

OSCE Human Dimension Seminar

PROMOTING EFFECTIVE AND INTEGRAL JUSTICE SYSTEMS: HOW TO ENSURE THE INDEPENDENCE AND QUALITY OF THE JUDICIARY

Warsaw, 21-23 November 2016



CONSOLIDATED SUMMARY

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OVERVIEW

Finding the right balance between ensuring effective justice systems while preserving the independence of the judiciary is not an easy task and all OSCE participating States (pS) notwithstanding their diversity face this challenge. To ensure this balance, it is fundamental that a fair and transparent procedure leads to the selection and promotion of qualified, ethical, and diverse judges that reflect the communities they serve. A judiciary that reflects and benefits from the perspectives of the communities it serves, is a judiciary that supports access to justice for all and gains legitimacy in the eyes of the public, ultimately enhancing public trust. In the absence of such a balance, a judiciary may be subject to complaints of corporatism, elitism or lack of accountability. On the other hand, a strong emphasis on efficiency and accountability risk exposing a judiciary to undue influence which in turn undermines its internal and/or external independence.

The Human Dimension Seminar on Promoting effective and integral justice systems: how to ensure the independence and quality of the judiciary (Warsaw 21-23 November 2016) provided an opportunity for experts, representatives of the OSCE participating States, OSCE institutions and field operations, international organizations and civil society actors to address some of the key issues related to this topic, including: criteria and procedure for the selection, promotion, and training of judges as well as accountability of judges and the role of civil society in observing judicial independence and accountability.

Judicial independence is a cornerstone of the OSCE rule of law agenda. The 2009 Human Dimension Seminar on Strengthening the Rule of Law in the OSCE Area with a Special Focus on the Effective Administration of Justice highlighted this issue as did the 2010 Human Dimension Seminar on strengthening the independence of the judicial system and public access to justice. This year's HDS showed that the topic remains timely and necessary to discuss and address new developments regarding judicial independence and accountability across the OSCE region.

The keynote speaker and the debaters made a particularly valuable contribution to the discussions. They all emphasized that societies demand change, and this plea drives new government policies. Current trends across the OSCE region place a stronger emphasis on judicial reform. Preserving judicial independence was described as the key challenge in the process of developing judicial reforms that seek to make the judiciary more accountable. Debaters concurred that in these times of change, upholding fundamental principles of the rule of law and separation of powers is particularly essential to ensuring the preservation of democratic institutions.

Discussions during the Seminar highlighted the role of civil society in observing judicial independence and accountability and explored the important links between judicial reform efforts and social demands and several speakers emphasized the need for greater dialogue between the judiciary and other state powers such as the executive and legislative. Many speakers suggested that only inclusive and transparent reform processes in line with international standards will guarantee long-term improvements in the delivery of justice and increased levels of public trust in the judiciary.

The Seminar was not mandated to produce a negotiated text. Main conclusions and recommendations of the Seminar are included in Section II of this Summary. Recommendations are wide-ranging and addressed to various actors including OSCE institutions and field operations, governments, courts and civil society. Seminar recommendations have no official status and are not based on consensus; however they should serve as useful indicators for the OSCE in setting priorities and planning its programmes aimed at strengthening the rule of law in the area of judicial independence and accountability. Documents from the Seminar are available at: http://www.osce.org/odihr/hds_2016.

I. CONCLUSIONS AND KEY RECOMMENDATIONS

The Human Dimension Seminar was chaired by Katarzyna Jarosiewicz-Wargan, First Deputy Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The Chairperson addressed the opening and the closing plenary sessions (see Annex II), highlighting the importance of an independent judiciary for a functioning democracy and the rule of law. She expressed appreciation to all participants for their contributions to the Seminar, and thanked in particular the speakers for their constructive interventions. The Chairperson pointed out that there were no universal solutions to the issues discussed, and stressed the great value of exchanging experience. She recalled that the rationale of Human Dimension Seminars is facilitating such exchanges on particular human dimension issues between experts of the participating States. Therefore, she called on participating States to demonstrate their commitment to making future seminars a success by attending them and sending experts to participate. Moreover, she promised that ODIHR will continue providing assistance to the participating States in the areas discussed throughout the Seminar within the framework of the Office's mandate and tasks given by the OSCE participating States. The following conclusions and key recommendations emerged from the plenary and working group sessions.

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Conclusions

Across the OSCE region, efforts are increasing to tackle inefficiency and corruption, including within the judiciary. Maintaining the independence of the judiciary is of paramount importance against this background. The Seminar demonstrated how independence relates to other values that are seen as important for the judiciary – efficiency, quality, integrity and accountability. OSCE commitments on judicial independence are part of the founding values of the organization alongside other values such as access to justice and the right to timely, efficient and fair justice. Judicial independence and accountability are interrelated: an independent judiciary delivering impartial judgments enjoys public trust. Accountability mechanisms are necessary to ensure the efficiency of the system, but need to be carefully designed and accompanied by

procedural guarantees preventing their potential interference with judicial independence. Any interference in judges' adjudication needs to be avoided. Judges should enjoy absolute freedom from liability in respect of claims made directly against them in relation to the exercise of their functions in good faith.

The first working session provided examples of how to maintain an appropriate balance between the abovementioned values in judicial selection and promotion procedures, as well as in training. Selection procedures for judges should be grounded on objective, transparent, and merit-based criteria. Judges should be professionals with the highest legal expertise and persons with great communication skills, high moral character and integrity, all of which is of crucial importance for their independence and impartial performance and should be carefully assessed in the selection process.

Selection and promotion procedures should also be open and accessible to all, so that the composition of the judiciary reflects the society that it serves and includes female judges as well as judges belonging to minority communities and other groups. Furthermore, the selecting authority needs to pay particular attention to creating a diverse judiciary for achieving greater legitimacy and public acceptance.

The working session on the role of civil society in observing judicial independence and accountability explored the important links between judicial reform efforts and social demands and several speakers emphasized the need for greater dialogue between the judiciary and other state powers such as the executive. Before any reforms are undertaken to address pressing social needs, these needs must be identified through reliable research, articulated in the public domain, and translated into relevant policies. This is true also for judicial reforms, as many speakers pointed out. Civil society organizations have an important role to play in all of these processes.

Trial monitoring has been mentioned as one of the tools by which civil society can ensure public scrutiny of the judiciary, thus enhancing transparency and trust in courts and individual judges.

