

COMMON RESPONSIBILITY

COMMITMENTS AND IMPLEMENTATION

*Report submitted to the
OSCE Ministerial Council in response to
MC Decision No. 17/05
on Strengthening the Effectiveness of the OSCE*

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EXECUTIVE SUMMARY

The present report, “*Common Responsibility: Commitments and Implementation*”, aims to help the OSCE community to again underscore its core collective values and recommit to them. It reinforces earlier calls to redevelop a common responsibility of participating States not only towards each other, but, even more importantly, towards their citizens as primary beneficiaries.

Requested by the 2005 OSCE Ministerial Council of Ljubljana and submitted to the 2006 OSCE Ministerial Council of Brussels, the report is structured along four chapters and covers *the implementation of existing commitments, possible supplementary commitments, ways of strengthening and furthering the ODIHR’s election-related activities, as well as improving the effectiveness of the ODIHR’s assistance to participating States*. In preparing the report, the Office for Democratic Institutions and Human Rights (ODIHR) consulted closely with all 56 participating States.

A decade ago, heads of state and government expressed concern about a number of serious deficiencies in the implementation of OSCE commitments. While much progress has been achieved since then, this report points out that many problems remain acute today. Indeed, it is regrettable that, 10 years after the Lisbon Summit, electoral fraud, manifestations of aggressive nationalism and xenophobia, threats to freedom of the media, involuntary migration, incomplete or stalled transition to democracy, and a climate detrimental to the full realization of, and respect for, human rights persist within the OSCE region. This report also highlights the challenges many human rights defenders still have to face today and notes the important role of national human rights institutions in this regard. The fundamental freedoms of assembly and association are at risk in a number of participating States. The implementation of commitments on these two issues needs intensified attention. Finally, the report takes stock and raises awareness of the challenges that participating States face when they engage in the fight against terrorism.

Since Lisbon, several other issues of concern have emerged that need to be addressed as a matter of urgency for the OSCE to remain true to its principles, in particular the commitment to implement. New challenges, however, may require new commitments. The second chapter responds to the request of participating States to identify a number of areas where it appears that the OSCE *acquis* needs to be supplemented or made more explicit. Those areas where a normative response might be required and useful concern election-related challenges such as the transparency of the vote when new voting technologies are being tested and used, and the confidence an electorate needs to develop with respect to the process.

New commitments could also be elaborated to complement other areas that are at the core of the OSCE's human dimension: first, with regard to more traditional areas of human rights norms such as the prevention of torture; and second, with regard to key ingredients of democratic constitutionalism, the separation of powers of government, and judicial scrutiny of normative acts. Existing commitments in both areas could benefit from clarification or specification; a consolidation of commitments on tolerance and non-discrimination might also be considered.

While the ODIHR's election-related activities are discussed and reflected upon throughout the report, Chapter III explains in more detail the basis for, and the functioning of, the ODIHR's observation methodology, and it responds to criticism that it has recently drawn. In line with many of the solicited responses from States, the report outlines the modalities through which participating States can ensure effective follow-up to the recommendations offered by the ODIHR. In addition, the ODIHR presents a number of concrete measures, some of them already on the way, to strengthen its election-related assistance to participating States.

Presenting ways to strengthen the ODIHR's overall assistance efforts, the final chapter of the report clearly stresses that States should enable the ODIHR, as well as the other OSCE institutions, to be effective. The key to the ODIHR's successful assistance undoubtedly lies with States and the degree to which they, first and foremost, demonstrate the necessary political will to prepare the ground for effective assistance work and, second, provide an environment conducive for the ODIHR to continue its work successfully.

Effective peer review and collective follow-up to the ODIHR's work are indispensable for its work in the human dimension. In this respect, a proposed Human Dimension Committee could allow for a more standardized manner of monitoring, reviewing implementation, preparing and following up on human dimension meetings. It should, however, not be seen as an alternative to the annual Human Dimension Implementation Meeting, but rather as an additional element in making these important mandated meetings even more relevant, focused, and better prepared.

The OSCE must live up to the aspirations of an earlier generation, as well as to the spirit of the OSCE's achievements, which continue to encourage so many in the region and beyond. The participating States are particularly called upon to lead the way and demonstrate that, despite the difficulties, credible collective action in the human dimension is possible. It is hoped that this report will be of value to the deliberations on strengthening the effectiveness of the OSCE, in what is a clear shared responsibility of all 56 participating States: upholding common commitments and their implementation to the benefit of all.

INTRODUCTION

The commitments that 56 States have undertaken within the framework of the OSCE include the highest standards of human rights, the rule of law, and democracy — what is referred to within the OSCE as the human dimension. More than three decades ago, when the CSCE adopted the Helsinki Final Act in an attempt to lay down a basic framework for international co-operation, few would have predicted what would become of that process. The Helsinki momentum spurred on the efforts to build a new order in Europe following the end of the Cold War confrontation. From then on, human rights, the rule of law, and democracy have been recognized as indisputable pillars of this new order, as well as core elements of a new security concept.

This was a novelty in international relations. Never before had so many diverse countries shared so many principles and values, and agreed to hold each other mutually accountable to their commitments. The ideas first established within this Organization have since emerged as the cornerstone of a new vision on a global scale. The 2005 World Summit Outcome re-confirms the basic principles for international relations agreed upon in Helsinki in 1975, and makes them a global standard accepted by all.

The OSCE has thus proven to be a model for the wider international community's search for peace. By intertwining respect for human rights with the development of security, co-operation, and intergovernmental relations, the OSCE established that a country systematically violating the fundamental liberties of its own citizens could not be internationally trusted, or, in other terms, that foreign policy has to be assessed against the background of domestic policy. This model is based on political commitments that are made effective through peer review and political accountability, public scrutiny, and the assistance and advice of missions and institutions set up specifically for this purpose. The OSCE has consistently deepened and developed its commitments on human rights and democracy, so that a decade and a half onwards, the commitments undertaken in Copenhagen, Paris, and Moscow remain beacons for wider global development. They lay down the standards for functioning, accountable, open, and transparent democratic systems as the only form of government, and confirm that the protection of human rights is the primary responsibility of government.

The year 2005, the 30th anniversary of the Helsinki Final Act and the 15th anniversary of the Charter of Paris, was a time of stock-taking and reflection. While much progress has been achieved since the adoption of the Charter of Paris for a New Europe, numerous challenges remain in terms of actually implementing these standards. As pointed out by the *Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE*, unresolved conflicts, post-

conflict situations (including restorative justice and reconciliation) and new threats such as terrorism, violent extremism, and organized crime require considerable joint efforts from the OSCE community. The deficit of democracy and full enjoyment of human rights in some parts of the region, incomplete or stalled transition to democracy in other parts, as well as the inherent challenges of democratic governance and new transnational challenges, all require our continued attention.

As with any other part of the wider international architecture, the OSCE has been, and continues to be, a work in progress that needs to renew, revitalize, and re-energize itself to keep up with the changing nature of challenges. The OSCE's Office for Democratic Institutions and Human Rights (ODIHR), the main institution of the OSCE in the human dimension, has seen dramatic change since its establishment, in 1991, as the Office for Free Elections. Naturally, it too has undergone reform and adjustment, and continues to evolve.

A year ago, the ODIHR was called upon to make its contribution to the ongoing, OSCE-wide debate on reform. In Decision No. 17/05 on Strengthening the Effectiveness of the OSCE, the Ljubljana Ministerial Council tasked the ODIHR to submit to the next Ministerial Council in Brussels a report on:

- ▶ The implementation of existing commitments;
- ▶ Possible supplementary commitments;
- ▶ Ways of strengthening and furthering its election-related activities;
- ▶ Improving the effectiveness of its assistance to participating States, taking into account and answering questions put by participating States and in close consultation with them.¹

The present report, "*Common Responsibility: Commitments and Implementation*", reflects my understanding of the nature and depth of the commitments undertaken by participating States over the years, as well as the mandate given to this Office. I have also drawn from the rich debate over the past few years and from the relevant previous reports that focused on reforming, restructuring, and strengthening the OSCE and its institutions.

The task assigned by the Ministerial Council includes the obligation to take into account and answer questions put by participating States. It also directed me to prepare this report in close consultation with them. In order to allow for timely consultations, participating States were requested to provide such questions. The majority of States responded to this invitation and submitted numerous questions in writing. The questions received provided a good basis for subsequent informal consultations with States throughout the year. In order to clarify crucial aspects of the most salient issues, participating States were again invited to provide their thoughts. In the course of informal consultations on 7 July and on 22 September, the most frequently asked questions were discussed with all delegations to the Permanent Council on the basis of a synopsis of key issues.² We also made use of the regular human dimension meetings in 2006, as well as of other occasions for formal and informal consultation with governmental representatives from almost all participating States. A gathering of key

1 MC.DEC/17/05, 6 December 2005, para. 2.

2 Both Notes Verbales No. 62/06 of 2 February 2006 and No. 257/06 of 30 May 2006, as well as a synopsis of key issues, are annexed to this report.

election administration officials and experts on 8 October in Warsaw provided another opportunity for a candid exchange of views and the emergence of some forward-looking ideas.

The purview of the present report must be limited to the most salient and relevant issues. In reporting on the implementation of existing commitments (*Chapter I*), the ODIHR did not, and could not possibly, provide an account of all instances of implementation and non-implementation of every commitment undertaken in the human dimension by the governments of the 56 participating States. I have also avoided substituting this exercise for any existing implementation mechanism, as this was clearly not the intention of the Ministerial Council in Ljubljana.

Instead, this report seeks to identify a number of areas of concern for the entire OSCE region, areas where urgent action is possible and needed and results are within reach. This is certainly true for the new, additional commitments I propose in this report (*Chapter II*), which fall within the scope of what the OSCE community has been focusing on in recent years. The era of broad standard-setting may well be over; efforts are now required to make some of the commitments more specific and precise, thereby facilitating implementation and review. Also, new developments have opened up gaps and loopholes, which it is incumbent upon the OSCE community to fill with unambiguous language in line with its fundamental values.

The focus on elections in *Chapter III* is only natural. Not only does it reflect what the ODIHR — as reflected in its original name, the Office for Free Elections — was originally called upon to do, it also mirrors what the ODIHR, and arguably the OSCE at large, has excelled in over the last decade: election observation and assistance in electoral reform as a key element of democratic governance. Following the debate on this topic over the past few years, I have sought to summarize contentious issues and offer concrete suggestions for improvements where these can strengthen the effectiveness of the ODIHR to support States in implementing their commitments.

The final chapter of this report focuses on the question of how the effectiveness of the ODIHR's assistance can be generally improved. Simply put, this question addresses both a political issue and one of the availability of technical expertise and resources. Only a commensurate level of political will to bring about implementation of OSCE commitments can ensure that assistance provided from outside, including from the ODIHR, can be effective. This means that, ultimately, the effectiveness of commitments on human rights and democracy depends on each State. Only governments, assisted by international institutions and civil society, can effectuate the credible and lasting implementation of the standards set in our collective forum.

The commitment to implement the wide-ranging promises undertaken by OSCE States flows from an interpretation of sovereignty as responsibility and accountability, as foreseen in the first paragraphs of the 1999 Istanbul Document: a responsibility not only towards the international community, but, even more importantly, towards the citizens of the OSCE region as primary beneficiaries.

The ODIHR, as any international institution, is an instrument for assisting participating States to meet these ends. The effectiveness of its activities can only be measured against fair and realistic benchmarks. In carrying out its mandate, the ODIHR serves the OSCE community as a whole, guided by the language of, and the reasoning behind, the commitments and its mandate, rather than particular interests of individual States. In presenting this report, we at the ODIHR seek to renew our partnership with the OSCE community as a whole, to reconfirm our own commitment to serve the values that the ODIHR was created to pursue, and to continue to seek constructive ways of meeting the challenges that lie ahead.

The process of compiling this report has been a valuable exercise for the whole of my Office; it encouraged staff to reflect upon their work and on ways through which our assistance to OSCE States can be further strengthened. I would like to express my appreciation to all participating States, and in particular to the Belgian Chairmanship, for their support, as well as to my colleagues for their collaboration in preparing this report.

It is my sincere hope that it will serve as a useful tool for assisting the Ministerial Council in its important deliberations and endeavours on how to better live up to the responsibility shared by all States to fully implement their commitments.



CHRISTIAN STROHAL

WARSAW, 10 NOVEMBER 2006

I.

IMPLEMENTATION OF EXISTING COMMITMENTS

A. The OSCE's commitments in the human dimension

1. The OSCE is referred to as a community of values. These values are expressed in a number of commitments that are not formally legal, but nevertheless binding, obligations. They have been elaborated and reconfirmed since the 1975 Helsinki Final Act, but in particular during the decade following the historic changes of 1989-1990 in Europe. Although the protection and promotion of human rights are one of the fundamental purposes of the United Nations, the Helsinki Final Act was the first international document to explicitly recognize that their protection is a matter of international concern.

2. Since 1975, the normative framework developed by the OSCE for the entire region has been expanded and deepened considerably. In 1990 and 1991, OSCE participating States committed themselves to a far-reaching set of detailed standards on the protection of human rights that included elements pertaining to democratic elections, democratic governance, and the rule of law. In traditional human rights treaties, individual (or group) rights are formulated, and the state party is obliged to respect and/or guarantee those rights. How to implement these obligations, however, is most often left to the discretion of the States. The OSCE's human dimension goes much further by linking human rights with the institutional and political system of a State. In essence, OSCE States have agreed through their human dimension commitments that pluralistic democracy based on the rule of law is the only system of government able to guarantee human rights effectively.

