

# Annual Report 2004



OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS

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Designed by Damla Sürar, Geneva, Switzerland

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# Foreword



The new Council of Europe Secretary General, Terry Davis (right), made his first visit to the ODIHR on 1 October 2004 and met with Director Ambassador Christian Strohal. The two organizations have a long-standing working relationship.

Torture; unfair trials; new curbs on the freedoms of association and assembly; harassment of NGOs and journalists by government authorities; fraudulent election processes; manifestations of anti-Semitism, racism, xenophobia, and other forms of discrimination; trafficking in human beings; the plight of Roma and Sinti – 2004 again witnessed a broad range of violations of OSCE commitments and international law throughout the region. And this is only a partial list.

At the same time, 2004 also presented occasions for renewing commitments by all participating States for improvement in these areas, and it provided new opportunities for the OSCE's institutions, including the ODIHR, to assist with their effective implementation.

The ODIHR continued internal reforms in 2004 to ensure sustainability of results. This included an in-house assessment of all ongoing activities, projects, and programmes, based on evolving needs. The result is a comprehensive and long-term programming process to help ensure effective implementation by the participating States of their OSCE commitments in the human dimension.

The ODIHR is in a strong position to meet the long-term needs of participating States and to respond to them in an effective and timely manner, while at the same time retaining the flexibility to react to new challenges that threaten security, and this includes individual rights and freedoms of human beings.

Racism, discrimination, and intolerance make up one such challenge that the Organization has recognized as a threat to human security in the OSCE region. The ODIHR is responding to this priority by developing a new Programme on Tolerance and Non-discrimination. It has started to collect information, gather examples of initiatives and best practices, and work actively with other international partners in this regard.

### *2004 presented occasions for renewing commitments*

The ODIHR has also enhanced its capacity for legislative support: The [www.legislationline.org](http://www.legislationline.org) project has now developed into a fully fledged Legislative Support Programme that assists participating States in drafting legislation in line with human dimension commitments.

The ODIHR continues to conduct a broad range of activities towards fostering democracy and the rule of law, promoting and protecting human rights, addressing pertinent shortcomings, and assisting participating States in the implementation of their commitments.

As Europe's leading election observation agency, the ODIHR had one of its busiest years ever in 2004, with 15 observation missions. In addition to monitoring elections in OSCE's new democracies in the region, the ODIHR continued to follow elections in the Organiza-

tion's long-standing democracies. Among others, it conducted observations and assessments in Georgia, Russia, Belarus, the United States, Ukraine, Spain, Romania, and Slovakia.

In the coming year, the ODIHR will continue to approach human dimension issues with a combination of constructive monitoring and assistance to help remedy any shortfalls.

This report provides insights into the scope and impact of our activities. Taken together with our publications and website, it should be seen as an invitation for feedback.

I wish to thank our many partners throughout the OSCE region, including OSCE field missions and institutions and other international organizations, for their continued support and co-operation. And my warmest thanks go to the dedicated staff of the ODIHR.

Ambassador Christian Strohal



ODIHR Director

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# Introduction

Since its origin in 1975 as the Conference on Security and Co-operation in Europe (CSCE), the OSCE has taken a comprehensive view of security. The human *dimension* of security – the protection and promotion of human rights and fundamental freedoms and the promotion of strong democratic institutions and the rule of law – is considered to be as important for the maintenance of peace and stability as are the politico-military or economic dimensions. All OSCE participating States are equally committed to upholding democratic principles and to observing the full range of human rights.

## *Individuals are at the heart of our efforts*

And they have confirmed their commitment to these principles on countless occasions:

- ▶ “Full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation” (Copenhagen Document, 1990).
- ▶ “Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government” (Charter of Paris for a New Europe, 1990).
- ▶ “Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law” (Charter of Paris for a New Europe, 1990).

▶ “Respect for human rights and fundamental freedoms, democracy and the rule of law is at the core of the OSCE’s comprehensive concept of security” (Istanbul Document – Charter for European Security, 1999).

The participating States have also agreed that human dimension issues are not internal affairs but matters of immediate and legitimate concern to all other participating States. In fact, they have "categorically and irrevocably" declared that the "commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned" (Moscow Document, 1991).

The Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR) is the main OSCE institution for the human dimension, meaning that it has the primary task of seeing that commitments such as those mentioned here are more than mere words. It does this both by monitoring their implementation by respective states and by conducting its own programmes that are aimed at helping states develop and uphold a democratic culture that will in and of itself respect and promote the ideals expressed in those commitments.

To do this, the ODIHR develops and implements a broad range of programmes aimed at protecting human rights, strengthening democratic institutions, respecting the rule of law, promoting democratic electoral processes, combating intolerance and discrimination, and fostering civil society in all participating States.

There is one underlying value behind all of the ODIHR’s programmes: namely, that of protecting and promoting the human rights of every individual in the OSCE region. To achieve this lofty goal, the ODIHR employs

more than 130 staff members from some 30 different countries who are dedicated professionals in an array of areas of expertise, including lawyers, elections experts, and anti-trafficking specialists; individuals with experience in the fields of human-rights education, monitoring places of detention, and minority rights, including staff with both academic and hands-on field experience.

This diversity of backgrounds and experience are what make the ODIHR the flexible, responsive and dynamic institution that it is. Recent years have witnessed internal reforms that allow the ODIHR to provide long-term, country-specific programmes that meet the needs of individual participating States, while never losing sight of individuals at the heart of our efforts.

One example of how this works in practice is the use of experts and consultants with local knowledge and language skills, who provide a tremendous resource for implementing any programme, not only in terms of their expertise but also with respect to their ability to gain the trust of their target group, which more often than not includes individuals with similar backgrounds. When conducting legal-reform activities in the Commonwealth of Independent States, for example, the ODIHR relies almost exclusively on lawyers with training and experience in the CIS, most of whom come from Russia. This practice has no doubt added to the effectiveness of our efforts.

But this rule applies equally to our full-time staff. Of the professional staff members, more than one-third come from countries of the CIS, while the rest come from all parts of Europe, as well as North America. This internal community of nations is a reflection of the make-up of the greater organization and represents the common values of all 55 of the OSCE’s participating States.



An elderly voter in the second round of the presidential election in Romania receives her ballot at a polling station in Vidanesti, south of Bucharest, 12 December 2004.

# Elections

As a community of countries committed to democracy, the OSCE places great emphasis on promoting democratic elections. The commitments agreed upon by all OSCE participating States in the 1990 Copenhagen Document, for example, emphasize fundamental principles that are central to a democratic tradition and can be summed up in seven key words: universal, equal, fair, secret, free, transparent, and accountable. While these principles are often reflected among the formal electoral rights of citizens, this in itself is not enough; respective national authorities must demonstrate a commensurate level of political will to make elections genuinely democratic and meaningful.

The ODIHR's reputation as Europe's leading agency in the field of election observation is built upon its systematic, comprehensive, and verifiable election observation methodology. Based on the premise that an election is more than a one-day event, this methodology provides in-depth insight into all elements necessary for a democratic electoral process, including the legal and regulatory framework; the election administration; the election campaign, including the media environment; the complaints and appeals process; voting, counting, and tabulation; and the announcement of results.

This methodology was first developed nearly a decade ago; it has also served as a model for other international organizations. In recent years, the ODIHR has adapted its methodology to permit a focused assessment on specific aspects of an electoral process, primarily in more-advanced democracies, through the deployment of election assessment missions.

The ODIHR's election observation and assessment activities tie in with its work in other areas in supporting strong democratic institutions, rule of law, and democratic governance.

*An election is more  
than a one-day event*

## Election observation

The objectives of the ODIHR's election observation activities are twofold: (1) to assess electoral processes in accordance with OSCE election-related commitments; and (2) to offer recommendations, where necessary, to bring electoral processes into line with those commitments. It is important to highlight this second point, as the purpose of election observation is not simply to commend such countries that conduct their elections well or to criticize those countries that may fall short of meeting their commitments; rather, the purpose is to offer proactive and constructive input, whereby the ODIHR not only calls attention to specific areas for possible improvement but also makes recommendations and provides assistance to rectify any shortcomings.



A voter marks her ballot in plain view at a polling station in Moscow during Russia's presidential election, 14 March 2004. Observers noted that open voting was a problem in some 20 per cent of polling stations visited.

Election observation has thus become an effective and invaluable resource for enhancing the integrity of electoral processes in OSCE participating States, as foreseen in the 1990 Copenhagen Document. The record number of election missions that were deployed in 2004 is a direct reflection of the ODIHR's ongoing commitment to supporting the integrity of electoral processes. Among these were 12 election observation missions and three election assessment missions. The ODIHR also deployed an election support mission, in conjunction with the OSCE Secretariat, to the 9 October presidential election in Afghanistan. Collectively, these activities involved the deployment of more than 5,300 short-term observers and some 400 long-term observers.

## MAIN ISSUES

♦ **Democratic elections:** Through long-term election observation, the ODIHR has witnessed and reported significant improvements in the respective legal and administrative framework for democratic elections in a number of OSCE participating States, resulting in the improved conduct of elections, particularly in Central and South-Eastern Europe. However, structural im-

provements in the framework for elections are alone not a guarantee for elections that are in line with OSCE commitments, as a commensurate level of political will is also needed.

♦ **Translating principles into best electoral practice:**

The Copenhagen Document provides the fundamental principles and politically agreed criteria for holding genuine democratic elections. A decade and a half of practical implementation of the commitments has also provided a sound basis for examples of best electoral practice, as outlined in the 2003 ODIHR publication *Existing Commitments for Democratic Elections in OSCE Participating States*. The ODIHR continues to disseminate a wealth of accumulated experience from more than 150 observation missions and to share it with participating States in order to bring their electoral processes more closely into line with OSCE commitments.

♦ **Electoral legislation:** A legal framework that does not sufficiently reflect OSCE commitments for democratic elections is, of course, not conducive to conducting genuine and meaningful democratic elections. The ODIHR continues to respond to a growing number of requests to review electoral legislation, which permits

it to assist participating States as they make amendments to relevant legislation and thus bring it into compliance with OSCE commitments.

♦ **Implementation of recommendations:** ODIHR recommendations are formulated to outline areas where further progress is required in order for elections to comply with OSCE commitments. At the 1999 Istanbul Summit, OSCE participating States agreed to follow up promptly on the findings of ODIHR election observation and assessment missions and on subsequent recommendations. In 2004, the ODIHR continued to emphasize post-election dialogue and follow-up with participating States, highlighting the fact that implementation of recommendations is vital to ensuring that identified problems are not repeated in future elections.

♦ **Ongoing and emerging challenges:** Ongoing challenges pertain to the ever-present need to ensure transparency, accountability, and confidence in electoral processes, as well as guaranteeing universal suffrage rights – passive suffrage rights for voters and active suffrage rights for candidates. In this context, the participation of women, the inclusion of national minorities, and access for disabled voters often remain outstanding issues that need be followed and addressed. The right to vote, free from interference and intimidation, is also an issue for certain vulnerable groups of voters, such as the sick and elderly, who may vote at home or in hospital; military personnel, who may vote in their barracks; and people in detention, who may vote in prison. Low voter turnout, particularly among young voters, is also another ongoing challenge. Emerging challenges in the field of elections include the development of new voting technologies, such as electronic voting, vote-count scanning machines, and potential voting by e-mail or via the Internet.

♦ **Domestic non-partisan election observation:** Observation by domestic non-partisan observer groups has become increasingly important in recent years and is likely to gain in significance. While domestic non-parti-

san observer groups continue to make progress in developing a professional, comprehensive, and systematic approach to election observation, however, access to monitor the process is not always guaranteed, and obstacles to their effective observation still arise, which is contrary to OSCE commitments.

## CHALLENGES TO OSCE ELECTION COMMITMENTS

During the course of the ODIHR's 2004 election observation calendar, a number of worrying trends continued to be apparent in some OSCE participating States that directly challenge the principles enshrined in the 1990 Copenhagen Document. These include:

- ▶ Attempts to limit competition of parties and candidates, and ultimately their ideas, which may result in diminished possibilities for voters' choices;
- ▶ Refusal of registration and/or de-registration of candidates in unclear proceedings with the potential to impose disproportionate sanctions for minor violations;
- ▶ Misuse of state administrative resources by incumbents;
- ▶ Pressure on the electorate to vote in a specific manner;
- ▶ Media bias, particularly with regard to state-controlled media, in favour of incumbents;
- ▶ Election administrations whose composition is not sufficiently inclusive to ensure confidence;
- ▶ Lack of sufficient voter-registration guidelines and safeguards to prevent abuse;
- ▶ Lack of transparency and accountability during the vote count, the tabulation of the vote, and the announcement of results;
- ▶ Complaints and appeals procedures that do not always permit a timely and effective redress of complaints;

- ▶ Perpetuation of a culture of impunity by failing to hold individuals accountable for election-law violations; and
- ▶ Lack of sufficient will to rectify identified shortcomings.

While recognizing that substantive and organizational challenges to the implementation of OSCE election-related commitments can occur, as time progresses, lack of experience or an inadequate legal and administrative framework are becoming increasingly invalid arguments to explain election irregularities in OSCE participating States.

In some cases, observers witnessed very serious challenges to those commitments, including premeditated actions. In reflecting on election processes in some OSCE participating States in 2004, this may be a good moment to recall a concern identified at the 1996 OSCE Lisbon Summit: "Among the acute problems within the human dimension, the continuing violations of human rights, such as ... electoral fraud ... continue to endanger stability in the OSCE region." At that time, OSCE participating States committed themselves to continue to address these problems. A strengthened commitment, in the same spirit as the Lisbon Summit, is necessary in view of issues that arose in some elections in 2004.

## ACTIVITIES

While observation might be the most visible aspect of the ODIHR's election mandate, it is just one part of a broad, integrated work plan that also includes technical-assistance projects and legislative review. Activities in 2004 concentrated on the following areas:

- ▶ Election observation;
- ▶ Technical assistance;
- ▶ Methodological developments; and
- ▶ Follow-up.

## 1. ELECTION OBSERVATION

The ODIHR was established in 1991 as the Office for Free Elections; thus, its election observation mandate has always been at the forefront of its activities. In the early years after its establishment, however, the ODIHR could deploy only one or two experts per election, who focused mainly on election-day findings. The expanded mandate received by the ODIHR in 1994 for election observation before, during, and after election day was recognition that an informed assessment of an electoral process cannot be formed on the basis of election-day observations only.

Since 1996, the ODIHR has implemented its methodology for long-term election observation and has observed more than 150 elections or referenda. During this period, ODIHR election observation missions have served not only to assess whether elections were held in line with OSCE commitments but have also provided a common and factual reference point, which, in the case of disputed elections, has provided an important stabilizing factor.

### ▶ Election assessment missions

Following visits to France, Turkey, and the United States in 2002, and to the United Kingdom in 2003, the ODIHR made a number of assessment visits in 2004, including to parliamentary elections in Spain and the presidential election in Slovakia. The ODIHR also deployed an enhanced assessment mission to the presidential and parliamentary elections in Romania.

### ▶ Support to OSCE field missions in assessing elections and referenda

In instances where the ODIHR did not deploy an observation or assessment mission, it sent election expert support teams to OSCE field missions to enhance their capacity to follow an electoral process and to offer support as they report on events through their regular and established channels. In 2004, such teams were deployed to elections in Adjara (Georgia), Kyrgyzstan, and Azerbaijan.

## Election observation and assessment missions conducted in 2004

Country	Type of Election	Date
Georgia	Presidential	4 January
Russian Federation	Presidential	14 March
Spain	Parliamentary	14 March
Georgia	Repeat parliamentary	28 March
Slovak Republic	Presidential	3 April
Former Yugoslav Republic of Macedonia	Presidential	14 April/28 April
Serbia/Serbia and Montenegro	Presidential	13 June/27 June
Kazakhstan	Parliamentary	19 September/3 October
Bosnia and Herzegovina	Municipal	2 October
Belarus	Parliamentary	17 October
Ukraine	Presidential	31 October/21 November/26 December
United States of America	Presidential/congressional	2 November
Former Yugoslav Republic of Macedonia	Referendum	7 November
Romania	Presidential/parliamentary	28 November/12 December
Uzbekistan	Parliamentary	26 December

► **Diversification of the membership of election observation missions**

Through a voluntary fund established in 2001, the ODIHR continued to diversify the international profile of its election observation missions by recruiting election experts and qualified observers from Central, Eastern, and South–Eastern Europe and the former Soviet Union, including 14 long-term and 388 short-term observers in 2004. Experts from eligible countries have added a diversity of experience to observation missions, while also gaining knowledge and experience that can be reinvested in their own countries.

► **Co-operation with parliamentary observers**

The ODIHR enjoyed close co-operation with the OSCE Parliamentary Assembly, the Council of Europe's Parliamentary Assembly, and the European Parliament during its observation missions in 2004. The ODIHR also co-operated, for the first time, with the NATO Parlia-

mentary Assembly during its observation of the presidential election in Ukraine. In the case of local and regional elections, the ODIHR also co-operates with the Council of Europe's Congress of Local and Regional Authorities of Europe.

The ODIHR also received a delegation in Warsaw from the CIS Secretariat for briefings on the ODIHR's observation methodology.

During election observation missions throughout the year, the ODIHR met with observers from other international organizations, including the International Republican Institute, the National Democratic Institute, the CIS, and the Association of Central and Eastern European Election Officials.



Election officials at a polling station in Malinovka check names in the voter registry before handing out ballots during the parliamentary elections in Kazakhstan, 19 September 2004.

## 2. TECHNICAL ASSISTANCE

While ODIHR post-election statements are often highlighted in the media, much of the ODIHR's election-related work is conducted out of the spotlight, through a range of technical-assistance projects. Some projects stem directly from recommendations made during observation missions, while others are the result of requests from participating States.

### ► Review of electoral legislation

One of the areas in which the ODIHR has become increasingly active in recent years is the review of electoral legislation. In 2004, the ODIHR continued to provide assistance to participating States in meeting their electoral commitments through the Electoral Legislation Alert and Assistance Programme, which provides expert advice on electoral-law reform on the basis of a voluntary fund established for this purpose. This fund provides the ODIHR with the flexibility necessary to quickly respond to requests to support reform of election-related legislation.

**In 2004, the ODIHR reviewed the following electoral laws:**

- ♦ Electoral Code of the Republic of Albania (recommendations issued jointly with the Council of Europe's Venice Commission);

- ♦ Electoral Code of the Republic of Armenia (preliminary comments on draft amendments issued jointly with the Council of Europe's Venice Commission);
- ♦ Constitutional Law on Elections of the Republic of Kazakhstan;
- ♦ Electoral Law of the Republic of Tajikistan (draft amendments to the electoral law proposed by political parties in Tajikistan);
- ♦ Law on Elections of the Republic of Uzbekistan.

Through assisting participating States to bring their legal frameworks into line with OSCE commitments for democratic elections, the ODIHR has been able to ensure an improved legal framework in some participating States. Electoral legislation that does not fully comply with OSCE commitments is not conducive to the conduct of democratic elections; unfortunately, it is not always guaranteed that a sufficient number of the ODIHR's recommendations are always taken into account.

## 3. METHODOLOGICAL DEVELOPMENTS

The ODIHR's unique and tested methodology provides in-depth insight into all the necessary elements for a

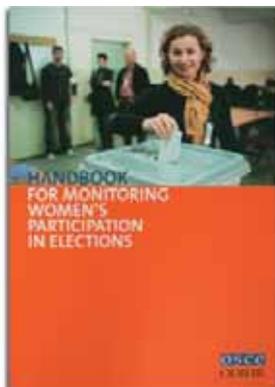
An OSCE observer follows two election officials as they carry a mobile ballot box around Tolochin during parliamentary elections in Belarus, 17 October 2004.



democratic electoral process, including the legislative framework; the administrative preparations; the political campaign, including the media environment; the complaints and appeals process; and the voting, counting, and tabulation of results. In 2004, the ODIHR further enhanced its observation methodology by focusing more thoroughly on the issue of women's participation, as well as on improvements to its media-monitoring capacity.

► **Monitoring the participation of women in the electoral process**

The ODIHR published a *Handbook for Monitoring Women's Participation in Elections* in 2004, which sets out practical steps that each election observation mission can take to integrate a gender perspective into its work. It is intended to ensure that, when drawing conclusions about the extent to which an election process meets OSCE commitments and reflects universal principles, each election observation mission takes fully into ac-



count how the process affects both women and men. Russian- and Albanian-language versions of the handbook will be published in the first quarter of 2005.

The ODIHR also sent a gender expert to the Election Observation Mission in Kazakhstan. This was the first time that an expert has been uniquely dedicated to observing gender issues in an election observation mission.

► **Guidelines on media analysis during election observation missions**

In January 2004, the ODIHR hosted an expert meeting in Warsaw to discuss the methodology used for media analysis during election observation missions. This led to the subsequent finalization of draft *Guidelines on Media Analysis During Election Observation Missions*, which have been sent to the European Union and the Council of Europe for comments and input. The guidelines were also tested in late 2004, as they were used to train local media monitors during several election observation missions.



A voter in the Kazakh capital of Astana collects his ballot from election officials during parliamentary elections on 19 September 2004.

## 4. FOLLOW-UP

While the ODIHR's election observation findings may not always make for easy reading for all election stakeholders, it is the duty of the ODIHR to offer realistic assessments of participating States' compliance with OSCE commitments. Despite significant improvements in the conduct of elections in a number of participating States, OSCE election-related commitments were frequently challenged in 2004, and corresponding ODIHR recommendations remain to be implemented. While the ODIHR is committed to assisting participating States in realizing their election-related commitments, a few states have denied any merit in the ODIHR's findings and have therefore been unwilling to engage in serious discussion concerning the subsequent recommendations. Such a scenario does not provide a suitable foundation for effective follow-up.