Key recommendations

To the OSCE participating States:

- Participating States should continue to develop criteria for the selection of judges, in consultation with judges associations and judicial councils, that are objective, transparent, merit-based and non-discriminatory;
- Participating States should strive to achieve diversity in the judiciary. To this end, they should take measures to remove barriers and provide terms and conditions of appointment, including flexible working arrangements, which are conducive to achieve diversity of the judiciary;

- Participating States should implement outreach programmes in schools as well as mentoring programmes in the judiciaries aimed at reverting existing stereotypes and promoting access to the profession of judge among unrepresented groups;
- Participating States should only suspend or dismiss judges as a measure of last resort for serious misconduct, in a manner prescribed in the law and as a result of a procedure assisted by all the due process guarantees;
- Participating States should genuinely pursue judicial accountability as a mean to strive for a professional, efficient, timely and fair judiciary; they should refrain from using accountability as a political weapon to encroach on the work of the judiciary, its independence and impartiality;
- Participating States should promote responsible media coverage of judicial proceedings. This can be facilitated by the establishment of press officers in courts, by the provision of specific training for journalists;
- Participating States should encourage asset declarations and declarations of conflict of interest as useful instruments to ensure independence and to monitor the judiciary;
- Participating States should make use of new technologies to ensure greater transparency of judicial proceedings;
- Participating States should support and facilitate monitoring of court proceedings as a means of promoting public trust in the judiciary, transparency and good practices.

To the OSCE, its institutions and field operations:

- OSCE/ODIHR should continue to perform its work in promoting the independence and accountability of the judiciary, to research and increase exposure to the variety of examples of selection criteria and procedures used across the OSCE region; to provide discussion forums on the topic and to facilitate transfer of know-how.
- The OSCE should continue working on monitoring trials and other aspects of legal systems; ensure continuing exchange of good practices with regard to such programmes and the discussion of their results;
- OSCE/ODIHR should continue to carry out studies and support best practices with regard to the selection of judges in the OSCE region and provide discussion forums on the topic;
- OSCE field operations and ODIHR work on the rule of law should be strengthened.
- Civil society would benefit from ODIHR's assistance in the development of activities and programmes aimed to enhance public trust in the judiciary.

II. PARTICIPATION

The Seminar was attended by 109 participants, among them 50 representatives from 27 OSCE participating States, three participants from one OSCE Partners for Co-operation. The Seminar was also attended by ten representatives from the OSCE and its institutions (OSCE Office for Democratic Institutions and Human Rights and the OSCE High Commissioner on National Minorities) and nine representatives from six OSCE field operations. Moreover, 30 representatives of 24 civil society entities and four representatives from the international organization, the Council of Europe (CoE), took part in the Seminar. There were also two representatives of NHRIs (national human rights institutions) present at the Seminar and one participants representing media in the discussions.

III. AGENDA AND ORGANIZATIONAL ASPECTS

The Seminar on Promoting effective and integral justice systems: how to ensure the independence and quality of the judiciary (Warsaw 21-23 November 2016) was organized by ODIHR, in co-operation with the German Chairmanship-in-Office of the OSCE, in accordance with PC Decisions No. 1222 of 4 October 2016 and No. 1223 of 2 November 2016. The Rules of Procedure of the OSCE and the modalities for OSCE meetings on human dimension issues (PC.DEC/476) were followed, *mutatis mutandis*, at the Seminar. The guidelines for organizing OSCE meetings (PC.DEC/762) were also taken into account. Discussions were interpreted into all six working languages of the OSCE.¹

The Agenda and Annotated Agenda of the Seminar can be found in Annex I and II. The Seminar was opened at 13:00 on Monday 21 November 2016, and closed at 13:00 on Wednesday 23 November 2016. Plenary and working group sessions were open to all participants. The closing plenary session in the morning of 23 November focused on practical recommendations emerging from the working groups. The plenary and working group sessions took place in accordance with the Work Programme.

This was the 32nd event in a series of specialized Human Dimension Seminars organized by ODIHR further to the decisions of the CSCE Follow-up Meetings in Helsinki in 1992 and in Budapest in 1994. The previous Human Dimension Seminars were devoted to the following subjects: Tolerance (November 1992); Migration, including Refugees and Displaced Persons (April 1993); Case Studies on National Minorities Issues: Positive Results (May 1993); Free Media (November 1993); Migrant Workers (March 1994); Local Democracy (May 1994); Roma in the CSCE Region (September 1994); Building Blocks for Civic Society: Freedom of Association and NGOs (April 1995); Drafting of Human Rights Legislation (September 1995); Rule of Law (November/December 1995); Constitutional, Legal and Administrative Aspects of the Freedom of Religion (April 1996); Administration and Observation of Elections (April 1997); Promotion of Women's Participation in Society (October 1997); Ombudsman and National Human Rights

¹ According to paragraph IV.1 (B)1. of the OSCE Rules of Procedure (MC.DOC/1/06), working languages of the OSCE are English, French, German, Italian, Russian and Spanish.

Protection Institutions (May 1998); Human Rights: the Role of Field Missions (April 1999); Children and Armed Conflict (May 2000); Election Processes (May 2001); Judicial Systems and Human Rights (April 2002); Participation of Women in Public and Economic Life (May 2003); Democratic Institutions and Democratic Governance (May 2004); Migration and Integration (May 2005); Upholding the Rule of Law in Criminal Justice Systems (May 2006); Effective Participation and Representation in Democratic Societies (May 2007); Constitutional Justice (May 2008); Strengthening the Rule of Law in the OSCE Area, with a special focus on the effective administration of justice (May 2009); Strengthening Judicial Independence and Public Access to Justice (May 2010); Role of Political Parties in the Political Process (May 2011); Rule of Law Framework For Combating Trafficking in Human beings (2012); and Media Freedom Legal Framework (2013); Improving OSCE effectiveness by enhancing its co-operation with relevant regional and international organizations (2014) and the Role of National Human Rights Institutions (NHRI) in Promoting and Protecting Human Rights in the OSCE Area (2015).

IV. SUMMARY OF THE PROCEEDINGS

The 2016 Human Dimension Seminar was opened by Katarzyna Jarosiewicz-Wargan, First Deputy Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) who also chaired the opening session. Welcoming remarks were delivered by H.E. Rolf Nickel, Ambassador of the Federal Republic of Germany to Poland, on behalf of the OSCE German Chairmanship, and by Mr. Maciej Janczak, Deputy Director of the Department of United Nations and Human Rights at the Ministry of Foreign Affairs of the Republic of Poland.

Ambassador Nickel recalled that by virtue of its mandate ODIHR is the right place to discuss judicial independence and accountability, as the publication of the ODIHR 2010 Kiev Recommendations on Judicial Independence demonstrates. He emphasized that trust in the judiciary and its rulings are conducive to the well-functioning of every society. He also stressed that to build this trust, justice has to be efficient, fair and of high quality, and that judicial reforms should strengthen the independence of the judiciary and ensure that it is accountable to those it seeks to serve.

Mr. Maciej Janczak emphasized the importance of competent, impartial and independent courts, a necessary prerequisite to guarantee the right to a fair trial for everyone. He referred to the international framework and particularly to the UN Basic Principles of Judicial Independence for further discussion.

Ms Jarosiewicz-Wargan addressed the opening plenary session (see Annex II) and highlighted the importance of the judiciary as the ultimate body guaranteeing the individual's right to an effective remedy and a democratic system of checks and balances. She underlined the intense scrutiny the judiciary is currently subject to which, at times, can lead to the appearance of conflict between state powers. However, while stressing that conflict is an intrinsic element of the democratic process and systems of accountability, Ms

Jarosiewicz-Wargan stressed that in the process it is of utmost importance that judicial independence is not undermined.