3. At the 1990 Copenhagen Conference on the Human Dimension, States laid the groundwork for what would become the fundamental rule book for the entire OSCE hemisphere, the *acquis* of the developed democracies in the world. It is worth recalling that OSCE commitments are equally binding for, and need to be implemented by, all participating States, including those in socio-economic transition or crisis.³ This *acquis* has, so far, not been matched by any comparable international exercise and continues to be the main reference document for the human dimension work of the OSCE. Over the years, States further developed this human dimension framework by agreeing that:

³ In Rome 1993, ministers acknowledged that many of the States admitted during the early 1990s were in a difficult period of political and economic transition, but they expressed their expectation that they would do their utmost to ensure the implementation in their countries of all CSCE principles and commitments, also in times of crisis (see Section VIII, para. 2, of the Fourth Meeting of the Council, *CSCE and the New Europe — Our Security is Indivisible*, Rome, 1 December 1993).

- ▶ *“Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially”* (Paris, 1990);
- ▶ *“The participating States ... categorically and irrevocably declare 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, 1991);
- ▶ 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”*; *“States are accountable to their citizens and responsible to each other for their implementation of their OSCE commitments”*; all OSCE commitments, without exception, apply *“equally to each participating State. Their implementation in good faith is essential for relations between States, between governments and their peoples, as well as between the organizations of which they are members”* (Istanbul, 1999).

4. At the Copenhagen Meeting in 1990, States reviewed the implementation of their commitments in the field of the human dimension. Although they considered that the degree of compliance with these commitments had improved in recent times, they also expressed the view that further steps were required.⁴ This combination of acknowledgement of past achievements with a realistic appreciation of shortcomings and challenges is as relevant today as it was then.

B. Commitment to implement

5. The OSCE community has, from its outset, paid specific attention to implementation of commitments. Already in the Helsinki Final Act, participating States agreed that commitments should be implemented in good faith, bilaterally or through other international forums or instruments. The emphasis on implementation has consistently been a key characteristic of CSCE and later OSCE documents.⁵ Time and again, participating States have stressed the importance of implementation and its link with conflict prevention.⁶

⁴ Preamble to the *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, Copenhagen, 29 June 1990.

⁵ See para. 18 of the *Document of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe* (Stockholm, 19 September 1986), in which participating States stressed *“their commitment to the Final Act and the need for full implementation of all its provisions...”*. Also see para. 25 of the *Concluding Document of the Follow-up Meeting of the CSCE* (Vienna, 15 January 1989), which specifically refers to the “improvement” of the implementation of CSCE commitments. In Moscow 1991, participating States renewed their commitment to *“implement fully all the principles and provisions”* of the Helsinki Final Act, of the Charter of Paris, *“and of the other CSCE documents relating to the human dimension”* (Preamble to the *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE* (Moscow, 3 October 1991)).

⁶ In 1993, ministers stressed that implementation of CSCE commitments in the human dimension is essential for the Organization’s conflict-prevention efforts (Section IV, para. 2 of the Fourth Meeting of the Council, *CSCE and the New Europe — Our Security is Indivisible*, 1 December 1993). It is in this context that the ODIHR understands and defines itself as a conflict-prevention institution, embedded in the OSCE’s comprehensive security concept. In 1994, the OSCE heads of state or government reiterated explicitly that *“periodic reviews of implementation of our commitments, fundamental throughout the CSCE, are critical in the Human Dimension”* (para. 14 of the OSCE Budapest Declaration *Towards a Genuine Partnership in a New Era*, DOC.RC/1/95, 21 December 1994). In 1999, they individually confirmed their willingness *“to comply fully with our commitments”*, as well as their *“joint responsibility to uphold OSCE principles”* (para. 14 of the *Charter for European Security*, Istanbul, 19 November 1999).

6. Over the years, a large number of commitments have been adopted, and specific forms, procedures and instruments developed, in particular for the human dimension. Yet unlike other human rights treaties or frameworks, the OSCE has not created a court or other individual petition bodies to enforce the case-by-case implementation of commitments. There is no provision for systematic verification, sanctions and/or penalties for non-compliance within the OSCE context. This reflects the political character of the OSCE process and the intention not to duplicate other existing mechanisms.

7. On the contrary, the OSCE reinforces these important mechanisms and calls upon States to subscribe to them while abiding by standards set by other international organizations. It is also important to note that the absence of an individual-complaints process does not preclude that cases might be brought to the attention of the political bodies of the OSCE. In fact, the ODIHR has a specific duty to bring concrete circumstances, including individual cases, to the attention of the Permanent Council and to that of the OSCE's Chairman-in-Office.⁷

8. As States confirmed in Maastricht in 2003, the prime responsibility for providing security for their citizens lies with *individual participating States*. They are accountable to their citizens and responsible to each other for implementation of their OSCE commitments.⁸ The core of implementation review is therefore contained in what is often referred to as the *peer-review* concept. This puts the focus of implementation review (as well as determining the consequences of persisting non-compliance) on the participating States themselves rather than on any supranational body. Some may see this as a feeble mechanism compared to other international contexts developed during the same period, but it remains firmly within the logic according to which the OSCE operates as an organization. Non-compliance with OSCE commitments, however, does not come without consequences. Aware that commitments without sanctions would be of little value, States agreed that non-compliance would "*impair relations between them and hinder the development of co-operation among them*".⁹

9. In order to improve the implementation of human dimension commitments, the participating States agreed, in Budapest in 1994, to use the OSCE *Permanent Council* for possible action in cases of non-compliance. To this end, the participating States decided that human dimension issues would be regularly dealt with by the Permanent Council. First and foremost, the Organization is led by the *Chairman-in-Office* (CiO), who exemplifies the principles of the Organization, taking the lead on promoting implementation throughout the region while setting an example at home; if necessary, the CiO will act in cases of serious non-compliance. This concept of rotating responsibility and leadership has produced good results in the past and has proven to be effective.

7 The 1994 Budapest Document provides that the ODIHR will, in consultation with the Chairman-in-Office, and "*acting in an advisory capacity, participate in discussions of the...Permanent Council, by reporting at regular intervals on its activities and providing information on implementation issues*" (Decision VIII, *The Human Dimension*, para. 8). Cf. also para. 6 of the Budapest Document, which encourages the CiO to inform the PC of serious cases of alleged non-implementation, including on the basis of information from the ODIHR.

8 11th Meeting of the Ministerial Council, *OSCE Strategy to Address Threats to Security and Stability in the 21st Century* (MC. Doc/1/03, Maastricht, 2 December 2003), at para. 18.

9 Art. 25 of the Vienna Document (1989). Cf. also the wording on the issue of peer review as utilized in the *Budapest Declaration* (1994). There, States confirmed that "*issues of implementation of CSCE commitments are of legitimate and common concern to all participating States, and that the raising of these problems in the cooperative and result-oriented spirit of the CSCE was therefore a positive exercise*".

C. Role of institutions

10. In the early days, the CSCE did not have any institutions of its own through which assistance could be given. The responsibility for implementation, and also for review thereof, remained with the governments of participating States. States did, however, foresee that existing international frameworks and organizations would and should have a role in implementation. In addition, the OSCE has equipped itself with a number of specifically designed bodies and structures, such as the institutions in the human dimension.

11. Most commitments undertaken since Helsinki are in fact implemented without any particular reference to the OSCE, in a multitude of activities of a unilateral, bilateral, or multilateral nature. Many commitments have also been reconfirmed in other international frameworks, and some have been further developed through the adoption of more advanced standards for certain geographically limited groups within the OSCE region, such as the Council of Europe. Yet, there are a number of core areas that have not been paralleled elsewhere, where the OSCE has the highest standards and in which OSCE institutions have been mandated to play particular roles.

12. While their specific mandates differ, the OSCE's *institutions*, as well as the OSCE *Secretary-General*, assist participating States in implementing their commitments. They can assist in monitoring and identifying shortcomings and also offer technical advice and practical assistance where there is sufficient political will to change. The *OSCE Parliamentary Assembly*, which enjoys a large degree of resource and administrative independence from the Organization, constitutes another forum that can use its influence to hold States politically accountable for failures to implement commitments.¹⁰

13. The *OSCE High Commissioner on National Minorities* (HCNM) is tasked to identify, and seek early resolution of, ethnic tensions that might endanger peace, stability, or friendly relations between OSCE participating States. Operating in confidence and independently of all parties involved, the High Commissioner conducts on-site missions and engages in preventative diplomacy at the earliest stage of tension. In addition to seeking first-hand information, the High Commissioner promotes dialogue, confidence, and co-operation and provides governments with recommendations on legislative and practical measures needed to promote harmonious interethnic relations.¹¹ The HCNM is the most visible reminder of the inseparability of the human dimension from security concerns, and of the need for a cross-dimensional approach to resolving problems in this regard.

14. The *OSCE Representative on Freedom of the Media* (RFoM) assists participating States in furthering free, independent, and pluralistic media as one of the basic elements of a functioning pluralistic democracy. The Representative observes media developments in all participating States and advocates and promotes compliance with relevant OSCE principles and commitments. The participating States have pledged to co-operate fully with the

¹⁰ The role of the OSCE Parliamentary Assembly has been acknowledged a number of times, for instance, in the framework of the 2004 *OSCE Action Plan for the Promotion of Gender Equality* (MC.DEC//14/04, (para. 44(h)). Also see the 1999 Istanbul Summit Declaration, paras. 22, 26.

¹¹ In particular, Section II of the *Report of the CSCE Meeting of Experts on National Minorities*, Geneva, 19 July 1991.

Representative, who is mandated to report annually to the Human Dimension Implementation Meeting (HDIM) or to the OSCE Review Meeting.¹²

15. Together with the *Office for Democratic Institutions and Human Rights*, whose role in assisting participating States is dealt with extensively in Chapter IV of this report, those two institutions form the institutional backbone for assisting States in implementing their commitments in the human dimension. The Summit of OSCE Heads of State in Istanbul in 1999 declared that the ODIHR, the HCNM, and the RFoM are essential instruments in ensuring respect for human rights, democracy, and the rule of law.

16. *OSCE field operations*, which were originally designed as fact-finding teams with primarily reporting and early-warning functions, have, over the years, developed into additional tools for States to promote implementation of OSCE commitments, and to channel technical support to States in difficulty to meet their commitments out of their own resources. Ad hoc missions, deployed by either the CiO or the OSCE's institutions, can also play a role in assessing the level of implementation and offering advice in this regard.

D. Implementation review

17. The OSCE has not developed any specifically regulated, formalistic implementation review mechanisms and procedures. For various reasons, the so-called Human Dimension Mechanisms (*Vienna and Moscow Mechanisms*)¹³ have not been activated in recent years. Nevertheless, they remain available and may, under certain circumstances, be useful to bring about more effective implementation of OSCE commitments in the human dimension. It is worth noting that these tools were always considered subsidiary to the concept of peer review.¹⁴ At recent *Supplementary Human Dimension Meetings* (SHDMs), some participants have called on the OSCE to invoke the Moscow Mechanism in relation to a number of participating States that have been falling short of implementing their commitments. Also, suggestions have been made to undertake a study on the effectiveness of these mechanisms in order to identify steps that could be taken by OSCE participating States in order to boost the effectiveness of these mechanisms.

18. States have agreed that periodic reviews of implementation of commitments are critical in the human dimension.¹⁵ The annual *Human Dimension Implementation Meeting* (HDIM), the three SHDMs, and the Human Dimension Seminar constitute the most extensive and visible standard form of reviewing progress and highlighting shortfalls in the implementation of human dimension commitments by governments and civil society representatives.¹⁶ Developed as a supplementary tool to regular peer review and the more crisis-oriented ad hoc and field operations, as well as to the Vienna and Moscow Mechanisms, the HDIM has

12 Cf. para. 7 of Permanent Council Decision No. 193 (*Mandate of the OSCE Representative on the Freedom of the Media*), 5 November 1997 (Annex to the Copenhagen Document (Sixth Meeting of the Ministerial Council, MC/DOC/1/97, Copenhagen, 18-19 December 1997)).

13 See www.osce.org/odihr/13483.html for an overview, as well as the complete texts establishing the mechanisms.

14 In para. 15 of the 1991 *Document of the Moscow Meeting*, States agreed that nothing in the Vienna or Moscow Mechanisms would in any way affect the right of participating States to raise any issue pertaining to the implementation of any CSCE commitment.

15 Cf. paras. 9-16 of the 1992 Helsinki Document (*The Challenges of Change*, CSCE Summit Document, 9-10 July 1992), as well as para. 14 of the 1994 Budapest Summit Declaration.

16 A list of human dimension meetings is annexed to this report.

become the single most important forum for the human dimension in the region, and is the main OSCE event in the human dimension each year.¹⁷

19. In recent years, specific bodies or procedures have been established in areas of particular interest to the OSCE. The OSCE *action plans* adopted by participating States since 2000 have included such elements. The 2003 *Action Plan to Combat Trafficking in Human Beings*¹⁸ created an Organization-wide mechanism to co-ordinate efforts and make assistance in this field most effective. The 2003 *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*¹⁹ tasked the ODIHR Contact Point with paying specific attention to its implementation. The *Action Plan for the Promotion of Gender Equality* of 2004²⁰ foresees a particular reporting schedule and contains detailed provisions on implementation. All these action plans include tasks for the ODIHR itself, and vest it with implementation review functions. While action plans serve to focus attention and resources on particular problems of common concern, the mechanisms designed to ensure follow-up and their implementation have not been used to their full potential. More systematic periodic reviews of the action plans, as well as of the action undertaken, should be considered to strengthen their effectiveness.