At the 1999 Istanbul Summit, participating States pledged "to follow up promptly ODIHR's election assessments and recommendations." And at the Ministerial Council in Maastricht in December 2003, the ODIHR was requested to consider ways to improve the effectiveness of its assistance to participating States in following up recommendations made in election observation reports. In response, the ODIHR is developing methods for engaging participating States on matters

of post-election follow-up to facilitate implementation of recommendations contained in final reports.

The Office actively followed up on recommendations in Albania and Armenia in 2004. In addition, a long-term follow-up exercise begun prior to the last round of elections in Kazakhstan in 2000 was completed with a review of the country's constitutional law on elections.

## FUTURE PRIORITIES

The ODIHR plans to continue its election observation and assessment activities in 2005, including its support of OSCE field missions in cases where an observation mission is not deployed. The Office also plans to consider its capacity for observation of referenda, an issue of increasing concern among participating States.

The most urgent election-related topic in the OSCE today is the implementation of commitments. It is necessary to further engage governments, political parties, and civil society in a dialogue on improvements to the regulation, conduct, and contest of elections, and to develop models for post-election engagement. This will facilitate the ODIHR's efforts to assess implementation of recommendations contained in ODIHR final reports of election observation missions.



ODIHR Director Amb. Christian Strohal (centre) meets with an election official at a polling station in Malinovka during parliamentary elections in Kazakhstan, 19 September 2004.

The ODIHR also plans to provide continued support for reform of election-related legislation and administrative processes where necessary, applying its systematic approach to reviewing election legislation. Such reviews can enhance dialogue between governments, political parties, and civil society in relation to elections. An intended domestic-observer forum will further facilitate such dialogue on electoral-reform issues.

The ODIHR will continue its efforts to diversify the staff of election observation missions, including through the voluntary diversification fund. This enables the ODIHR to draw upon a rich diversity of experience and to enhance relationships with electoral and other officials and NGO representatives from countries in South-Eastern, Central, and Eastern Europe that do not regularly send observers. In this regard, the Office will also explore additional outreach initiatives, including enhanced training activities for election observers.

### **The possible need for a “Copenhagen Plus” document**

At the July 2004 Supplementary Human Dimension Meeting that focused on electoral standards and commitments, a growing consensus emerged that the time for additional supplementary commitments, in the form of a “Copenhagen Plus” document, might have

arrived. Prior to the meeting, the ODIHR distributed a paper entitled “Election Principles and Existing OSCE Commitments for Democratic Elections” that served as a basis for substantial discussion. Recognizing that certain fundamental principles are necessary to instil confidence in any electoral process, the meeting identified possible areas for supplementing existing OSCE commitments, including in the areas of accountability, transparency, universal suffrage, and addressing issues raised by the development of new voting technologies. The ODIHR stands ready to assist participating States as they further consider the need for a “Copenhagen Plus” document.



Law students took part in a 10-day summer school in Osh, Kyrgyzstan, in August 2004. The school focused on running streetlaw clinics, which teach people to use the law to defend their rights, and developing interactive training techniques.

# Democratization

## A new approach to Democratization programmes

The ODIHR changed its approach to democratization activities in 2004. Reducing its focus on short-term projects, which were usually aimed at having a quick impact, the Office is now implementing longer-term programmes that are based on lessons learned from years of work. This shift was based on recognition of the fact that democratization and institution-building are, by definition, long-term processes.

The ODIHR takes a comprehensive approach to democratization work. Democratic transition and institution-building require the support and active participation of governments and relevant professionals and also need to engage civil society. The ODIHR is well-placed to play a role in both aspects. As a political body, the ODIHR has an opportunity to engage policy-makers and relevant professional groups. At the same time, the ODIHR works closely with civil society, encouraging engagement in democratic processes, often laying the groundwork for other international organizations and non-governmental organizations to continue.

To implement this approach, the ODIHR developed a methodology that requires an assessment mission as a preliminary phase of project development, conducted, where appropriate, in co-ordination with OSCE field missions. Periodic in-house workshops were also carried out in order to refocus and prioritize activities; in all its work in the area of democratization, the Office strives to complement the work of field missions.

## Internal reform

The Office re-prioritized its activities in a number of thematic areas in 2004. It also consolidated and strengthened its focus on providing expertise to the participating States and other partners within the Organization, including field missions.

More attention is being paid to areas where the ODIHR is in a position to provide added value, such as legislative transparency, democratic governance, criminal-justice reform, enhancing the role of defence lawyers in ensuring fair trials, and civic engagement. In the area of legislative support, the ODIHR established a new unit that increases the Office's capacity to review draft laws (usually upon the request of participating States or OSCE field operations) and to further improve its online legislative database, [www.legislationline.org](http://www.legislationline.org).

Successful programmes, such as participation of women in democratic processes and exchange of information on cross-border migration, have advanced to

*Democratization and institution-building are long-term processes*

the next stage. These programmes have developed "constituencies" among domestic stakeholders in the government and civil society. The ODIHR's engagement has resulted in strengthened local capacities in these areas. Now, the Office is increasingly transferring to local counterparts responsibilities for activities it previously carried. This reinforces the broader ODIHR strategy of ensuring local ownership of reform efforts.

With regard to South-Eastern Europe, the ODIHR's work has been mainstreamed into substantive programmes in order to refocus and ensure that lessons learned from the region are available to the wider Organization. Feedback from the region highlighted the importance of increasing the ODIHR's capacity to provide targeted expertise to participating States and field missions.

At the end of 2004, the anti-trafficking programme moved to the Human Rights Department to enable it

to respond to developments within the Organization, in particular, to the appointment of the OSCE Special Representative on Trafficking in Human Beings, and to focus on its areas of strength such as protecting the human rights of trafficking victims.

## THEMATIC AREAS OF WORK

♦ **Rule of law:** The ODIHR is engaged in a broad range of technical-assistance projects designed to foster the development of rule of law. Through its programmes in the areas of criminal-justice reform and fair trials, the ODIHR provides practical assistance and training, for example, to lawyers, judges, prosecutors, and government officials, as well as to civil society. The ODIHR also carries out legal-reform and legislative-review projects to assist states in bringing domestic laws into line with OSCE commitments and other international standards.

♦ **Democratic governance:** The ODIHR takes a comprehensive approach to strengthening democratic practices, targeting both government institutions and civil society. The Office's strategy is to complement other programmes aimed at strengthening institutions, legal reform, and promotion of the rule of law by putting the emphasis on strengthening democratic *processes* through enhancing transparency and expanding participation in policy-making.

♦ **Gender equality:** To promote gender equality, the ODIHR carries out targeted programmes and integrates gender aspects into all its work. Current programmes concentrate on three key areas: developing women's leadership and increasing the role of women in decision-making; preventing and combating violence against women, especially domestic violence; and building local gender expertise.

♦ **Trafficking in human beings:** The ODIHR is at the forefront of international efforts to prevent trafficking

in human beings and to ensure a co-ordinated response that puts the rights of victims first. The ODIHR develops and implements anti-trafficking programmes that focus on awareness-raising and on building NGO capacity to provide counseling and direct assistance to victims. By assisting in the creation of National Referral Mechanisms, the ODIHR seeks to establish a co-operative framework through which state obligations to protect the rights of trafficked persons and to organize support are co-ordinated with services carried out by civil society.

♦ **Freedom of movement:** To promote freedom of movement and enhance respect for the rights of migrants, the ODIHR facilitates regional and sub-regional co-operation and exchanges of experience between the OSCE participating States, assists in the introduction of population-registration systems that are in line with international standards, and raises awareness on migration issues among policy makers and the public in the OSCE participating States.

♦ **Legislative support:** In the area of legislative support, the ODIHR provides legislative assistance to participating States that usually involves a review of draft legislation in areas covered by the human dimension to ensure compliance with international standards, particularly OSCE commitments. The Office also maintains a free-of-charge online database ([www.legislationline.org](http://www.legislationline.org)) that contains more than 5,000 pieces of domestic and international legislation related to the human dimension, such as human rights, elections, gender, and rule of law. Together with comments by the Office's experts, they comprise an important source for law-makers throughout the region.

# Rule of Law

The fundamental principle underlying the notion of rule of law is the equitable treatment of individual human beings. A state can be said to recognize the rule of law only when a number of conditions are being met. First, individual citizens should be aware of their rights, meaning that laws have to be made public. Second, everyone must be equal under the law. In other words, all citizens should be treated fairly, and they should know what to expect from that treatment. It also means that no one should be given preferential treatment based on factors such as wealth or social status.

In a number of cases in the OSCE region, countries are undergoing a transition to democracy; this transition requires significant cultural and attitudinal changes. Such changes take, by nature, a long period of time. Thus, the ODIHR's work in the field of the rule of law involves ongoing, long-term programmes.

## MAIN ISSUES

♦ **Fair trials:** In many parts of the OSCE region, necessary safeguards for assuring a fair trial are either not in place or are not properly observed. There are also systematic problems related to the practice of law, as lawyers suffer from inadequate training and poor legal structures; and citizens suffer from the lack of affordable professional legal assistance.

♦ **Torture:** Despite clear OSCE commitments and international human-rights obligations prohibiting it, torture continues to be used, all too frequently, throughout the OSCE region. In far too many countries, torture and inhuman or degrading treatment or punishment are a routine part of the criminal process. Convictions rely on confessions; these confessions are often obtained through the use of torture as the main investigatory technique of many police officers. Criminal-justice systems often reinforce the continuation of

the use of torture by rewarding and promoting police officers and prosecutors for numbers of "cases solved" and even punishing those who fail to "solve" cases. In these conditions, impunity for torturers is the norm.

♦ **Penal-policy reform:** The Soviet Union left a difficult legacy to many of its successor states in the area of penal policy. Incarceration, rather than probation or other non-custodial measures, continues to be the preferred form of punishment for both adults and juveniles. The result is large prison populations and overcrowding with poor conditions that do not comply with international standards and that have led to a number of negative consequences, including severe health problems among inmates.

## ACTIVITIES

The ODIHR conducted activities in 2004 in two main areas:

- ♦ Criminal-justice reform; and
- ♦ Fair trials;

Within this framework, the ODIHR implements targeted activities in eight OSCE participating States: Belarus; Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan in Central Asia; and Armenia, Azerbaijan, and Georgia in the South Caucasus. In 2004, the ODIHR also began doing limited work in South-Eastern Europe, particularly on issues relating to war crimes.

The ODIHR uses expertise from a variety of sources, stressing good practices developing in various OSCE participating States. In 2004, more than 80 per cent of the experts used by the Rule of Law Unit came from emerging democracies. Included in this pool was a large number of experts from Russia on both criminal-justice reform and activities in the area of fair trials, particularly legal-skills training.



Lawyers and law students took part in a 10-day summer school in Osh, Kyrgyzstan, in August 2004.

Co-operation with resident field missions of the OSCE is vital, as those on the ground in the relevant countries are able to react quickly to developments in governmental policies or to cases that require OSCE involvement.

## 1. CRIMINAL-JUSTICE REFORM

In transitional states of the former Soviet Union, criminal-justice systems have been, and continue to be, in need of expert advice and assistance to develop and meet relevant international standards and OSCE commitments. Work in the area of criminal-justice reform takes place at different levels that range from the working level of lawyers, prosecutors, judges, and law-enforcement personnel to the political level, involving policy changes in dealing with crime (including decriminalization of certain offences and increasing alternative sentencing). Therefore, the ODIHR provides ongoing assistance at the working level and at the political level to encourage comprehensive reform in criminal-justice systems. This assistance includes training, exchange of experience through conferences and seminars, as well as direct advice on legislative reform. Specific issues of focus for the Criminal-Justice Reform Programme include lending assistance to combat torture, encouraging and supporting penal-policy reform, and promoting greater use of alternative sentencing.

### Anti-Torture Work

In many countries in the OSCE region, torture remains a standard technique of investigation, since getting a conviction often relies on the use of a confession as primary evidence. Thus, the ODIHR's anti-torture work in 2004 continued to focus on the pre-trial stage of the judicial process. The ODIHR takes the view that torture prevention should be mainstreamed into all work in the criminal-justice sector (see box). To further this approach, the ODIHR has conducted a number of projects and activities that have addressed the institutionalized practices that encourage the use of torture, such as reliance on confessions as primary evidence and evaluation of police work by numbers of cases "solved" rather than through other indicators

### Penal-Policy Reform

The ODIHR's assistance in the area of penal reform supports momentum for change in participating States and furthers the reform process. The ODIHR's two primary goals are to reduce prison populations and to improve human-rights conditions in prisons. A number of steps can be taken to lower prison populations, such as by decriminalizing certain offences and by increasing the use of alternative sentencing, so that individuals convicted of certain crimes can be sentenced to non-custodial measures, including fines, probation, and community service. Reducing prison populations is also an important factor in achieving the second goal, namely, improving human-rights conditions in prisons.

## Mainstreaming Anti-Torture Work: The ODIHR Approach

Stemming from lessons learned in previous projects and activities aimed at combating torture, the ODIHR adapted its approach to anti-torture work in 2003. Experience had shown that stand-alone anti-torture activities have a limited impact. After all, torture is not an isolated phenomenon; it needs to be considered in light of the practices and institutionalized cultures that encourage its use. Thus, instead of isolating anti-torture work, which limits its effectiveness, the Office is now working to integrate, or mainstream, anti-torture activities into its broader efforts of criminal-justice reform, which should create opportunities to address the underlying causes of torture.

The premise behind the ODIHR's approach is that torture is not an abstract evil; rather, it is often a function of the legal systems in which it is used. For example, the legal systems in some countries have no mechanisms in place to prevent torture. Moreover, these same systems can be said to often promote the use of torture by requiring confessions in order to secure convictions. As police officers are often rewarded for the number of convictions they obtain – either through promotions or positive evaluations and even monetary rewards – there is often a real incentive to use torture.

In short, every country in the OSCE region recognizes that torture is illegal, and few people need to be told that torture is wrong. Nonetheless, in the absence of institutionalized mechanisms to address the problem, it continues unabated.

The ODIHR is attempting to combat torture by addressing some of the practical drivers for torture, first by encouraging the introduction of workable prevention measures. As such, the ODIHR recognizes the key role that each of the four pillars in the criminal-justice system – judges, prosecutors, police officers, and defence lawyers – plays to prevent torture.

Of these pillars, the first line of defence in most human-rights cases is, or should be, the defence lawyer. It is to the lawyer that most detainees turn for protection. The role of the defence lawyer in prevention of human-rights abuses in general, and torture in particular, has often been underplayed. The ODIHR, through its rule-of-law work, supports and promotes defence lawyers in their role as the first line of human-rights protection.

Moreover, the ODIHR supports structural changes in legal institutions when these changes can help to reduce instances of torture. One example of this is transferring the power to authorize detention or arrest from prosecutors to judges. When detainees are under the effective supervision of competent judges, who by definition should be inde-

pendent, the opportunities for mistreatment are seriously reduced. There are still countries within the OSCE, however, in which the prosecution retains the power to authorize continued detention, contrary to international human-rights standards. The ODIHR is working with those countries to encourage this structural reform.

Within the Council of Europe area, a highly effective mechanism for the prevention of torture has developed with the implementation of the European Convention for the Prevention of Torture (CPT). This is due to the fact that the CPT has a system of independent monitoring of places of detention, thereby opening up detention facilities to outside monitors and scrutiny. This instrument is now open for signature and ratification by the OSCE participating States that are not member states of the Council of Europe. The ODIHR, through conferences in 2004, encouraged every participating State to consider ratification of this instrument. Furthermore, countries should consider establishing national instruments for independent monitoring of all places of detention.

Similarly, the United Nations Optional Protocol to the Convention against Torture is now open for signature. Despite promising words from many countries, so far very few (Albania, the United Kingdom, Malta, and Denmark) have acceded. The ODIHR has been encouraging all OSCE countries to accede to this significant instrument.



German judge Christof Rennig (left) and Prof. Stephen Thaman, author of an analysis of the Kazakh draft laws on introducing jury trials, shared their experiences with jury trials at an OSCE/ODIHR conference in Astana.

The ODIHR also promotes other structural reforms that can help improve human-rights conditions in prisons. For example, reforms in a number of countries have led to the transfer of prison facilities from the jurisdiction of interior ministries to justice ministries. This transfer helps in demilitarizing the prison administration and thereby improving conditions for inmates. Another step that can be taken is the creation of mechanisms for public monitoring of places of detention, since making prisons more transparent can be an effective tool in the prevention of torture.

To develop longer-term reform in criminal-justice systems, the ODIHR conducted a number of activities in 2004 in the area of penal-policy reform, including in pre-trial detention, reform of penitentiary institutions, and alternative sentencing.

In Kazakhstan, the ODIHR sponsored a conference on public monitoring of prison facilities in June and participated throughout the year in the working group charged with writing a law on public monitoring, which was adopted in November. In Armenia, the ODIHR supported a newly created Civil Society Monitoring Board on Places of Detention, providing training for board members and assisting with the start-up of this new institution. In Kyrgyzstan, the ODIHR sponsored a conference on public monitoring in June. And in Tajikistan, the ODIHR supported efforts to give public access to prisons by organizing a conference and workshop on NGO activities in places of detention.

The ODIHR also rendered assistance in capacity-building for prison staff, paying particular attention to the

training needs of penitentiary officers who deal with non-custodial measures. A prison-service training programme was conducted to assist governments in Central Asia and the Caucasus to improve the functioning of their prison systems with a view to compliance with international standards. This involved the training of prison-service employees in human-rights standards and taking steps to improve security and the treatment of prisoners. The ODIHR sponsored a series of conflict-prevention training courses with the Penitentiary Committee of the Ministry of Justice in Kazakhstan to train prison guards in non-violent conflict-resolution skills. In Georgia, the ODIHR provided assistance in training in managing prisons, with a special focus on security issues. In Armenia, the ODIHR continued to provide capacity-building assistance to the prison-training centre in Yerevan. Through these programmes, the Office also encourages greater contacts between prison officials within the region. In addition, the ODIHR has also been an advocate for reform at the political level.

The Office continued its street-law (legal literacy) programme at the Pavlodar Prison Staff College in Kazakhstan, which teaches the cadets basic human rights. The cadets also conduct legal-literacy classes for inmates at the nearby prison.

The ODIHR continued to work with authorities in Belarus, Central Asia, and the Caucasus on the demilitarization of prisons, calling for prisons to be transferred from the authority of interior ministries to justice ministries. This transfer has been achieved, at least partially, in most countries in the region. In Belarus, one country where the transfer has not been effected, the

ODIHR organized a conference in November with experts from other countries in the OSCE region, including Latvia, Poland, Russia, and Kazakhstan, who shared their experiences with their Belarusian colleagues about the process and advantages of the transfer of penitentiary institutions.

The ODIHR has also co-operated with other international and non-governmental organizations to introduce alternatives to imprisonment and to decriminalize certain offences in order to reduce prison populations – a precondition for successful prison reform. In 2004, the Office continued working on alternative sentencing in Belarus with a series of training workshops for probation officers, featuring Russian trainers; study trips to Latvia and Poland; and a seminar on community service as an alternative sentence, with experts from Russia, Poland, Latvia, the United Kingdom, and Kazakhstan to share the experience of their countries.

## 2. FAIR TRIALS

The right to a fair trial is a fundamental human right that encompasses a range of minimum standards, including the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal. In a number of OSCE participating States, there is a widespread lack of confidence regarding the compliance of the legal system with these minimum standards. Fair trials are impossible without appropriate procedural safeguards and guarantees. They also require access to professional legal advice and representation. The ODIHR carries out a number of activities aimed at promoting various aspects of the right to a fair trial, including trial-monitoring<sup>1</sup> and assisting participating States with the adoption and enforcement of legislative frameworks that ensure fair trials and improve access to legal services. The ODIHR also works with legal communities to enhance the capacity of legal professionals.

Ensuring the right to a fair trial is dependent on the availability of competent and professional legal coun-

sel and procedural guarantees that allow defence lawyers to do their job properly. In Armenia, Azerbaijan, and Kyrgyzstan, the ODIHR engaged in defence-bar (*advokatura*) reform efforts, sharing international standards and best practices from other OSCE states.

The ODIHR has also been an advocate for structural changes in the defence bar in countries where serious problems remain with respect to access to lawyers. If the bar is not an open institution that freely, fairly, and regularly admits new members, there will inevitably not be enough lawyers to counsel those arrested and in need of legal assistance. Azerbaijan is one such country, with fewer than 400 members of the Collegium of Advocates (the defence bar) in 2004. In Azerbaijan, the ODIHR participated in two conferences organized by the American Bar Association's Central European and Eurasian Law Initiative and the OSCE Office in Baku on the new law on the defence bar. Although the law entered into force in the autumn of 2004, acute problems in implementation remain, and the main recommendations from the second conference on implementation of the new law have not yet been acted upon.

Complementing bar-reform activities, the Office developed programmes to enhance the capacity of individual lawyers. This included training seminars for defence lawyers in Kazakhstan and Kyrgyzstan on issues such as legal skills and the International Covenant on Civil and Political Rights. In Kyrgyzstan, a total of 23 lawyers graduated from the six-session advanced training program, which was conducted in co-operation with the International Commission of Jurists, the Soros Foundation Kyrgyzstan, and the OSCE Centre in Bishkek. The Kyrgyz lawyers are already making use of the knowledge acquired in the seminars: the first individual complaints filed by programme participants from Kyrgyzstan were registered by the United Nations Human Rights Committee in March and August.