The keynote address was delivered by Dr. Juan Botero, Executive Director of the World Justice Project. The core question he suggested for participants to address throughout the seminar was how to strike a balance between competing interests: preserving the independence of the judiciary and delivering efficient, fair, speedy and accountable justice.

Mr Botero introduced the four pillars of the discussion as follows. First, the judiciary should strive to reach a state of “equilibrium” among multiple and at times conflicting social goals, including: the protection of “the weak”; the deterrence of violence and vengeance; the pursuit of community harmony; the implementation of State Policy; and the prevention tyranny. Second, justice should be looked at as a public service, similarly to the provision of electricity, water, health and education so that the delivery of accessible, efficient and timely justice is considered as a top priority. Third, judicial reform should match local needs and cultural specificities so that the urge for donor-driven quick fixes is resisted. Fourth, the collection of proper data is crucial as it helps align incentives among multiple constituencies.

In the opening debate, panelists further explored the relationships between judicial independence and accountability. It was suggested that judicial independence has been interpreted as inviolability in some countries, and sometimes taken too far at the expense of accountability. Debaters stressed that emphasis on independence may have resulted in less attention to other elements of judicial capacity, such as competence, efficiency, and accountability. At the same time, judicial independence should not be sacrificed on the altar of accountability and the latter should not become a political weapon, a worrying trend that can currently be seen across the OSCE region. Judges may only be held accountable for their misconduct through transparent and fair judicial processes.

Debaters agreed that the judiciary must be engaged in judicial reform. Judicial councils were mentioned as one platform for reform discussions, though not the only one, as they do not necessarily articulate the interests of the judiciary. Judicial associations should also have their voice heard in the reform process. Building upon the keynote speech, the importance of reliable data was emphasized, both for policy choices and for explaining reform initiatives to different stakeholders. Civil society organizations play a role in advocating for reforms and holding the judiciary more accountable, but they may need to come to the defense of judicial independence when it comes under threat. The media also have responsibility to avoid undermining judicial independence, given that unlike politicians, judges are not able to defend themselves in the media.

After the opening plenary session of the Seminar, discussions took place in two consecutive working groups. The following reports are prepared on the basis of notes taken by ODIHR staff and presentations of the rapporteurs, who summarized the working group discussions at the closing plenary session. These reports cannot exhaustively convey the details of the working group discussions, but rather aim to identify their common salient points. The recommendations from working groups were not formally adopted by the Seminar participants and do not necessarily reflect the views of any participating State.

Working Group I: Selection, promotion and training of judges: impact on judicial accountability and the integrity of the justice system
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- Moderator:* Mr. Adam Bodnar, Commissioner for Human Rights, Poland
- Introducers:* Prof. Dr. Martin Kuijer, Council of Europe, Venice Commission
Judge Adenike Balogun, United Kingdom
- Rapporteur:* Mr. Jürgen Heissel, Counsellor, Permanent Mission of Austria to the OSCE

The first Working Group Session focused on the selection, promotion and training of judges as essential prerequisites for a competent, independent and accountable judiciary.

The first introducer, Prof. Dr. Martin Kuijer referred to the judiciary as the ‘silent’ third power, the institution which is the least in the forefront of media attention. Yet of all State institutions, the introducer pointed at the judiciary as the one institution which has undergone the most dramatic change in recent decades. He highlighted three main changes. First, societies have become increasingly individualistic and individuals tend to challenge authoritative decisions more than ever before. Second, the functioning of the judiciary has become more and more ‘politicised’. Because of the ‘vague and abstract’ formulation of legal provisions it is often left to the judges to make policy-related choices through their verdicts. Third, the role of the judge in the court has changed as well in that there is a growing expectation for the judge to undertake an active role as the guardian of the fairness of the proceedings.

Mr Kuijer admitted that this expansion of the role and power of the judiciary has met with strong resistance and provided examples from the Polish constitutional crisis, the massive dismissal of judges in Turkey and the recent attempts from some media to condemn the Brexit related judicial ruling by describing the judges as the ‘enemies of the people’. These examples reveal a worrying trend where governments in certain countries perceive the rule of law as an obstacle preventing them from initiating effective policies. Because judges both at national and at supranational level are to assess the compatibility of national policies with rule of law standards, their verdicts are often at the core of tensions between the judicial and the political domain.

Mr Kuijer put forth a few suggestions on how to strengthen the authority of judiciaries across the OSCE region. One is to ensure that the selection process leads to a competent, professional and efficient judiciary. While judicial systems of selection and appointment of judges may vary a great deal from state to state, it would be hard to contest the existence of a consensus within OSCE participating States to the effect that selection criteria need to be objective, transparent, merit-based and non-discriminatory. Furthermore, Mr Kuijer stressed, the desirability of ‘diversity’ on the bench is underlined in various international

documents. Another suggestion pointed at the importance of proper initial and continuous training, including beyond the national boundaries through for example the assistance of the European Judicial Training Network or the Council of Europe Human Rights Education for Legal Professionals (HELP) Programme. A third suggestion touched upon the possibility to conduct vetting programmes to ensure judicial integrity. This option, however, was presented by Mr Kuijer as exceptional, to be considered in contexts of institutional transition and to be assisted by the necessary judicial safeguards to prevent abuse.

Mr Kuijer continued by highlighting the ways through which state authorities can legitimately hold judges accountable. Firstly, judicial errors can be reverted through the regular appeal process. Secondly, criminal or disciplinary avenues should be sought in cases of intentional misconduct. Thirdly, civil claims against the State for wrongful administration of justice can also ensure indirect accountability for judicial errors and/or misconducts.

Mr Kuijer concluded by stressing that while it is challenging to strike a balance between ensuring the quality of the judiciary and its independence, still judges should always enjoy absolute freedom from liability in respect of claims made directly against them in relation to the exercise of their functions done in good faith.

The second introducer, Judge Adenike Balogun, a woman of colour and part-time barrister, presented the statistics of the recent study published by the House of Lords on ethnic and gender balance in the judiciary of the UK. According to the study, 28 % are female judges, whilst black and minority ethnic judges account for 5% of the total. The lack of diversity is more visible in senior positions with not a single Black, Asian or minority ethnic judge in either the Supreme Court or the Court of Appeal and very few in the High Court.

Ms Balogun emphasised three of the reasons that make a diverse judiciary a better judiciary. First, the more varied the composition of the judiciary the fairer the outcome of judicial verdicts. Second, bringing different perspectives into the courtroom ensures higher standards of integrity, and finally a more diverse judiciary receives higher public confidence and trust.

Ms Balogun identified two formal obstacles that had hindered or continue to hinder the process of diversification of the judiciary in the UK. The recruitment method used to be the main formal obstacle until 2000, because candidates could not submit their applications directly but had to be invited by other judges. The resulting make-up of the judiciary was therefore affected by this rule. While this barrier does not exist anymore, the terms and conditions of appointment, including the lack of flexible working opportunities for certain categories of judges, prevents female judges and judges from minority groups to access higher ranking positions.