20. Review mechanisms and procedures have also been developed in other areas of OSCE activity. Outside the human dimension, one such example is the mechanism associated with reviewing the *Code of Conduct on Politico-Military Matters* of 1994.²¹ Despite its name, the document also contains a number of significant human dimension commitments related to the armed forces. It is reviewed through a system of formal questionnaires, whereby answers are submitted by States and shared with partners. Given the sensitivity of this area, it is understandable that States could not agree on a more robust form of implementation review; current consultations on the way ahead should therefore be encouraged.

21. With all the mechanisms and procedures developed within the OSCE, the responsibility to implement commitments — but also to review and promote implementation across the region — remains fully with the States. Without firm political will from governments, even the most independent, well-resourced and strong-minded international body could not bring about effective implementation. The effectiveness of implementation is therefore a gauge for the political coherence of the OSCE community as a whole, and is a function of the political will mustered by its members to invest in the fulfilment of its collective promises.

22. In recent years, decisions adopted by ministers at the annual Ministerial Council meetings have tended to be less ambitious than the key documents adopted until 1999. Efforts to point to an “imbalance” in the allocation of resources and in the political attention given to the human dimension compared to politico-military and economic co-operation, as well

17 With the adoption of new modalities for the HDIM in 2002, the HDIM itself was shortened to two weeks, whereas three Supplementary Human Dimension Meetings are held throughout the year, each usually lasting 1 1/2 days. Again this year, the HDIM was able to attract a record number of participants from governments, OSCE field operations and institutions, international organizations, and civil society. See para. 176 of this report.

18 PC/DEC No. 557, adopted pursuant to Bucharest Ministerial Decision No. 6 of 2001 and Porto Ministerial Declaration of 2002. See Decision No. 2/03 of the 2003 Maastricht Ministerial Council.

19 Decision No. 3/03 (annex) of the 2003 Maastricht Ministerial Council.

20 Decision No. 14/04, 2004 Sofia Ministerial Council Document.

21 See esp. Decision IV (para. 38) of the 1994 Budapest Document.

as environmental issues, risks compartmentalizing the so-called three dimensions of the OSCE's work; this, in turn, has raised the danger of diluting the comprehensive security concept with the human dimension at its core, as it was developed during the 1990s.

23. States have committed themselves unambiguously and on numerous occasions to implement all their OSCE commitments in good faith and in co-operation with each other, as well as with the OSCE's structures and institutions. Occasional or even regular non-compliance with the letter or the spirit of a commitment does not affect its normative character. The OSCE community has always been aware that implementation of OSCE commitments would never be complete to the extent that they become redundant.

24. It must remain the unshakeable conviction of participating States as well as of the OSCE's bodies and structures that implementation *is* possible, desired by all and that the OSCE as an organization can make valuable contributions to move closer to the ultimate goal of "*a free and democratic society in all participating States*".²² This formulation remains the firm basis for the work undertaken by the ODIHR. But it must also mean that States, individually and collectively, do not shut their eyes to serious and consistent non-compliance with commitments.

E. Ten years after: the Lisbon agenda revisited

25. States have remained aware of practical challenges, and have identified shortcomings on regular occasions. A decade ago, at the first Heads of State Summit to take place under the new OSCE name, as participating States gathered in Lisbon to adopt the *Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century*, a number of acute problems were identified, all of which remain valid today. While in some areas much progress has been achieved, and the efforts to bring it about should be acknowledged, it is regrettable that 10 years after Lisbon, not only do these problems still persist, but several other issues of concern have also emerged that need to be addressed as a matter of urgency for the OSCE to remain true to its principles.

In Lisbon, participating States declared that "*among the acute problems within the human dimension, the continuing violations of human rights, such as involuntary migration, and the lack of full democratization, threats to independent media, electoral fraud, manifestations of aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism, continue to endanger stability in the OSCE region.*"

26. It is beyond the purview of the present report to offer a detailed and comprehensive record of instances of non-implementation of OSCE commitments across the spectrum of the human dimension. To attempt such would also duplicate much of the ongoing work itself. For instance, trafficking in human beings, the situation of Roma and Sinti, and the general progress of promoting gender equality all require special efforts and attention, as specific action plans adopted by ministers over the past three years demonstrate; the implementation of the relevant commitments and action plans is, however, far from satisfactory. These issues are, however, dealt with in separate procedures, which should not be duplicated here. This report can only outline a number of critical areas that require our joint efforts, and to

22 Lisbon Summit Declaration (DOC.S/1/96, 3 December 1996), para. 9.

which the ODIHR can contribute.²³ Following the structure of the Lisbon agenda, all areas discussed below are of equal importance, and the exclusion of any problematic area does not mean that the ODIHR views implementation in the relevant fields as accomplished.

27. The following overview uses participating States' own parameters for describing acute problems in implementation a decade ago — shortfalls on democracy and elections, the freedom of the media, intolerance and discrimination, as well as the fate of the millions of people displaced against their will — as a reference point for what continue to be the most urgent challenges and shortcomings. Implementation challenges in the field of elections are highlighted in response to particular interest expressed by participating States in recent time. Moreover, it seems necessary to add that a number of concerns have arisen in recent years that relate to the core of the human dimension, in particular: the protection of human rights while countering terrorism, and the need to protect and enable human rights defenders and national human rights institutions, as well as the effective guarantee of the freedom of assembly and association. These topics, in addition to the issues enumerated in Lisbon, have been selected by participating States for focused review at human dimension meetings over the past two years alone.²⁴

► Democratic elections

28. In Paris in 1990, when the beginning of a new era of democracy, peace, and unity was proclaimed, all participating States undertook to “*build, consolidate and strengthen democracy as the only system of government of our nations*”²⁵ and confirmed the inherent connection between human rights, the rule of law, and democracy. It is indeed remarkable that a nascent right to democratic governance has, alongside the older commitments to human rights and fundamental freedoms, emerged on a global scale.²⁶

29. One of the most salient features of a genuine democracy is the holding of periodic, transparent, and democratic elections. While real progress has been made with regard to the conduct of electoral processes in South-Eastern Europe, Central Europe, and the Baltic States, it is unfortunate that this commitment, which is so central to the OSCE, is still not fully implemented in all participating States. *This* is the real electoral crisis in the OSCE region today. Against this background, ODIHR election observation reports provide comprehensive assessments and focused recommendations to participating States to assist them in the implementation of their election-related commitments. While many issues are country- and context-specific, challenges common to some parts of the region can be grouped into the following clusters.

30. *The right to be a candidate*

The Copenhagen Document protects the right to be a candidate, which is a component of the right to universal and equal suffrage. Paragraph 7.5 requires that OSCE States “*respect*

23 Sections of this chapter were prepared in consultation with the OSCE High Commissioner on National Minorities and the OSCE Representative on Freedom of the Media.

24 A list of Supplementary Human Dimension Meetings and Seminars is annexed to this report.

25 1990 Charter of Paris for a New Europe, p. 3.

26 In the World Summit Outcome Document of 2005 (para. 135), governments reaffirmed “that democracy is a universal value based on the freely expressed will of people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives.”

the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination". Regrettably, this commitment is not fully respected or is violated in a number of States, where the legal framework excludes "non-partisan" candidates or prohibits the candidacy of individuals based on religious affiliation, employment, or economic or social status. Similarly, requirements for ballot access or mandate allocation are being created that have a disproportional and discriminatory impact on some candidates or political parties. It is the practice in some States to prohibit overt discrimination against candidates and political parties, but to implement legal provisions that result in *de facto* discrimination against candidates and political parties from certain societal groups.

One of the main problems encountered in a number of countries is that administrative rules are used to keep specific candidates off the ballot, or to de-register candidates during the campaign (or threaten to do so). Signature verification procedures are widely used in certain States to limit participation; in some cases, the method for verifying signatures is used to disqualify candidates based on a percentage of "fraudulent" signatures rather than seeking a qualifying number of valid signatures. Signature verification is rarely accessible for oversight by representatives of contestants and other observers.

Ballot access for a particular election is usually granted when a political party, coalition, bloc, or independent candidate meets one of the following requirements: (1) payment of a monetary deposit, refundable upon receiving a certain number or percentage of votes; (2) collection of a minimum number of signatures of registered voters; or (3) allocation of a mandate or obtaining a minimum percentage of the votes in the last election. Regardless of the procedures available, registration should not be tied to irrelevant or overly burdensome requirements unrelated to the issue of whether a political party or independent candidate has sufficient support to be placed on the ballot. Monetary deposits should be of a sufficient amount to discourage frivolous political parties and candidates but should not be so high as to prevent them from obtaining ballot access. In addition, monetary deposits should be refundable upon receiving a certain number or percentage of votes. The threshold required for a refund should be realistic.

31. *Compilation of accurate voter lists*

In Paragraph 6 of the Copenhagen Document, the participating States declare "*that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government*". From the individual's right to vote follows a duty of participating States to guarantee effective exercise of that right, including through the registration of voters. A problem in the OSCE region is the persistent denial of suffrage by accident or by design due to inadequate provisions for the registration of voters and accuracy of lists of voters. While the right to vote can be artificially and unduly restricted if a person is omitted from the voters list or if inaccuracy in the list makes fraudulent voting easier, voters also have a responsibility to play an active role in the voter registration process, and to respond to official registration procedures, whether they are passive or active ones.

Voter lists should be updated, accurate, complete, and easily accessible for inspection by qualified voters and electoral contestants with a legitimate reason to access them. A procedure must be in place to provide for the proper registration of a voter who has been or can be unduly omitted from the list, whose details are recorded incorrectly, or who has reached the legal age for registration after publication of the list. Likewise, procedures must be in place

to allow for reasonable objections to the presence and calls for the removal of entries on the voter lists of persons who have died, are underage, or are otherwise ineligible to vote.

While there are many different methods for voter registration, it appears that the best practice is the maintenance of permanent lists that are periodically updated, at a minimum of once a year. Voters should be fully informed of their ability to check the accuracy of their registration. If the authorities fail to make requested corrections, the individual should have the ability to seek further review, including by a court. Regardless of the system used for creating and maintaining a voter list, it is necessary for the system to be transparent and open to verification by voters, political contestants, and election observers. Public awareness campaigns and voter education can support voters in actively exercising their right to be registered as a voter and to participate in the process of checking the accuracy of voter lists.

32. *Equitable access to the media*

The right to fair and non-discriminatory access to the media is recognized by Paragraph 7.8 of the Copenhagen Document, which requires participating States to “*provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process*”.

Candidates and parties contesting an election have experienced difficulties with access to the media by having to overcome undue financial and bureaucratic barriers. In some States, certain political groups are not covered by the state media at all. For instance, their campaign events are rarely shown or are distorted to give a negative impression.

This implies that political parties and candidates must have non-discriminatory, unimpeded access to all media, as well as equal treatment by media owned or controlled by the state. This covers all forms of media, including radio, television, newspapers, magazines, and evolving forms of communication such as the Internet. The free time provided by the state media during election periods should be allotted

under an established formula that can be applied objectively. Examples of such application include regulations that specify: (1) the percentage of broadcast time to be distributed to political parties and candidates according to the number of seats they hold in parliament or the results of recent elections; or (2) the percentage to be distributed to political parties and candidates, including extra-parliamentary parties, on an equal basis, regardless of parliamentary strength. It is also desirable that the amount of broadcast time distributed on an equal basis be sufficient to enable all political parties and candidates to compete effectively in the elections and for voters to gain sufficiently accurate information upon which to make informed political choices. Public debates on television between all candidates have been observed as a positive trend in OSCE States.

When paid political advertising is allowed, there should be a guarantee of open access and equal treatment with respect to the ability of election contestants to sponsor private political advertising. Paid political advertising can be an important means for political parties and candidates to present their messages to the electorate, but measures to ensure non-discriminatory access are necessary, and there should be limits on the amount of time purchased by any one party to ensure a more level playing field. Further, paid political advertising should

be identified as such in order to ensure that voters are aware that the advertisement is not news, but is a paid broadcast.

33. *Unbiased coverage by the media*

From the commitment established by Paragraph 7.8 of the Copenhagen Document, it also follows that political parties and candidates should be covered in an unbiased manner by the media. State-owned media, whether print or broadcast, have a special responsibility to provide balanced and impartial information. There must be equal and fair access to state-owned media, as well as balanced coverage of candidates and political parties. Access and coverage must be measured not only in quantity but also in quality of coverage dedicated to candidates, political parties, the election administration, and other relevant subjects in news programmes and reports.

