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OSCE Human Dimension Implementation Meeting Warsaw, 11-22 September 2017

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

Mr./Madam Chairperson, Excellencies, Ladies and Gentlemen,

I have the honour to speak in this working session on behalf of the European Union and its Member States.

The right to associate with others, to assemble peacefully as a group, to express and share opinions and to receive information from others is at the heart of the OSCE's human dimension commitments. These two interlinked fundamental freedoms underpin any functioning democracy.

We are therefore disturbed to see continued and new restrictions on civil society actors in the OSCE region, increasing use of security powers and security forces to restrict or prevent peaceful assembly, and attacks on human rights defenders, who work tirelessly to uphold the implementation of human rights in all OSCE states.

We believe that a strong and vigorous civil society is an essential part of any democratic society as well as an asset in itself, and we welcome the many civil society organisations that are here today. Their role in challenging our governments, their specialist expertise and their ability to articulate citizens' concerns is essential for the development of public policy and for the social and economic development of modern societies.

We might not agree with everything civil society organisations say or do, including when they criticise our governments and our decisions, but we recognise their right to question



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assumptions, or to challenge the development of public policy, and that this is essential for the social and economic development of modern societies.

We will therefore continue to protect the right to freedom of association, which allows individuals to set up, or join, formal or informal groups, and to take collective action. Importantly it also includes the right not to be compelled to join an association or group. Underlying this right is an appreciation of the individual's right to choose. States may not limit the right of an individual to join, or not join, a formal or informal association based on their status.

We will also continue to challenge those participating States which are increasingly using legislative and regulatory approaches to civil society, which contribute to the pattern of shrinking civil society space. Laws which restrict access to finance, which label NGOs as "foreign agents" or "undesirable organisations", or which place legislative obstacles to the formation and functioning of civil society run counter to international standards and OSCE commitments. They have a chilling effect on civil society and on the exercise of fundamental freedoms. Such measures also curb an open and public debate in society and hinder development and progress.

The right to peaceful assembly allows citizens the right to gather, privately or publicly, and collectively express or defend a position or view. As with the right to freedom of association it is an essential part of progressive and functioning society. Across the breadth of the OSCE region we have seen how peaceful assembly has brought people together, and has allowed for the collective expression of views and opinions. Peaceful assembly serves the interests of democracy, but it also is crucial for creating a tolerant and pluralistic society. It allows groups to come together and can help preserve minority identities and culture, but it also helps to create a society in which individuals with different beliefs, practices or policies can exist peacefully together.

This is not an absolute right and can be subject to restrictions prescribed by law and consistent with international standards to protect national security or public safety. But restrictions must be the exception and not the rule and must be necessary and proportionate.



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Security should never be used as an excuse for preventing peaceful expression of opinion or demonstration of dissent.

We are therefore concerned at the instances this year in which the right to peaceful assembly has been curtailed and when these restrictions were not prescribed by law and consistent with international standards. We raised our concerns in Vienna on occasions when states have refused permission for peaceful assembly without due cause, have pre-emptively detained organisers, monitors and journalists; or have detained large numbers of peaceful protesters while they were exercising this fundamental human right. We call on all states to ensure the right to freedom of peaceful assembly, in line with OSCE commitments, specifically Copenhagen 1990.

We encourage all participating States to take advantage of the resources available to them as they implement our collective commitments on freedom of peaceful assembly and of association, including ODIHR and Venice Commission guidelines. We also encourage more states to engage with ODIHR in its work to monitor peaceful assembly. As we discussed in Vienna, monitoring peaceful assembly presents benefits to both the State and to society, and we would welcome greater engagement with ODIHR from all participating States in this area.

In many States across the OSCE region, the right to freedom of association and of peaceful assembly, as with other human rights, would not exist were it not for the work of human rights defenders. Support to human rights defenders is one of the EU's human rights priorities, we therefore call on all participating States to recognise the specific risks that human rights defenders face and refrain from any act that violates their rights. States must protect human rights defenders from abuses by third parties, and take proactive steps to promote the full realisation of the rights of human rights defenders, including specifically the right to defend universal human rights.