Finally, Ms Balogun tackled the issue of limited role models and self-perception. Members of ethnic and minorities groups in particular perceive their chances to be employed as judges or to be promoted to a higher position as limited. To address this obstacle the introducer called for the implementation of outreach programmes in schools as well as

mentoring programmes in the judiciaries aimed at reverting prevailing stereotypes among certain groups of self-perceived inaccessibility of the profession of judge.

Some participants emphasized the leading role that the OSCE, including field operations and institutions, is playing in providing support to OSCE participating States in areas such as judicial independence and fair trials also through the provision of judicial training. However, a few participants also highlighted that achieving judicial transparency and enhanced public trust does not begin and end with the adoption of new laws and training.

In respect to the judges' selection process some participants highlighted the importance to develop objective and merit-based criteria; others stressed the usefulness to involve the public in the process; and others emphasized that striving for a diverse judiciary should include a selection model that genuinely allows for a mid-career shift from other legal professions, such as barrister to the position of judge. The chairman of the High Qualification Commission of Judges of Ukraine presented the reform process introducing a new selection model for the position of Supreme Court judge which involves the assessment of professional competence, professional ethics, and integrity.

Life tenure, irremovability, and the provision of salaries supporting a dignified life and discouraging judges from illegal practices were cited by participants among the basic tenets for achieving judicial independence and accountability. The fight against judicial corruption was also raised in the context of strengthening public trust in the judiciary. However, participants stressed the importance to follow procedures established by the law when the suspension or dismissal of judges is at stake, so as to afford individuals a fair and transparent process.

In his final remarks, Mr Kuijer emphasised the importance of responsible and professional media reporting on the judiciary and especially on the outcomes of judicial proceedings. Sensational media coverage of judicial proceedings could profoundly affect the public perception of the independence, impartiality and fairness of the judiciary.

The following section includes specific recommendations offered by participants.

To OSCE participating States:

- Participating States should develop criteria for the selection of judges that are objective, transparent, merit-based and non-discriminatory;
- Participating States should strive to achieve diversity on the bench;
- Participating States needs to remove formal recruitment obstacles and provide terms and conditions of appointment, including flexible working arrangements, which are conducive to achieve diversity of the judiciary;
- Participating States should always guarantee judges absolute freedom from liability in respect of claims made directly against them in relation to the exercise of their functions in good faith; Participating States should guarantee life tenure,

irremovability, and the provision of sufficient salaries for judges to withstand corruption;

- Participating States should implement outreach programmes in schools as well as mentoring programmes in the judiciaries aimed at dispelling existing stereotypes and promoting access to the profession of judge among unrepresented groups;
- Participating States should only suspend or dismiss judges as a measure of last resort, in a manner prescribed in the law and as a result of a procedure assisted by all the due process guarantees; the executive should avoid engaging in the process of judicial vetting which should instead preferably be carried out, only when absolutely necessary, by an independent body and in line with judicial safeguards;
- Participating States should pay particular attention to understanding and addressing root causes for the low public trust in the judiciary;
- Participating States should fight against judicial corruption as a way to strengthen public trust in the judiciary;
- Participating States should promote responsible media coverage of judicial proceedings. This can be facilitated by the establishment of press officer in courts, by the provision of specific training for journalists. Furthermore judges should be equipped to translate professional legal jargon to make it more accessible to the public.

To the OSCE, its institutions and field operations:

- OSCE/ODIHR should continue to perform its work in promoting the independence of the judiciary, to research and increase exposure to the variety of examples of selection criteria and procedures used across the OSCE region; to provide discussion forums on the topic and to facilitate transfer of know-how;
- The OSCE should continue working on monitoring trials and other aspects of legal systems; ensure continuing exchange of good practices with regard to such programmes and the discussion of their results;
- OSCE/ODIHR should continue to carry out studies and support best practices with regard to the selection of judges in the OSCE region and provide discussion forums on the topic;
- OSCE field operations and ODIHR work on the rule of law should be strengthened.

Working Group II: The role of civil society in observing judicial independence and accountability
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Moderator: Dr. Marcin Walecki, Head of Democratization Department, OSCE/ODIHR

- Introducers:* Ms. Diana Kovatcheva, Deputy Ombudsperson, Bulgaria
Mr. Gia Gvilava, Project Manager, Transparency International, Georgia
- Rapporteur:* Ms. Nicola Schmidt, Human Dimension Team, Task Force for the German OSCE Chairmanship 2016, Federal Foreign Office

The second working group session focused on the role of civil society in observing judicial independence and accountability.

The moderator noted that trust in the judiciary runs as a continuing theme through the seminar. He posed several questions for discussion in this working group: What are the key challenges for judicial independence and accountability? How is access to the judiciary guaranteed in different countries? How may the public and the media contribute to the independence of judiciary?

The first introducer, Dr Diana Kovatcheva, recalled that a number of human rights instruments refer to the independence of judiciary and regard it a prerequisite for the right to a fair trial. As highlighted in the opinion of the Consultative Council of European Judges (CCJE), judicial independence is not a privilege in the interest of an individual judge, but in the interest of the rule of law and of those seeking and expecting justice. Independence of judges increases social trust in justice and institutions.

The introducer suggested that civil society may help independent judiciaries in at least three ways: monitoring and awareness raising, advocacy and pressure for reform, and consultation. With respect to monitoring, the role of NGOs is especially important for high profile cases involving political corruption, and trading in influence with organised crime. Monitoring should inform the public and keep judges aware that their work is under scrutiny, so justice must be seen to be done. Advocacy by CSOs could be directed to concrete reforms to strengthen judge's work and to make the judiciary more efficient or more transparent. NGOs may also take part in consultative councils, for example at the Ministry of Justice or in judicial councils, to discuss judicial reform and policy initiatives. In closing, the introducer also reminded that there are limits to the intervention in the work of the judiciary and for criticism of the judiciary. As formulated by the CCJE, the judiciary must accept that criticism is a part of the dialogue between the three powers of the state and with the society as a whole. However, there is a clear line between freedom of expression and legitimate criticism on the one hand, and disrespect and undue pressure against the judiciary on the other. This delicate balance should always be maintained.

The second introducer, Mr. Gia Gvilava, noted that judicial independence is the core foundation for the rule of law. Public confidence in the judiciary is undermined if a judiciary cannot decide cases impartially and free from external pressures and influences. Achieving this is difficult and different countries may experience different problems. Institutional arrangements play an important role. Georgian experience shows that judicial independence may be strengthened through transparent appointment, selection, and

disciplinary procedures, as well as objective criteria for assessment of candidate judges and for removal of judges.

Mr. Gvilava also suggested some of the ways in which CSOs could contribute to strengthening judicial independence, including through advocacy, monitoring judicial independence, and informing the public. When CSOs act as watchdogs, exposing and criticising wrong practices, their continued co-operation with the judiciary is important. If judges feel attacked by reform advocacy campaigns, they will oppose CSO initiatives. Success in reform advocacy comes from joining resources and efforts with partner organizations, and including allies from inside and outside the judiciary, including in the media. The introducer emphasized that judicial independence begins with individual judges, and CSOs may also work to support them through capacity building activities and advocacy. In Georgia, problems were also revealed with internal independence of the judiciary, with higher level judges influencing their peers in lower positions. The overall status of the judiciary also matters: low salaries and poor working conditions undermine judges' ability to withstand corruption and other external pressures.