Expedited complaint procedures and specific remedies should be provided to correct the effects of biased and unfair amounts of coverage. Further, the legal framework regulating the media and the campaign during election processes should be consistent with principles set forth by international law in the field of freedom of expression. Norms regulating the media during the election campaign should be clear and leave no room for manipulation or misinterpretation. Such regulation should be aimed primarily at protecting voters' and candidates' right to freedom of expression and access to information, and should be imposed only for this purpose. The regulatory body for the media during elections should be perceived to be independent, credible, and legitimate by most competing political forces. The body supervising media coverage may be any of the following: a self-regulatory body, such as the voluntary press councils that exist in a number of States; a permanent media regulatory body that would work autonomously or jointly with the election administration; a body specifically created for the election period to regulate and supervise media coverage only during the election campaign; or the main election administration body, such as the central electoral commission. The implementing body should have the experience, the know-how and the mandate to monitor respect of the rules, to investigate alleged violations, and to impose effective remedies when violations take place.

Bias in the media during election campaigns is a common occurrence observed in ODIHR EOMs. Bias in state-owned or -controlled media generally favours incumbent governments; bias in private media generally favours the particular party with which the owner or editor can be associated. At the same time, journalists working for independent news outlets are frequently intimidated and practise self-censorship during elections. Also, registration and distribution of newspapers is sometimes limited during an election period and, in some places, entire print-runs of newspapers have been confiscated. Accusations of slander or libel are used against journalists, media outlets, and candidates alike to silence them during election campaigns or sometimes in the case of candidates, to prevent their candidacy, particularly in countries where slander is a criminal offence.

34. *Campaign environment*

Genuine competition and meaningful debate of distinct political ideas are important for creating public confidence in elections. This is recognized by Paragraph 7.7 of the Copenhagen Document, which requires States to “*ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution*”. This commitment obliges States to create

conditions that permit political parties and candidates to freely present their programmes. Implicit in this commitment is the obligation that States inform or educate voters about the electoral system and voting processes, as the failure to do this can prevent the meaningful exercise of suffrage rights.

ODIHR election observation missions have seen state authorities abuse their right to deny permission for campaign events, restrict printing and distribution of campaign materials, and detain or fine campaign activists for minor administrative violations (such as littering or swearing). Administrative rules have been used to make it as difficult as possible for certain political contestants to get access to public meeting places to hold events.

Throughout the campaign and voting process, a State has the duty both to prevent intimidation of voters and candidates by others and to act impar-

tially. Intimidation can have an insidious effect on candidates and voters alike, particularly when perpetrated by the state or its representatives. States should take affirmative action, either through criminal or administrative proceedings, to protect the integrity of the electoral process and hold state and private actors liable for violations of voters' rights.

35. *Disenfranchisement*

The Copenhagen Document guarantees “*universal and equal suffrage to adult citizens*” (Paragraph 7.3) and calls for conditions that “*ensure in practice the free expression of the opinion of the electors in the choice of their representatives*” (Paragraph 5.1). The ODIHR has observed that this right to universal and equal suffrage is infringed upon in the legislation of a number of States. Criminal, administrative, and electoral codes have created severe provisions that require the forfeiture of suffrage rights for minor legal violations, and in some cases permanently. Second, some laws have denied the right of suffrage to persons charged with a crime and awaiting trial but who have not yet been convicted. It is also not uncommon for the legal framework to provide for the forfeiture of suffrage rights based on a criminal conviction, regardless of the nature of the underlying crime.

These infringements contradict Paragraph 5.19 of the Copenhagen Document, which provides that everyone is presumed innocent until proven guilty according to law, as well as rules on universal suffrage. In addition, the proportionality principle should be considered first and foremost when the potential of forfeiture of suffrage rights is at stake.²⁷ Denial of suffrage should occur only where a person has been convicted of committing a crime of such a serious nature that forfeiture of political rights is indeed proportionate to the crime committed. The forfeiture should be for an established period of time, likewise proportionate, and restoration of political rights should occur automatically after the expiration of this period of time.

In a number of States, procedures are not in place, are subject to misuse, or lack transparency to enable persons who for good reasons cannot attend a regular polling station to exercise their suffrage rights. Alternative voting procedures should be established to ensure that the ill, elderly, and others who cannot attend a regular polling station have the opportunity to cast their vote. This may include absentee, postal, early, mobile, and out-of-country voting. However, any alternative voting procedure must be carefully regulated to balance the protection of voting rights against the need to uphold the integrity of the election process. Like

²⁷ Copenhagen Document, para. 24: “*Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.*”

conventional voting, all forms of alternative voting must be open to unobtrusive observation that respects the secrecy of the vote.

Discrimination, ignorance, poverty, and neglect all contribute to political and electoral disenfranchisement of persons with disabilities. The commitment enshrined in Paragraph 7.3 of the Copenhagen Document must also apply to them. Participating States are committed to enabling access of disabled voters to the voting process by taking appropriate measures. Some of the best practices to address this problem include assistance to disabled voters to access the polling station and cast their ballots in a dignified manner that preserves the secrecy of the ballot and prevents undue influence on the voter, and the application of special voting methods. In addition, the authorities responsible for civic education and voter information should account for the special needs in designing and carrying out these programmes.

36. *Secrecy of the ballot*

Universal and equal suffrage requires, as reflected by Paragraph 7.4 of the Copenhagen Document, that OSCE States “ensure that votes are cast by secret ballot or by equivalent free voting procedure”. Family voting, group voting, and proxy voting are not uncommon practices in some participating States. Secrecy of the ballot is compromised by such practices, and they open the possibility for one person to assert his/her will multiple times over others.

Participating States should ensure that each individual voter can cast his/her vote independently and by secret ballot. In the case that assistance is required for a voter to cast his/her ballot, regulations should provide a procedure for this assistance. Best practices include allowing the voter to choose another voter to support him/her in casting the ballot. In addition, public information campaigns can be useful in raising awareness among voters about the principle of secrecy of the ballot and infringement of this principle by certain voting practices. Postal voting and the introduction of remote voting technologies may also challenge the secrecy of the ballot, and measures to enhance participation should be carefully weighed against fundamental democratic principles.

37. *Access for international and domestic election observers*

Transparency of election processes is fundamental to democratic elections. It provides a critical basis for establishing public confidence, including confidence of electoral competitors. Domestic observer organizations, both partisan and non-partisan, and international observers invited specifically by the host country should be permitted unimpeded access to all election proceedings and to all levels of election administration. They should receive credentials for this purpose sufficiently in advance of elections in order to enable them, in particular non-partisan ones, to organize their activities effectively.

An election is a process that includes numerous activities before, on, and after Election Day. Effective election observation cannot be limited to observing only polling-day procedures. States should ensure that all observers have the right to inspect documents, the production and distribution of election materials, attend meet-

The rights of domestic observers are at times ignored, limited, obstructed, or abused in order to prevent the documentation of possible fraudulent election activities. Such practices are contrary to OSCE commitments and damage public confidence in elections. The opportunity to observe must also be available to representatives of the media, political party and candidate agents, as well as to international and domestic observers.

ings, and observe election activities at all levels, and to obtain copies of decisions, protocols, tabulations, minutes, and other electoral documents, at all levels, during the entirety of the election process, including hearing of possible complaints and appeals.

It is crucial to the implementation of this commitment that there is agreement among participating States to invite the ODIHR to follow and assess electoral proceedings. While the practice of election observation has expanded and developed to a degree few might have predicted fifteen years ago, it is regrettable that some OSCE States still have not put this commitment into practice, and do not invite observers to their elections and enable them to effectively assess the proceedings. The ODIHR raised this issue with participating States in a note verbale sent in 2005,²⁸ and it has been collecting replies since then. Where the ODIHR encounters that legislation in participating States is not conducive to election observation, it raises the issue with the authorities concerned, with political parties, and with civil society.

Domestic observer groups have faced intimidation (e.g., tax inspection or direct threats), violence, detention and de-registration or refusal of registration. Regulations of observation often prevent certain parts of the process from being observed, such as meetings of the election authorities and tabulation of election results. Requested documentation is not always provided, particularly on complaints and appeals.

38. *Participation of women*

Paragraph 7.3 of the Copenhagen Document commits participating States to “*guarantee universal and equal suffrage to all adult citizens*”. This requires positive action on the part of States to facilitate the participation of women, who often face barriers to fair and effective political participation and representation. In some OSCE participating States, the election-related rights of women are contravened by *de facto* barriers to standing for office, violations of ballot secrecy and undue influence connected with the practices of group, family, and proxy voting. To combat discrimination in representation, participating States should strive to establish electoral systems that facilitate full equality of men and women so that both may fully realize their guaranteed rights to electoral and public participation in the governing of their country.²⁹

When voter registration systems require citizens to register and/or to verify the accuracy of the voter registry or voter lists, the place and time for registration should be established in a fashion that maximizes the opportunities for women to register. Factors that obstruct women’s participation as candidates, voters, election officials, and election monitors should also be removed. In addition, active efforts should be taken to eliminate all forms of non-personal voting.

39. *Inclusion of national minorities*

As a corollary of the commitment to guarantee universal and equal suffrage to all adult citizens, minorities must be capable of exercising the same rights. Ethnic, linguistic, and reli-

28 See Annex 2 of this report.

29 In addition to the Copenhagen commitments, paras. 40-40.13 of the OSCE’s 1991 Moscow Document expressly recognize the need for States to facilitate the participation of women in government. Further, para. 23 of the 1999 Istanbul Declaration states: “*The full and equal exercise by women of their human rights is essential to achieve a more peaceful, prosperous and democratic OSCE area. We are committed to making equality between men and women an integral part of our policies, both at the level of our States and within the Organization.*” For relevant ODIHR tasks with respect to the participation of women in political and public life, cf. the 2004 OSCE Action Plan for the Promotion of Gender Equality, para. 44(d).

gious minorities are, however, often subject to discrimination. In some participating States, they have been effectively barred from standing as candidates, from exercising their right to vote or from participating in the administration of elections. In a few cases, ethnicity-based parties representing minorities who reside only in one part of a State's territory cannot compete for elected office in other parts of the country. Elsewhere, minority communities may find themselves without citizenship rights, thus barring them from voting, thereby creating a democratic deficit. In such cases, a fair, open and accessible naturalization process must be available, and voting rights at the municipal level may be considered for resident non-citizens.

Positive steps to facilitate participation and authentic representation of minorities, and the commensurate political will to support such steps, are appropriate. In addition to the possibility of promoting representation of minority candidates through the respective party lists of established parties in proportional systems, this can be accomplished through various other active measures, such as developing election systems that enhance the potential for minorities to gain office, for an example by using an allocation formula that is favourable to smaller parties. In addition, participation can be facilitated through the provision of voter education and all written materials concerning candidate nominations, voter registration, the location of polling stations, ballots and/or other election materials in both the official language(s) and the language(s) of minorities.

If adequate representation for national minorities cannot be obtained through elements of the electoral system or in similar ways, minority representation can be enhanced directly through special voting arrangements, such as a minimum number of reserved mandates for a national minority.³⁰ Positive measures are considered not to violate the principle of equal suffrage if they are adopted for a legitimate purpose or in order to enhance the participation of minorities in political life; however, they should not contravene efforts to assure equal representation.

40. *Honest counting and tabulation of votes*

Paragraph 7.4 of the Copenhagen Document not only requires States to “ensure that votes are cast by secret ballot or by equivalent free voting procedure” but also “that they are counted and reported honestly with the official results made public”. The ODIHR observation experience indicates that in some participating States fraud takes place during the counting of votes and the tabulation of results. In some cases, publication of results is unjustifiably prolonged, contributing to a lack of confidence of the electorate in the results.

The national election authority should announce preliminary results as soon as possible after the close of polling. This should also include the public posting of protocols (including on the Internet), and their distribution to party agents and observers at polling-station and intermediate levels. It should also be required to publish, in a timely manner, detailed official results that can be appealed. Subsequent to required adjustments and the exhaustion of appeals, a final publication may also be desirable.

30 See, generally, European Commission for Democracy through Law (Venice Commission), *Code of Good Practice in Electoral Matters*, CDL-EL (2002) 5, 9 October 2002.

Official results should, in any case, be published in the form of detailed tables, thus enabling all interested parties to scrutinize the election results on a polling-station-by-polling-station basis, through intermediate levels, to the level of the national election authority. The tables should also include the number of voters in each polling station who used alternative voting procedures (e.g., mobile voting) in order to enhance transparency and facilitate the identification of possible fraud.

The degree of political will exhibited by relevant state actors in elections certainly influences the counting and tabulation procedures. However, fraudulent practices can be reduced if safeguards are employed. The vote-counting process should start immediately after closure of polling and follow an established set of procedures. Each vote should be counted individually, and observers should have access to the process. Results protocols should be compiled and signed immediately after the completion of the count, in the same premises and by those who conducted the count. Preliminary and final election results should be made public and include a detailed breakdown, down to polling-station level. Best practices employed by States include the timely publication of such results on the website of the election administration.

41. *Impartial and effective election administrations*

There are different methods to establish the composition of election administrations. As part of the commitment to ensure transparency and accountability of election processes, an election administration must perform its duties in a politically impartial and administratively effective manner. This could be accomplished by individuals nominated by, or members of, political parties. Care is required to develop qualification criteria and an appointment process that gains the broad support of electoral contestants and the public. Such appointments should be made in a transparent manner, and appointees should be protected from removal or recall, which should occur only on the basis of law. States should ensure that individuals appointed to an election administration body receive the necessary training. Further, the election administration must at all times conduct meetings and make decisions in a manner that is transparent, professional, ethical, and efficient and that is conscious of the public's interest in, and right to, genuine democratic elections.