In Kazakhstan, the ODIHR is assisting in a practical way to improve professional lawyering skills and thereby

<sup>1</sup>Please see pp. 53-54 for more information about the ODIHR's work on trial-monitoring.

the quality of legal services that people receive. During the year, the ODIHR conducted a series of train-the-trainer workshops with the Almaty City Collegium of Advocates to develop domestic capacity for legal-skills training using interactive methods.

In 2004, the ODIHR also continued to provide support to legal clinics in Central Asia. Legal clinics give law students an opportunity to gain practical experience either by handling legal cases under the supervision of a lawyer or through conducting "streetlaw" or legal-literacy programmes. In "live-client" legal clinics, such as the Legal Clinic at the University of Osh in southern Kyrgyzstan, law students, under the supervision of experienced lawyers, represent clients and work to help them resolve their particular problems. This has two important consequences: First, law students gain first-hand practical experience; second, free legal services are provided to people who would otherwise remain without legal assistance.

In streetlaw clinics that the ODIHR supports in Kazakhstan, Kyrgyzstan, and Tajikistan, students learn to give interactive lessons on basic legal rights to people in their communities. Various groups are targeted in these programmes, including prisoners, school students, and women. The streetlaw lessons are interactive and problem-oriented, so that people may find answers to the legal problems relevant to their lives. In the summer of 2004, the ODIHR sponsored and organized a Summer School for streetlaw clinics in Central Asia, including for clinics not directly sponsored by the ODIHR. More than 20 participants from clinics in Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan participated in a 10-day intensive training-of-trainers course in interactive training techniques, which was led by experts from Belarus.

## FUTURE PRIORITIES

The ODIHR will continue to provide support to its governmental and non-governmental partners in the two broad programmatic areas described in this section.

Through its Criminal-Justice Reform Programme, the ODIHR plans to assist in the ongoing reform of criminal-justice systems by working with lawyers, judges, prosecutors, and prison professionals. It will continue to promote increasing implementation of alternative sentencing, thereby aiming to reduce prison populations in all countries. In addition, the Criminal-Justice Reform Programme will promote structural reform of penal systems. The Office will continue to integrate anti-torture work into all its projects, with a particular focus on torture prevention at the stage of pre-trial detention.

Through its Fair-Trials Programme, the ODIHR plans to continue training and other activities that will be specifically developed considering the particular circumstances and needs in each country. In some countries, such work will focus on defence lawyers. Where appropriate, the programme will focus on assistance to the judiciary and to prosecutors. In all instances, the approach taken will be specific to the country and will aim to improve access to fair trials. Fair trials have a potential multiplier effect far outside the legal community, as citizens gain greater confidence in their legal system and, by extension, their laws.

At the political level, the ODIHR will continue to support legal and structural reforms that increase access to professional legal assistance. Information gathered through trial-monitoring programmes conducted by the ODIHR's Human Rights Department is expected to help shape the development of future assistance projects under the Fair-Trials Programme.

# Civil Society and Democratic Governance

For the ODIHR, the fundamental aspect of *civil society* is the voluntary participation of citizens in all aspects of community life – both local and country-wide – either directly or through organizations or institutions. The extent to which this participation is transparent and effective is a measure of the quality of democratic governance within a given country. Over the past 15 years, the ODIHR has sought to strengthen this participation in line with the OSCE commitments on civil society in general and on NGOs in particular.

Since 2004, the ODIHR has been taking a more comprehensive approach to strengthening democratic practices in 2004, working both with civil society and with government institutions.

The Office's strategy is to complement other programmes aimed at strengthening institutions, legal reform, and promotion of the rule of law by putting the emphasis on strengthening democratic *processes* through increasing transparency and expanding participation in policy-making.

In addition, the ODIHR continues to support reconciliation efforts in post-conflict areas and to facilitate the participation of NGOs in major OSCE events.

## MAIN ISSUES

♦ *The interconnection between democratic governance and democratic culture:* More than a decade of work in the area of democracy-building has shown that democracy is more than a checklist of institutions and laws. A true, functioning democracy also relies on the compatibility of norms, rules, and traditions of a

given society with a culture of seeking the common good through deliberation. It is only through such a culture of democracy that institutions will be able to function democratically both internally and in relation to one another.

♦ *Post-conflict reconciliation:* In the aftermath of any conflict, one of the most difficult tasks is rebuilding relations. An atmosphere of mistrust creates tension that can prevent the reconciliation process from moving forward. An important role for civil society on both sides is to identify common interests to help reduce existing tension and find starting points for dialogue.

## ACTIVITIES

In 2004, the ODIHR carried out activities in the following areas:

- ♦ Democratic governance;
- ♦ Civic diplomacy; and
- ♦ NGO participation in OSCE events.

### 1. DEMOCRATIC GOVERNANCE

#### OSCE Human Dimension Seminar on Democratic Institutions and Democratic Governance

The ODIHR hosted some 200 academics, representatives of governments and NGOs, policy makers, diplomats, and OSCE staff in Warsaw in May at a Human Dimension Seminar on Democratic Institutions and Democratic Governance.

“There is a great need for increasing the awareness of the significance of politics as part and parcel of a democratic way of life. Just as important, efforts should be made to foster a culture of respect for divergent opinions, which is at the core of democratic interaction.”

**ODIHR Director Ambassador Christian Strohal (Chair’s conclusions)**

The meeting was a response to an increasing awareness among democracy-building experts that democratization efforts are concentrating on the development of democratic institutions while neglecting the fundamental *democratic process* that binds these institutions together. Participants focused on issues such as the complexities of democratic and political frameworks, democratic legislative practices, open public administration, and effective civic participation.

A number of the recommendations made at the meeting will influence the ODIHR’s work in this area in the years to come:

- ◆ Increasingly involving political parties both as beneficiaries of, and stakeholders in, democratization-assistance programmes;
- ◆ Developing an inventory of standards related to structures, procedures, and practices of democratic parliaments, with an emphasis on legislative transparency; and
- ◆ Strengthening the capacity of local actors to have a voice in their country’s institutions, as well as to monitor the democratic performance of those institutions.

### Assessing political institutions in Georgia

Following closely on recommendations from the Human Dimension Seminar, the ODIHR carried out a preliminary assessment on how to best assist political parties in Georgia in strengthening their democratic structures and practices one year after the so-called Rose Revolution.

The result was the launch of an innovative project, in partnership with Georgia’s Institute for Multi-Party Democracy, that is analysing the current state and needs of Georgia’s political institutions, in particular of its political parties and their representation in parliament. This analysis is being conducted through an interactive assessment by different Georgian actors (think tanks, party members, NGOs, etc.) in which political parties themselves will produce a self-portrait of their organization. In addition to encouraging critical internal thinking about democratic political-party structures and practices, the project will produce a comprehensive analysis that future assistance programmes can rely upon. This project will run till the end of 2005.

## 2. CIVIC DIPLOMACY

In post-conflict situations where there are no official ties between the disputing sides, civic groups and NGOs can provide an important opportunity for building bridges. By avoiding confrontational nationalistic and political agendas, relations can be established in fields of common interest where strong local support can be found on both sides of the divide. While initially concentrating on specific issues such as family reunification, environment, education, and children, the objective is to gradually broaden the platform to include more actors such as the media and authorities. This increases the direct flow of information, promotes understanding for the “other’s” point of view, and contributes to a good-neighbourly climate. The non-biased and authentic motivation of common interests makes it harder for anyone to turn away from the negotiating table.

The ODIHR has supported civil society in the reconciliation process in a number of post-conflict situations in recent years. In relation to the Abkhaz-Georgian conflict, for example, the Office completed a project that it began in 2003 to provide support to the Association of Abkhaz-Georgian Mixed Families (AGMF) in its attempts to keep members of some 4,000 families on opposite sides of this conflict in touch with one another. The AGMF is now in a position to organize safe travel between Abkhazia and Georgia for its members; it

arranges and mediates local meetings on both sides of the border on a monthly basis; and it has been gradually engaging human-rights defenders, lawyers, the media, and local authorities. In addition, the United Nations Observer Mission in Georgia (UNOMIG) has invited the AGMF to join the bilateral Georgian-Abkhaz Dialogue Group on conflict resolution.

In order to enhance human contacts and the information flow between NGOs in Georgia and Abkhazia, as well as in the breakaway regions of Ajara and South Ossetia, the ODIHR, jointly with the Helsinki Foundation for Human Rights, brought together 22 NGO representatives in a prolonged exercise of networking and bridge-building.

This project served two purposes: (1) to provide joint training and exercises aimed at getting NGOs from different regions to work together with the objective of creating lasting relationships; and (2) to increase participants' skills in human-rights monitoring and reporting techniques, their effectiveness as NGOs in interaction between local governments and the public, and their negotiation skills through conflict-analysis and conflict-resolution mechanisms. As part of the project, participants also developed joint project proposals that aimed to achieve shared goals.

UNOMIG and the OSCE Mission to Georgia have picked up on this civic-diplomacy project in formulating their priority areas of activity for 2005.

### 3. NGO PARTICIPATION IN OSCE EVENTS

The ODIHR is dedicated to maintaining close relations with non-governmental organizations. The relationships formed are valuable for both sides: the ODIHR needs the expertise, monitoring reports, and information from NGOs on the ground in order to provide a more complete picture of how OSCE participating States are complying with their commitments; at the same time, the ODIHR provides NGOs with a visible international political platform to engage partners in their respective issues.

In 2004, the ODIHR helped NGOs take part in three Supplementary Human Dimension Meetings and one Human Dimension Seminar, as well as the two-week Human Dimension Implementation Meeting in Warsaw. In total, the Office facilitated the participation of some 470 participants from 360 NGOs in these events, where non-governmental actors were able to have dialogue with governmental delegations. Thanks to the voluntary contributions of OSCE participating States, the ODIHR was in a position to finance the participation of 41 NGOs in human dimension events throughout the year.

## FUTURE PRIORITIES

There exists a growing recognition of the interrelation between democracy and democracy assistance, on the one hand, and stability, security, economic growth, and cultural values, on the other. The OSCE Human Dimension Seminar on Democratic Institutions and Democratic Governance provided the necessary background for the ODIHR's formulation of its priority areas of activity in strengthening democratic processes in the OSCE region in 2005 and beyond.

Three important areas for strengthening democratic governance have been identified:

- ♦ **Open legislative practices:** OSCE commitments require that domestic legislation be developed through an open and transparent process. Consultation mechanisms at various levels of the legislative drafting process would increase transparency and accountability, as well as foster genuine, inclusive public participation;
- ♦ **Active citizen participation:** this requires an alert and well-informed citizenry, as well as effective participatory mechanisms; and
- ♦ **Political parties** should be stable and effective in order to ensure the proper functioning of legislative structures, which, in turn, is a necessary precondition for the promotion of inclusive democracy. Indeed, if political parties are to effectively foster democratic governance, they need to govern themselves democratically as well.

# Gender Equality

The OSCE recognizes that full and true equality between women and men is essential to achieving security, prosperity, and sustainable democracy. In this respect, the ODIHR promotes equality in political and economic life not just as an instrument to combat discrimination but also as a means for ensuring democracy, the rule of law, and respect for human rights.

Over the past decade, the world has seen much progress in setting standards and passing laws regarding equality between the sexes. While the importance of these advances should not be overlooked, the *de facto* status of women throughout the OSCE region has not sufficiently improved to the point of achieving parity with men. In fact, the gap between *legal* equality and *actual* equality is widening in a number of regards.

This has been felt most acutely in so-called transition countries, where an overall decline in the status of women is compounded by conditions in which political participation by women is negatively affected, economic conditions are deteriorating, unemployment is growing, and an increasingly larger proportion of the population is living below the poverty line.

Effectively tackling these issues remains a challenge for the OSCE; the ODIHR's role is to assist participating States in their efforts to diminish this gap and ensure that equality between the sexes is achieved in law and in reality.

## MAIN ISSUES

♦ **Women's rights:** Because many people throughout the OSCE region are not aware of their rights, they do not claim those rights. This is especially the case with women, who often do not have the same access to ed-

ucation as men do. Moreover, many government structures are not effective in protecting and promoting women's rights.

♦ **Political and economic participation:** The goal of giving women a greater role in the decision-making process is of particular importance. Due to a number of factors, women's representation in the economic and political arena has declined in a number of countries over the past decade. This situation excludes the effective pursuit of women's concerns in the political agenda and transition process.

♦ **Empowerment of young people:** Attitudes towards women's role in society are less conditioned among young people, and those attitudes are therefore more likely to change. The development of information on women's rights, especially in key professions, such as teachers, is an important factor for transforming attitudes and a resource for gender activities.

♦ **Sharing responsibility for change:** Transformation of culturally conditioned perceptions of the role of women can be achieved only by developing a coalition of actors at all levels of society, both in urban and rural areas, working towards this objective.

## ACTIVITIES

While the ODIHR addresses and promotes gender issues through various means, the majority of its work in this area is conducted in the form of targeted programme activities carried out in several countries that ensure a personalized, tailor-made approach to each country. Though most of the programmes have objectives identified on a year-to-year basis, all programme activities have been guided by the long-term overall

goal of improving the situation of women and increasing the participation of women at all levels of decision-making.

Therefore, the ODIHR's activities in the area of equal participation are created for a five-year period to safeguard continuity and to allow for long-term impact and programme assessment. All programmes have several components and phases and follow a cyclical development pattern, i.e., consecutive activities are built on previous achievements and results, which generates new initiatives.

Programmes and priorities are selected based on an analysis of the situation in each country and an evaluation of the potential impact of the ODIHR. The Office aims to maximize the involvement of civil society and government representatives from the host country. It also creates and trains local project teams, giving them ownership of the gender programme and establishing self-sustainable programmes that can be managed locally, thereby encouraging a multiplication factor. In this way, the ODIHR helps to build local capacity and ensures the long-term effect of the initiative.

Programmes have been implemented in Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan, and to a large degree conducted in the regions outside of the capital cities in order to reach women who are often excluded from women's-rights initiatives. The ODIHR has selected these areas for its activities because there is great potential to have an impact.

2004 brought a number of successes from this long-term perspective: the ODIHR trained teams of local experts in gender issues to instigate and lead community initiatives for women in Central Asia and Armenia, including community-based projects, such as building roads and providing a water supply in rural areas of Kyrgyzstan, as well as establishing kindergartens in cooperation with local authorities in Armenia. The

marked increase in the participation of women during the December municipal elections in Azerbaijan reflected the activities of ODIHR-funded support teams for women's participation in 22 regions of the country. The ODIHR's women's-empowerment networks in Kyrgyzstan and Georgia developed effective co-operation mechanisms and exchanged best practices in political participation. The year saw the establishment of an interregional local expert panel on gender issues, bringing together ODIHR-supported actors from the South Caucasus and Central Asia to form a key instrument for developing long-term sustainability.

The ODIHR's activities in 2004 were conducted mainly in the following areas:

- ♦ Women's leadership development;
- ♦ Preventing and combating violence against women, particularly domestic violence; and
- ♦ Building local gender expertise

## 1. WOMEN'S LEADERSHIP DEVELOPMENT

Increasing the number of women in national parliaments and local governments is one key way of ensuring that the needs of women and the community are taken into account at legislative and administrative levels. However, women's participation in elected bodies and government should be effective and not just nominal. Women must have access to decision-making across the policy spectrum and should not be marginalized into "soft policy" areas only, such as social policy or education.

The ODIHR supports efforts that promote the participation of women in leadership positions and in politics via its leadership development programme. Such efforts often involve supporting women already in positions of authority and building their capacity in key areas such as leadership, lobbying, and networking. As

such, local women's organizations tend to be key partners in ODIHR programmes that promote women's political participation.

In Armenia, for example, the ODIHR held seminars in 2004 on the empowerment of women and men through lobbying for the integration of gender aspects in national curricula, and, through the training-of-trainers component of these seminars, the Office emphasized the development of capacity among trainers at the grass-roots level to identify and implement local projects in rural areas. As a result of this approach to developing women's leadership in a community context, a pool of skilled trainers has been established, focusing on teachers, lawyers, and other professionals active in promoting equal participation of women in democratization and gender equality in education. This expertise is utilized in furthering the overall goal of institutionalizing gender education and integrating gender aspects into government structures, beginning with mentoring programmes in governmental education structures.

In Kyrgyzstan, ODIHR-supported women's networks worked to increase women's representation in local government by promoting equal opportunities for women and men in political and public life. Their efforts contributed to a 20 per cent increase in the number of women voting in local elections in October. Following an ODIHR training seminar, 116 Kyrgyz women from the Women Can Do It! network ran for office, 80 of whom were elected to various municipal positions, and five network members were elected to regional councils out of the 25 candidates, thus becoming the first and only women representatives in the country's recent history. While the overall number of elected women in Kyrgyzstan remains low, this first experience of women in public office constitutes a major achievement of the ODIHR programme.

## **2. PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN, PARTICULARLY DOMESTIC VIOLENCE**

In preventing and combating domestic violence, the ODIHR tries to enhance awareness that violence is not a private matter; it is a crime and, as such, cannot be tolerated. The Office also promotes co-operation between government structures and civil society on mechanisms to prevent and combat violence, improving local capacity to deal with this difficult issue in a more effective manner.

The ODIHR expanded its previous activities in Azerbaijan in 2004, adding support for co-operation between civil society, health-care personnel, and the Health Ministry in order to develop a common approach to the issue of violence against women.

In Georgia, the ODIHR addressed the inadequacy of community resources by supporting a shelter in Tbilisi for women who have fallen victims to violence, as well as regional support networks. Personnel from the shelter travelled to Poland for training, where they were able to develop expertise, management skills, and important contacts.

## **3. BUILDING LOCAL GENDER EXPERTISE**

Women face difficulties in economic and political life throughout the OSCE area. The inequality and discrimination they encounter is influenced by, among other factors, the prevalence of traditional attitudes and limited, stereotyped expectations. In many emerging democracies, young women from outside large cities are particularly affected by such practices; this prevents them from finding economic and professional opportunities, as they remain generally unaware of their rights under international and domestic law. There-

fore, it is necessary that women learn about their rights and be given the opportunity to participate equally in the labour market, politics, and the development of their society. With regard to countries undergoing political and economic transition, it is also pressing that women be able to protect and promote their rights and interests, as many government structures fall short of being effective in protecting these rights and eliminating gender imbalance.

In 2004, the ODIHR continued existing programmes aimed at training experts on women's rights in Armenia, Azerbaijan, Georgia, Kazakhstan, and Kyrgyzstan. Based on a training-of-trainers approach, the Office taught local experts the necessary skills to take a leading role in working to advance the women's movement in their respective countries.

In this context, the ODIHR established a local expert panel, bringing together ODIHR-trained gender experts from the South Caucasus and Central Asia to lead consultative, advisory, and support networks for national experts at the local, national, regional, and international levels. One of the panel's first activities involved Kyrgyz members, who provided their expertise to the Armenian women's leadership programme.

In December, members presented their panel as a best practice in terms of local ownership and capacity-building at the United Nations Economic Commission for Europe preparatory meeting for the upcoming Beijing+10 world conference on women's rights. Their innovative presentations contributed significantly to the discussions on the role of institutional mechanisms for women's rights in their respective countries.

Well-trained national experts capable of acting on the local, national, regional, and international levels, with first-hand local knowledge of local situations and languages, have proved an invaluable asset for gender-equality-related work in Central Asia and the South Caucasus and are proving to be an effective bridge to the long-term sustainability and full local ownership of this programme.

## FUTURE PRIORITIES

The ODIHR's programme in the area of gender equality requires a long-term commitment. As such, future priorities remain essentially the same as present priorities. In 2004-2005, the ODIHR plans to continue its activities specifically in the following five areas:

- ♦ Fostering civil society and government co-operation at national and local levels;
- ♦ Capacity- and expertise-strengthening for civil society and government structures;
- ♦ Further development of women's leadership with a country-tailored approach;
- ♦ Integration of gender aspects into the work of government structures; and
- ♦ Continuing to address violence against women.

Together with mainstreaming of gender-equality issues throughout the ODIHR's activities, these priorities will also take into account the OSCE Action Plan for Gender Issues.



A fingerprint made up of articles from the Universal Declaration of Human Rights was the symbol for an OSCE conference in Helsinki on protecting the rights of trafficking victims, 23-24 September 2004. It was designed by Josef Pallwein-Pretner of Austria.

## Trafficking in Human Beings

Trafficking in human beings affects virtually all OSCE participating States either as countries of origin, countries of transit, or countries of destination. It is a complex human-rights issue that cuts across the entire spectrum of the OSCE's comprehensive security policy.

In response, the OSCE has taken steps to combat all aspects of this phenomenon. For example, the OSCE Action Plan to Combat Trafficking in Human Beings, adopted in December 2003, outlines a comprehensive approach. It calls on participating States to take initiatives to prevent trafficking, to prosecute traffickers, and to protect victims with the assistance of OSCE institutions and field operations. In 2004, the OSCE appointed a special representative who is also mandated with assisting participating States in the implementation of their commitments and the Action Plan.

In light of these developments, the ODIHR continued to be engaged in designing and implementing projects to raise awareness about the risks of trafficking with governments and NGOs, assisting in legislative review and reform, and promoting the adoption of National

Referral Mechanisms both in countries of origin and destination in order to protect and assist the victims of trafficking.

### MAIN ISSUES

♦ **Raising awareness:** The fight against trafficking in human beings is high on the political agenda of policy makers throughout the OSCE region. In practice, however, trafficking is often approached only as a problem of illegal migration or prostitution. Trafficking differs from illegal immigration or from smuggling of persons in that it includes an element of force, deception, or coercion, and it is carried out for the purpose of placing a person – whether for pay or not – into involuntary servitude. Individuals may also be trafficked domestically, not crossing international borders. To ensure that trafficking is correctly understood by all key actors, target groups for awareness-raising activities have included government officials, consular staff, law-enforcement bodies, and potential victims.