In their interventions, seminar participants shared their views and practices from their countries. In Macedonia, NGOs were encouraged to increase their professionalism and address independence challenges for individual judges. In Poland, an NGO initiative to monitor courts by lay individuals is serving both to inform the public and to disseminate good practices among the judges. In the UK, the role of civil society in creating space for policy debates was highlighted. In Ukraine, vibrant civil society takes part in judicial reforms and over 40 CSOs are engaged in trial monitoring. Dialogue with CSOs and the judiciary is needed at every step of reform.

One speaker expressed concern about the shrinking space for CSO activities in some countries. This runs against soft law standards and undermines the rule of law. Another intervention reminded that CSOs have limits in their ability to monitor the entire judicial system and bring about systematic change. A speaker from Kosovo reported that perception surveys continue to show low levels of confidence in the judiciary and suggested that new approaches were needed to improve perception. Several interventions discussed how to use results of trial monitoring initiatives for judicial reform advocacy.

Specific recommendations included:

To OSCE participating States:

- Participating States should encourage asset declarations and declarations of conflict of interest as useful instruments to ensure independence and to monitor the judiciary;
- Participating States should afford civil society space so that they are able to fulfil their crucial role in the dialogue between public and judiciary;
- Participating States should make use of new technologies to ensure greater transparency of judicial proceedings;

- Participating States should refrain from using accountability as a political weapon to interfere with the work of the judiciary;
- Participating States should support and facilitate monitoring of court proceedings as a means of promoting good practices.

To the OSCE, its institutions and field operation:

- The OSCE should continue to publicise violations and infringements of human rights;
- The OSCE should continue to play a role in information sharing, identifying training needs and providing training, as well as supporting civil society;
- The OSCE should promote the adoption of commitments on the rule of law and for the protection of civil society organisations;
- Civil society would benefit from the assistance of ODIHR in the development of activities and programmes aimed to enhance public trust in the judiciary.

ANNEX I: AGENDA

Day 1 **Monday, 21 November 2016**

15:00-18:00 **Opening plenary session**

Opening remarks:

H.E. Rolf Nikel, Ambassador of the Federal Republic of Germany to Poland

Mr. Maciej Janczak, Deputy Director of the Department of United Nations and Human Rights at the Ministry of Foreign Affairs of the Republic of Poland

Ms. Katarzyna Jarosiewicz-Wargan, First Deputy Director of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR)

Keynote address:

Dr. Juan Botero, World Justice Project

Opening Debate: Judicial Reform in Light of Judicial Independence, Integrity, and Quality Principles

Moderator: Mr. Vasily Vashchanka, Rule of law expert

Panellists:

Mr. Lukasz Bojarski, President, INPRIS - Institute for Law and Society, Poland

Ms. Diana Kovatcheva, Deputy Ombudsperson, Bulgaria

Prof. dr. Martin Kuijer, Council of Europe, Venice Commission

Technical Information:

Ms. Katarzyna Jarosiewicz-Wargan, First Deputy Director of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR)

18:00 Reception hosted by the German Chairmanship of the OSCE (*Hotel Sofitel Victoria*)

Day 2 **Tuesday, 22 November 2016**

08:15- 09:45 Side event (*please check the overview of side events*)

10:00-13:00 **Working group I: Selection, promotion and training of judges: impact on judicial accountability and the integrity of the justice system**

Introducers:

Prof. dr. Martin Kuijer, Council of Europe, Venice Commission

Judge Adenike Balogun, United Kingdom

Moderator: **Mr. Adam Bodnar**, Commissioner for Human Rights, Poland

Rapporteur: **Mr. Jürgen Heissel**, Counsellor, Permanent Mission of Austria to the OSCE

13:00-15:00 Break / side events (*please check the overview of side events*)

15:00-18:00 **Working group II: The role of civil society in observing judicial independence and accountability**

Introducers:

Ms. Diana Kovatcheva, Deputy Ombudsperson, Bulgaria

Mr. Gia Gvilava, Transparency International - Georgia

Moderator: **Dr. Marcin Walecki**, Head of Democratisation Department, OSCE/ODIHR

Rapporteur: Ms. Nicola Schmidt, Human Dimension Team, Task Force for the German OSCE Chairmanship 2016, Federal Foreign Office

18:00 Reception hosted by the Ministry of Foreign Affairs of the Republic of Poland (*Hotel Sofitel Victoria*)

ANNEX 2: ANNOTATED AGENDA



2016 OSCE HUMAN DIMENSION SEMINAR

**Promoting effective and integral justice systems:
How to ensure the independence and quality of the judiciary**

Warsaw, 21-23 November 2016

ANNOTATED AGENDA

I. Introduction and Aims of the Seminar

Human Dimension Seminars are organized by the OSCE/ODIHR in accordance with the decisions of the Conference on Security and Co-operation in Europe (CSCE) Summits in Helsinki (1992) and Budapest (1994). The 2016 Human Dimension Seminar is devoted to “*Promoting Effective and Integral Justice Systems: How to Ensure the Independence and Quality of the Judiciary*”; in accordance with PC Decisions No.1222 and No. 1223.

Finding and maintaining a balance between judicial independence and accountability of judges is an ongoing challenge for all OSCE participating States (pS), regardless of their history or the type of justice system in place. In the absence of such a balance, a judiciary may be subject to complaints of corporatism, elitism or lack of accountability. This can undermine its credibility and position within a democratic system of checks and balances. On the other hand, measures which are too intrusive risk exposing a judiciary to undue influence by external actors and an overall lack of internal and/or external independence. This potentially curtails the ability of judges to adjudicate independently, which raises concerns for access to justice and fair trial rights.

States across the OSCE region continue to work towards addressing these challenges. In particular, many states are striving to implement procedures for the evaluation, promotion, and discipline of judges and to raise the integrity, competence, and reputation of judges and the judiciary as a whole. They also undertake efforts to find ways and means to remove judges found to be guilty of corrupt behavior or who do not fulfill minimum standards of competence, and to implement measures that make the delivery of justice and judicial administration more efficient. Strengthening impartiality and ensuring that judges perform their duties without bias or political agenda has also been a focus of recent reforms, aiming to ensure the respect for judicial independence in a democratic society.

Against the background of these ongoing challenges, this year's Human Dimension Seminar (HDS) will explore and discuss current issues and trends regarding judicial independence, integrity, quality and accountability and serve as a platform to exchange good practices from across the OSCE region. Judicial accountability and independence remains one of the key thematic areas of work for ODIHR, within its broader engagement on rule of law issues. This topic builds upon numerous OSCE rule of law commitments as outlined in ODIHR's Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia of 2010 ("Kyiv Recommendations"), which identified core concepts and elements of judicial independence and made recommendations for improving judicial administration, judicial selection and training, accountability of judges, judicial independence in adjudication and the role and composition of judicial councils.

