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### **OSCE Human Dimension Implementation Meeting Warsaw, 10 - 21 September 2018**

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#### **EU statement – Working Session 10: Fundamental freedoms I (continued), including freedom of expression, freedom of peaceful assembly and association, national human rights institutions and the role of civil society in the protection of human rights, and freedom of movement**

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Mr. Moderator,

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

The rights to associate with others, to assemble peacefully as a group, to express and share opinions and to receive information from others are at the heart of the OSCE's human dimension commitments. These 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 and persecution of 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 that the right to question assumptions, or to challenge the development of public policy is essential for the social and economic development of modern societies. These rights also apply online, and should be



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afforded the same respect and protection. That does not only relate to the right express an opinion but also the rights of assembly and association.

We will 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 or group to join, or not join, a formal or informal association based on their status.

Legislation that affects the exercise of the right of freedom of association should be drafted with the purpose of facilitating the establishment of associations and enabling them to pursue their objectives. The ODIHR/Venice Commission Guidelines on Freedom of Association provides advice to states on how to provide an enabling environment for freedom of association, and we encourage all participating states to take advantage of this.

One of the fundamental elements of freedom of association is that persons are able to act collectively in pursuit of common interests, which may be those of the members themselves, of the public at large or of certain sectors of the public. This is highlighted in the Guidelines, which state that "associations shall have the right to participate in matters of political and public debate, regardless of whether the position taken is in accord with government policy or advocates a change in the law."

We will 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 otherwise stigmatise them, 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.

We have raised our concerns over the use of such legislation this year, most notably in the Russian Federation. We will continue to reject attempts to stigmatise NGOs based on their lawful activities.



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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 groups with different beliefs, practices or policies can exist peacefully together.

There are many wonderful examples of peaceful assembly in our region, such as LGBTI Pride marches, which call for equality and respect for all. Economic and labour demonstrations seeking equal treatment in the workplace. Gender equality activists striving to end harassment, violence and discrimination. As well as individual citizens coming together peacefully to express their views on the democratic development of their societies.

Peaceful assembly is not an absolute right and can be subject to restrictions to protect national security or public safety. But restrictions must be the exception and not the rule and must be necessary and proportionate. Security should never be used as an excuse for preventing peaceful expression of opinion or demonstration of dissent, and we will continue to speak out when this occurs. We note with particular concern the use of security concerns to restrict LGBTI events and Pride marches.

We have raised our concerns in Vienna on occasions when states have refused permission for peaceful assembly, have detained organisers, monitors and journalists; or have detained large numbers of peaceful protesters while they were exercising this fundamental human right. We were therefore concerned by reports of large scale detention of peaceful protestors in the Russian Federation on 9 September. More than a thousand people were detained across the country as they exercised their right to freedom of peaceful assembly, and a number of the organisers of the protests were arrested in advance of the demonstrations. We are also deeply concerned by reports of the disproportionate use of force against peaceful protestors, and the detention of a number of children.



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We call on all states to ensure the right to freedom of peaceful assembly, in line with OSCE commitments, specifically Copenhagen 1990.

We welcome the positive role of National Human Rights Institutions and civil society in monitoring peaceful assembly. This presents benefits to both the State and society, and we would encourage more states to develop systems for regular monitoring of peaceful assembly, including through engagement with ODIHR.

We note in particular the positive role played by the Armenian Human Rights Defender and his office in monitoring the peaceful protests earlier this year. This is an excellent example of how peaceful assembly, independently monitored, contributes to democracy.

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 LGBTI people; national minorities, including Roma and Sinti persons; 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



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work to defend human rights. States should respect the fact 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 since the last Human Dimension Implementation Meeting.

We welcome the release in August of Ilgar Mammadov, who was imprisoned for five and a half years in Azerbaijan as a result of his political activity and association; however we are concerned that conditions have been attached to his release. We also welcome the release of Taner Kilic, Chair of Amnesty International in Turkey, from pre-trial detention in August, however we remain concerned by the ongoing charges against him.

We remain deeply concerned over the detention of Oyub Titiev of Memorial Human Rights Centre in Chechnya, Russian Federation, as well as the prosecution of Yuri Dmitriev of Memorial in Karelia.

We have also spoken out about the targeting of journalists across the OSCE region, who by the nature of their work can find themselves acting as human rights defenders. These include Afgan Mukhtarli in Azerbaijan, Khayrullo Mirsaidov in Tajikistan (since released from detention), and Mehmet Altan and Şahin Alpay and others in Turkey.

### **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.



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- 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. Legislation should be drafted should be drafted with the purpose of facilitating the establishment of associations and enabling them to pursue their objectives.
- States should ensure that associations have the right to exercise their freedom of expression and opinion with respect to their objectives and activities. Associations should have the right to participate in matters of political and public debate, regardless of whether the position taken is in accord with government policy or advocates a change in law.
- 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, protect HRDs from abuses by third parties (and investigate fully any abuses against HRDs), and take proactive steps to promote the full realisation of the rights of HRDs, including specifically the right to defend human rights.



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Thank you.

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, and the EFTA countries ICELAND and LIECHTENSTEIN, members of the European Economic Area, 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.