There will be little trust in the election administration unless there is significant confidence in election commissions. In addition to sufficient funding, election administration institutions must receive state-wide support to enable them to operate effectively. Their independence can be enhanced when established on a permanent basis and provided with a regular budgetary allocation.

42. *Effective complaints and appeals process with an independent judiciary*

Protection of the right to vote and to be elected is considered to be an essential element of a democratic election system. OSCE commitments require the State to protect civil and political rights, which include the protection of electoral rights (Paragraphs 5.9-5.19 of the Copenhagen Document). The election system must provide effective mechanisms and remedies for the protection of electoral rights at all stages, including voter registration, political party and candidate registration, the allocation of state resources and access to the media, campaign activities, and the vote, count, and declaration of results.

Complaints and appeals, including proceedings within the election administration and in the courts, must be transparent and accessible by the public. The legal framework should

provide for a clear, understandable, singular, hierarchical complaints and appeals process that defines the role of each level of election commission and each level of court. The last instance for a hearing should always be a court, regardless of the introduction of appeals of first or second instance within the election administration. This process must also identify which bodies act as fact-finding bodies of first instance and which bodies act as appellate review bodies. In order to comply with OSCE commitments, authorities must provide access to full details concerning the handling of each complaint or appeal, including the decision of the dispute-resolution body and its justification. Election complaints and appeals should be heard in public hearings and considered in an expedited and effective manner that permits them to be resolved within deadlines established by law, and without delay of the determination, announcement, and publication of results. In addition to public access and transparency, the results and reasons for decisions on complaints and appeals should be formally adopted, issued in written form, and announced publicly or possibly published on the website of the institution.

The ODIHR election observation experience has shown that this is an important area in which some States have not fared well. Delay and uncertainty in the establishment of election results threaten to infringe upon electoral rights, which, in turn, undermines the commitment contained in para. 7.9 of the Copenhagen Document, which is designed to ensure that candidates who obtain the necessary number of votes are duly installed in office.

Overall, the protection of electoral rights is critical for the support of four fundamental pillars for democratic elections: public confidence, universal and equal suffrage, transparency, and accountability. An additional element may therefore be mentioned in this regard: not only should there be mechanisms for effective remedies to protect electoral rights, there must also be sufficient and proportional criminal or administrative penalties to deter violations of the law and prevent injury to suffrage rights. However, care must be taken not to create a system in which politically motivated and unsubstantiated charges are easily brought against opponents.

► Freedom of assembly and association

43. As OSCE States have recognized, freedom of assembly and association are fundamental cornerstones of a free, democratic society.³¹ In some States, however, these rights are under threat from a range of excessively restrictive laws and policies that do not always respect the principles of proportionality, legality, non-discrimination, or the requirements of good administration and transparency of the decision-making process.

Limitations to the freedom of assembly within the OSCE region include the outright banning of assemblies critical of the government or its policies; the placing of excessive burdens on assembly organizers or unwarranted restrictions on the time, place, and type of assemblies; the denial of adequate protection to participants of peaceful assemblies against third parties, such as counter-protestors; and an unnecessarily repressive attitude towards simultaneous and spontaneous assemblies.

44. The freedom of assembly is often undermined by authorities who impose unnecessarily restrictive measures as a result of an excessively wide interpretation of legitimate grounds for limitations. Also, in too many participating States, freedom of assembly is regulated through a system of requiring permission from the authorities before an assembly can take place, rather than through the prefer-

³¹ For the freedom of association, see the 1990 Copenhagen Document, specifically paras. 7, 7.6, 9, 9.3, 10, 10.3, and 10.4; for the freedom of assembly, see *id.*, paras. 9 and 9.2.

able system of merely requiring that notice be given to the authorities. Excessive penalties such as detention or high fines are often used to punish individuals who take part in peaceful assemblies. Finally, police conduct in the management of assemblies often exceeds permissible limits; there is frequently a lack of accountability when this occurs.

45. In many OSCE States, spontaneous assemblies are tolerated and managed by the police, not banned or dispersed. Authorities and would-be assembly organizers co-operate in a constructive way with one another without undue interference on the part of the authorities in the practicalities of the organization of the event. Best police practices in many States have developed significantly in the area of the management of assemblies in a way that is sensitive to the needs of both demonstrators and the wider public. There, the option of using force by the police has hence faded into the background.

46. The freedom of association is the subject of increasingly stringent regulation in many States. Non-governmental organizations seeking to exercise their right to freedom of association are faced with laws requiring them to comply with unnecessarily burdensome registration requirements, cumbersome reporting obligations, complex bureaucratic procedures, and the abuse of fiscal, economic, health-protection, and other ostensibly neutral legal regulations for political ends. This has contributed to a process that has widened the gap between civil society and the governments of some OSCE States. It is in this context pertinent to recall that freedom of assembly and association should be treated as a right that a state has to *protect*, not constrain. Restrictions are often justified by referring to the need to combat terrorism and prevent violent extremism, but they often come to undermine these very struggles by removing legitimate channels of expressing criticism and dissent.

47. It is, however, important to note that a number of participating States have instituted an environment conducive to the existence and operation of informal associations and other types of NGOs that do not choose to obtain formal legal personality. In instances where NGOs prefer to have a formal legal status, some participating States merely require notification to be filed with the responsible public body following a simple and non-cumbersome procedure. This procedure is to be preferred over a practice that requires authorization by the responsible public body before formal legal status is obtained. Many participating States manage this system through procedures that do not interfere with the essence of the freedom of association.

► Human rights and countering terrorism

48. The fight against terrorism has become a priority for the OSCE, as for other international organizations, especially since 2001. The Bucharest Plan of Action aimed “*to establish a framework for comprehensive OSCE action to be taken by participating States and the Organization as a whole to combat terrorism, fully respecting international law, including the international law of human rights and other relevant norms of international law*”.³² The OSCE

32 Bucharest Plan of Action for Combating Terrorism (MC(9).DEC/1), 4 December 2001, para. 3. As a part of the Bucharest Plan, participating States committed themselves, *inter alia*, to “*provide for the timely detention and prosecution or extradition of persons charged with terrorist acts, in accordance with their obligations under international and national law*” (*id.*, para. 26). The 2001 Bishkek Programme of Action highlighted the importance of respect for human rights as a key element in prevention of terrorism, as participating States committed themselves to increase co-operation in the fields of human rights and fundamental freedoms and by strengthening the rule of law.

Charter on Preventing and Combating Terrorism also recognizes “*the need to address conditions that may foster and sustain terrorism, in particular by fully respecting democracy and the rule of law, ... by promoting human rights and tolerance and by combating poverty.*”³³

49. Counter-terrorism activities impact on a number of particular human rights and fundamental freedoms. As the fight against terrorism has become a truly international phenomenon, it has also had a serious impact on the rule of law at the international level. In particular, over the past five years, in the OSCE region, the fulfilment of commitments regarding the prohibition on torture, cruel, inhuman and degrading treatment; freedom from arbitrary arrest and detention; the right to a fair trial; and the right to an effective remedy have been undermined by the discourse and practices around the international fight against terrorism.

50. There have been a number of cases of arrest, detention, and transfer of terrorist suspects by participating States either from their own territories or by their law enforcement authorities acting outside of their territories that have taken place outside of the standard criminal-justice system or of administrative deportation and extradition procedures. Such practices may amount to arbitrary arrest, detention, or exile in the absence of procedural safeguards and clear laws governing their use. The existence of secret detention centres for terrorist suspects used by, and/or located in, OSCE participating States calls into question the implementation of the relevant commitments across the region.

51. The UN Office of the High Commissioner for Human Rights and the UN Special Rapporteur on Torture have found that the use of diplomatic assurances in cases of deportation where there is a risk of torture undermine the absolute prohibition on torture and the principle of *non-refoulement*. Yet a number of OSCE participating States have taken, or are considering, recourse to such practices in relation to terrorist suspects.

► **Human rights defenders and national human rights institutions**

52. At the heart of every democratic society is a vibrant civil society. Human rights are most likely to be secured when citizens, individually or collectively, are able to hold their government to account. States that nurture an environment in which civil society can flourish and citizens are free to express themselves in the defence of human rights are more likely to enjoy the benefits of long-term stability and security. Since the early 1990s, the OSCE community has recognized the role of individuals and civil society, in particular non-governmental human rights organizations and human rights defenders and advocates.³⁴

53. In many OSCE States, independent national human rights institutions play a crucial role in advancing and protecting human rights. Working with human rights defenders, they foster a national culture of human rights and serve as a respected independent voice. Such bodies do not yet exist in a number of participating States, or, where they do, they often lack the

33 OSCE Charter on Preventing and Combating Terrorism, Tenth Meeting of the Ministerial Council, 6-7 December 2002, para. 20.

34 The 1989 Concluding Document of the 1986 Vienna Meeting (Third Follow-up Meeting to the Helsinki Conference, para. 26) specifies that participating States “*will respect the right of persons to observe and promote the implementation of CSCE provisions and to associate with others for this purpose. They will facilitate direct contacts and communication among these persons, organizations and institutions within and between participating States and remove, where they exist, legal and administrative impediments inconsistent with the CSCE provisions*”.

requisite level of autonomy and independence to be effective. The important role of both human rights defenders and national human rights institutions has been recognized by the international community on numerous occasions and is reflected in important documents, in particular the *UN Declaration on Human Rights Defenders*³⁵ and the *Paris Principles*³⁶ relating to the status of national institutions. In the same spirit, OSCE States have recognized the contribution of human rights defenders and national human rights institutions to the concept of comprehensive security.³⁷

54. After an improvement of the framework for civil society in many States, the recent past has been marked by a visible trend of alienation between human rights defenders and state authorities. Human rights defenders are at times even portrayed by authorities as “enemies of the state” in an attempt to sway public opinion against the activities of groups or even against individuals themselves. In a number of OSCE States, human rights defenders continuously work under extreme pressure from state authorities and face restrictions on the exercise of freedom of expression, association and assembly. There are still too many cases where human rights defenders are subjected to unnecessary bureaucratic burdens, arbitrary detentions, assaults, ill-treatment, or defamation campaigns.

► **Involuntary migration: the challenge of refugees and IDPs**

55. Conflict-related displacement of populations and the protection of their rights represent another acute challenge. The problems encountered in the OSCE region include cases of protracted displacement due to the failure to resolve long-standing conflicts, and inadequate minority protection that effectively discourages returns. The importance of political dialogue and proactive initiatives on a national level to resolve situations of displacement cannot be overemphasized. In this regard, consultation with civil society and displaced communities is critical to the development of effective national response. So too is the role of regional and international organizations, including the OSCE, in reinforcing national responsibility. The needs of women and children in situations of involuntary displacement or migration must be taken into account more thoroughly, including by implementing the respective commitments contained in the 2003 Roma and Sinti Action Plan.³⁸

In Maastricht in 2003, the Ministerial Council decided to take into account the UN Guiding Principles on Internal Displacement as a useful framework for the work of the OSCE and the endeavours of participating States in dealing with internal displacement. This was a new step for the Organization. According to Principle 3, “national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction”.

56. The situation of refugees and IDPs in the OSCE region is gradually improving. In recent years, States have reduced the numbers of refugees and IDPs, but the problem persists. OSCE States focused on these challenges at the SHDMs on Migration and Internal Displacement held in

35 UN General Assembly document A/RES/53/144, 8 March 1999.

36 Principles Relating to the Status of National Institutions, UN General Assembly Resolution 48/134, 20 December 1993.

37 The first Supplementary Human Dimension Meeting (SHDM), in October 2001, on the topic of Human Rights: Advocacy and Defenders was followed on 30-31 March 2006 by the SHDM on Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects. A full list of human dimension meetings is annexed to this report.

38 In the 2003 Roma and Sinti Action Plan, OSCE States commit themselves to “consult Roma and Sinti populations when defining crisis situations in order to facilitate adequate procedures and to identify specific geographical areas from which refugees and internally displaced persons flee, as well as to ensure that the specific situation of Roma and Sinti people are addressed”, as well as to “pay specific attention to Roma and Sinti women and children in crisis and post-crisis situations”.

September 2000 and in November 2004. In addition, States have committed themselves to enhancing their co-operation with relevant international organizations and regional bodies in this area. In order to achieve more effective implementation of commitments, the *UN Guiding Principles on Internal Displacement* should be reflected in the legislation and practice of OSCE States.

57. It is now widely recognized that freedom of movement and the right to choose one's place of residence for IDPs means not only the right to return but the right *not* to return, instead opting to move somewhere else in their own country. This development is welcomed, as IDPs should not be hostages to uncertain political negotiations and expected to put their lives on hold until the conclusion of negotiations.

58. It has been recommended that States facilitate co-operation between sending and receiving countries in order to improve the conditions of migrants, first of all with regard to services, including information, documentation, and registration, as well as to take concrete steps to allow displaced persons to return home safely on a voluntary basis. Slow and insufficient efforts in this regard risk perpetuating the fate of IDPs and represent a disregard for the commitments undertaken by all participating States. While the commitments are in place, the actual use of the *Guiding Principles* and implementation of human dimension commitments are key to addressing existing, and preventing future, situations of internal displacement in the OSCE region.

► **Threats to the independence of the media**

59. Only if freedom of expression is exercised publicly can it underpin democratic freedoms. The media have a crucial function in this. By disseminating opinions to broad audiences, they provide the public with a platform through which this right is effectively exercised. The important role of the media confirms that democracy is more than a set of institutions; it is also a culture that cannot flourish without healthy, plural, diverse, and independent media that establish the public space to enable democratic debate.