As the main OSCE institution concerned with the human dimension of security, ODIHR is tasked, *inter alia*, with assisting pS in the implementation of their human dimension commitments (Helsinki 1992). Respect for the principle of judicial independence is a key OSCE human dimension commitment. In the Charter for European Security, pS agreed to promote the development of independent judicial systems (Istanbul 1999), a commitment reiterated and reflected in previous human dimension meetings such as the 2010 Human Dimension Seminar on Strengthening Judicial Independence and Public Access to Justice. This principle is further stressed in other OSCE commitments that call upon participating States to respect judges' freedom of expression and association, guaranteed tenure and appropriate conditions of service, and discipline, suspension, and removal of judges according to law (Moscow 1991). Other key commitments include the recognition of the importance of impartiality, integrity, and propriety for the proper discharge of the duties of a judge (Brussels 2006) as well as the prohibition against improper influence on judges and non-discrimination in the selection of judges (Moscow 1991).

On the other hand, reference to judicial accountability is less explicit in the OSCE commitments. However, on a more general note, participating States have agreed to strengthen the accountability of state institutions and officials (Helsinki 2008) while ensuring transparency in government and public affairs, prioritize the elimination of all forms of corruption, implement effective anti-corruption strategies, and effectively manage public resources (Maastricht 2003). The Kyiv Recommendations explicitly link the accountability of judges with judicial independence in adjudication, noting the need for transparency in disciplinary proceedings, professional evaluations of judges, and public court hearings and decisions.

In line with OSCE human dimension commitments regarding the rule of law and independence of the judiciary as noted above, the HDS aims to serve as a platform for exchanging good practices among the pS on issues with regards to judicial quality, integrity and independence. It will also include a focus on related gender aspects and the role of civil society. In addition, challenges related to judicial corruption will be dealt with in a cross-cutting manner. The seminar will provide an opportunity for pS to discuss the most pressing challenges that they face in advancing the accountability of judges while maintaining respect for the independence of the judiciary. This HDS will facilitate an exchange of experience and ideas on how best to address these challenges. Such discussions will also inform the development of recommendations for the OSCE's

continued work in this area, including through assistance activities by OSCE institutions in support of judicial reform efforts in pS.

The conduct of this year's HDS seems timely considering current trends across the OSCE region to put a stronger emphasis on judicial reform, be it in the context of political transition, EU accession processes or increased public scrutiny of the work of the judiciary, coupled with stronger demands for accountability of public institutions in general in many pS.

II. Participation

Representatives of OSCE pS and structures, relevant regional and international organizations, as well as representatives of civil society and development agencies are invited to participate in the Seminar.

The OSCE's Partners for Co-operation are invited to attend and share their views and ideas on the effectiveness of co-operation between the OSCE and other regional and international organizations.

OSCE participating States are requested to publicize the Seminar widely within their networks of co-operation, with a particular focus on including experts and delegation representatives from the judiciary, ministries of justice, the legal professions or relevant parliamentary committees.

Participants are also encouraged to make brief oral interventions during the Seminar. While prepared interventions are welcomed during the plenary sessions, free-flowing discussion and exchanges are encouraged during the Working Group Sessions. All participants are encouraged to submit in advance written interventions outlining proposals regarding the topic of the Seminar, which will be distributed to the delegates.

III. Organization

The Seminar venue is Sofitel Victoria Hotel, Ul. Krolewska 11, Warsaw.

The Seminar will open on Monday, 21 November 2016, at 15:00. It will close on Wednesday, 23 November 2016, at 13:00.

All plenary sessions and working group sessions will be open to all participants. The delegations of the participating States will be able to exercise their right of reply throughout the Seminar. All participants will have equal access to the list of speakers during the working group sessions of the Seminar. The plenary and working group sessions will take place according to the work programme below. More details about modalities are available in the general information document (available on HDS website https://www.osce.org/odihr/hds_2016) as well as in the Seminar's manual.

Two working group sessions will be held consecutively. They will focus on the following topics:

Working group I: **Selection, promotion and training of judges: impact on judicial accountability and the integrity of the justice system.**

Working group II: **The role of civil society in observing judicial independence and accountability.**

The opening session will present welcoming remarks and provide for a brief discussion on current trends in *Judicial Reform in Light of Judicial Independence, Integrity and Quality Principles*.

The closing plenary session will focus on practical suggestions and recommendations for addressing the issues discussed during the opening and working group sessions.

Decision No. 1223 on agenda, timetable and other organizational modalities of the 2016 Human Dimension Seminar as well as the Rules of Procedure of the OSCE and the modalities for OSCE meetings on human dimension issues (Permanent Council Decision No. 476) will be followed, *mutatis mutandis*, at the Seminar. Also, the guidelines for organizing OSCE meetings (Permanent Council Decision No. 762) will be taken into account.

Discussions during the plenary and working group sessions will be interpreted from and into the six working languages of the OSCE.

Registration will be possible during the Seminar days from:

11:00 until 18:00 on 21 November

8:00 until 18:00 on 22 November

8:00 until 13:00 on 23 November.

Facilities are made available for participants to hold side events at the Seminar venue.

A table for display/distribution of publications by participating organizations and institutions will also be available outside the plenary hall.

IV. Work programme

	Monday 21 November 2016	Tuesday 22 November 2016	Wednesday 23 November 2016
Morning 10:00-13:00		Working group I	Closing plenary session
Afternoon 15:00-18:00	Opening plenary session	Working group II	

Day 1

Monday, 21 November 2016

Afternoon

15:00 -18:00 Opening plenary session

Keynote addresses

Opening debate

Statements of participating States

Technical information

Day 2

Tuesday, 22 November 2016

Morning

10:00-13:00 Working group I: Selection, promotion and training of judges: impact on judicial accountability and the integrity of the justice system

Implementing transparent mechanisms with objective criteria for the selection, promotion and training of judges is essential for a competent, independent and accountable judiciary. Where selection and appointment procedures are transparent and welcoming to candidates from diverse backgrounds, including women and minorities, the judiciary will be more representative of society as a whole and viewed as more credible. Continuing legal education and training is critical for judges to hone skills, keep abreast of developments in the law (including international human rights principles and gender justice issues) and to ensure adherence to the highest of ethical standards. These qualities are required of judges so that they may preside over fair trials and provide effective access to justice for male and female users of the judicial system. When conducted in a non-discriminatory manner that does not undermine judicial independence, performance evaluation systems linked to professional development and promotion can serve to increase the number of women in the upper echelons of the judiciary, and aid in improving the quality of justice delivered to both men and women. Ensuring a diverse, competent, and ethical judiciary that understands the impact of the law on men and women contributes to a positive public perception that the judiciary is in fact independent and accountable.

Questions to consider:

- What are some of the challenges faced by participating States in selecting, promoting, and training qualified men and women to become members of the judiciary?
- What are some of the best practices from OSCE participating States that have helped address these challenges?
- How do women and men experience judicial careers across the OSCE region?
- How can OSCE and ODIHR assist participating States in meeting their commitments and other international obligations in this regard?