♦ **Establishing a legal and policy framework to prosecute traffickers and to protect victims:** Victim identification and assistance in the majority of cases are still undertaken on an *ad hoc* basis, if at all. Criminal investigations and the prosecution of perpetrators are rarely successful without statements from trafficked persons. Guaranteed safety, shelter, access to independent advice and counseling, an opportunity for reflection delay, as well as effective witness protection, are prerequisites to enabling trafficked persons to report the crime and to consider co-operation with authorities. Only a stabilized victim will be able to contribute to successful prosecution efforts as a reliable witness.

♦ **Co-ordinating and monitoring the implementation of anti-trafficking measures:** Trafficking concerns a broad range of issues of human rights, rule of law, crime control, law enforcement, corruption, economic deprivation, and migration. The multitude of angles and perspectives that need to be addressed when combating trafficking in human beings opens up an arena for a broad variety of actors. As these actors bring in a variety

of approaches from different agencies, co-ordination, co-operation, and monitoring are key.

## ACTIVITIES

The ODIHR conducted activities in 2004 in the following areas:

- ♦ Improving the capacity of NGOs to strengthen and expand awareness-raising efforts;
- ♦ Developing a handbook on National Referral Mechanisms;
- ♦ Focusing on countries of destination;
- ♦ Co-ordinating efforts and mainstreaming anti-trafficking issues; and
- ♦ Administering the Anti-Trafficking Project Fund.

### 1. IMPROVING THE CAPACITY OF NGOs TO STRENGTHEN AND EXPAND AWARENESS-RAISING EFFORTS

Since the very beginning of its anti-trafficking work, the ODIHR has contributed to research efforts and carried out awareness-raising activities. Such work has included facilitation of NGO-government roundtables, training and support for hotline consultants, and direct work with the media. Effective awareness-raising creates a foundation for joint work based on a common UN definition and the realization that trafficked persons are victims of a crime. Awareness-raising also empowers at-risk groups and decision-makers to make appropriate, informed choices.

Anti-trafficking hotlines are an effective mechanism both in preventing trafficking in persons and in identifying trafficking victims. Hotlines provide consultations, promote public awareness about trafficking, alert potential victims to the risks and consequences of this criminal activity, and provide effective support and assistance to trafficking victims and their families.

“Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

**The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially in Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000**

The ODIHR has been supporting NGOs from various regions of the OSCE in their efforts to establish and run hotlines since 2001. In 2004, the ODIHR supported an initiative of the OSCE Project Co-ordinator in Ukraine to organize a training seminar in Kyiv in November for NGOs managing hotlines. The seminar provided participants with training, as well as materials and other relevant information; enabled participants to share their experiences; provided hotline operators with the latest information available on anti-trafficking hotline activities; identified best practices and recommendations for hotline consultants; facilitated the networking of NGOs running hotlines in countries of origin, transit, and destination; and identified key problems in the use of hotlines as a tool to counter trafficking.

Between 2002 and 2004, the ODIHR conducted a project in the Caucasus region that focused on improving the capacity of women's NGOs to combat trafficking in human beings, mainly through raising awareness of the issue. The project has had an important lasting effect, as the original 60 participants each conducted five subsequent training sessions for more women in their home countries. An evaluation workshop held in March 2004 showed that many of these women were conducting awareness-raising activities in their own regions, including seminars, training sessions, and roundtables; collecting data on trafficking cases and providing advice to potential migrants. Moreover, the project has resulted in the creation of an informal network of gender experts throughout the region, who now share information, materials, and best practices with one another. The follow-up workshop also highlighted areas where the ODIHR could develop further projects.

## 2. DEVELOPING A HANDBOOK ON NATIONAL REFERRAL MECHANISMS

As the fight against trafficking is still a relatively new area in the human-rights field, there is much work to be done in developing and refining standards and

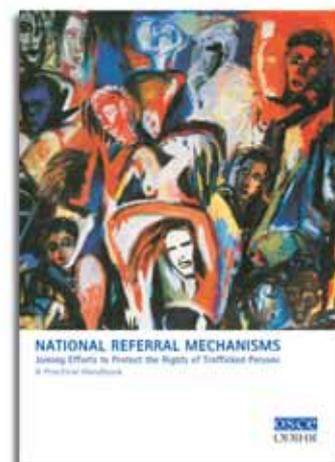
policies. Upon request from participating States and in consultation with OSCE field missions, the ODIHR provides expertise for these processes, which should result in a more consistent, human-rights-based response.

In the short term, the area that demands the most urgent and effective response is the need for better human-rights protection for victims and at-risk groups, e.g., women, young people, and migrant workers. A common starting point is the definition of trafficking as found in the UN Anti-Trafficking Protocol. In practice, however, a common definition is not enough to clarify the responsibilities and competencies of law-enforcement personnel, non-governmental organizations, and others who may come into contact with a victim of trafficking.

There is a compelling need for clearer guidance on how to identify victims, how to investigate related crimes, and how to co-ordinate assistance. The ODIHR has therefore supported the development of National Referral Mechanisms (NRM) that aim to secure the protection of the human rights of trafficked persons by state actors acting in co-ordination with civil society and others dealing with trafficking victims.

During an internal OSCE regional co-ordination meeting held in Sarajevo in June 2002, it was agreed that the establishment of such National Referral Mechanisms is a key priority for ongoing OSCE anti-trafficking efforts.

In 2004, the ODIHR published English and Russian versions of a handbook on National Referral Mechanisms. This is a practical tool that both governments



and NGOs can use in their efforts to ensure that victims of trafficking receive appropriate protection and assistance and are referred to relevant support services. It describes sustainable measures and structures that states can implement to combat trafficking in human beings and to support victims. In particular, it deals with the question of what happens after a presumed victim of trafficking is intercepted by the police both in countries of destination and of origin.

The ODIHR also took steps towards the practical implementation of NRMs, developing a training methodology that targets both governmental and non-governmental actors and that focuses on practical steps to take in establishing and monitoring NRMs; holding a workshop for anti-trafficking focal points from OSCE field missions that aimed to facilitate missions' assistance to governments in setting up NRMs; and conducting focused training activities with field missions in Serbia and Montenegro, Moldova, Armenia, and Ukraine.

### 3. FOCUS ON COUNTRIES OF DESTINATION

While there are high-level commitments to combat trafficking and protect its victims throughout the entire OSCE region, the focus of anti-trafficking work often remains largely on countries of origin. This is the case despite the fact that the human rights of trafficking victims are also at risk or violated in destination countries, many of which lack adequate mechanisms to identify victims and protect their rights.

To address this, the ODIHR, in co-operation with the German Ministry of Foreign Affairs, had already organized a conference in October 2001 called "Europe against Trafficking in Persons", focusing on anti-trafficking policies and measures in countries of destination. It was the first European conference specifically addressing the situation and needs of trafficked persons in countries of destination. Participants elaborat-

ed a comprehensive set of recommendations in the areas of prevention, protection, and prosecution that, together with OSCE commitments, served as the basis for the ODIHR's anti-trafficking activities in countries of destination.

In September 2004, the ODIHR, in co-operation with the Foreign Ministry of Finland, organized a follow-up conference in Helsinki called "Ensuring Human Rights Protection in Countries of Destination: Breaking the Cycle of Trafficking". The purpose of the conference was to:

- ♦ Raise awareness about the human-rights situation of trafficking victims in countries of destination;
- ♦ Promote strategies and best practices of victim protection, such as the implementation of National Referral Mechanisms; and
- ♦ Facilitate networking among key decision-makers and NGOs.

The conference presented an opportunity to promote human-rights standards for victim protection and to address the need to develop multidisciplinary victim support systems based on the inclusive and co-operative National Referral Mechanisms concept. The main recommendations of the conference included:

- ♦ Make the protection of victims a priority in anti-trafficking work;
- ♦ Improve authorities' understanding of the nature of exploitation, and addressing prejudices that prevent identification of trafficked victims;
- ♦ Emphasize the importance of residence permits for all victims of trafficking in human beings regardless of the ability or willingness of victims to collaborate with law enforcement;
- ♦ Ensure co-operation between civil society and governmental authorities;
- ♦ Emphasize the importance of involving all relevant actors from government and civil society in a multidisciplinary and cross-sector approach;

- ♦ Establish victim compensation funds supplemented by assets confiscated from perpetrators to be used to compensate victims and fund NGOs and other related anti-trafficking activities;
- ♦ Establish national rapporteurs in OSCE participating States who could provide information to governments and advise them on areas of action in the fight against trafficking.

The ODIHR will use these recommendations in planning follow-up anti-trafficking activities with OSCE participating States.

#### 4. CO-ORDINATING EFFORTS AND MAINSTREAMING ANTI-TRAFFICKING ISSUES

For the ODIHR's anti-trafficking work to be most effective, information exchange and co-operation within the OSCE and with other relevant international organizations, governmental bodies, and NGOs is crucial. This co-operation results in complementary efforts, avoiding duplication and maximizing the use of limited resources to combat trafficking in human beings throughout the OSCE region. It also leads to the creation of joint projects and furthers the development of international and national standards to prevent trafficking, to prosecute perpetrators, and, most importantly, to protect the human rights of victims.

In 2003, the Council of Europe initiated the process of drafting a European Convention on Action against Trafficking in Human Beings. On behalf of the OSCE, the ODIHR participated in the negotiations in 2004 as a member with observer status of the ad hoc Committee on Action against Trafficking in Human Beings (CAHTEH). The ODIHR prepared a written contribution to the draft convention, which was submitted to CAHTEH for consideration and supported with oral contributions by ODIHR representatives at CAHTEH meetings. Its comments focused on issues in connection with victim protection and assistance and co-operation

mechanisms between government structures and civil society.

#### 5. THE ANTI-TRAFFICKING PROJECT FUND

The ODIHR established the Anti-Trafficking Project Fund in 2001 to encourage the development and implementation of projects and activities by OSCE field missions that address trafficking in human beings and associated human-rights abuses. OSCE field operations should generally be actively involved in the implementation of projects under this initiative. Through administering the fund, the ODIHR seeks to enhance its co-operation with the field (e.g., by providing expertise, promoting information-sharing and exchange of best practices and formulating an overall regional perspective) and to address diverse and urgent anti-trafficking priorities that may arise throughout the OSCE region.

In most cases, direct beneficiaries are local project partners such as anti-trafficking NGOs, at-risk groups, trafficked persons, and relevant government agencies. In this respect, many projects supported through the fund facilitate contacts between the OSCE and local actors that combat trafficking and promote the development of local capacity to combat trafficking and to assist victims.

#### FUTURE PRIORITIES

The ODIHR will continue to assist participating States in fulfilling their commitments as outlined in the *OSCE Action Plan to Combat Trafficking in Human Beings*. The main areas of activity will focus on:

- ♦ Developing a training methodology on the implementation of National Referral Mechanisms and their subsequent implementation;
- ♦ Administering the Anti-Trafficking Project Fund to fulfill the tasks outlined above, as well as providing

- assistance to OSCE field missions in project planning and development;
- ♦ Raising awareness/enhancing data collection/working with mass media on the prevalence and nature of trafficking in human beings in different sectors of activity, especially in destination countries, and monitoring and analysing responses to trafficking;
  - ♦ Contributing to new prevention strategies that tackle the root causes of trafficking in both origin and destination countries;
  - ♦ Exploring best practices in the identification of trafficked persons and incentives for self-identification;
  - ♦ Monitoring/analysing developments in trafficking case law, including the use of asylum procedures in providing protection to trafficked persons;
  - ♦ Assisting OSCE participating States in improving national legislation to ensure at a minimum compliance with international standards;
  - ♦ Developing activities to address child trafficking in collaboration with the Contact Point on Roma and Sinti Issues;
  - ♦ Mainstreaming anti-trafficking initiatives with other ODIHR projects.

## Anti-Trafficking Project Fund 2004

Country/Region	Projects
Armenia	♦ Assistance to develop a National Referral Mechanism
Croatia	♦ Regional meeting of Anti-Corruption and Anti-Trafficking (ACTA) Association of NGOs in the Stability Pact region
Georgia	♦ Study visit to Ukraine for Georgian practitioners combating trafficking ♦ Conference to review the Georgian National Plan of Action
Moldova	♦ Capacity-building project: anti-trafficking training for judges and prosecutors
Serbia and Montenegro	♦ Prevention campaign and continuation of hotline services ♦ Co-ordination of victim assistance services through the SOS Info Hotline
South-Eastern Europe	♦ Awareness-raising for Roma women activists on the issue of trafficking in human beings
Tajikistan	♦ Training for journalists on human-trafficking reporting



An IOM expert on migration data-sharing, Marina Manke, speaking in Chisinau at a workshop on labour-migration policy and data management, 28 September 2004.

## Migration/ Freedom of Movement

One of the main characteristics of a modern society is increased population mobility. As people in the OSCE region move both within their countries and between countries, current migration phenomena are becoming increasingly complex. Migration can be a positive factor in economic and social development and can contribute to understanding among cultures and to democratization trends. But migrants can also become victims of negative stereotyping, intolerance, and violations of human rights.

The OSCE has developed a number of important commitments to facilitate the movement of people across borders, as well as within their own countries. There are also specific commitments related to the treatment of migrant workers.

As deadly conflicts erupted in the OSCE area in the early 1990s, more attention was put on the plight of those who did not intend to become migrants but who had to move involuntarily, becoming either refugees, by virtue of crossing international boundaries, or internally displaced persons (IDPs).

The ODIHR assists OSCE participating States in their efforts towards further compliance with OSCE commitments on migration, freedom of movement, treatment of migrant workers, and treatment of citizens of other participating States.

Despite the best efforts of the ODIHR and its many partners, there are serious obstacles to protecting the human rights of migrants in the OSCE. Moreover, there are persistent negative stereotypes and perceptions about the impact of migrants. A lack of information on migration as a phenomenon and on migration laws and policies of other participating States presents a challenge to citizens and governments alike and needs to be overcome. Another challenge is the perception in one group of OSCE states that another part of the region is erecting a “paper curtain” of onerous visa requirements that would divide the region and its citizens, thereby preventing them from learning more about each other and from reaching mutual understanding.

## MAIN ISSUES

### ♦ **The right to free choice of place of residence:**

Since the collapse of communism in the early 1990s, Soviet-era *propiska* regulations of civil registration have not changed in a number of countries of the former Soviet Union, restricting the freedom of individuals to choose their place of residence within their own countries. Moreover, the *propiska* system poses a significant barrier to finding durable solutions for problems of internally displaced persons, leads to the denial of social services, and impedes access to jobs, as well as creates obstacles to migrants' participation in elections.

### ♦ **Combating discrimination against the most-vulnerable groups, such as internally displaced persons:**

The issue of internal displacement is one of the most acute problems in the OSCE region, where an estimated 3 million people have been displaced by conflicts and human-rights violations. Thirteen of the 55 OSCE participating States are affected by the problem of internal displacement. Unlike refugees who cross international borders, those who stay within their own territories must rely upon their own governments to protect their security and well-being and to uphold their political and civil rights.

### ♦ **Promoting co-operation on labour migration and human rights of migrants:**

Following new labour-migration trends and patterns in the OSCE region in the last few years, a number of states have become recipients of flows of migrant workers. Often, these states lack some of the necessary policy and legal framework for protecting migrants. Therefore, there is an urgent need for promoting dialogue and establishing co-operative mechanisms among OSCE participating States on the issue of labour migration to prevent discrimination, ill-treatment, and other cases where the rights of migrant workers are violated.

### ♦ **Facilitating co-operation on migration-related information:**

The management of international mi-

gratory flows in accordance with human-rights standards could be facilitated by the timely exchange of information between countries on the nature of these flows. Sharing information is an integral part of cross-border co-operation, and it is also a prerequisite for developing joint policy responses that take into account the interests of states while safeguarding the rights of migrants.

## ACTIVITIES

In 2004, the ODIHR's activities focused on the following areas:

### I) **Protection framework for internal migrants:**

- ♦ Assistance in reforming the *propiska* system;
- ♦ Combating discrimination against the most-vulnerable groups of migrants.

### II) **Protection framework for migrants crossing international borders:**

- ♦ Promoting interstate co-operation on labour migration, migration-related information, and the human rights of migrants;
- ♦ Assistance in reforming legislation affecting citizens leaving their own country.

## 1. PROTECTION FRAMEWORK FOR INTERNAL MIGRANTS

### **Assistance in reforming the *propiska* system**

The Soviet-era *propiska* system – stamping a citizen's internal passport to indicate his or her permanent address – has left a legacy of restrictions on the freedom of internal movement in a number of countries of the former Soviet Union. The system requires every individual who wishes to change his or her place of residence within a particular country to obtain written permission from the state to do so. Those changing their residence without this permission can find themselves cut off from state services and may also find it impossible to exercise a number of rights, e.g., the right to accept

work, to enroll in a school or an institution of higher learning, or even the right to get married. Such restrictions clearly violate a host of domestic – in the countries where the *propiska* system is still used – and international laws. It contravenes the fundamental rights to freedom of movement and choice of place of residence, which are enshrined as OSCE commitments.

While, in most countries, the emergence of a market economy and private sector has rendered obsolete rigorous planning of the labour market – a putative reason for the *propiska* system – laws regarding violations of the *propiska* system remain in effect in numerous countries of the former Soviet Union. The use of this system has also been perpetuated by the absence of an alternative system of civil registration that could be used for public-policy purposes, e.g., social insurance, providing education or other services, or compiling voters' lists.

In 2004, the ODIHR continued its work on overcoming the legacy of restrictions on internal movements in Ukraine and Belarus.

In Ukraine, the ODIHR has been involved in the reform process since 2000, organizing technical workshops and training visits for government officials to countries where reform efforts had already progressed much further. At the end of 2003, the Ukrainian parliament passed a law on freedom of movement and free choice of place of residence, which calls for replacing the *propiska* system with a system of individual registration that would guarantee Ukrainian citizens and foreigners with legal status in Ukraine freedom of movement and free choice of place of residence. Despite some gaps and drawbacks identified (for example, the law requires citizens to certify their deregistration in one place before registering in another place), the law establishes the conditions necessary for the creation of a new registration system. The successful implementation of the law will depend, however, on enforcement procedures, by-laws, and the goodwill of all participating institutions and individuals. The ODIHR worked

throughout 2004 with the officials of the Ukrainian Interior Ministry responsible for registration of place of residence on issues related to the practical implementation to the new law.

In Belarus, the ODIHR has been working the past two years with the Interior Ministry and the National Law-Drafting Centre under the President (NLDC) to develop the legal and conceptual bases for the establishment of a centralized population register and to move towards a population-registration system that does not prevent people from moving freely within their own country. In 2004, the ODIHR continued introducing officials involved in the reform process to the experiences of other countries of the region – Moldova, Armenia, and Lithuania – through training visits and focused workshops. Once the NLDC drafted a law on population registration, the ODIHR organized a seminar for representatives of relevant government agencies to discuss the draft law and to summarize the results of the second year of the project.

### Combating discrimination against the most-vulnerable groups of migrants

The Migration Unit's work on developing legislation on migration and civil registration also contributes to the ODIHR's work on non-discrimination, particularly as this relates to IDPs. Because of internal restrictions on freedom of movement in a number of countries, individuals who move without state permission are denied a number of fundamental rights, including the right to vote, as well as a range of social and economic rights. Particularly hard hit by these restrictions are those who moved involuntarily, i.e., IDPs, who, unlike refugees who cross internationally recognized borders, are not granted international protection. In addition to physical insecurity, IDPs suffer a range of other hardships, such as separation from family members, limited employment opportunities, disruption of education and schooling, and the severance of cultural and social ties. While recent years have witnessed a decrease in the

number of IDPs in the OSCE area, there are still an estimated 3 million internally displaced persons in the region. Many IDPs continue to live in long-term displacement with no solution in sight to the conflicts that forced them to flee. Against the background of waning international attention, finding durable solutions for such people remains a major challenge.

The fate of IDPs in the OSCE region was the subject of the last Supplementary Human Dimension Meeting of 2004. Co-organized by the ODIHR, the meeting provided a forum for the discussion of practical steps that OSCE participating States, field operations, and institutions can take to alleviate the plight of IDPs, focusing

“By not addressing obvious causes earlier, we all pay much more both in financial and human terms in responding only when the humanitarian imperative becomes irresistible. The UN and regional organizations could play a much more valuable, pre-emptive role by taking time to ensure that the real causative factors are actively addressed as an integral part of the international response.”

**Dennis McNamara, Special Adviser to the UN Emergency Relief Co-ordinator and Director of the Inter-Agency Internal Displacement Division**

in particular on the various stages of internal displacement and specific vulnerable groups.

Particular attention was paid to state responsibility towards IDPs, their fundamental rights and freedoms, and to finding durable solutions in the areas of residency, voluntary return and resettlement, reintegration, and property restitution and repossession.

Participants called on OSCE participating States to develop detailed laws and policies to protect IDPs and to end situations of displacement, using the UN Guiding Principles of Internal Displacement as a framework,

while also calling on OSCE institutions to mainstream IDP issues into their relevant activities across the region.