60. OSCE States continue to face challenges with regard to the establishment of pluralistic, diverse, and independent media capable of fulfilling their democratic responsibilities. A media-friendly legal framework, the transformation of (formerly) state-owned media into independent media, and the establishment of a dual system of public-service broadcasters *and* independent broadcasters have yet to be established in a number of States. New developments have contributed to this challenge: the transition from analogue to digital terrestrial broadcasting and the safeguarding of the freedom of the Internet are new challenges that require adequate responses in order to establish or preserve media freedom.

Media professionals continue to be intimidated, threatened, physically attacked, or even killed in some OSCE participating States. Criminal defamation provisions, including imprisonment, are often used in some parts of the OSCE region beyond their legitimate function of correcting mistaken reporting, thereby creating a chilling effect on all media. The protection of journalistic sources is challenged by prosecutors and courts, thereby undermining investigative journalism. Media still face administrative and bureaucratic procedures that create working conditions incompatible with OSCE commitments for media freedom. These measures are often applied in a way that independent media are discriminated against.

► **Aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism**

61. As early as 1990, the OSCE participating States reaffirmed — as being among universally recognized human rights — that respect for the rights of persons belonging to national minorities was an essential factor for peace, justice, stability, and democracy in the participating States.³⁹ Since then, there has been a growing international recognition of the legitimacy and importance of minority rights, and of their natural place as a part of basic human rights, reflected by the adoption of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and the Council of Europe Framework Convention on the Protection of National Minorities, as well as by the practices of individual States.

62. Inter-ethnic tension and tension between majority and minority populations, however, still remain a challenge that, if not addressed properly, constitutes a threat to security. In recent decades, societies have grown increasingly diverse in terms of ethnicity, culture, religion, and language. The challenge of managing diversity no longer rests only with the States on whose territory national minorities have historically resided. Globalization and increasing migration mean that all participating States must find ways to build societies that take into account the rights and responsibilities of all persons living within their jurisdiction and that are characterized by tolerance, mutual respect, and equal opportunities with the ultimate aim of preserving and promoting societal harmony.

63. Violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and manifestations of hate and intolerance threaten not only the security of individuals but also stability and security in the OSCE region. While OSCE States have undertaken numerous commitments in this regard, including four separate Ministerial Council Decisions since 2003, much work remains to be done to foster pluralistic and inclusive societies where ethnic, cultural, and religious diversity is valued and appreciated. Significant progress has been made by several States through efforts to strengthen legislation, increase co-operation with civil society actors, and intensify educational programmes to promote mutual respect and understanding.

64. The concern expressed in the Lisbon agenda with regard to aggressive nationalism and other forms of intolerance and their threat to stability remains valid. Violent manifestations of hatred and violations of religious freedom have increased in a number of countries in recent years; this, in turn, raises the need for intensified efforts to fight intolerance and discrimination. The ODIHR has recently reported on several trends related to the nature and scope of acts of hatred and intolerance.⁴⁰

65. Numerous anti-Semitic incidents were documented, involving violence targeting Jewish sites, symbols, and persons, as well as acts of verbal abuse prompted by increasing resentment and hostility towards Jews, often in connection with developments in international politics. In many cases, different types of resentment overlap, as does the perception of certain groups as both religious and national.

39 Cf. the 1990 Copenhagen Document, para. 30.

40 Cf. the ODIHR report on *Challenges and Responses to Hate-Motivated Incidents in the OSCE Region (for the period January-June 2006)*, 12 October 2006, available at www.osce.org/odihr.

66. Incidents against Muslims are fuelled by a combination of racism, hostility towards Islam and its adherents, powerful anti-immigrant sentiment, and the association of Muslims and Islam with terrorism. The sense of fear and vulnerability created by terrorist attacks and by concerns over immigration and integration issues has been exploited by far-right groups, and has led some media and political parties to publicly portray Muslims and immigrants as a threat to European security and economic well-being. People are wrongly led to believe that the traditions and values of Muslims are incompatible with those of contemporary pluralistic societies.⁴¹ The onus of addressing and redressing this misperception generally falls upon the authorities within participating States.

67. Responding to hate crime remains a challenge for many States for a number of reasons. To begin with, most States lack accurate data about the nature and extent of hate crime, which means that law enforcement and criminal-justice agencies are not armed with the information needed to combat such crimes. This is often compounded by the lack of an adequate legislative basis for defining and criminalizing hate crimes and other forms of intolerance, making it difficult to prosecute such cases.

68. In the course of collecting information on hate crimes in the OSCE region in line with its mandate, the ODIHR has noted a large number of such violent incidents directed at persons because of their perceived sexual orientation.⁴² Many participating States include sexual orientation among the prohibited grounds for discrimination in their national legislation. However, because of the specific situation surrounding sexual and gender identity, violent crimes and attacks against individuals are frequently unreported, undocumented and therefore often ultimately unpunished. In the face of this reality, the responsibility of participating States to extend effective protection is further heightened.

69. Recent years have seen the resurgence of centuries-old prejudices and hostilities against Roma and Sinti, who are negatively portrayed, especially in the debates around European enlargement and on the reform of asylum and immigration laws and of social-welfare systems. Despite slow progress in a number of participating States, obstacles and challenges persist. While relations between Romani communities and the police have traditionally been strained, there are an increasing number of reports suggesting that the police use disproportionate force and resort to violence that could be qualified as degrading treatment. States are encouraged to request the assistance of the relevant OSCE institutions and joint expert teams to document existing institutional practices and to provide advice on policing in multiethnic societies. For many Roma and Sinti, obtaining legal residence with secure living conditions is a prerequisite for the fulfilment of other rights. Without an address, it is often impossible to register for public services or engage in lawful income-generating activities. Problems include: forced evictions, lack of secure land tenure, inadequate alternative housing, lack of civil registration and of voting registration, and the inability of Roma and Sinti children to attend school.

70. Throughout the OSCE region, individuals and groups continue to 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

41 See the *Second Semi-Annual Report for 2006* by the Personal Representative of the CiO of the OSCE on Combating Intolerance and Discrimination against Muslims, 2 November 2006, p. 1.

42 See note 40 of this report.

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; in other cases, they may stem from a lack of protective action from state authorities, often in the face of a dominant religious majority. As part of its response, the ODIHR has formed an Advisory Panel of Experts on Freedom of Religion or Belief, now consisting of over 50 experts, which acts as a consultative body on issues that include legislation, education and training on international standards pertaining to freedom of religion or belief, inter-faith dialogue, and tolerance education.

71. The strong influence that the media can have in either countering or exacerbating misperceptions, prejudices, and biases has been evident in recent years, as has the rapid internationalization of what might initially seem to be isolated incidents. Throughout the OSCE region, the Internet is increasingly being used as an instrument for spreading hate and inciting violent attacks against individuals. The rise of anti-Muslim, anti-Christian, anti-Semitic, xenophobic, racist, homophobic and other discriminatory discourse by political leaders and the growing tendency for such discourse to be used by mainstream political parties has also contributed to a climate of intolerance in some participating States.

Overall, as confirmed in numerous consultations in the preparation of this report, there remain considerable shortcomings in the implementation of the body of existing OSCE commitments.

► **Participating States should demonstrate more focused political will to implement all human dimension commitments in good faith, bilaterally and through international fora or instruments. They should, as a matter of urgency, address the challenges in the areas outlined in this report, in particular with regard to:**

- (1) Democratic elections;
- (2) Freedom of assembly and association;
- (3) Human rights and countering terrorism;
- (4) Human rights defenders and national human rights institutions;
- (5) Involuntary migration: the challenge of refugees and IDPs;
- (6) Threats to the independence of the media;
- (7) Aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism.

► **The OSCE should enhance the use of existing procedures and instruments, in particular by:**

- (1) Intensifying the use of the peer review for more systematic review of implementation of human dimension commitments in the framework of the PC, thereby making full use of the expertise and assistance of the OSCE institutions and structures;
- (2) Making optimal use of the role of the Chairman-in-Office in informing the PC of serious cases of alleged non-implementation of human dimension commitments;
- (3) Reviewing the effectiveness of the Vienna and Moscow Mechanisms;
- (4) Strengthening the effectiveness of its action plans by ensuring more systematic periodic reviews, which could lead to an annual review at the Ministerial Council.

► **All 56 States should ensure that the public is provided with maximum access to information about human dimension commitments.**

72. The shortcomings identified on the previous pages are becoming more evident at a time when new challenges may require a normative response by participating States in the form of new commitments — an issue dealt with in the following chapter.

II.

POSSIBLE SUPPLEMENTARY COMMITMENTS

73. The OSCE community can be proud of its *acquis* of commitments. Both in general terms and in its specific commitments on making democracy and human rights a reality for all in the OSCE region, little can be added. What remains is the challenge to implement, which includes spreading knowledge and awareness of these standards as widely as possible, and living up to these norms in practice. There is, however, always scope for providing more clarity about exactly what the more general base lines of pluralist democracy, democratic elections, human rights, and the rule of law mean in practice. This would be done with a view to making it easier to establish whether or not the commitments are being fulfilled, and to make the process of accountability more standardized and objective.

74. This chapter provides some examples where existing commitments would benefit from clarification or specification and discusses areas in which the OSCE *acquis* may benefit from new commitments. To be consistent with the OSCE's process-oriented approach, the starting point for any discussion of additional commitments in the human dimension is essentially and fundamentally a re-commitment to the core agreements in this context, such as the 1990 Copenhagen Document and post-Copenhagen Declarations and Decisions.

75. The discussion of additional commitments to supplement existing ones provides OSCE participating States with an opportunity to enrich, reinforce, and amplify existing OSCE human-dimension-related commitments, with a focus on principles not already expressly stated in the 1990 Copenhagen Document or elsewhere. The adoption of new documents will certainly not detract from or invalidate existing documents, which have always been intended to build on each other, thus constituting the normative layers of the OSCE *acquis*.

A. Elections

76. Since 1990, OSCE States have been active in developing norms for democratic elections, and they have built upon the Copenhagen Document through a succession of Declarations and Decisions.⁴³ The Budapest Summit duly emphasized an election as a process, and decid-

⁴³ The 1990 Charter of Paris states that “we undertake to build, consolidate and strengthen democracy as the only system of government of our nations”. Furthermore, it proclaims that “democratic government is based on the will of the people, expressed regularly through free and fair elections”, and “everyone also has the right...to participate in free and fair elections”. The 1994 Budapest Summit Declaration notes that “democratic values are fundamental” to OSCE participating States and these values are “a primary goal of CSCE action” (paras. 8 and 14). The 1996 Lisbon Summit Declaration recognizes the “democratization process” and management of “democratic gains” through “further development” and co-operation “in strengthening democratic institutions” (para. 4). Moreover, the 1999 Istanbul Summit Declaration announces that OSCE participating States are committed to free and fair elections as “this is the only way in which there can be a stable basis for democratic development” (para. 26). The link between democracy and security was strengthened by the Istanbul Charter for European Security, which underlines that “democracy is the core of the OSCE’s comprehensive concept of security” (para. 19).

ed that the ODIHR should play an enhanced role in election monitoring before, during, and after elections. It also underlined the importance of free and independent functioning of the media.⁴⁴ As mentioned in the preceding chapter, the Lisbon Summit Declaration cites the issue of electoral fraud in the context of a cross-dimensional regional security issue.⁴⁵ The Istanbul Summit Declaration,⁴⁶ followed by the Porto and Maastricht Ministerial Decisions, emphasized the importance of prompt follow-up to ODIHR recommendations. This commitment has improved the development of electoral processes in several countries that have taken up the ODIHR's assistance and have implemented recommendations given in this context.

77. In recent years, the ODIHR has undertaken a review of existing commitments and best electoral practices.⁴⁷ In 2002, the ODIHR submitted to the OSCE Permanent Council a document called *International Standards and Commitments on the Right to Democratic Elections: A Practical Reference Guide to Democratic Elections Best Practice*. This document was the basis for a subsequent 2003 document, *Existing Commitments for Democratic Elections in OSCE Participating States: a Progress Report*, which was considered by the OSCE Ministerial Council that year.

78. On the basis of these developments, participating States have entered into a discussion on whether the existing commitments on elections could meaningfully be supplemented through the development of additional commitments, otherwise known as “Copenhagen Plus”. Ministerial Council Decision No. 5/03 of 2 December 2003 recognized “*in particular the need for confidence by the electorate in the entire process, for transparency of election procedures, and for accountability on the part of authorities conducting elections*”, and tasked the Permanent Council, “*drawing on expertise from the ODIHR, to consider the need for additional commitments on elections, supplementing existing ones*”.

79. The need for additional commitments was further discussed at the July 2004 Supplementary Human Dimension Meeting (SHDM).⁴⁸ In March 2005, OSCE Chairman-in-Office and Slovenian Foreign Minister Dimitrij Rupel stated, “*bearing in mind the fact that the OSCE Copenhagen Document is almost 15 years old, I see merit in considering whether additional commitments are needed*”.⁴⁹ As a result of the recommendations devised in the subsequent OSCE SHDM of April 2005, the Slovenian Chairmanship proposed that the ODIHR convene an expert meeting to consider the need for additional commitments.⁵⁰ This meeting took place in Warsaw on 6-7 September 2005. Views on possible additional commitments

44 Concluding Document of Budapest, Decision VIII, para. 12.

45 Concluding Document of Lisbon, Declaration, para. 9.

46 Charter for European Security, Istanbul, para. 25.

47 Considerable work on best practices for elections has also been undertaken during this same period by other institutions, including the United Nations and — specific to the OSCE area— by the Venice Commission of the Council of Europe, the Commonwealth of Independent States, and the Association of Central and Eastern European Election Officials.