- What is the role of a judicial council or judicial association in advocating for strengthened procedures to ensure diversity among members of the judiciary?
- How might civil society or judicial academies be effective in providing training to members of the judiciary to ensure they have the requisite skills and knowledge for being a judge?
- Are judiciaries in OSCE participating States perceived to reflect the diversity of societies in which they work?
- What is the role of a rigorous and fair selection process in ensuring the integrity and competence of the judiciary?
- To what extent can continued and/or ad hoc training contribute to addressing challenges judiciaries face in the areas of integrity and competence, and what are the limits of a training-based approach?
- How can governments, and within that judiciaries, put in place active measures to ensure that men and women are equally represented not just at the lower level of the judiciary, but also in appellate courts and courts of final instance and/or constitutional courts?
- How do current procedures for the selection, promotion, and training of judges across the OSCE region support integrity of the justice system?

Afternoon

15:00-18:00 Working group II: The role of civil society in observing judicial independence and accountability

Public scrutiny of the work of courts can be a powerful tool allowing for the identification of shortcomings and creating a momentum for important reforms in the judiciary. It is also vital that public opinion and trust in the courts is informed by quality analyses of the functioning of judiciaries. In order to act as an effective watchdog of the judiciary on behalf of the public, civil society actors and media representatives must be well versed in the complex challenges surrounding judicial independence and accountability and be able to present these issues in an unbiased manner to a diverse audience. In broadening their work beyond monitoring and advocacy related to fair trial rights, civil society actors and media representatives can play a critical role in fostering understanding and dialogue between the judicial system and society as a whole, including government institutions. Effective access to information on the work of courts and the publicity of court proceedings and judicial decisions, as well as the transparency of judicial administration are important preconditions for such public scrutiny and dialogue.

Questions to consider:

- What is the role of civil society in helping participating States to meet their OSCE commitments concerning independence of the judiciary?
- What are the key challenges faced by civil society and the media in advocating for judicial independence and accountability?
- What are some examples of good practices from States where civil society has been successful in educating the public and advocating for judicial independence and accountability?
- Which mechanisms exist in participating States to enable citizens to freely access courts and public information about the work of the judiciary?

- How might OSCE ODIHR assist civil society to enhance their advocacy efforts?
- How can the judiciary engage with civil society and the media to ensure that public scrutiny is balanced and informed?
- How can civil society shape its role as a watchdog to ensure judicial accountability? What are the most effective strategies to encourage improvements in the functioning of the judiciary?
- How can the involvement of civil society in judicial reform and accountability processes be ensured whilst recognizing the importance of internal and external judicial independence?

Day 3

Wednesday, 23 November 2016

Morning

10:00-13:00 Closing plenary session

Rapporteurs' summaries from the working group sessions

Practical suggestions and recommendations for addressing the issues discussed during the working group sessions

Comments from the floor

Closing Remarks

ANNEX III: INFORMATION ABOUT SPEAKERS

**Biographical Information of Speakers
Speakers Biographies**

Day 1: Monday, 21 November 2016

15:00-18:00 **OPENING SESSION**

Opening Remarks

H.E. Rolf Nikel

Rolf Nikel has been the German Ambassador to Poland since 2014. Most recently, he was Government Commissioner for Arms Control and Disarmament. He has also worked in German embassies in Moscow, Nairobi, Washington, and Paris.

From 2006 to 2011 he was the Deputy Chief Adviser for International Politics and Security to the Federal Chancellor. He studied politics, economics, and international law in Frankfurt, the United States, and France.

Mr. Maciej Janczak

Maciej Janczak is a career diplomat. He is currently holding the post of Deputy Director of the Department of United Nations and Human Rights at the Ministry of Foreign Affairs of the Republic of Poland. He is responsible for issues related to human rights and democracy. Mr. Janczak was previously posted to Polish Missions to the United Nations in New York and Geneva. He has also worked for the United Nations Department of Political Affairs in the West and North Africa Division. Mr. Janczak is a graduate of the University of Warsaw and the National School for Public Administration in Warsaw.

Ms. Katarzyna Jarosiewicz-Wargan

Ms. Katarzyna Jarosiewicz-Wargan, the First Deputy Director of ODIHR is responsible managing the operations of the ODIHR, overseeing the preparation, co-ordination and implementation of the activities of the Election, Democratization, Human Rights, Tolerance and Non-Discrimination Programmes and of the Contact Point for Roma and Sinti Issues, as well as formulation of the ODIHR public message.

Ms. Jarosiewicz-Wargan is an expert in management, strategic planning and capacity building, with thematic expertise in human and children rights and social welfare, and more than 20 years of professional experience from Poland, the United States, Western Balkans, South Caucasus and Central Asia. Prior to her current appointment, she was the Head of ODIHR's Human Rights Department, and had earlier supported setting up ODIHR civil society program in Ukraine and developing and institutionalizing a system of project monitoring and evaluation in the Office.

Trained in conflict resolution and mediation, in 2003-2011, Ms. Jarosiewicz-Wargan served as the director of conflict resolution, human rights and child/social welfare reform

programs in the South Caucasus, with advisory and capacity building roles in similar programs in Central Asia. In 2000 – 2002, she led programs focused on human rights, minorities and inter-ethnic dialogue in Western Balkans. Fluent in Polish, English and Russian, Ms. Jarosiewicz-Wargan holds a Master's Degree in social sciences.

Keynote address:

Mr. Juan Botero

Dr. Botero is the World Justice Project's Executive Director and former Director of the Rule of Law Index, where he has led the development of the Index project and co-authored the report since its inception in 2008. Dr Botero's previous experience as a researcher at Yale University and consultant for the World Bank focused on comparative legal research and developing cross-country indicators for the World Bank's Doing Business report. Previous experiences include service as the Director of the Colombian Government Trade Bureau in Washington D.C., Chief International Legal Counsel of the Colombian Ministry of Commerce, Deputy-Chief Negotiator of the US-Colombia Free Trade Agreement, member of the Advisory Board of the Colombian Antitrust and Consumer Protection Agency, and Judicial Clerk at the Colombian Constitutional Court. He has been a professor or guest lecturer in several countries, and is a member of the World Economic Forum's Global Agenda Council on Justice. His academic publications focus on the areas of rule of law, access to justice, and labour regulation. A national of Colombia, Dr Botero holds a law degree from Universidad de los Andes, a Master of Laws (LLM) from Harvard University, and a Doctorate of Juridical Science (SJD) from Georgetown University.

Opening Debate

Panellists:

Mr. Lukasz Bojarski

Mr. Bojarski is a lawyer and President and co-founder of INPRIS, a non-partisan Polish think tank focused on law. He is also the Co-founder and Chairman of the Board of the Polish Legal Clinics Foundation. From 2010-2015 he served as a member of the National Council of the Judiciary of Poland (appointed by the President of Poland). He took part in the works of the ENCJ (European Network of Councils of the Judiciary) where, for instance, he coordinated in 2015-2016 the working group that elaborated minimum standards 'Standards VI: Non-judicial Members in Judicial Governance'. Before, from 1998-2010 he worked for the Helsinki Foundation for Human Rights. He has published widely on issues related to judicial independence and reform of the judiciary as well as clinical legal education and legal aid.