## 2. PROTECTION FRAMEWORK FOR MIGRANTS CROSSING INTERNATIONAL BORDERS

### Promoting interstate co-operation on labour migration, migration-related information, and human rights of migrants

Despite the objective benefits brought by migrant workers to their host economies, legislation and law-enforcement practices in receiving countries often hamper access of migrant workers to legitimate jobs. However, legal and bureaucratic obstacles do not necessarily decrease the inflow of migrants; on the contrary, they may result in reducing the legitimate base for migration and employment. Consequently, the rising number of irregular migrants and shadow employment pose a threat of loss of control over migration flows for the authorities and give grounds for the spread of unlawful practices. Enlarging the legitimate basis of labour migration could be achieved through improvement of a national migration-management system and effective co-operation between sending and receiving countries.

Throughout the last decade, and increasingly in the second half of 1990s, the Russian Federation has be-

“[The Ministerial Council] undertakes to combat discrimination against migrant workers. [It] further undertakes to facilitate the integration of migrant workers into the societies in which they are residing. [The Ministerial Council] calls on the ODIHR to reinforce its activities in this respect.”

**OSCE Maastricht Ministerial Council Decision No 4/03 on Tolerance and Non-Discrimination**

come the main destination country for migrant workers in the region. According to the latest official estimates, more than 5 million irregular migrants currently reside in Russia, mostly citizens of the countries of the former Soviet Union, including a growing number of migrants from Central Asia.

In 2004, the ODIHR, the Kyrgyz Consulate-General in Yekaterinburg, and the Bishkek-based Regional Centre for Migration and Refugee Issues launched a pilot project on cross-border co-operation on labour-migration issues between Kyrgyzstan and Russia's Sverdlovsk Oblast, a region with relative economic prosperity that is close to the border with Kazakhstan and that has been a magnet for hundreds of thousands of migrants, particularly from Tajikistan and Kyrgyzstan. The project will study the practical implementation of existing legislation, bilateral agreements, and other mechanisms of labour-migration management, as well as the attitude of policy makers, law-enforcement agencies, and the population at large towards migrants from Central Asia.

Russian authorities expressed interest in co-operation with the ODIHR on developing a training course for Interior Ministry Academies that focused on migration issues, particularly in relation to discrimination against migrants. As a result, the ODIHR, the Interior Ministry, and the International Organization for Migration (IOM) launched a study of attitudes towards migrants in Russian society based on surveys among government officials, law-enforcement personnel, employers, the population at large, and migrants themselves.

The ODIHR and the IOM also co-operated on several other projects, organizing a workshop in Chisinau in September on labour-migration policy and data management for the new neighbours of the European Union: Belarus, Ukraine, Moldova, and the Russian Federation. Recognizing that protection of migrant workers abroad is one of the key challenges in this area, participants called for measures to optimize benefits from labour migration for both source and recipient countries.

The two institutions also continued co-operation that began several years ago on the exchange of migration-related information among Ukraine, Moldova, and Kyrgyzstan. Known as the Regional Data-Sharing Mechanism, this project was initiated as a response to requests from national governments in Eastern Europe and Central Asia. The mechanism is used for data collection and for sharing legal and policy information.

### Assistance in reforming legislation affecting citizens leaving their own country

In most of the countries of the former Soviet Union, legislation on citizens' leaving their own countries stems from the Soviet era. This includes a large number of limitations on an individual's right to leave his or her country, exercised through denial of personal documents for certain categories of people, e.g., young men of draft age, people in possession of state secrets, etc. Most of these limitations contradict OSCE commitments on freedom of movement, as well as a number of international human-rights documents.

(20) The participating States will respect fully the right of everyone:

- ♦ to freedom of movement and residence within the borders of each State, and
- ♦ to leave any country, including his own, and to return to his country.

Concluding Document of CSCE Vienna Third Follow-up Meeting, 1989

The ODIHR assisted legislative-reform efforts in Belarus and Armenia throughout 2004, with the aim of ensuring that draft laws in both countries on the entry and exit of citizens were in compliance with international standards on freedom of movement. Training visits were organized for government officials from Armenia and Belarus to become familiar with the experiences of Slovakia and Lithuania regarding the issuance of travel

documents and the right of citizens to leave their country. Following this, a workshop took place in Minsk in October, where the draft laws of both countries were presented. Both laws represent progress in comparison with existing regulations and, if adopted, would bring both countries closer to compliance with international standards.

## FUTURE PRIORITIES

In the coming years, the ODIHR will continue activities aimed at facilitating cross-border co-operation and exchange of experience among OSCE participating States on migration issues, as well as at protecting various groups of migrants.

In the field of propiska reform, there should be consolidation of the progress achieved thus far and further sharing of positive experiences. The Office will continue its work on assisting legal developments in the countries of the former Soviet Union. In particular, given the interest of the countries concerned, the ODIHR will continue providing expert assistance in developing new legislation on free choice of place of residence, as well as in establishing centralized population registers. In addition, a regional conference for the countries of Eastern Europe, the Caucasus, and Central Asia is planned on the experience gained in the region during the process of civil-registration reform in order to share information among other states in those regions.

In the field of internal displacement, the ODIHR is looking forward to further co-operation with the newly appointed Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, Walter Kälin, to find durable solutions to the problem of internal displacement in the OSCE region.

Upon the request of a number of OSCE participating States, a Human Dimension Seminar on Migration and Integration is planned for May 2005 in Warsaw.

The seminar will focus on various aspects of integration policies targeting migrants and will provide an opportunity for an OSCE-wide forum for sharing best practices on integrating migrants into receiving societies. Recommendations from this meeting will be used as guidelines for the ODIHR's future work on the issue.

The Office will also continue its work on facilitating interstate co-operation on labour-migration issues and the human rights of migrants. Specific training programmes, workshops, and seminars will be organized in order to raise awareness among relevant government officials, law-enforcement personnel, and the public at large of the international and domestic human-rights standards with regard to the treatment of migrants, as well as of the enriching contribution of migrants and migrant workers to society. The ODIHR will assist OSCE participating States in developing concrete bilateral and multilateral co-operation mechanisms in the field of labour migration and exchange of migration information. Moreover, the Office will also continue to work on issues related to tolerance and non-discrimination of migrants through analysing the practical work of government bodies dealing with labour-migration issues and migrant workers, including specific training programmes for law-enforcement personnel.

# Legislative Support

Good legislation does not necessarily make good government, but good government cannot emerge without good laws. The conditions necessary for respect for human rights, democracy, and rule of law cannot improve without an adequate legal basis. Legislation and its implementation are therefore critical to the development of democracy and the rule of law. Also, for democracy to function properly, laws have to be prepared, drafted, discussed, and adopted through an open and transparent process that involves actors outside parliament and government.

A number of OSCE participating States have undertaken legislative-reform efforts either as part of a broad transition to democracy or else in the face of emerging challenges that existing legislation is not adequate to handle. While the ODIHR has provided support and expertise for such reforms for a number of years, it began taking a more structured approach in 2004 with the creation of a distinct Legislative Support Programme.

The primary task of this programme is to respond to requests from participating States for legislative assistance and to ensure the consistency of such responses. Assistance generally involves a review of draft legislation in areas covered by the human dimension to ensure compliance with international standards, particularly OSCE commitments. Assistance may also go beyond a mere review of draft legislation by providing states with best practices that have been culled from years of experience of working with a number of countries. Such practices and sample legislation may serve as a source of inspiration for law makers in other parts of the OSCE region. It also manages a web-based tool, [www.legislationline.org](http://www.legislationline.org).

## MAIN ISSUES

- ♦ **Domestic capacity:** Numerous OSCE participating States have been undertaking legislative reforms for more than a decade as part of their transition processes. In cases where countries lack domestic capacity for drafting new laws, the ODIHR encourages them to avoid working in a vacuum and, instead, to build upon the experiences of other countries – both developed democracies and countries in transition – and to try to gain a better understanding of international standards and their implications for domestic legislation.
- ♦ **Access to law:** Legislators often operate in a narrow legal space, and their work is sometimes impeded by the scarcity of legal resources available locally. These constraints are compounded by the fact that most governments of the OSCE region now face challenges that require new legislation in interdisciplinary or cross-cutting areas of law (involving several components of the legal system, having a multinational/transnational dimension, etc.) where there are no or only poor precedents and where they have little to no experience. Also, incorporating relevant international instruments into domestic legal systems is still problematic, partly because of insufficient dissemination of international standards.
- ♦ **Legislative transparency:** For democracy to function properly, laws have to be prepared, drafted, discussed, and adopted through an open and transparent process that involves actors outside the parliament and the government. Increasing the transparency of the law-making process can improve confidence in the legal system, and thereby the functioning of the government as a whole.

## ACTIVITIES

In 2004, the ODIHR's activities focused on the following areas:

- ♦ Assistance for legislative reform; and
- ♦ *Legislationline*.

### 1. ASSISTANCE FOR LEGISLATIVE REFORM

The ODIHR responds to requests from participating States to lend assistance in the development of legislation that is in line with OSCE commitments and other relevant international standards. Such assistance primarily consists of providing legal expertise to assess compliance with relevant standards, making recommendations to improve draft legislation, and sharing good practices that may help law drafters explore options other than those originally considered. In terms of sharing good practices, the ODIHR's legislative database ([www.legislationline.org](http://www.legislationline.org)) has developed into a powerful tool for all those involved in legislative reform.

The ODIHR's current approach to legislative reform stands in contrast to the first wave of democracy assistance in the early 1990s, when the focus was on writing new constitutions and new laws often with little understanding of the difficulties ahead in terms of implementation. Instead, the ODIHR provides direct assistance to lawmakers *as the legislative process is ongoing*. ODIHR experts work closely with local actors and make constructive recommendations that take into consideration the specifics of the domestic legal system. The process does not, however, end at the law-drafting stage. Due attention is given to following up on recommendations both to clarify them for legislators and other relevant parties and, if necessary, to help incorporate them into the draft legislation under consideration.

## Approach

The ODIHR considers a number of factors when lending assistance in the area of legislative reform:

- ♦ **Local ownership:** this is crucial to the relevance and enforceability of the legislation considered; timeliness is essential to ensure that legislative reviews can be taken into consideration by parliaments or governments;
- ♦ **Responsiveness:** providing notes, comments, or reviews during the legislative process, when it can still be influenced;
- ♦ **Inclusiveness:** supporting efforts to ensure that legislation is prepared and adopted as the result of an open and transparent process;
- ♦ **Constructiveness/access to law:** providing access to precedents and practices developed in other countries, especially in areas where there are no or poor domestic precedents. *Legislationline.org* is now the most comprehensive database in the areas of the human dimension; it currently contains more than 5,400 legal texts, domestic legislation (primarily in English, but also in Russian and other OSCE languages), and international standards alike, supplemented with daily headlines highlighting legislative reforms across the OSCE region, as well as legal developments in international forums;
- ♦ **Holistic approach:** taking into consideration the overall consistency of legal systems; looking at the broad picture, as the acts under review may affect, and may be affected by, other acts; providing access to precedents and practices developed in other countries;
- ♦ **Cross-dimensional perspective:** looking at practical ways to incorporate a human dimension perspective into legislative measures considered in connection with the other dimensions of the OSCE's comprehensive approach to security.

The ODIHR gives priority to activities and areas of law where it can fill gaps and where it may add value to what other specialized institutions or agencies are doing. Since many OSCE countries are also member states of the Council of Europe, the ODIHR conducts legislative reviews in close co-operation with relevant Council of Europe departments and bodies, particularly the Commission for Democracy through Law (Venice Commission). The ODIHR's legislative-assistance work is conducted in such a way as to complement its rule-of-law activities.

As a rule, the ODIHR acts upon official requests received, usually, through OSCE field missions, which are important partners in this area. With the exception of the ODIHR's contribution to the draft Council of Europe anti-trafficking convention, all of its reviews in 2004 were conducted jointly, or in co-operation with, OSCE field operations.

In 2004, the ODIHR provided assistance that was related mainly to substantive and procedural criminal-law issues: criminalization of human trafficking and related issues, such as victim protection, compensation, and witness protection; juvenile justice; terrorism; and police-related matters. The Office also received requests to review certain legislation related to civil rights, such as the right to hold public assemblies (Armenia) and the right of disabled people to marry and to start a family (Albania). Beyond reviews of specific pieces of legislation, the ODIHR has also been assisting OSCE field operations on issues of constitutional reform in Georgia and Armenia, which will continue in 2005.

#### Legislation reviewed in 2004

- ◆ Draft amendments to legislation concerning juvenile justice (Albania);
- ◆ Draft amendments to the Family Code (Albania);
- ◆ Draft law on rallies and demonstrations (Armenia);
- ◆ Amendments to the draft law on rallies and demonstrations (Armenia);
- ◆ Draft amendments to the Constitution (Armenia);
- ◆ Draft Amendments to the Code of Criminal Procedure concerning witness protection (Armenia);
- ◆ Draft anti-trafficking law (Azerbaijan);
- ◆ Draft amendments to the Constitution (Georgia);
- ◆ Draft provisions of the Criminal Code related to human trafficking (former Yugoslav Republic of Macedonia);
- ◆ Draft laws on measures against extremism (Kazakhstan);
- ◆ Draft law on prevention and combating of trafficking in persons (Moldova);
- ◆ New draft law on prevention and combating of trafficking in persons (Moldova);
- ◆ Anti-terrorism law (Turkmenistan);
- ◆ Police-related legislation (Kazakhstan); and
- ◆ Draft police-related acts (Republic of Serbia).

The ODIHR was also involved in the drafting of a European convention on action against trafficking in human beings. Its recommendations were considered in the drafting stage and incorporated into the final draft.

#### A case study in legislative assistance: Moldova's draft law on prevention and combating of trafficking in persons

Following a request from the Moldovan Government, the ODIHR made preliminary recommendations on the draft law on prevention and combating of trafficking in persons, which were submitted to the government and distributed to other international organizations operating in Moldova. Once the government reviewed the recommendations, it requested further assistance in the form of an ODIHR expert who worked together with two national experts and a representative of the Justice Ministry. This team consolidated the recommendations and produced a second draft of the law. Following further revisions by Moldova's minister of justice, a new draft law was subjected to a joint review by the ODIHR, the OSCE Mission in Moldova, and the Council of Europe. This law is expected to be adopted in the spring of 2005.

In cases where a legislative trend is discernable among several countries, the ODIHR may consider the development of legislative guidelines. In response to legislative reforms under way in Armenia, Kyrgyzstan, and Russia in the area of freedom of assembly, the ODIHR drafted a set of legislative guidelines on this subject in 2004. To be finalized in the first trimester of 2005, these guidelines are intended to set out what is generally accepted as good practice in legislating on this subject. They also serve to assess whether a given legal system has the necessary provisions to uphold the core principles governing the subject.

## 2. LEGISLATIONLINE

*Legislationline* ([www.legislationline.org](http://www.legislationline.org)), a free-of-charge online legislative database, was created in 2002 to assist OSCE participating States in bringing their legislation into line with relevant international human-rights standards. The database was designed as a drafting tool for lawmakers, not simply as an archive of domestic or international legislation. Its purpose is to provide assistance to those who prepare and draft laws at the working level. Through *Legislationline*, they can obtain examples and options from other countries' legislation that can help them make their own choices. The activities involved in maintaining the database not only benefit lawmakers but also permit ODIHR experts to observe patterns in legislative activity, identify best practices, and monitor the application of international standards.

In 2004, the ODIHR took a number of steps to improve *Legislationline*, including by consolidating the website, rationalizing its news service, improving its outreach, keeping it up-to-date, and further contextualizing the information available from its thematic sections. As a reference tool for a variety of users (primarily law drafters, legal professionals, government officials, parliamentary staff, and legal specialists in international organizations), it is the most comprehensive database on legislation related to issues such as human trafficking, elections, and citizenship.

*Legislationline* will gradually be translated into Russian, and more information about legislative procedures in OSCE countries will be made available on the site.

The Office also plans to consolidate its methodology by evaluating its legislative reviews carried out in 2004 with the aim of defining a strategy to improve the quality and impact of its legislative-assistance schemes.

## FUTURE PRIORITIES

While continuing to provide expertise to legislators on draft legislation related to human dimension issues, the ODIHR plans to increase its focus on legislative transparency by considering ways to foster broader consultations on proposed legislation and also by better defining and promoting transparency standards.



Staff members from OSCE field operations took part in a human dimension induction course in Warsaw, June 2004.

# Human Rights

In the field of protecting and promoting human rights, the ODIHR carries out two major functions. The first is a role the Office has performed for a long time: monitoring, and reporting on, compliance by participating States with their human dimension commitments, particularly in the areas of freedom of assembly and association, the right to liberty and to a fair trial, and in the use of the death penalty. In addition, the Office has taken a proactive approach to other human-rights-related issues, offering training and education and responding to specific concerns such as the protection of human rights in the global fight against terrorism.

*The ODIHR has enhanced its capacity to promote the protection of human rights*

To achieve its goals, the ODIHR carries out a work programme that approaches issues from a variety of perspectives, including training, research, reporting, and technical assistance. The ODIHR also organizes several major meetings every year that are dedicated to particular human-rights topics. These meetings provide a forum for reviewing the implementation of OSCE

human dimension commitments by participating States; such reviews show where work needs to be done, thus becoming the impetus for future research and technical assistance, as well as suggesting areas for further activities.

## MAIN ISSUES

♦ **Protection of human rights in the fight against terrorism:** Since the attacks on 11 September 2001, countries throughout the OSCE region have instituted new anti-terrorism measures. This security environment potentially puts at risk a number of fundamental rights and freedoms, including the rights to a fair trial, privacy, freedom of association, and freedom of religion or belief.

♦ **Freedoms of association and assembly:** Anti-terrorism measures are not the only risk to these fundamental freedoms; the freedoms of association and assembly are not fully respected in a number of OSCE participating States, particularly in times of public emergency and often in the period immediately prior to an election. The curtailing of these freedoms harms the development of democracy, undermining democratic elections – a necessity for the legitimacy of any government – and having a particularly harmful effect on the growth of civil society.

♦ **Fair trials<sup>2</sup>** The right to a fair trial encompasses a range of minimum standards, including the rights to a fair and public hearing within a reasonable time by an independent and impartial tribunal, with full respect for the principle of the presumption of innocence, equality of arms, and access to an adequate and effective legal defence. In a number of OSCE participating States, there is a lack of confidence regarding the compliance of the legal system with these minimum standards. The ODIHR carries out a number of activities

<sup>2</sup> Please see the Rule of Law section on pp. 21-26 for more information on the ODIHR's work on fair trials.

aimed at promoting various aspects of the right to a fair trial, including trial-monitoring, which seeks to facilitate transparency and improve the credibility of the legal system and also provides independent and impartial reports on compliance with international and domestic fair-trial standards.

♦ **Death penalty:** There is an increasing trend towards abolition of the death penalty in the OSCE region. At the same time, those participating States that retain the death penalty have committed themselves to employing it only in a manner that does not contravene international standards. In some participating States, these standards are not always adhered to, and, in particular, there are concerns about the imposition of the death penalty following trials that fail to comply with fair-trial standards. The lack of transparency in some states that retain the death penalty is also cause for serious concern. Moreover, the level of public discourse on the use of the death penalty is often limited.

## ACTIVITIES

In 2004, the ODIHR focused on the following areas:

- ♦ Monitoring the observance of human dimension commitments;
- ♦ Ensuring respect for human rights in the fight against terrorism; and
- ♦ Human-rights training and education.

### 1. MONITORING THE OBSERVANCE OF HUMAN DIMENSION COMMITMENTS

#### The ODIHR's monitoring mandate

The ODIHR's goal in the field of human rights is to support and strengthen respect for human rights and fundamental freedoms across the OSCE region. To achieve this, the ODIHR monitors the implementation of OSCE human dimension commitments, and it also conducts research and analysis to better understand the human-rights situation and obstacles to its improvement in participating States.

#### Peer review meetings

The primary focus of the ODIHR's monitoring work is in preparing and organizing OSCE yearly peer review meetings on the implementation of human dimension commitments by participating States, including Human Dimension Implementation Meetings, Human Dimension Seminars, and Supplementary Human Dimension Meetings. These serve as a forum for an exchange of views on the implementation of human dimension commitments among participating States, NGOs, and international organizations and are designed to evaluate the procedures for monitoring compliance with commitments. The ODIHR contributes substantively to these meetings by producing background materials that look at the compliance of participating States with certain of their OSCE human dimension commitments. For example, the ODIHR produces an annual publication entitled *The Death Penalty in the OSCE Area*, which is distributed at the Human Dimension Implementation Meeting.

#### Clearing house for states of public emergency

The ODIHR was designated by the Concluding Document of Helsinki (1992) as the OSCE's clearing house for information on states of public emergency. Paragraph 28.10 of the Moscow Document (1991) requires participating States to notify the ODIHR when a state of public emergency is declared or lifted, as well as of any derogation made from the state's international human

rights obligations. In this regard, the ODIHR is well placed to monitor developments regarding any measures taken in derogation of international human rights obligations and OSCE commitments resulting from a national emergency.

#### Moscow Mechanism

The Moscow Mechanism provides for the possibility for participating States to establish *ad hoc* missions of independent experts to assist in the resolution of a specific human dimension problem either on their own territory or in other OSCE participating States. The ODIHR is designated to provide support for the implementation of the Moscow Mechanism, and it maintains a list of experts appointed by some of the participating States who are available to carry out such investigations.

#### Reporting

The ODIHR participates in discussions of the Permanent Council by reporting on its activities and providing information on implementation issues. In this way, the ODIHR Director may raise specific concerns in relation to human dimension commitments.

#### Trial-monitoring

The right to a fair trial comprises a set of interrelated rights and is enshrined in numerous international and regional human-rights instruments. In recognition of the fundamental nature of the right to a fair trial, the OSCE participating States have committed themselves to permit national and international observers to monitor trials.