48 Participants at the July 2004 SHDM generally agreed that there was a need for additional commitments to address ongoing and emerging challenges, including new voting technologies, “*particularly as they relate to transparency, accountability and developing public confidence in such systems*” (see the Final Report of OSCE Supplementary Human Dimension Meeting on *Electoral Standards and Commitments*, Vienna, 15-16 July 2004, p. 2).

49 OSCE PA, 4th Annual Winter Meeting, 24/1/05 (www.oscepa.org/index.aspx?articleid=+496).

50 Final Report of the OSCE Supplementary Human Dimension Meeting on *Challenges of Election Technologies and Procedures*, Vienna, 21-22 April 2005.

were reflected in an ODIHR Explanatory Note⁵¹ to which participating States had the opportunity to respond. Although its content has not yet been circulated in a formal decision for consideration at the Ministerial Meeting, the ODIHR stands ready to assist participating States in further discussing this topic and to provide additional input as necessary.

80. The ODIHR confirms that three basic principles integral to the democratic election process that are not expressly stated in the 1990 Copenhagen Document — *transparency, accountability* and *public confidence* — could usefully serve as the basis for commitments to supplement existing ones. These three principles are intrinsically interwoven: transparency and accountability contribute directly to increasing public confidence in the government's ability and intention to deliver a democratic election process. Each of these principles is important for realizing the will of the people through democratic elections. The Copenhagen Plus discussion should also address perceived and real challenges to transparent and accountable elections that have arisen in the context of new voting technologies.

B. Democracy and the rule of law

81. It has been recognized from the outset in the OSCE's commitments to democracy and democratic elections that an orderly electoral process, while being an essential prerequisite, does not itself make a genuine democracy. For democratic governance to take hold, and a democratic culture to emerge, a whole range of other factors need to be in place. The OSCE has therefore duly taken into account that commitments to democratic government must reach far beyond the periodic vote.

82. The OSCE has also recognized the enormous diversity of models and systems of government that exist across the OSCE region. Any "democracy template" risks being ahistorical and apolitical and is therefore unlikely to succeed in organizing free societies effectively. Yet the basic ingredients for successful democratic systems remain the same. While the OSCE community has unequivocally committed itself to representative and pluralist democracy, it has not specified in detail which components must be in place to allow for genuine democratic government. It is in these areas where the OSCE community could benefit from finding a common language that acknowledges both the diversity of traditions and systems across the region and the need to be sufficiently clear on central aspects for effective implementation of the general commitments.

► Separation of powers

83. One such factor is the separation of powers of government. The system of checks and balances between the legislative, executive, and judicial branches of government creates a framework for democratic decision-making and sets the stage for public debate on policy issues. Separation of powers is thus not only about accountability — one aspect explicitly addressed in the commitments — but should be viewed as an essential component of a functioning democratic system.⁵²

51 Explanatory Note on Possible Additional Commitments for Democratic Elections, 11 October 2005 (Annex 1 of this report).

52 Cf., for example, the contextual link between pluralist democracy and the separation of powers made in Art. 3 of the Inter-American Democratic Charter, OAS GA, 11 September 2001.

84. Additional commitments could clarify the role of the executive branch, including heads of state, vis-à-vis other branches in a democratic system of government. Constitutional arrangements that place the executive above other branches of government, without effective checks and balances on this power, are incompatible with the participating States' commitment to democracy and the rule of law. Similarly, changing constitutional terms of the executive through referenda raises legitimate questions about the "*regularity and consistency in the achievement and enforcement of democratic order*".⁵³

85. Independence of the judiciary is another fundamental element of a genuinely democratic system. While independence of the judiciary is widely recognized as a prerequisite for effective protection of human rights, its importance for the functioning of a democratic system of government should be underlined and further spelled out. In particular, the *judicial review* of executive and legislative acts deserves special attention as an essential cog in the machinery of checks and balances.

► **Democratic law-making**

86. Legislative transparency and efficiency is another central element of genuine democratic governance. While the OSCE States are clearly committed to the latter, there may be a need for a more stringent link that could provide a nexus with governmental transparency. Transparency requires not only the publication of legislation, but also the inclusiveness of the legislative process, as well as a degree of efficiency of procedures, which allow for the monitoring of legislation, and the regular assessment of its impact by the public.⁵⁴

87. The role of legislatures should be particularly acknowledged in this context, especially with an emphasis on both their legislative and oversight functions. The right to establish political parties "*in full freedom*"⁵⁵ should be expanded both to reassert the importance of political parties within a pluralist democracy and to tackle the issues of registration and the unimpeded operation of political parties.

► **Administration of justice**

88. The participating States' clear commitment to ensure independence of the judiciary could be strengthened and complemented with further commitments that would safeguard fair and impartial administration of justice. These could include specific measures to improve court administration and case management, and introduce reliable recording of court proceedings and publication of court decisions. Special attention could also be given to improving access to justice, especially for the poor and other vulnerable groups.

C. Countering terrorism

89. The international nature of the fight against terrorism and States' co-operation on an international level give an added dimension to the need to protect human rights in this context. The erosion of the rule of law and the respect for human rights on the international level is counter-productive and may serve to undermine terrorism-prevention efforts across the

53 See the 1990 Copenhagen Document (para. 2).

54 See the 1990 Copenhagen Document (paras. 5.2 and 5.8) and the 1991 Moscow Document (para. 18.1).

55 Copenhagen Document, para. 7.6.

region. In order for the OSCE to properly fulfil its commitment to upholding human rights in the fight against terrorism, it should reinforce relevant human dimension commitments to ensure that commitments made in a national context are also respected in an international context. Two areas in particular should be addressed in new OSCE commitments.

90. The principle of *non-refoulement*, that a person should not be transferred to a place where they are at risk of torture, cruel, inhuman or degrading treatment or punishment or of other serious human rights abuses, is implicit in international human rights standards. A lack of respect for the principle of *non-refoulement* in the extradition and deportation of terrorist suspects was highlighted at the SHDM on human rights and the fight against terrorism in July 2005 as a serious threat to the prohibition on torture in the OSCE region. An explicit commitment not to return or transfer a person to a place where they are at risk of torture, cruel, inhuman or degrading treatment or punishment or of other serious human rights abuses would significantly strengthen OSCE commitments on the prohibition of torture and clarify the international standards that apply.

91. Human rights commitments can only be real and effective if they are protected by *procedural safeguards* and if effective remedies are available in cases of alleged abuse of human rights. An additional OSCE commitment specifying that commitments relating to effective remedies and arbitrary detention apply equally to international co-operation in the fight against terrorism would help to clarify that human dimension commitments are not ignored in the international fight against terrorism.

D. Prevention of torture

92. The OSCE's unequivocal commitment to prohibit torture and other cruel, inhuman or degrading treatment or punishment has been reaffirmed repeatedly.⁵⁶ The participating States have also made it clear that "*no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture*".⁵⁷ At the same time, recognition that torture still exists and remains a serious concern in the OSCE area⁵⁸ suggests that more needs to be done by the participating States to eradicate this abhorrent practice.

93. Clearly, political condemnation of torture should go hand in hand with practical measures that translate this commitment into reality. Chief among them are institutionalized procedures that would apply to all law enforcement bodies and other state agents authorized to detain and interrogate people. The 1991 Moscow Document outlined some such measures.⁵⁹ Additional safeguards should, *inter alia*, include access to detainees by defence counsel and medical personnel; creation of permanent national monitoring mechanisms with unimpeded access to all places of detention, regardless of their institutional jurisdiction; equipping all interrogation rooms with video surveillance systems and/or video recording of all interrogations; and creation of specialized units for independent investigation of allegations of torture and other ill-treatment in custody.

56 See, for example, the 1989 Vienna Document (para. 23.4), the 1990 Paris Charter and the 1999 Istanbul Charter (para. 21).

57 1990 Copenhagen Document, para. 16.3.

58 The Final Report of the SHDM on the Prevention of Torture (6-7 November 2003) is available on the ODIHR's website.

59 Paras. 23.1.vii-x.

E. Consolidating commitments on non-discrimination

94. The current grounds of discrimination listed within OSCE Ministerial Council Decisions on Tolerance and Non-Discrimination include reference to discrimination based, *inter alia*, on race, skin colour, sex, language, religion or belief, political or other opinion, national or social origin, property, birth *or other status*. Given the deeper understanding of phenomena of exclusion in contemporary society, it may be useful to review the implementation of the important commitments in this field. With a view to further operationalizing the implementation of existing commitments, it might be advisable to consolidate all grounds for discrimination in a comprehensive document.

Overall, OSCE States are encouraged to strengthen their review of the implementation of existing commitments with a view to identifying possible areas in which further action is required as a matter of urgency. Specific issues include the so-called Copenhagen Plus commitments, new commitments in the area of the separation of powers, and those pertaining to practical measures through which the commitment to prevent torture could be implemented more effectively. The report also suggested consolidating and operationalizing commitments pertaining to tolerance and non-discrimination. In all areas, the existing *acquis* could be supplemented and defined more concretely.

► **States should consider the value and need for supplementary commitments in the areas identified in this report:**

- (1) Elections: transparency, accountability, and public confidence;
- (2) Democracy and the rule of law, including the separation of powers, democratic law-making, and in the area of administration of justice;
- (3) Countering terrorism;
- (4) Prevention of torture;
- (5) Consolidating commitments on non-discrimination.

► **States should examine concrete follow-up to this in preparation of the Ministerial Council in Madrid in 2007.**

The ODIHR stands ready to continue to support States with regard to formulating commitments supplementing existing ones with a view towards further discussions by States of a Copenhagen Plus document, as well as in other human dimension areas, if so requested.

III.

STRENGTHENING AND FURTHERING THE ODIHR'S ELECTION-RELATED ACTIVITIES

A. Recent discussion about the ODIHR's election-related activities

95. Since its establishment, the ODIHR has become a leading institution in supporting the transition of countries from authoritarian rule towards upholding established political norms for democratic governance. To this end, little lasting progress can be achieved without, first and foremost, conducting democratic elections in line with OSCE commitments. OSCE participating States benefit from the provisions in the 1990 Copenhagen Document (discussed in *Chapter I* of this report), which represents the most advanced intergovernmental agreement outlining criteria for the conduct of democratic elections. The methodology developed by the ODIHR has positioned the OSCE at the forefront of international observer efforts.

96. The ODIHR has, since 1996, conducted over 100 long-term election observation missions (EOMs).⁶⁰ Over the past ten years, it has deployed approximately 30,000 long- and short-term observers. Since 1996, election observation missions have followed a comprehensive and standardized methodology, which is a process-oriented and fact-driven exercise encompassing aspects of qualitative analysis of the pre-election period and a quantitative analysis of the media coverage of the election campaign. On Election Day, the ODIHR methodology is designed to follow trends at the polling-station and counting levels, employing both qualitative and quantitative analysis and placing a premium on the collective findings of all observers. By identifying whether any observed shortcomings are isolated or systematic, the methodology creates a solid basis for evaluation and recommendations.

97. The ODIHR reports on election observation arguably form part of the most visible added value of the OSCE, an aspect the Panel of Eminent Persons stressed.⁶¹ In addition, both the Summit of Heads of State and Government and the Ministerial Council have, on a number of occasions,⁶² recognized the ODIHR's expertise in assisting States in the implementation of election-related commitments, and have welcomed the continuing efficient co-operation

60 The ODIHR has conducted 112 election observation missions (EOMs and limited EOMs) since 1996. Also see Annex 6 to this report, which lists the EOMs and election assessment missions deployed in the period between 1996 and 2006.

61 See the Panel's report *Common Purpose: Towards a More Effective OSCE* (CIO.GAL/100/05), 27 June 2005, p. 12., para. 24(b).

62 Istanbul 1999 (*Charter for European Security: III. Our Common Response*), para. 25; Porto 2002 (Decision No. 7 on Election Commitments), p. 47.

between the ODIHR and the OSCE Parliamentary Assembly in election monitoring.⁶³ While this activity has only recently been criticized by a few, it is recognized by the large majority of participating States as professional and independent. The European Union, which has adapted the ODIHR's methodology for its own activities in this field, has repeatedly emphasized that the ODIHR's credibility has always been a compelling argument for it not to deploy separate EU election observation missions in the OSCE area.

98. Before suggesting ways of strengthening and furthering the ODIHR's election-related activities, it is appropriate to situate these efforts within the context of the debate among OSCE participating States and to use this opportunity to dispel a number of misperceptions. In recent years, some OSCE participating States have begun to express criticism of the work of the ODIHR regarding election observation, within the Permanent Council and also directly to other participating States. Criticism of OSCE observations began in the context of a cycle of elections in 2003/4 in which election observation missions pointed out serious shortcomings that not only prevented the characterization of electoral activities as a genuine democratic contest but also raised the risk of a possible reversal of democratic achievements in some countries.

