights (1990 Copenhagen Document).

How does ODIHR work on the Rule of Law?

Strong legal professionals – including independent judges and lawyers – fair and accessible procedures, and a high degree of transparency are essential to the realization of the rule of law. These three pillars are vital to ensure that individuals can seek effective remedy in court for arbitrary treatment and violation of their rights.

ODIHR contributes to making the rule of law a reality in the OSCE region through work in the following areas:

Judicial Independence

Following an analysis of the state of judicial independence in a number of participating States and a regional conference of experts in Kyiv, in June 2010, ODIHR published the Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia.

The recommendations include a number of measures that are essential for judicial independence, related to:

- judicial administration;
- judicial selection criteria and procedures; and
- the accountability of judges.

Upon request, ODIHR discusses these recommendations with relevant stakeholders

and offers assistance to support judicial reform. As a result of such discussions, country-specific policy recommendations have been adopted and led to concrete improvements.

Criminal Justice

ODIHR's criminal justice activities aim at safeguarding due process guarantees. ODIHR promotes institutional reforms to better enable key actors in the criminal justice chain to perform their duties transparently and in compliance with human rights obligations.

Furthermore, ODIHR provides expert assistance to and facilitates exchanges between participating States, providing opportunities for them to learn from one another. As an example, the Expert Forum on Criminal Justice for Central Asia brings together officials, practitioners and academics to discuss policy issues in the field of criminal justice.

ODIHR also provides expertise on the reform of criminal procedures and prosecutorial systems.

Trial Monitoring

ODIHR conducts trial monitoring to assist participating States in complying with their commitments in the area of fair trial rights. ODIHR also plays a role in collecting and preserving OSCE expertise, as well as successful strategies and methodologies in the area of trial monitoring in criminal, civil and administrative

proceedings. Likewise, ODIHR promotes administrative justice reforms, including providing individuals judicial remedies to safeguard their rights from public administration overreach, ensuring respect for fair trial rights in related judicial proceedings and supporting the effective resolution of electoral disputes.

Concretely, ODIHR:

- observes trials and formulates recommendations to support judicial reforms;
- serves as a repository of institutional memory on the trial-monitoring experiences and expertise of OSCE field operations; and
- supports trial-monitoring activities conducted by OSCE field operations and NGOs.

To ensure coherent approaches and practices in OSCE trial monitoring, ODIHR has developed trial-monitoring tools, such as *Trial Monitoring: a Reference Manual for Practitioners*, a repository of trial-monitoring documentation, the *Legal Digest of International Fair Trial Rights* and the *Handbook for Monitoring Administrative Justice*.

These tools are designed to assist legal professionals and trial monitors in their work. ODIHR also uses them to strengthen the capacity of OSCE field operations and NGOs that conduct trial monitoring.

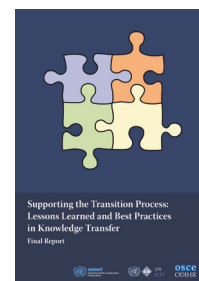
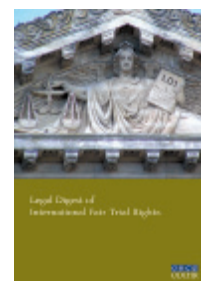
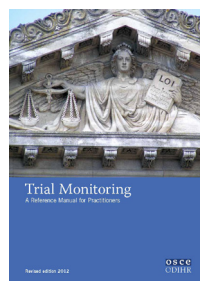
War Crimes

In 2011, ODIHR completed the European Union funded War Crimes Justice Project, in partnership with the International Criminal Tribunal for the former Yugoslavia (ICTY) and the United Nations Interregional Crime and Justice Research Institute, with support from OSCE field operations.

The project helped consolidate the capacity of national jurisdictions in South-Eastern Europe to deal with war crimes cases. Specifically, the project enhanced the capacity of the institutions responsible for prosecuting and adjudicating war crimes cases by:

- facilitating the exchange of experience between justice actors from the region and the ICTY;
- transferring relevant material from the ICTY to the justice actors in the region; and
- fostering regional co-operation between legal professionals.

ODIHR builds on these achievements by further strengthening the institutional capacity of training institutions and legal practitioners, by promoting peer-to-peer meetings and training based on curriculums developed under the project.



Partnerships

ODIHR's rule of law work engages with a variety of actors, including:

- governmental and other state bodies and judicial officials;
- professional associations, such as Bar or Judges' Associations;
- civil society, academia and think-tanks;
- international organizations, including the Council of Europe and the United Nations; and
- OSCE field operations.

ODIHR facilitates exchanges of rule of law expertise, knowledge and good practice across the OSCE region to increase dialogue and co-operation among authorities, legal communities and civil society in participating States.

More information

For detailed information about ODIHR's rule of law work and to view its full range of resources and publications, please visit: www.osce.org/odihr/rol

or contact ODIHR at:

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