ODIHR trial-monitoring activities, which have been developed on the basis of this commitment, encourage compliance with national and international fair-trial standards and ultimately aim to increase the transparency of, and public confidence in, the legal system.

Implemented in co-operation with governments and OSCE field missions, the ODIHR's trial-monitoring programme provides training in national and international fair-trial standards and trial-monitoring methodology and co-ordinates monitoring activities, while providing continual feedback and support. In particular, the programme:

- ◆ Trains lawyers and members of NGOs to monitor trials and to report accurately on their compliance with national and international standards;
- ◆ Obtains systematic and impartial information on trials from the perspective of their compliance with national and international fair-trial standards; and
- ◆ Identifies areas where reform is needed and makes appropriate recommendations in this regard.

In 2004, the ODIHR conducted trial-monitoring activities in Azerbaijan, Kazakhstan, and Kyrgyzstan. The project in Azerbaijan followed up on the presidential election in October 2003, focusing on the individuals who had been detained or arrested during the demonstrations that followed the election. The ODIHR organized two training sessions for 19 trial monitors, who included lawyers and NGO representatives. The monitors

were taught: (1) national and international standards on fair trials; (2) trial-monitoring techniques and principles; and (3) reporting skills.

From January to October 2004, the monitors observed 125 cases of individuals charged with crimes following the election. This included preliminary hearings, first-instance trials, and appeals. The monitors' observation reports served as the basis for a comprehensive report by the ODIHR and the OSCE Office in Baku that was issued at the beginning of 2005.

The report concluded that, in general, Azerbaijan's legislative framework recognizes the rights and protections required for the conduct of fair trials in compliance with international standards. The actual legal proceedings in the cases monitored, however, were not always conducted in a manner that would guarantee the protection of these rights. In particular, the trials did not meet certain safeguards, including the right to legal counsel, the right to an impartial and independent tribunal, the right to a fair hearing, and the right to a reasoned judgment.

Two trial-monitoring projects were also launched in Kyrgyzstan and Kazakhstan at the end of 2004. Training was conducted in December for 31 participants in Bishkek and another 26 in Almaty. Those receiving the training included both government officials and NGO representatives, who were invited to ensure transparency and to establish co-operation.

From the beginning of 2005 through May 2006, the monitors will observe criminal cases in local and regional courts in both countries in order to gather information about the compliance of court practices with fair-trial guarantees, particularly the right to a fair and public hearing, equality of arms, presumption of innocence, and the right to adequate and effective legal defence.

Reports from the monitors will be compiled on a periodic basis and consolidated into country reports that

will be presented to the authorities and civil society for discussion. The country reports will also include recommendations on legal reform in any areas of concern that are identified by the monitors.

Following a needs assessment in Moldova in 2004, the ODIHR agreed to continue co-operation with the OSCE Mission to Moldova on the elaboration of a trial-monitoring manual, with a focus on monitoring trials that involve crimes of trafficking.

### Freedoms of assembly and association

The freedoms of assembly and association are among the cornerstones of any democratic society. OSCE participating States have committed themselves to guaranteeing "that everyone will have the right of peaceful assembly and demonstration and that any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards".

Although all OSCE participating States are committed to guaranteeing citizens the freedom of assembly, this commitment is not always met in practice. In some cases, new laws aimed at fighting terrorism have prevented people from gathering or holding peaceful demonstrations. In other cases, individuals have been prevented from forming new political parties, especially when in opposition. The curtailing of these freedoms impairs the development of democracy, undermining democratic elections – a necessity for the legitimacy of any government – and having a harmful effect on the growth of civil society.

The ODIHR supports efforts to protect the freedoms of assembly and association in a number of ways, including by offering expert legal advice to governments and OSCE field operations and by organizing meetings that provide a forum to discuss problem areas and suggest relevant solutions. In 2004, for example, the ODIHR provided legal expertise to the Armenian Government on its Law on the Procedure for Conducting Gather-

ings, Meetings, Rallies and Demonstrations. The Office also compiled and translated background materials in English and Russian for future use.

In October 2004, the OSCE dedicated a special day to the discussion of the freedoms of assembly and association at the Human Dimension Implementation Meeting. In preparation, the ODIHR sent questionnaires to the participating States and OSCE field operations to gather information on the legal framework regulating the activities of NGOs and the organization of peaceful assemblies in each state. The questionnaires focused on permissible restrictions that states choose to apply and their compliance with international standards. Country reports were prepared on the basis of the responses received and are available at [www.legislationline.org](http://www.legislationline.org), the ODIHR's online legislative database.

### Death penalty

The use of capital punishment in the OSCE region is steadily decreasing. In 1999, 15 participating States had some form of death penalty, while as many as seven were thought to have carried out executions in the previous year. According to data collected between June 2003 and June 2004, 10 participating States still retain the death penalty. Only three – Belarus, the United States and Uzbekistan – still carry out executions.

In its work on monitoring the use of the death penalty, the ODIHR aims to increase transparency as well as compliance with international safeguards, while also facilitating exchange of information about the abolition of the death penalty. Transparency means that information on the identity of individuals sentenced to death or executed should be made public. In addition, statistics and information on the incidence of death sentences and executions should periodically be made available to the public.

As a forum for participating States to make such information available, the ODIHR produces an annual pub-

lication entitled *The Death Penalty in the OSCE Area*, which is released at the Human Dimension Implementation Meeting. It is intended to provide a comparative overview of the use of the death penalty throughout the OSCE region based upon information provided by the participating States themselves.

Despite this effort, some of the participating States that retain the death penalty remain reluctant to make statistics on death sentences and executions freely available. A number of OSCE participating States continue to treat information on the death penalty as a state secret, a practice that contradicts their OSCE commitments.

OSCE commitments and international human-rights law place a number of safeguards on the use of the death penalty, which is only legitimate if these obligations are met. In particular, participating States must ensure that trials leading to the imposition of the death penalty comply with both national and international fair-trial standards. Throughout 2004, the ODIHR co-operated with OSCE field missions to monitor compliance with international safeguards, a task that has proven to be particularly difficult in those states that continue to treat the death penalty as a state secret.

OSCE participating States have committed themselves to keep the question of capital punishment open and to exchange information on the abolition of the death penalty. In order for public debate on abolition to be meaningful, members of the general public must have access to information on the legal, political, and moral arguments both for and against the death penalty.

In 2004, the ODIHR began implementing a two-year programme in co-operation with the European Commission and OSCE field missions. Concentrating on the countries of Central Asia, the programme facilitates the exchange of information on the death penalty and its alternatives, and it also encourages compliance with international standards in those countries that retain the death penalty.

"While we recognize that the threat of terrorism requires specific measures, we call on all governments to refrain from any excessive steps which would violate fundamental freedoms and undermine legitimate dissent. In pursuing the objective of eradicating terrorism, it is essential that States strictly adhere to their international obligations to uphold human rights and fundamental freedoms."

**Joint statement by the ODIHR, the UN High Commissioner for Human Rights, and the Council of Europe, 29 November 2001**

In July, the ODIHR, the OSCE Centre in Almaty, and the Kazakh Bureau for Human Rights and Rule of Law organized a roundtable in Kazakhstan on the rights of people sentenced to capital punishment. The meeting, which brought together 26 participants representing the Kazakh Government and civil society, as well as international experts, focused in particular on the rights of those subjected to the moratorium on the death penalty in Kazakhstan.

To promote informed discussion on the death penalty and its abolition, the Office, in co-operation with the European Commission and the BBC, developed a series of radio programmes that were broadcast throughout Central Asia in December, in both Uzbek and Kyrgyz. The programmes discussed the issue of capital punishment from political, legal, cultural, religious, and moral points of view, and invited opinions from an array of people, including relatives of victims, death-row prisoners, mothers of executed criminals, legal experts, human-rights defenders, and clergy. The programmes provided a broad forum for debate on this subject; this debate will be made available to a wider audience in 2005, as the programmes will be translated and broadcast in Russian.

## **2. ENSURING RESPECT FOR HUMAN RIGHTS IN THE FIGHT AGAINST TERRORISM**

The main OSCE documents outlining commitments to prevent and combat terrorism are the Bucharest Plan

of Action (2001) and the OSCE Charter on Preventing and Combating Terrorism (2002). The Bucharest Plan of Action established a framework for comprehensive OSCE action fully respecting international law, and in particular international human-rights law. It tasks the ODIHR to address factors that engender conditions in which terrorist organizations are able to recruit and win support and further states that the ODIHR will be active in the strengthening of democratic institutions and respect for human rights, tolerance, and multiculturalism.

A comprehensive approach to combating terrorism requires preventive action. The ODIHR has initiated programmes intended to promote human rights, build democratic institutions, and strengthen the rule of law as key components that enable states to address the various social, economic, political, and other factors that engender conditions in which terrorist and extremist organizations may recruit or win support.

In 2004, the ODIHR collected and compiled anti-terrorism legislation from all OSCE participating States. This information can be found on the *Legislationline* website at [www.legislationline.org](http://www.legislationline.org). Organized by subject and country, the online compilation is intended as a resource for lawmakers in the OSCE region, while also guiding the ODIHR's work in providing technical assistance to participating States with respect to their implementation of UN Security Council Resolution 1373 and the 12 international conventions and protocols on anti-terrorism.

The challenge of providing security in times of a global terrorist threat was the focus of discussion at a workshop that the ODIHR organized in Copenhagen in March. Particular areas of concern included data protection, the problem of the root causes of terrorism or conditions that give rise to terrorism, and the issue of preventing terrorism by developing capabilities on the international level to identify potential threats emerging from governments and terrorist groups. Workshop participants also noted that there is a need to protect the rights of individuals in relation to information-gathering tactics used by governments and security agencies.

The ODIHR also presented a food-for-thought paper entitled "Preventing and Combating Terrorism: The New Security Environment" at the second annual OSCE Security Review Conference. The paper highlights the imperative of protecting human rights while countering terrorism and makes a number of recommendations, including that the OSCE seek to formalize its endorsement of the Council of Europe's Guidelines on Human Rights and the Fight against Terrorism and that the Organization increase its efforts to address the underlying factors causing terrorism and extremism.

In an effort to address the rising threat of religious and political extremism, the ODIHR and the OSCE Centre in Almaty, in co-ordination with the OSCE's Action against Terrorism Unit, organized a roundtable in Almaty on 1-2 July on combating extremism. This was the first of what is expected to be a series of events to be held in 2005. The meeting was conducted with the participation of the Council of Europe's Venice Commission.

### 3. HUMAN-RIGHTS TRAINING AND EDUCATION

Education and training in the field of human rights can be used to encourage respect for the dignity of all human beings. Activities can increase knowledge, clarify values, promote solidarity, change attitudes, en-

courage critical thinking, and develop skills that contribute to respect for, and protection of, human rights. A society educated in human rights is more likely to be committed to protecting those rights and more likely to build a comprehensive culture of human rights.

Training and education constitute a strong instrument for preventing conflicts and human-rights violations. As this is a key factor in achieving and maintaining human security, this has, in recent years, become one of the priority areas of the ODIHR's human-rights programme.

In 2004, the ODIHR focused its education and training activities on providing support to staff of OSCE field missions, increasing the capacity of NGOs to monitor human-rights protection and violations, and raising awareness among government authorities of the overall situation of human rights in their respective countries and the rest of the OSCE region.

#### Supplementary Human Dimension Meeting on Human-Rights Education and Training

The first OSCE Supplementary Human Dimension Meeting for 2004 was devoted to human-rights education and training. The meeting took place on 25-26 March in Vienna, bringing together 190 participants, including 50 representatives of 44 non-governmental organizations. The objective of the meeting was to consolidate ongoing efforts to promote human-rights education and training in the OSCE region. The topics selected for discussion included formal human-rights education, human-rights education in school curricula, human-rights education and training of public officials, and informal human-rights education.

**Key recommendations that came out of the meeting included that:**

- ◆ Country-specific guidelines for human-rights education should be developed in accordance with the needs and priorities of individual countries;
- ◆ A gender perspective should be an integral part of every human-rights education and training effort;
- ◆ OSCE participating States should aim to adopt national plans of action for human-rights education and strive for their implementation;
- ◆ Human-rights education should be mainstreamed into the training of public officials to create a human-rights culture in public administration;
- ◆ The OSCE and its institutions and field operations should continue to take initiatives that bring governments and civil society together in the area of human-rights education and training;
- ◆ The OSCE should provide political support for initiatives to include human-rights education into curricula. Necessary technical assistance should be provided when appropriate.

**Training for governments and civil society**

The ODIHR conducted a number of activities in 2004 aimed at increasing the capacity of NGOs to follow the human-rights situation in places of detention. In Yerevan, for example, a training workshop was held for the Armenian Civil Society Monitoring Board on Places of Detention. The workshop presented a framework for steps that the Monitoring Board can take to monitor prisons in the country.

The ODIHR also began a two-year project in 2004 for four countries in Central Asia. Entitled “Human Rights Monitoring Training”, the project focuses on human rights in pre-trial detention, an issue of concern throughout the region. The project began with a four-day seminar in Almaty for 26 participants, including representatives of NGOs and government officials, who discussed principles of human rights and international standards related to pre-trial detention, national and international monitoring mechanisms, and strategic monitoring, among other topics. A second training session, to be held in March 2005, will focus on practical aspects of monitoring human rights in places of detention and will include visits to pre-trial detention facilities. The participants will then begin monitoring facilities in their respective countries, the results of which will be discussed at NGO-government roundtables in 2005 and 2006.

The ODIHR also provided trainers and expertise for a training session on women’s-rights monitoring and reporting that was organized by the OSCE Centre in Tashkent. The purpose of the event was to increase knowledge of women’s rights among women from NGOs and state structures, to teach skills on monitoring and reporting on women’s rights, and to motivate women from government and civil society to co-operate and build coalitions.

**Human-rights training for OSCE field staff**

Following up on a recommendation made at the Human Dimension Forum in Vienna in November 2003, the ODIHR conducted four training courses in 2004 for new human dimension officers working in OSCE field operations.

## ODIHR Human Dimension Induction Course

Following a request from a number of field operations for targeted training in the human dimension of OSCE activities, the ODIHR introduced a quarterly course in 2004 for new human dimension officers working in field missions throughout the OSCE region. Lasting for three days and consisting of a series of presentations and interactive workshops run by ODIHR experts in various fields, the training course covers the breadth of human dimension activities, including an overview of the international human-rights system, gender mainstreaming, human-rights monitoring, rule of law, anti-trafficking, legislative assistance, and elections.

The training is aimed at international and local OSCE staff working in any of the human dimension

fields – human rights, rule of law, democratization, or elections – or any other staff members who want to learn more about the ODIHR and human dimension activities. Some 92 staff members from 17 field operations participated in the four courses conducted in 2004 (see chart below).

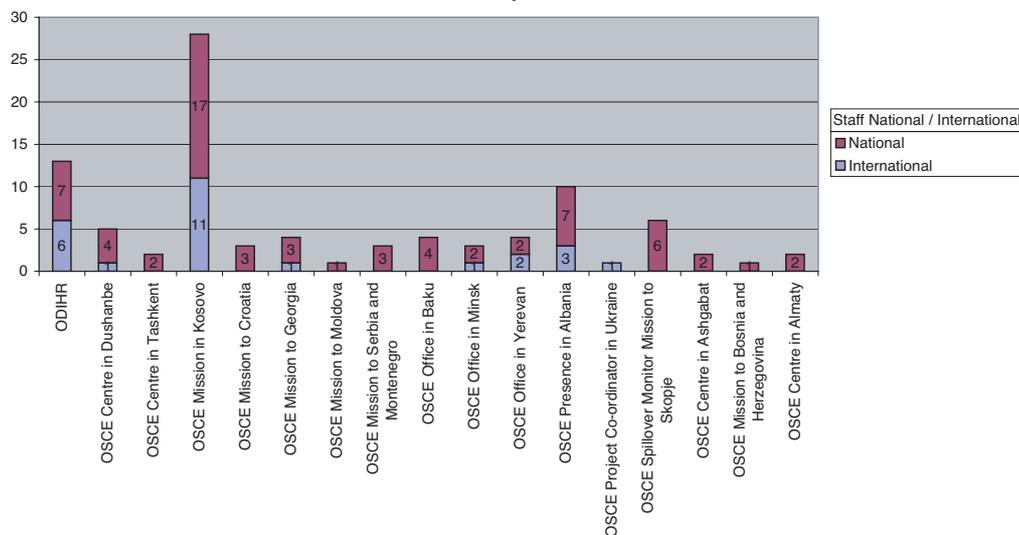
“I sometimes felt that there was too much information packed in too short a time frame: the three days were full,” said Valerie Marchand, who had just begun working as a Rule of Law Advisor at the OSCE Mission to Georgia before attending the training. “I learned a lot and met many dedicated people working on the same issues in different parts of the OSCE area.”

Since it is organized on a quarterly basis, field staff have an opportunity to spend several months working before attending the training. This has two immediate benefits, as it gives participants a chance to

find out what their needs are, and it also allows staff to bring experience to the training that they can share with their colleagues in other parts of the OSCE region.

“This course helped to broaden my knowledge of the human dimension and the international system of human-rights protection, while also filling in gaps on issues that are not directly linked to my work, such as elections,” said Haxhi Thaci, who has been working as a National Human Rights Officer at the OSCE Mission in Kosovo for five years. “It was good to get a different perspective on issues I work with every day and to look at the issues that are not linked directly to my work but that are necessary for having the full picture. As a trainer myself, I returned with new ideas and methods on how to engage my audience in discussion and to get them to share their experiences.”

Course Participants



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In February, the ODIHR organized a training course for the field presences in the Caucasus region. Held in Yerevan, the course focused on detention visits and trial-monitoring.

## FUTURE PRIORITIES

The ODIHR plans to continue to take a comprehensive approach to the promotion and protection of human rights, both monitoring compliance with international standards and using education and training to foster societies that respect those rights.

In the area of human-rights training and education, the ODIHR plans to train NGO representatives on how to monitor state compliance with international standards; to raise awareness of human rights among the population at large, expanding the knowledge of individuals of their rights and fundamental freedoms; and to help governmental and non-governmental actors improve their ability to respond adequately to human-rights violations and to prevent further violations from occurring. The Office will also continue to train OSCE field staff on human dimension issues, including through two induction training courses in the first half of 2005 and a training session on human-rights education in April.

The ODIHR will be active in debates on methods for combating terrorism, paying particular attention to the protection of human rights in this ongoing struggle. Assistance will also be given to states regarding the implementation of legal obligations and OSCE commitments related to terrorism.

The ODIHR plans to monitor developments in the area of the freedoms of assembly and association, to raise awareness of these fundamental freedoms in OSCE participating States, and to provide expert advice on

reforming legislation in this area. In particular, the Office plans to publish guidelines on drafting legislation pertaining to the freedom of assembly in the first quarter of 2005. The Office is also planning a regional conference in Central Asia on problems and challenges in the area of legislation regarding the freedoms of assembly and association.

The Office also plans to launch a programme on human rights in the armed forces, which will promote the protection of human rights in relation both to recruiting and service in the armed forces. It will focus on the rights of individuals serving in the armed forces, as well as those of conscientious objectors.

With regard to combating trafficking in human beings, the ODIHR will seek to implement all tasks specifically given in the Action Plan endorsed by the Maastricht Ministerial Council, as well as to support and liaise with the new mechanism established in Vienna. The Office will provide support to participating States to develop National Referral Mechanisms in line with the handbook that was published in 2004.

In the light of the adoption of a Gender Action Plan, the ODIHR's Human Rights Department will expand its focus on women's rights. This will be carried out through a two-fold strategy of integrating a gender perspective into all of the department's activities and by developing monitoring and projects with a special focus on women.





ODIHR Director Christian Strohal (right) and other staff members visit the former Auschwitz concentration camp in southern Poland prior to the publication of a book, supported by the ODIHR, on Holocaust education.

# Tolerance and Non-Discrimination

Violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and manifestations of hate and intolerance continue to endanger stability and threaten security in the OSCE region. There remains a significant amount of work to be done in building democratic and pluralistic societies, where ethnic, cultural, and religious diversity is not only tolerated but respected and valued. Since 1990, the OSCE has enhanced its commitments to combat racism, xenophobia, anti-Semitism and related intolerance, including against Muslims.

*The OSCE has enhanced its commitments to combat intolerance*

In 2004, tolerance and non-discrimination ranked highly among the priorities of the Bulgarian Chairmanship of the OSCE. In follow-up to the Maastricht Ministerial Council Decision on Tolerance and Non-Discrimination, three major events were held in 2004 in order to support improved implementation of OSCE commitments:

- 1) The *OSCE Conference on anti-Semitism* in Berlin in April;
- 2) The *OSCE Meeting on the Relationship between Racist, Xenophobic and anti-Semitic Propaganda on the Internet and Hate Crimes* in Paris in June;
- 3) The *OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination* in Brussels in September.

And in December, the Chairman-in-Office made three key appointments to further promote action in the area of non-discrimination and tolerance. Anastasia Crickley was appointed as Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions; Gert Weiskirchen became the Personal Representative on Combating anti-Semitism; and Ambassador Ömür Orhun was appointed as Personal Representative on Combating Intolerance and Discrimination against Muslims.