Dr. Diana Kovatcheva

Dr. Kovatcheva serves as Deputy Ombudsperson in Bulgaria. Previously, she served as a Justice Minister under Prime Minister Borisov and was CEO of the Bulgarian branch of Transparency International from 2002-2011. In 2014 she was awarded by Queen Elizabeth II with the Member of the Most Excellent Order of the British Empire for her efforts in the fight against corruption, work in the field of rule of law and her efforts to bring greater transparency to the judiciary. She holds a law degree from Sofia Klimnet Ohridski

University and a PhD in international law and relations. She is also an associated professor in International law and international relations.

Prof. dr. Martin Kuijer

Prof. Kuijer currently serves as the Legal Adviser of the Ministry of Security and Justice of The Netherlands, being responsible for legally complex and/or politically sensitive cases. He has defended The Netherlands in various cases before the Grand Chamber of the European Court of Human Rights (ECtHR), is a member of the European Commission for Democracy through Law (the ‘Venice Commission’) which provides states with legal advice on democracy, human rights and the rule of law, acts as the liaison officer of the Kingdom of the Netherlands to the Committee for the Prevention of Torture of the Council of Europe, and has been actively involved in the negotiations on the reform of the ECtHR system (inter alia as the Chair of an intergovernmental working group within the Council of Europe on guaranteeing the long term future of the Court).

He is part-time human rights professor at the Vrije Universiteit Amsterdam and deputy justice at the Court of Appeal in Arnhem. He has been involved in various programmes on legal system reform and human rights training in Europe, Africa and America. He is a member of the editorial board of the Netherlands law journal for human rights law (NTM) and the Netherlands Yearbook of International Law. He has published several publications on human rights and contributed to some 40 books and law journals. His doctoral thesis was on judicial independence and impartiality in light of the requirements of Article 6 ECHR.

Moderator:

Mr. Vasily Vashchanka

Vasil Vashchanka (LL.M.) was a Rule of Law Officer (2002-2009) and Deputy Chief of the Rule of Law Unit (2010-2012) at the OSCE/ODIHR (Poland). In 2012-2014 he worked on electoral issues at the International IDEA (Sweden). Currently, Vasil consults international organizations on democratic institutions and the rule of law and he has authored publications on these issues.

Day 2: Tuesday, 22 November 2016

10:00-13:00

WORKING GROUP 1

Introducers:

Prof. dr. Martin Kuijer

(see the opening session)

Judge Adenike Balogun

Hon. Nike Balogun was appointed as a fee-paid Employment Tribunals judge in May 2003, sitting in Cardiff for two and a half years then in Southampton for four years. In November 2009 she was appointed as a salaried part-time Employment Tribunal Judge sitting in Croydon. Since 2016, she has also sat in the County Court on general civil matters. Nike

was admitted as a solicitor in 1992, having trained at Alliance & Leicester (now part of Santander) where she worked as an in-house lawyer until 1994. She spent 14 years as in-house lawyer for the Engineering Employers Federation (EEF), advising its members on Employment Law issues and representing them before Employment Law Tribunals. She is also a member of the International Association of Women Judges, and served on its Board of Directors as one of the Regional Director for Europe and the Middle East region, up until May 2016.

Moderator:

Dr. Adam Bodnar

Dr. Bodnar has served as the Commissioner for Human Rights in Poland since 2015. Previously, from 2004-2015 he worked for the Helsinki Foundation of Human Rights, first as a co-founder and coordinator of the Precedent Cases Programme and then as Head of the legal department and Vice-President of the Management Board. He has also served as an expert for the Fundamental Rights Agency of the European Union. From 2013-2014 Dr. Bodnar was a member of the Board of Directors of the United Nations Fund for Victims of Torture. From 2001-2004 he worked as a lawyer in Weil, Gotshal & Mangers law firm. Since 2006 he has also lectured at the law and administration department of the University of Warsaw. In addition, Dr. Bodnar is the author of numerous publications on various legal issues including human rights, the rule of law, and the judiciary.

He is a graduate of the faculty of Law and Administration at the University of Warsaw and holds an LL.M. in comparative constitutional law from Central European University in Budapest and a PhD in constitutional law from the University of Warsaw.

15:00-18:00 **WORKING GROUP 2**

Introducers:

Dr. Diana Kovatcheva

(See the opening session)

Mr. Gia Gvilava

Gia joined Transparency International Georgia as a senior lawyer in 2011. He was the head of the organization's Advocacy and Legal Advice Center from February 15, 2011, and from July 23, 2012 Gia Gvilava became a Project Manager. Currently he manages TI Georgia's Judicial Monitoring and Legal Advice Program. Prior to joining TI Georgia, from 2006, Gia worked for three years as a deputy director at the Business Consulting Company, where he headed the company's legal department. In 2009 he enrolled to the Law Faculty at the Leiden University and after returning to Georgia he became an employee of the Transparency International Georgia. Gia Gvilava received his Masters of Law from Tbilisi State University and a Masters of International and European Business Law from the Leiden University.

Moderator:

Dr. Marcin Walecki

Dr. Walecki possesses over 20 years of democracy assistance and governance experience working in more than 40 countries around the world. He also presents regularly at international conferences, seminars, and has written for numerous publications on democratization, political corruption, political financing, elections, political parties, gender equality and good governance. A Polish citizen, Walecki holds a doctorate of philosophy in politics from St. Antony's College at Oxford University and a master's in Law from the Department of Law and Administration at the University of Warsaw. He is a former Max Weber Fellow at the European University Institute in Florence, Italy and a board member of the International Political Science Association Research Committee on Political Finance and Political Corruption. Head of Democratization Department, Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

Day 3: Wednesday, 23 November 2016

10:00-13:00 **CLOSING PLENARY**

Closing Remarks

Mr. Michael Georg Link

Michael Georg Link (Germany) began his tenure as ODIHR director on 1 July 2014. Before joining the Office, he served from January 2012 to December 2014 as the Minister of State for Europe in the German government, responsible for OSCE, EU, Council of Europe and NATO affairs. He was elected to the German parliament in 2005, representing Heilbronn/Baden-Württemberg, and served through 2013. During that term, from 2006 to 2013, Link established a strong OSCE connection as a member of the OSCE Parliamentary Assembly.

The ODIHR director is a past member of the boards of the Center for International Peace Operations (ZIF), the German Foundation for Peace Research and the Foundation for German-Polish Cooperation, and remains active in international NGOs, including the German Council on Foreign Relations, the German Association for Eastern European Studies, the Southeast Europe Association, and the German Atlantic Association.

Born in Heilbronn in 1963, Link studied Russian, French, Political Science, Public Law and Eastern European History at the University of Augsburg, the University of Lausanne and Heidelberg University.