The characteristic that defines a human rights defender is not who they are, but what they do and the principles they stand for. We therefore commend those who stand up for the rights of others, whether they are working to protect all human rights, or defending a specific issue or group. This includes, amongst others, those working on: gender equality; the human rights of



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LGBTI people; persons belonging to national minorities, including Roma and Sinti persons; persons belonging to religious minorities and majorities; persons with disabilities; and those working to protect civil, political, economic, social and cultural rights more widely.

We believe in the rule of law, and no-one, including governments, is above the law, but we remain deeply concerned by the arbitrary detention of individuals who work to defend human rights, including civil society actors, journalists, politicians, academics, lawyers and others. We call on all participating States to ensure that no-one is targeted because of their work to defend human rights. States should respect that dissenting views expressed peacefully and publically are part of a functioning democracy and a free society.

We would therefore like to pay tribute to the work of human rights defenders and civil society organisations, including those whose cases we have raised in the OSCE's Permanent Council in Vienna this year. This includes:

Civil society organisations such as “Memorial” International Society; the Anna Centre; the Southern Human Rights Centre; the Sverdlovsk regional branch of Memorial; the Sova Centre for Information and Analysis; Nelegalov.Net; Project April, Bellona Saint Petersburg; Open Russia, the Open Russia Civic Movement; and the Institute of Modern Russia.

The Human Rights Centre, Viasna, in Belarus

The Administrative Center of Jehovah's Witnesses in Russia

Journalists Grigory Shvedov, Saparmamed Neskuliev, Mehman Huseynov, Afgan Mukhtarli and Yelena Milashina

Human Rights Defenders, Max Bokayev, Talkgat Ayan, Ildar Dadin and Valentina Cherevatenko

And civil society actors such as Taner Kilic, Idil Eser, Ilknur Ustun, Gunal Kursun, Veli Acu, Nalan Eerkem, Ozlem Dalkiran, Neja Tastan, Seyhuz Ozbekli, Peter Steudtner, and Ali Gharavi in Turkey.



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Recommendations

To OSCE participating States:

- OSCE participating States must avoid using security concerns as a justification for restricting peaceful assembly when those restrictions are not prescribed by law and consistent with international standards. Participating States must avoid the excessive use of force and the use of pre-emptive detentions when engaging with the organisers and participants of peaceful assemblies.
- Participating States should actively engage with ODIHR in ODIHR's work to monitor peaceful assembly. Participating States should recognise the benefits of systematic monitoring of peaceful assembly, including benefits to the State, the organisers and the participants.
- States should take advantage of tools such as the ODIHR/Venice Commission guidelines on the Freedom of Peaceful Assembly, Freedom of Association and the ODIHR guidelines on the Protection of Human Rights Defenders.
- States should allow civil society (meaning both individuals and organisations) the freedom to maintain contacts and cooperate with other individuals and organisations within their own country and abroad, as well as with foreign governments and international organisations.
- Participating States, in accordance with OSCE commitments, must permit organisations and individuals associated with them to seek, receive, manage and administer financial support from domestic, foreign and international entities without undue restrictions.
- Participating States should limit the use of legislation designed to restrict civil society activity and the increasing criminalisation of peaceful activity by individuals from the civil society sector.
- Participating States must respect dissenting views and recognise that human rights defenders face specific risks and are often targets of serious abuses as a result of their human rights work. States must refrain from any act that violates the rights of HRDs,



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protect HRDs from abuses by third parties, and take proactive steps to promote the full realisation of the rights of HRDs, including specifically the right to defend human rights.

The Candidate Countries the FORMER YUGOSLAV REPUBLIC OF MACEDONIA*, MONTENEGRO*, and ALBANIA*, the Country of the Stabilisation and Association Process and Potential Candidate BOSNIA and HERZEGOVINA as well as UKRAINE align themselves with this statement.

* The Former Yugoslav Republic of Macedonia, Montenegro and Albania continue to be part of the Stabilisation and Association Process.