The Decision on Tolerance and Non-Discrimination taken by the Maastricht Ministerial Council (Decision No. 4) in 2003 significantly increased the ODIHR's mandate in this area, requiring the Office to undertake a number of activities to support OSCE participating States in their efforts to promote tolerance and non-discrimination. Specifically, the Maastricht Ministerial Council decided that the ODIHR should:

- ♦ **Serve as a collection point** for information and statistics gathered by participating States on hate crimes, including violent manifestations of racism, xenophobia, anti-Semitism, and other forms of intolerance;
- ♦ **Report regularly** on the information received from participating States, including in the format of the Human Dimension Implementation Meeting (HDIM);
- ♦ **Receive information from OSCE states on their existing legislation** regarding crimes fuelled by intolerance and discrimination;
- ♦ **Promote best practices and disseminate lessons learned** in the fight against intolerance and discrimination;
- ♦ **Provide assistance**, where requested by participating States, **in drafting and reviewing legislation** regarding crimes fuelled by intolerance and discrimination.

The Maastricht Ministerial Council Decision further required that, in its information-gathering activities, the ODIHR should seek full co-operation particularly with the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC), and the UN Committee on the Elimination of Racial Discrimination (UNCERD), as well as with relevant NGOs. The Ministerial Council also called upon the ODIHR to reinforce its activities with respect to discrimination against migrant workers, asylum seekers, and refugees, as well as with respect to the integration of migrant workers into the societies in which they are legally residing. The Minis-

terial Council tasked the Permanent Council, as well as the ODIHR, the High Commissioner on National Minorities, and the Representative on Freedom of the Media, in close co-operation with the Chairman-in-Office, with ensuring effective follow-up to the relevant provisions of the Decision.

The role of the ODIHR in combating racism and intolerance was further strengthened under the OSCE Permanent Council Decisions on Combating Anti-Semitism (Decision No. 607), adopted in April 2004, and on Tolerance and the Fight against Racism, Xenophobia and Discrimination (Decision No. 621), adopted in July 2004, which further tasked the ODIHR to:

- ♦ **Follow closely**, in full co-operation with other OSCE institutions, as well as the CERD, ECRI, and the EUMC and other relevant international institutions and NGOs, **incidents motivated by racism, xenophobia, anti-Semitism and discrimination or intolerance, including against Muslims, in the OSCE area**, making use of all reliable information available;
- ♦ **Report its findings** to the Permanent Council and to the HDIM and to make these findings public;
- ♦ **Systematically collect and disseminate information throughout the OSCE area on best practices** for preventing and responding to anti-Semitism and, if requested, offer advice to participating States in their efforts to promote tolerance and non-discrimination;
- ♦ **Support the ability of civil society** and the development of partnerships to combat manifestations of hate-motivated intolerance in the OSCE region.

Although tolerance and non-discrimination issues were previously addressed within the ODIHR's Human Rights Programme, an entirely new Tolerance and Non-Discrimination Programme was established in 2004 in order to effectively implement the ODIHR's extended mandate and tasks.

The Organization's new and strengthened focus highlights the challenges that governments face in terms of the effective implementation of their commitments.

## MAIN ISSUES

- ♦ **Combating hate-motivated crimes and violent manifestations of intolerance:** Racism, xenophobia, anti-Semitism, and other forms of intolerance, including against Muslims, are serious problems that demand multidimensional responses, including through strengthened legislation and law-enforcement practices. A coherent and comprehensive response to hate-motivated crimes also depends on the availability of accurate information.

- ♦ **Freedom of religion or belief:** Across the OSCE region, many individuals and groups face restrictions on their right to freedom of religion or belief. Problems include discrimination against individuals in the workplace and public services, defamation campaigns against minority religions or belief groups, the disruption or prohibition of worship even in private homes, censorship of religious literature, and imprisonment of those who object to military service on religious grounds. These restrictions may be a direct result of state legislation and policies, or, in other cases, they may arise as a result of a lack of protective action from state authorities, often in the face of a dominant religious majority.

- ♦ **Combating intolerance through the promotion of intercultural and inter-religious respect and mutual understanding:** In addition to creating opportunities for increased intercultural and interfaith dialogue, it is

important that educational, training, and awareness-raising programmes are promoted and further strengthened in order to foster an appreciation and respect for diversity.

## ACTIVITIES

The ODIHR's tolerance and non-discrimination activities in 2004 concentrated on the following areas:

- ♦ Collection and compilation of data and statistics on hate crimes;
- ♦ Promoting freedom of religion or belief;
- ♦ Tolerance education and training; and
- ♦ Strengthening co-operation and co-ordination with other organizations.

### 1. COLLECTION AND COMPILATION OF DATA AND STATISTICS ON HATE CRIMES

#### Collection of data and statistics from OSCE participating States

In order to monitor and respond to hate crimes and violent manifestations of intolerance within the OSCE area, it is important to have in place mechanisms to measure and evaluate the impact of efforts to combat these phenomena. In an effort to assess the ability and capacity of the OSCE participating States to collect and compile reliable information and statistics on hate crimes and begin a systematic collection of information, the ODIHR requested OSCE participating States to provide information, legislation, and statistics on hate crimes, including violent manifestations of racism, xenophobia, anti-Semitism, and other forms of intolerance, as well as an overview of relevant legislation and good practices. Participating States were also asked to nominate authorities responsible for the collection and provision of information to the ODIHR.

The ODIHR also began developing contacts with partner NGOs to provide supplemental data and information on incidents and to assist in monitoring hate crimes and violent manifestations of racism, xenophobia, anti-Semitism, and other forms of intolerance. In March, a request was sent out to NGOs inviting them to provide the ODIHR with supplementary information.

### Development of a data-management system

During 2004, the ODIHR commissioned an information-management expert to conduct a needs assessment in order to identify the technical, substantive, and financial requirements of establishing a system that would enable the ODIHR to: 1) store relevant information collected from state and non-state actors within the OSCE region; 2) classify and index information in ways that make it retrievable when and as needed; 3) analyse and present the information to make it understandable and useful; and 4) disseminate information in ways that not only combat racism, anti-Semitism, discrimination, and intolerance but also promote good practices.

Based on the findings and recommendations of the needs-assessment report, the ODIHR has begun the process of developing two separate databases (a virtual online library containing reports relating to tolerance and non-discrimination and a database of practical initiatives) to meet the information needs of the programme.

## 2. PROMOTING FREEDOM OF RELIGION OR BELIEF

Since the 1975 Helsinki Final Act, freedom of thought, conscience, religion, or belief has been one of the core commitments that each of the OSCE's 55 participating States has agreed to respect. Over the past 30 years, these commitments have been considerably expanded and were reiterated in 2004 in the Permanent Council's Decision (No. 621) on Tolerance and the Fight against Racism, Xenophobia and Discrimination.

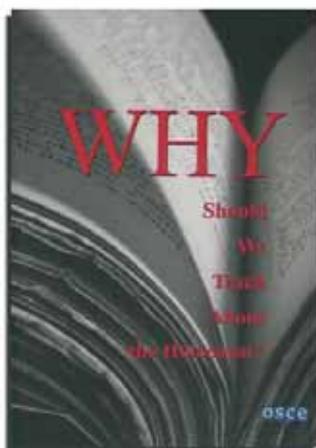
During the course of 2004, the ODIHR's Panel of Experts on Freedom of Religion or Belief was reformed in order to broaden its expertise, to extend its geographic range, and to ensure an effective working structure. The Panel now consists of more than 50 experts from across the OSCE region and has a newly created Advisory Council comprising 15 of those experts to give focus and direction to the Panel's work.

The Panel continued to work in the field of legislative review throughout 2004. In September, the ODIHR published *Guidelines for Review of Legislation Pertaining to Religion or Belief*, which was drafted by members of the Panel of Experts in association with the Council of Europe's Venice Commission. These guidelines will assist the Panel and others across the region in continuing work of this type. The Panel has continued to monitor legislative developments and to be involved in the review process where requested. In December, Panel members co-organized, and participated in, a conference in Georgia on possible reform to laws pertaining to religion.

## 3. TOLERANCE EDUCATION AND TRAINING

In order to build societies where ethnic, religious, and cultural diversity is valued and appreciated and regarded as a strength rather than a threat, a priority area of the ODIHR's tolerance and non-discrimination activities has been the development of projects to support increased education and training in the area of tolerance.

The ODIHR supports activities by members of its Panel of Experts on Freedom of Religion or Belief in the field of tolerance education. In 2004, for example, the Office supported the publication of Polish and English versions of a compilation of essays by Polish experts entitled *Why Should We Teach About the Holocaust?*, as well as the development of a *Website Guide to Tolerance Education* (<http://tolerance.research.uj.edu.pl/en>).



In association with the Office of the UN's High Commissioner for Human Rights (UNOHCHR), members of the Panel also worked on the development of a training module on international standards and jurisprudence relating to freedom of religion or belief. The

target participants of the training module, which the ODIHR intends to pilot in 2005, include government officials, law-enforcement authorities, field-mission staff, journalists, NGOs, and religious communities themselves.

In order to support participating States in implementing their commitments to promote educational programmes for combating anti-Semitism and to promote remembrance of, and education about, the tragedy of the Holocaust, the ODIHR developed a project called Education on the Holocaust and Anti-Semitism in the OSCE Area. The outcome of the project will be the development of a manual for assessing good practices in the area of existing pedagogical approaches to address anti-Semitism and the Holocaust. In addition to serving as a useful guide for educators and policy makers, the manual will also be used as the basis for the development of model curricula for the OSCE area.

#### 4. STRENGTHENING CO-OPERATION AND CO-ORDINATION WITH OTHER ORGANIZATIONS

In planning for, and implementation of, its new roles and responsibilities related to tolerance and non-discrimination, it is crucial that the ODIHR assumes a role that will not duplicate the work already being done by

other international actors, particularly the ECRI, EUMC, UNCERD, and UNOHCHR.

Therefore, as a first step, the ODIHR commissioned the development of a *Comparative Study on International Action against Racism, Xenophobia, anti-Semitism and Intolerance in the OSCE Region* in order to obtain a full understanding of the mandate and activities of the ECRI, EUMC, and UNCERD/OHCHR. The study explored ways in which the ODIHR could assume a role that would not unnecessarily duplicate the work already being done by others but that would build on existing efforts. For each organization, the study examines the definitions used, as well as mandates and structures, monitoring and reporting methodology, co-ordination with international organizations and NGOs, and the challenges facing each of the organizations. The study also considers the role and additional value of the OSCE's involvement in the area of combating racism, xenophobia, anti-Semitism, and intolerance and makes recommendations regarding specific areas where the ODIHR can complement existing efforts. The study was presented at the OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination on 13-14 September in Brussels. In connection with the study, the ODIHR also conducted report-mapping exercises in order to obtain information on available reports and data for countries in the OSCE area and to prevent duplicating and overlapping requests for information with other international organizations.

A high-level interagency meeting between the organizations was convened on 3 September in Vienna. At the meeting, the study and results of the report-mapping exercises were presented, and several concrete recommendations were made about ways to co-ordinate data collection among the different organizations in order to prevent duplicating information requests to participating States. The recommendations from the meeting were presented at the OSCE conference in Brussels.

In 2004, the ODIHR's Panel of Experts on Freedom of Religion or Belief developed closer relationships with other key international bodies, in particular the UN Special Rapporteur on Freedom of Religion or Belief, who served as a keynote speaker at the HDIM. Throughout the development of the *Guidelines for Review of Legislation Pertaining to Religion or Belief*, the ODIHR also increased its co-operation with the Council of Europe's Venice Commission. Regarding the ODIHR's efforts to co-ordinate its activities to combat anti-Semitism, one of the key priorities of the Adviser on Anti-Semitism Issues was to establish contact with key NGOs in order to initiate co-operation on monitoring activities and collect and compile good practices in areas such as Holocaust education and tolerance education.

## FUTURE PRIORITIES

In 2005, the ODIHR's efforts to support the implementation of tolerance commitments and tasks will focus on four key areas: 1) legislation; 2) education and training; 3) law enforcement; and 4) monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents.

### Legislation

The ODIHR will work with the Panel of Experts on Freedom of Religion or Belief to continue its efforts to support participating States in reviewing their laws pertaining to freedom of religion or belief using the newly developed legislative guidelines as a basis. The ODIHR will also evaluate existing legislation that deals with crimes motivated by hate throughout the OSCE region. In order to support states in strengthening their laws, the ODIHR will co-ordinate the drafting of guidelines for the review of hate-crimes legislation.

### Education and training

In 2005, the project Education on the Holocaust and Anti-Semitism in the OSCE Area will be followed up with a workshop of international experts to discuss and

analyse the results of the evaluation and produce a framework for the development of curricula on Holocaust/anti-Semitism education. The ODIHR's Panel of Experts on Freedom of Religion or Belief will continue to work on issues of interfaith and intercultural dialogue with a view to promoting tolerance, respect, and mutual understanding. Tolerance-education initiatives, such as the development of the *Website Guide to Tolerance Education* and training seminars on international standards pertaining to freedom of religion or belief, will be a priority for the Panel. Throughout 2005, the ODIHR will also organize training seminars for NGOs in order to support their efforts to monitor and respond to hate crimes.

### Law enforcement

In order to support participating States in establishing training programmes for law-enforcement officers relating to hate crimes, the ODIHR initiated the project Hate Crime Training Programme for Law Enforcement Agencies in the OSCE Region, in co-operation with the National Public Safety Strategy Group and the American Jewish Committee. The project aims to increase the capacity of law-enforcement officers to identify hate crimes and mobilize community and NGO resources to assist victim communities. The project will result in an evaluation of existing good practices that will be consolidated into a resource manual for use by law-enforcement officers. The project will also pilot a train-the-trainer programme in two participating States with the intention of expanding the programme further upon the request of other states.

### Monitoring, reporting on, and following up on hate-motivated crimes and incidents

The ODIHR will continue to serve as a collection point for information related to hate crimes and to report regularly on these issues. In March 2005, the ODIHR will present a report on the information collected in 2004, and, at the OSCE Conference on Anti-Semitism and Other Forms of Intolerance in June 2005, the ODIHR will launch its Tolerance and Non-Discrimina-

tion InformatiONline Database, which will consist of a virtual library of resources and practical initiatives aimed at combating hate crimes and promoting tolerance. Once the Tolerance and Non-Discrimination Programme is fully staffed, the ODIHR will also continue to closely follow responses to hate crimes. In doing so, the ODIHR will work in close co-operation with the three newly appointed Personal Representatives of the Chairman-in-Office.

The ODIHR will also continue to further strengthen its co-operation with other OSCE institutions and field operations, as well as with other international organizations, NGOs, and specialized bodies.



Roma voters have their documents checked by the election board in Suto Orijari, on the outskirts of Skopje, during the second round of the presidential election in the former Yugoslav Republic of Macedonia, 28 April 2004.

# Contact Point for Roma and Sinti Issues

The ODIHR's activities on Roma and Sinti issues aim to strengthen national and international efforts to promote tolerance and non-discrimination. As a mechanism for early warning, the ODIHR has proven to be effective in indicating increasing tensions and situations calling for crisis management in cases where tensions between Roma and the majority population have evolved into open conflict. The key overall objective of the ODIHR's work in this field is to promote enduring security and stability in the OSCE region by assisting in the development of truly inclusive societies in which all citizens enjoy equal rights.

With a view to realizing this goal, the ODIHR is implementing a work programme that focuses on the advancement of the political rights of Roma and Sinti in the OSCE area, on acute crisis prevention and crisis management in post-conflict areas of South-Eastern Europe, and on fostering and supporting civil society development among Roma communities in the Balkans.

## In addition, the ODIHR:

- ♦ Provides policy advice to OSCE governments;
- ♦ Acts as a clearing house for the exchange of information on Roma and Sinti issues, including information on the implementation of Roma-related commitments by OSCE participating States;
- ♦ Enhances interaction between OSCE structures, governments, international organizations, and Roma or Roma-related NGOs to develop synergies and common approaches; and
- ♦ Collects information from OSCE countries on legislative and other measures related to the situation of Roma and Sinti and makes it available to the OSCE community and other international organizations.

*The ODIHR assists in  
the development of truly  
inclusive societies*

## MAIN ISSUES

- ♦ **Political participation:** A strong ethnic and cultural Roma identity that often prevails over a national identification with countries of residence has resulted in a pervasive lack of awareness among Roma about how to influence their own circumstances through political participation. In addition, anti-Roma discrimina-

tion has contributed to a sense of alienation among Roma from political life in their countries.

♦ **Discrimination and racial violence:** Anti-Roma bias has negative effects on access to employment, education, housing, and health care. In several countries, Roma have been targets of racial violence, including racially motivated murder. Unlawful treatment of Roma by police is a widespread problem. Recent years have seen the *resurgence* of centuries-old prejudices in relation to current processes, such as enlargement of the European Union, reform of asylum and immigration laws, reform of social-welfare systems, and in the area of land and urban management in regions or municipalities.

♦ **Education:** In many countries, Roma children encounter widespread discrimination and rejection in public schools. It is not unusual for these children to be forced into schools reserved for the mentally disabled. The future long-term consequences of this can be highly detrimental to positive advancement in the societies in which they live.

♦ **Living conditions:** Roma face widespread discrimination with regard to access to housing and health care. The resulting extremely poor living conditions give rise to high incidence of disease and malnutrition.

♦ **The OSCE Action Plan on Improving the Situation of Roma Within the OSCE Area:** In response to the problems described in this section, the OSCE adopted an Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area in December 2003 that calls on participating States to take steps to ensure that such minority groups are able to play a full part in public and political life and that discrimination against them is eliminated. The ODIHR is the primary OSCE body responsible for reporting on implementation of the Action Plan, as well as for providing advice on particular aspects of thereof.

The ODIHR Contact Point addresses these issues either directly through its programmes or by promoting the establishment of institutional frameworks at local and national levels designed to advise governments and administrations on policy-making on Roma affairs. In doing so, the Contact Point co-ordinates closely with other international organizations and NGOs and seeks to involve Roma in all its activities.

## ACTIVITIES

The ODIHR carried out activities in 2004 in the following areas:

- ♦ Implementing the Action Plan *on Improving the Situation of Roma and Sinti Within the OSCE Area*;
- ♦ Enhancing the participation of Roma in public and political life;
- ♦ Addressing problems related to crisis situations.

### 1. IMPLEMENTING THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA

While OSCE participating States themselves are the main actors responsible for implementing the detailed recommendations contained in the Action Plan, the ODIHR's Contact Point for Roma and Sinti Issues is the main body responsible for assessing and reporting on implementation of the Action Plan. In 2004, a number of countries made progress in implementing their commitments, in particular through the adoption of legislation to combat discrimination and the establishment of institutional means to enforce such legislation. However, not all countries took full advantage of the Action Plan, and much remains to be done to ensure that Roma and related groups enjoy equal rights with all other citizens in the societies in which they live.

"The Action Plan is intended to reinforce the efforts of the participating States and relevant OSCE institutions and structures aimed at ensuring that Roma and Sinti people are able to play a full and equal part in our societies, and at eradicating discrimination against them."

**OSCE Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area**

## 2. ENHANCING THE PARTICIPATION OF ROMA IN PUBLIC AND POLITICAL LIFE

In recent years, Roma have begun to participate more actively in society in general and in political life in particular. Nonetheless, the scale of participation is still very limited. The number of Roma participating in elections, either as voters or as candidates, is still disproportionately low. This under-representation is partially due to institutional obstacles and the general marginalization of Roma within the societies in which they live. Another significant factor, however, is a lack of knowledge by many Roma of their civil and political rights and of the existing institutional means to make effective use of those rights to influence politics in their home countries.

"...for Roma, with Roma..."

**OSCE Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area**

Without coherent institutional representation, Roma are typically not involved in the decision-making processes aimed at improving their living conditions; rather, they find themselves treated as objects of sup-

port and assistance by national authorities, aid agencies, and international organizations. Notwithstanding this, there have been a number of initiatives recently by Roma organizations and various governments designed to improve representation structures and consultation mechanisms, both at the national and international levels.

### Roma and elections

In co-operation with the European Commission and the Council of Europe, the ODIHR has been conducting a long-term programme called "Roma under the Stability Pact for South Eastern Europe". The 2003-2005 phase of this programme, called "Roma, Use Your Ballot Wisely!", encourages Roma and related groups to become more active participants in public life at all stages of the decision-making process.

As part of this programme, the ODIHR trained a group of Roma, Ashkali, and Egyptians from five OSCE participating States to be short-term election observers. While the trainees were taught skills necessary for working as domestic or international observers, the training also focused on electoral behaviour of Roma and similar communities and the problems related to their political participation.

One of the keys to removing barriers to the political participation of Roma and similar communities is first to have a better understanding of those obstacles and their causes. The short-term observers trained by the ODIHR can make an impact by monitoring elections in their own countries. The data they collect about the problems facing national minorities is necessary to fill in the details about how and why such communities are excluded from the electoral process. Only when that picture becomes more complete will it be possible to find solutions.

The ODIHR seconded Roma observers to monitor numerous elections in 2003 and 2004, including a group of 12 who observed the re-run of the presidential elec-

tion in Ukraine on 26 December 2004. This group has since formed an international network called Romastos that is now working to promote democratic structures and mechanisms within Roma communities and organizations. In addition, Romastos is working to see that OSCE election standards are used in the ongoing process of selecting national representatives to the European Roma and Travelers Forum, which was established at the end of 2004 in partnership with the Council of Europe. The aim in doing so is to ensure the legitimacy of those individuals and organizations selected to represent Roma and related groups in a variety of consultative and executive bodies at the local, national, and international levels.

The observation of elections in a variety of countries has shown a slow but constant trend towards greater inclusion of Roma constituencies in electoral institutions, including increasing turnout among Roma voters, a greater understanding among Roma voters of the political questions related to various electoral events, an increase in the number of Roma elected to municipal councils, and better knowledge and use of procedures among elected bodies to promote better-defined Roma-related policies (e.g., the promotion of a law to establish a Roma National Agency in Romania).

### **Special focus on Roma women**

Roma women tend to be particularly disadvantaged, as they are often the victims of multiple forms of discrimination and social injustices both in their communities and in their own families. One means of ending such discrimination is through empowering women to demand that they be treated with respect and that their rights be fully protected. While this is often easier said than done, the value of role models should not be overlooked when it comes to empowerment. From that point of view, 2004 was a milestone year, as two young Roma women from Hungary were elected to the European Parliament. Their achievements and high-profile positions in European politics should certainly provide a boost to the confidence of Roma

women throughout the OSCE region, while also encouraging greater participation in political life.

The ODIHR is also doing its part, having adopted a special mentor programme focused on the empowerment of Roma women. A number of experienced Roma women activists were tasked by the ODIHR as early as 2001 with passing on their experiences and expertise to groups of young women active in NGOs working on Roma issues.

This network has provided the core for recent ODIHR initiatives to tackle certain cultural practices in Roma communities that have a particularly negative effect on women, such as early and arranged marriages, which may entail disadvantages for girls and young women in getting equal access to schools and in exercising other fundamental freedoms.

The ODIHR organized an international conference in Bucharest in April that focused on Romania's experience in promoting Roma and other minority women in political and democratic processes. Romania saw, for example, a significant increase in the number of women candidates on party lists put forward by a variety of Roma associations for the parliamentary elections in November. The ODIHR is also working towards the establishment of a regional task force on Roma and gender issues. So far, a national team has been established in the former Yugoslav Republic of Macedonia, and a Roma women's network was set up in Romania following the Bucharest conference. The regional task force will result from further networking and co-ordination among these and other national teams.

### **Confidence-building and problem-solving at the local level**

The ODIHR has been working to ensure that this part of the Action Plan becomes a reality, mainly by bringing together Roma officials from a number of countries at meetings throughout the year to share experiences,

build networks, and receive further training on specific policy issues that need to be dealt with in co-operation with local and national authorities.

As food for thought for these meetings, the ODIHR commissioned a report on good practices on the participation of Roma as appointed officials in local state administration, which documented the experiences of Roma advisers at various levels of state administration in the Czech Republic and Romania. One of the report's main findings was that the practice of recruiting Roma advisers in local administrations seems to be more effective when such positions are based on laws or administrative decisions that coincide with the laws on the status of public officials rather than when they are the result of *ad hoc* political arrangements. When advisers are appointed under such arrangements, the report indicates, their job performance, accountability, and the sustainability of their positions are questionable.

#### Local Roma contact points

The ODIHR established a network of local Roma contact points throughout South-Eastern Europe in 2003 and 2004. The contact points are Roma selected by the ODIHR to act as intermediaries between Roma communities and local authorities. The purpose of this project is not only to improve communication between Roma populations and the authorities but also to train young Roma professionals in preparation for possible future engagements in institutions and organizations dealing with Roma affairs.

In 2004, the ODIHR sponsored six Roma interns who worked in the local administration in the municipalities of Vrane and Nis as part of a programme run by the Ministry of Human and Minority Rights of Serbia and Montenegro and the OSCE Mission to Serbia and Montenegro. Similar arrangements are being considered for municipalities in Moldova and the former Yugoslav Republic of Macedonia in 2005.

### 3. ADDRESSING PROBLEMS RELATED TO CRISIS SITUATIONS

"The participating States have an obligation to ensure that, even in crisis and post-crisis situations, all the fundamental rights ... are secured without discrimination."

**OSCE Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area**

#### The Roma of Kosovo

Deep-rooted hostility and ethnic hatred against Roma exploded violently during conflicts in Kosovo. The authorities and international community responsible for administering the province of Kosovo still have to cope with the unresolved situation of entire Roma neighbourhoods that have been destroyed (in Mitrovica, for example) and the hundreds of families who have been expelled from their legal residences, without any visible prospects for property restoration. These families have become internally displaced persons (IDPs) in Kosovo or other parts of Serbia or have become refugees in neighbouring states.

The ODIHR, in close co-operation with the United Nations High Commissioner for Refugees, the Council of Europe, and local NGOs, continues to assist refugees and IDPs throughout the Balkans to develop internal structures and capacities that allow them to make effective contributions to finding durable solutions to their problems together with local and national authorities, Roma organizations, and the international community.

In December, the ODIHR facilitated a regional meeting in Belgrade of NGOs and IDPs from Serbia and Montenegro and Bosnia and Herzegovina. The purpose of

the meeting was to establish a task force on Roma refugees and IDPs that would work in co-operation with relevant national agencies, the UN High Commissioner for Refugees, and OSCE field missions. While the task force has been established to a degree, it is not yet operational.

The ODIHR and the OSCE Mission in Kosovo have also been working closely together to help the Roma and Ashkali populations that continue to live in Kosovo. Since July 2004, the ODIHR and the NGO Balkan Sunflower have been supporting a Documentation Office for Roma and Ashkali, in Pristina, that is working to increase electoral registration and turnout among Roma and Ashkali at elections in the province. This office created a Roma Forum involving representatives of the Kosovar Roma political community and civil society. The Forum used the OSCE Action Plan as a basis for producing its own Kosovo Roma Action Plan for the 2004 Election.

### **Preventing conflicts in local contexts**

As tasked by the OSCE Action Plan, the ODIHR began in 2004 to take a proactive approach to analysing measures taken by participating States in relation to Roma and related groups and to offer advice in cases where tensions could erupt into violence.

As part of this new approach, the ODIHR launched a project in 2004 on the legalization of land and housing for Roma and Sinti communities. Continuing earlier work aimed at ensuring that Roma and related groups have equal access to housing (a prerequisite for access to public services and civil rights), it aims to reduce social tensions that often arise in relation to the question of housing.

Large communities of Roma and Sinti live in circumstances of uncertain legality. For example, houses and settlements are located on disputed lands; families and individuals often lack permits for construction; or indi-

viduals have unclear residency status in a particular region or municipality. As a result of legal and administrative complexities (which are often exacerbated by the process of transition in former communist countries or by reforms in the area of urban management in established democracies), large numbers of Roma and Sinti families throughout the OSCE region frequently face forced evictions and a variety of forms of harassment.

One approach to solving such problems can be illustrated by a project to legalize the Roma settlement in the municipality of Kocani in the former Yugoslav Republic of Macedonia. Initiated by the NGO Bright Future, the Mayor's Office, and the Municipal Council, both the ODIHR and the OSCE Spillover Monitor Mission to Skopje have been supporting this project since August 2004.

Implementing this project is a complex matter that requires a host of technical documentation, approvals from the relevant ministers in the central government, public consultations with the community, and debates and decisions in the local council. This process is driven by the Roma community, their representatives in the national parliament and the central government, and Roma NGOs, all acting in sustained co-operation with local authorities and members of the community.

### **Improving policing in multiethnic communities**

The ODIHR began a new two-year programme in 2004 called Police and Roma: Towards Safety for Multiethnic Communities. The first stage of this programme involved workshops in Busteni, Romania, in November and in Wrocław, Poland, at the beginning of 2005 that began a dialogue among senior officers of the police, Roma NGOs, local authorities and international experts on relations between the police and Roma in multiethnic communities. Similar workshops will be held in South-Eastern Europe and one or two countries of the European Union in 2005.

The programme serves three purposes: (1) to make a systematic assessment of current policing policy and practices in relation to recommendations in the Action Plan; (2) to strengthen the capacity of Roma NGOs to take part in regular assessments of police activities and to co-operate with them in any actions taken subsequent to those assessments; and (3) to carry out a project with the ODIHR programme on tolerance and non-discrimination on law-enforcement training in the area of hate crimes. The methods used for the assessments and any training will be documented and disseminated throughout the OSCE region as a model for good practices in implementing the Action Plan.

governments, as well as to Roma populations and their representatives. The ODIHR will also co-operate closely with other OSCE structures, such as the Senior Police Advisor in the Secretariat, to mainstream Roma- and Sinti-related needs and requirements in OSCE activities and interventions.

## FUTURE PRIORITIES

The ODIHR's primary objective in the coming years will be the continued implementation of the Action Plan. And, of course, the ODIHR will continue to be active in its preparation of human dimension events in order to keep participating States, OSCE institutions and field missions, and Roma and related groups themselves informed about progress in the implementation of the Action Plan. In addition, activities will also be carried out that are aimed at increasing awareness of, and combating discrimination against, Roma and related groups, as well as at increasing their political participation.

Building on the Action Plan, the ODIHR will also continue to engage local and national authorities in establishing mechanisms to monitor and improve relations between Roma and Sinti and the majority populations with the aim of preventing or managing potential conflicts, paying particular attention to settlements with mixed populations. In addition, the ODIHR will continue to monitor the human-rights situation of Roma and Sinti in order to act as an early-warning mechanism for the OSCE; it will, whenever needed, provide guidance and support to national

# 2004 Projects

Thematic Area	Region/Country	Title
<b>ELECTIONS</b>		
Elections	Albania	Conflict Management Training Programme for the Albania Central Election Commission
Elections	Ethiopia	Provision of Assistance on Elections to the African Union
Elections	Caucasus and Central Asia Regional	Gender Education for Young Generation Programme
Elections	Caucasus and Central Asia Regional	Integration of Gender Aspects into the Work of Government Structures
Elections	Central Asia, OSCE Region	Election Observers from Central and Eastern Europe and Commonwealth of Independent States (Fund for Participation of Election Experts from Developing Democracies in ODIHR Observation Missions)
Elections	Central Asia, Caucasus, Central and Eastern Europe Regional	Strengthening the Third Sector Programme: Training and Assistance
Elections	OSCE Region	Election Assistance Project: Voter Registration Best Practices
Elections	Kyrgyzstan, Uzbekistan	Civic Diplomacy Project: Kyrgyzstan/Uzbekistan Ferghana Valley
Elections	OSCE Region	ODIHR Guidelines on Media and Elections
Elections	Central Asia, Caucasus, South-Eastern Europe Regional	Civic Education Programme
<b>GENDER</b>		
Gender	Caucasus and Central Asia Regional	Women's Leadership Development Programme
Gender	Armenia	Women's Leadership Development/Women's Rights Education and Leadership Development
Gender	Azerbaijan	Women's Leadership and Network-Building/Women's Leadership and Political Participation
Gender	Georgia	Women's Leadership and Coalition-Building/Women's Leadership and NGO Coalition-Building
Gender	Kyrgyzstan	Women's Leadership, Lobbying and Network-Building
Gender	Central Asia, Caucasus, Central and Eastern Europe Regional	Regional Conference on International Human Rights Standards in Central Asia and Eastern Europe: The Right to Choice of a Place of Residence
Gender	Kazakhstan	Women's Rights Awareness Project 2003 - Phase 2: Women's Political Awareness
Gender	OSCE Region	ODIHR Anti-Trafficking Contact Point Programme
Gender	Caucasus and Central Asia Regional	Expert Training for Local Gender Specialists: Advanced Training of Trainers
Gender	Caucasus and Central Asia Regional	Programme to Integrate Gender Aspects into the Work of Government Structures

<b>Thematic Area</b>	<b>Region/Country</b>	<b>Title</b>
Gender	Azerbaijan	Increasing Participation of Women in Economic Life
Gender	Central Asia, South Caucasus	Local Initiatives to Promote Equal Rights and Opportunities for Women in Rural Areas
Gender	Caucasus Regional	Prevention of Violence against Women

#### **HUMAN RIGHTS**

Human Rights	Central Asia Regional	Follow-up Workshops on Freedom of Religion and Belief and Tolerance in Central Asia
Human Rights	OSCE Region	Implementation of National Referral Mechanisms
Human Rights	OSCE Region	Trial-Monitoring Programme
Human Rights	OSCE Region	Trial-Monitoring: Central Asia
Human Rights	OSCE Region	Human-Rights Training and Education
Human Rights	South-Eastern Europe Regional	Civil Society and Youth Affairs Programme for South-Eastern Europe
Human Rights	South-Eastern Europe Regional	Civil Society Project
Human Rights	Caucasus, Central Asia Regional	ICCPR Training Follow-Up Project
Human Rights	OSCE Region	Anti-Terrorism Technical Legislative Assistance Programme
Human Rights	Caucasus Regional	Human-Rights Monitoring Training Programme
Human Rights	Caucasus, Central Asia Regional	Penitentiary Reform Assistance – Central Asia
Human Rights	Caucasus, Central Asia Regional	Prosecutors Assistance Project

#### **TOLERANCE AND NON-DISCRIMINATION**

Tolerance and Non-Discrimination	OSCE Region	Tolerance and Non-Discrimination
Tolerance and Non-Discrimination	OSCE Region	Anti-Trafficking Awareness Raising: Media and NGO Training Programme
Tolerance and Non-Discrimination	OSCE Region	Standard Setting and Capacity-Building: Capacity Building of OSCE Staff

Thematic Area	Region/Country	Title
<b>MIGRATION/FREEDOM OF MOVEMENT</b>		
Migration	Central Asia, Caucasus, Central and Eastern Europe Regional	Awareness-Raising about Rights of Migrants in Central Asia and Eastern Europe
Migration	Belarus	Assistance to Reform of the Registration System in Belarus
Migration	Central Asia, Caucasus, Central and Eastern Europe Regional	Promoting Cross-Border Co-operation on Migration-Related Information and Human Rights of Migrants/Cross-Border Co-operation through Collection of Migration Information
Migration	Central Asia, Caucasus, Central and Eastern Europe Regional	Promoting Interstate Co-operation on Labour Migration and Rights of Migrant Workers
Migration	Central Asia, Caucasus, Central and Eastern Europe Regional	Assistance in Implementation of International Human-Rights Standards: The Right to Choice of a Place of Residence
Migration	Ukraine	The Right to Choice of a Place of Residence: Ukraine/Assistance to Reform of the Registration System in Ukraine
Migration	Armenia	The Right to Choice of a Place of Residence: Armenia/Assistance to Reform of the Registration System in Armenia
Migration	Kyrgyzstan	Assistance to Reform of the Registration System/Registration of Permanent Residents in Kyrgyzstan

<b>CIVIL SOCIETY AND DEMOCRATIC GOVERNANCE</b>		
Civil Society and Democratic Governance	Caucasus	Follow-up Conference on Human-Rights Training
Civil Society and Democratic Governance	Central Asia Regional	Follow-up Conference on Human-Rights Training
Civil Society and Democratic Governance	Central Asia Regional	Human-Rights Monitoring Training Programme
Civil Society and Democratic Governance	Caucasus Regional	Human-Rights Monitoring Training Programme
Civil Society and Democratic Governance	OSCE Region	NGO Fund for Participation in Human Dimension Events
Civil Society and Democratic Governance	OSCE Region	Civic Dialogue Programme: Participation in Society
Civil Society and Democratic Governance	Central Asia Regional	Legal Clinic Development Project
Civil Society and Democratic Governance	Central Asia Regional	Technical Assistance for National Human Rights Institutions Such as Ombudsman
Civil Society and Democratic Governance	OSCE Region	Civic Dialogue Programme: Participation in Society
Civil Society and Democratic Governance	Kyrgyzstan	Civic Dialogue Project
Civil Society and Democratic Governance	Belarus	Youth and Society

<b>Thematic Area</b>	<b>Region/Country</b>	<b>Title</b>
Civil Society and Democratic Governance	Central Asia Regional	Civic Dialogue Programme: Participation in Society
Civil Society and Democratic Governance	Georgia	Civic Diplomacy Project
Civil Society and Democratic Governance	Moldova	Civic Diplomacy Project
Project Management	OSCE Region	Grassroots Democracy Project

### **RULE OF LAW**

Rule of Law	OSCE Region	Fair-Trials Programme: Assistance in Developing and Promoting Fair-Trial Standards
Rule of Law	Caucasus, Central Asia Regional	Basic Skills Training for Lawyers/Fair-Trials Programme
Rule of Law	Central Asia	Assistance to the Training Centre for the Judiciary
Rule of Law	OSCE Region	Criminal-Justice Programme: Assistance in Developing and Promoting Criminal-Justice Reform under OSCE Commitments
Rule of Law	OSCE Region	ODIHR Anti-Torture Programme
Rule of Law	Caucasus, Central Asia Regional	Monitoring Places of Detention
Rule of Law	Kazakhstan	Prison Service Training
Rule of Law	Kazakhstan	Training for Staff of Pre-trial Detention Facilities
Rule of Law	Kyrgyzstan	Legislative Assistance
Rule of Law	Kyrgyzstan	Prison Service Training
Rule of Law	Tajikistan	Prison Service Training
Rule of Law	Uzbekistan	Prison Service Training
Rule of Law	OSCE Region	Publication in Russian of APT Torture Manual
Rule of Law	Central Asia Regional	Rule of Law Programme
Rule of Law	Caucasus Regional	Technical Assistance for National Human-Rights Institutions such as Ombudsmen
Rule of Law	Caucasus Regional	Legislation Alert and Assistance Programme
Rule of Law	OSCE Region	Website Guide for Tolerance Education
Rule of Law	Central Asia Regional	Legislation Alert and Assistance Programme
Rule of Law	OSCE Region	Freedom of Assembly and Association
Rule of Law	OSCE Region	Assistance to Governments and Civil Society on Issues Related to Freedom of Assembly and Association
Rule of Law	OSCE Region	Death Penalty Programme
Rule of Law	Kyrgyzstan	Student Legal Aid Initiative on Criminal Law, University of Osh
Rule of Law	Kyrgyzstan	Training on ICCPR for Judges, Prosecutors and Defence Lawyers
Rule of Law	Central Asia Regional	Workshops on the Implementation of UNSCR 1373: Central Asia
Rule of Law	Caucasus Regional	Workshops on the Implementation of UNSCR 1373: Caucasus
Rule of Law	South-Eastern Europe Regional	Romani, Ashkali and Egyptian Refugees: An Independent Voice
Rule of Law	Belarus	Alternative Sentencing

<b>Thematic Area</b>	<b>Region/Country</b>	<b>Title</b>
<b>SOUTH-EASTERN EUROPE</b>		
South-Eastern Europe	South-Eastern Europe Regional	Prison Service Reform in South-Eastern Europe
South-Eastern Europe	Montenegro	Legislative Reform
South-Eastern Europe	South-Eastern Europe Regional	Regional Ombudsperson Institution Project
South-Eastern Europe	Croatia	Legal Assistance and Court Representation
South-Eastern Europe	Montenegro/Serbia and Montenegro	Prison Training Montenegro
South-Eastern Europe	Montenegro/Serbia and Montenegro	Institution-Building Project Montenegro
South-Eastern Europe	South-Eastern Europe Regional	Regional Trial Monitoring South-Eastern Europe
South-Eastern Europe	South-Eastern Europe Regional	Reprint of Report "As Seen, As Told" Project
South-Eastern Europe	South-Eastern Europe Regional	Penitentiary Reform and Fair-Trials Programme for Southeast Europe

<b>TRAFFICKING IN HUMAN BEINGS</b>		
Anti-Trafficking	Western Europe	Conference on Victim Protection in Countries of Destination
Anti-Trafficking	Moldova	Legislative Review Project
Anti-Trafficking	OSCE Region	Contribution to Anti-Trafficking Activities
Anti-Trafficking	OSCE Region	ODIHR Anti-Trafficking Project Fund
Anti-Trafficking	OSCE Region	Standard-Setting and Capacity-Building Programme
Anti-Trafficking	South-Eastern Europe Regional	Standard-Setting and Capacity-Building: Capacity-Building: South-Eastern Europe
Anti-Trafficking	Canada, EU Member States, Norway, Switzerland, USA	Countries of Destination: Promotion of Victim Protection Programme

<b>ROMA AND SINTI</b>		
Roma and Sinti	South-Eastern Europe, Central and Eastern Europe Regional	Combating Discrimination and Confidence-Building in Access of Roma to Legal Housing and Non-Segregated Residence in the OSCE Area, in Particular in Central and South-Eastern Europe
Roma and Sinti	South-Eastern Europe, Central and Eastern Europe Regional	Awareness-Raising for Roma Women Activists on the Issue of Trafficking in Human Beings
Roma and Sinti	South-Eastern Europe Regional	Human Rights and Minority Rights of Roma/ Setting up a Kosovar Non-Profit Office in Pristina
Roma and Sinti	OSCE Region	Best Practices; Methodology of Pre-School Care for Roma Children
Roma and Sinti	Central and Eastern Europe Regional	Police and Roma: Towards Safety for Multiethnic Communities
Roma and Sinti	OSCE Region	Educating Roma NGOs about AIDS and Drug Abuse
Roma and Sinti	OSCE Region	Building a Database on Roma and Media Best Practices in Selected OSCE Participating States
Roma and Sinti	OSCE Region	Best Practices Involving Roma and Sinti Activities of Local and Regional Administration/Self-Government Bodies Within the OSCE
Roma and Sinti	OSCE Region	Roma under the Stability Pact: Roma, Use Your Ballot Wisely
Roma and Sinti	OSCE Region	Advancing the Political Rights of Roma and Sinti

<b>Thematic Area</b>	<b>Region/Country</b>	<b>Title</b>
<b>CO-OPERATION WITH THE EUROPEAN COMMISSION</b>		
Human Rights, Rule of Law	Caucasus Regional	First EC-ODIHR Joint Programme for Conflict Prevention and Human-Rights Capacity-Building in the Caucasus
Democratization, Human Rights	Belarus	Second EC-ODIHR Joint Programme on Democratization in Belarus 2002-2003
Human Rights, Rule of Law, Elections	Central Asia and OSCE Region	Joint Programme 2003 of Co-operation between the EC and the ODIHR under the European Initiative for Democracy and Human Rights for Advancing Human Rights and Democratization in Central Asia and Developing Guidelines for Media Monitoring of Elections