99. At times, the discussion has veered off into criticism from a few participating States lacking a factual basis and misrepresenting the extent to which the OSCE is contributing to the formation of what has been termed regional custom.⁶⁴ The assertion, for instance, that no standards on elections exist in the OSCE contradicts the language adopted by the latest Summit of Heads of State and Government in the OSCE, which contains a specific reference to "clear standards" governing the treatment of individuals on the territory of participating States.⁶⁵ Similarly, the argument that the OSCE's commitments are not binding, as they constitute mere declaratory intentions of a political nature, may, if employed with the intention of justifying a material breach of commitments, defeat the purpose and nature of the OSCE as a whole. After all, the norm-setting nature of the OSCE and its commitments has been re-confirmed on frequent occasions, not least in Ministerial Council Decision 17/05, the basis of this report.

100. A large number of comments and questions were posed by participating States and received prior to the finalization of this report; some fail to appreciate certain fundamental aspects of ODIHR election activities and procedures. This chapter will therefore (1) explain what the ODIHR does; (2) elaborate on actions taken by the ODIHR to respond to some concerns; and (3) suggest further action.

63 Maastricht 2003 (Decision No. 5 on Elections), p. 81.

64 See Eric Manton, "The OSCE Human Dimension Process and the Process of Customary International Law Formation", in *OSCE Yearbook 2005* (Vol. 11 ed. IFSH, 2006), pp. 195-214.

65 Istanbul 1999 (*Charter for European Security: II. Our Common Foundations*) confirms that the UN Charter, the Helsinki Final Act, the Charter of Paris "and all other OSCE documents" have established "clear standards for participating States' treatment of each other and of all individuals within their territories" (para 7).

B. The ODIHR's mandate and methodology

101. The ODIHR has a strong mandate to observe elections. It is based on:

- ▶ The 1990 Copenhagen Document on the Human Dimension, mandating the Office to compile “*reports of election observations*” among other election-related information;
- ▶ The 1990 Charter of Paris, which established the Office originally as the Office for Free Elections and tasks the ODIHR with fostering the implementation of election-related commitments agreed upon in the Copenhagen Document;
- ▶ The 1993 Rome Document, which explicitly tasks the ODIHR with carrying out “*comprehensive election monitoring*”;
- ▶ The 1994 Budapest Summit Document, which mandates the ODIHR to “*play an enhanced role in election monitoring before, during and after elections*” and which also contains a mandate to “*assess the conditions for the free and independent functioning of the media*”, tasks the ODIHR with consulting “*all relevant organizations monitoring elections in order to develop a framework for co-ordination in this field*” and with devising “*a handbook for election monitors and [setting] up a rolling calendar for upcoming elections*”;
- ▶ The 1999 Istanbul Summit, which commits States to invite the ODIHR to observe their elections and “*to follow up promptly the ODIHR's assessment and recommendations*”.

102. The ODIHR's election mandate is to observe a public political and administrative process that involves the entire electorate of a given country. The purpose of this activity is to provide factual information in order to establish the degree of compliance of the election process observed with a set of political commitments contained in the 1990 Copenhagen Document. Notably, these commitments indicate that a genuine election should be viewed as a public political competition between distinct alternatives, taking place in an environment providing equal opportunities for the various competitors. An election is a process rather than a one-day event, and is thus looked at in its entirety. Among other requirements, this process should enable voters to make informed choices between the alternatives offered and should allow for a tabulation of results in an accurate, honest, and timely manner. Conclusions with regard to compliance with the commitments reflect findings about the process and therefore never comment on the political outcome of an election.

103. Once an election process that the ODIHR intends to observe has commenced, the ODIHR Code of Conduct related to election observation excludes any form of direct involvement in the process.⁶⁶ The requirement for non-interference and objectivity excludes providing formal advice, assistance, or conclusive remarks either to the institutions tasked by domestic law with the responsibility to conduct the election or to any other election stakeholders before the voting procedures have been completed. In this way, the ODIHR Code of Conduct prevents any influence on voters' choices. Since monitoring does not involve any responsibility on the part of the monitors for the actual conduct of the election, election observation should not be perceived as contributing in any way to the legitimacy of the election process or its outcome. Mindful of these sensitivities, the ODIHR avoids providing election-

⁶⁶ Also see para. 113 of this report.

related technical assistance in the period immediately prior to an election process. In order to avoid a conflict of interest, the ODIHR has opted to decline observing elections where the OSCE itself has been tasked with the responsibility of conducting elections.⁶⁷

104. Observation is an activity that supports democratic development by formulating recommendations and addressing them to national authorities. This is not to say that the deployment of an EOM cannot influence the prevalent political climate in a specific situation. Indeed, ODIHR observation reports can serve as a common reference point for all competitors in the process. This is particularly relevant as domestic interlocutors often perceive an election observation as a confidence-building measure. Particularly in the context of a contentious election and in environments characterized by post-conflict issues or a high level of social tension, an ODIHR report may assist all parties to navigate their way through an electoral crisis.

105. The successful OSCE formula for election observation is thus based upon a clear mandate entrusted to the ODIHR by all participating States. Its implementation carries delegated obligations for the ODIHR that include determining priorities with relation to the observation calendar; the submission of the commensurate budget proposal and its responsible use; the appointment of qualified core-team personnel including the head of an election observation mission; and the swift response, often on short notice, to unexpected electoral developments. Most importantly, it has required the development of a consistent set of practices and procedures that are applied in order to collect, process, and analyze facts as they manifest themselves in the course of election-related events. These procedures have come to be termed the ODIHR methodology.

106. To ensure consistency and transparency, the ODIHR *Election Observation Handbook* explains in detail the methodology followed by election observation missions.⁶⁸ Although the ODIHR's methodology has not been fundamentally altered since 1996, it has expanded its focus to take account of specific issues, including the participation of women, inclusion of national minorities, and new voting technologies. The handbook was reissued last year in its fifth edition and has been translated into seven languages.⁶⁹ The methodology presented in the handbook has proven to be an important means of providing a structural and consistent assessment, resulting in recommendations to assist participating States to meet their election-related commitments. It has been adopted and adapted by other international organizations, including, most prominently, by the European Union, as outlined in the *EU Observation Handbook*. According to its own accounts, the Commonwealth of Independent States employs a similar methodology.⁷⁰ Furthermore, the ODIHR election observation methodology served as an inspiration for drafting the *Declaration of Principles for International*

67 Exceptions to this approach can be cited in Bosnia and Herzegovina in 1996, 1997, and 1998.

68 At the 1994 Budapest Summit, the ODIHR was explicitly mandated to prepare such a handbook. It was released in 1996 and warmly received by OSCE delegations and the public at large.

69 Albanian, French, Georgian, Romanian, Russian, Serbian, Ukrainian. Further translations could be envisaged, depending on demand and available resources.

70 The CIS has begun to organize separate election observation missions through its Secretariat in the last few years. The ODIHR has always welcomed contacts between ODIHR EOMs and the CIS missions in the field. Although the CIS has, on occasion, expressed its aspiration to develop its election observation practice in line with ODIHR methodology, the difference in method is consistently evidenced by different observation conclusions and was recently underscored by CIS Executive Secretary Vladimir Rushailo, who stated on 18 January 2006 that “we often interpret the same facts in different ways”.

Election Observation, which was endorsed by the UN Secretary-General, as well as by a large number of international organizations and associations.⁷¹

C. Types of activities

107. The ODIHR determines whether to deploy an *election observation mission (EOM)*, and commensurate planning such as the number of required experts and observers for a particular election observation, based on several elements: it is first and foremost founded on the findings of a professional *needs assessment mission (NAM)* that constitutes the initial step towards an observation activity. As such, its main objective is to inform the ODIHR of specific developments and circumstances relevant to the decision on how to proceed. The NAM ascertains whether the minimum conditions for effective election observation are respected, ensuring sufficient access and transparency to make election observation a meaningful exercise. In addition, it typically makes a preliminary assessment of the following key elements:

- ▶ The extent to which recommendations emerging from any previous ODIHR election observation missions have been implemented;
- ▶ The legislative framework and any amendments since the last election. Whenever possible or relevant, the ODIHR prepares a separate detailed analysis of the election legislation;
- ▶ The structure and composition of the election administration, as well as the status of its preparations for the election;
- ▶ The pre-election environment, including the extent to which human rights and fundamental freedoms are being observed by the government in relation to the upcoming election;
- ▶ The situation of the media and their expected role in the elections;
- ▶ Any other issues of particular relevance, such as the compilation of voter registers, the candidate/party registration process, the participation of women, the inclusion of minorities, or election activities of civil society organizations;
- ▶ The level of public confidence expressed by parties, candidates, and civil society representatives regarding issues of transparency and accountability in relation to the overall election process;
- ▶ The degree to which interlocutors believe the establishment of an ODIHR EOM can serve a useful purpose; and
- ▶ Whether the security situation is conducive to an observation mission.

108. Following the visit, the ODIHR prepares a report based on the findings of the NAM, which is conveyed to the Permanent Council and circulated to all participating States. It is subsequently made available to the public-at-large through the ODIHR website. It reflects the conclusions on the key election-related issues in the respective participating State and also defines the scope and scale of the proposed mission, consistent with ODIHR methodology. This process and the resulting report serve as a professional and analytical basis for the ODIHR to recommend election missions.

71 Commemorated 27 October 2005 at the UN, New York (available in English and Russian on the ODIHR website). While not constituting a formal commitment binding States, this document has been accepted by practically all international organizations and bodies regularly conducting election observation, and it provides the most elaborate global directory of standards and good practice for the credible and professional conduct of such observation.

109. The ODIHR has over the years broadened its methodology to reflect specific and evolving circumstances in participating States and to enable some degree of graduated options when planning how to most effectively follow a particular electoral process. It can deploy a standard long-term observation mission, made up of long- and short-term observers and supported by a core team. Such missions are deployed on average for six to ten weeks. Alternatively, on occasion, some observations can be limited to the deployment of a long-term mission, consisting of long-term observers and supported by a core team, without the presence of short-term observers on Election Day. This may occur in countries where there is broad confidence in Election Day proceedings, as confirmed by past experience, but there may be issues within the overall legal and administrative framework that merit following. The observation therefore focuses its attention largely on the pre-election period.

110. Conversely, the absence of short-term observers may derive from the fact that the pre-election period was too flawed or the election process not sufficiently competitive, to make polling day a meaningful exercise. In these cases, the ODIHR does not request short-term observers from participating States, thus indicating an election process that is significantly sub-standard with regard to OSCE commitments. On rare occasions, a limited observation may also be deployed due to time constraints.

111. When participating States committed themselves to inviting election observers, they put no restrictions on the number of observers deemed necessary to conduct an effective observation. In fact, one of the key conditions for effective observation, as reflected in the ODIHR *Election Observation Handbook*, is that the ODIHR should be able to determine, at its own discretion, the number of observers necessary to mount a viable election observation mission. This fundamental tenet of international election observation is also espoused in the *Declaration of Principles for International Election Observation*.

112. As such, the optimal number of observers is determined in order to ensure sufficient coverage in the context of the electoral process. Factors may include: size of the country, number of voters, number of constituencies, topography, ways to ensure comprehensive geographic coverage, ways to ensure urban/rural coverage, electoral history and overall level of confidence in the process. Post-conflict elections, or particularly contentious election processes, may require larger numbers of observers as a confidence-building measure. Another determining factor is the anticipated capacity of States, and their respective interest, to second observers. In order to allow for credible identification of trends in the process and to determine whether any irregularities are systematic or merely isolated, the findings are systematically based on the feedback of a relevant number of observers in each instance. This should permit the ODIHR to acquire full insight into the election process, and in return, to be able to offer an authoritative assessment rather than an impressionistic one.

113. Election observation is an undertaking that requires the highest professional standards; it is essential that all participants follow basic principles of observation, such as, *inter alia*, objectivity and non-interference in the electoral process. These principles must be strictly enforced in order to maintain full credibility of the mission as a neutral observer. It is for this reason that the ODIHR's methodology contains a Code of Conduct that is binding on all OSCE observers.⁷² There have been several instances where seconded observers have been

72 The 10-point Code of Conduct for OSCE/ODIHR observers is available on the ODIHR's website.

disaccredited because of serious breaches of the Code of Conduct. This is an automatic and technical procedure, and it applies to any individual who violates the Code of Conduct.

114. In order to follow electoral issues in a broader range of participating States, the ODIHR introduced in 2002 a new activity: the *election assessment mission* (EAM). EAMs are deployed to longer-standing and transition democracies on the premise that an election is expected to meet OSCE election commitments overall. However, there may be electoral issues of specific interest or concern, or a focus on the implementation of best practices. The modalities of an EAM derive from the fact that elections in longer-established democracies enjoy higher public confidence, better-tested electoral practices, and checks and balances such as a more robust civil society, pluralistic media, and an independent judiciary. EAMs can therefore meet their essential objectives at a reduced cost, without the need for a long-term or large-scale presence.

115. EAMs consist of a group of experts deployed for a few weeks who carry out an overall assessment of the legal and administrative framework without systematic and comprehensive visits to polling stations on Election Day. EAMs offer targeted recommendations contained in public reports posted on the ODIHR website. EAMs have also been deployed to transition countries. The determination to deploy an EAM has thus far been based upon available resources and analysis of specific electoral issues, sometimes drawing upon previous ODIHR reports. In some cases, the determination has been based upon the conduct of a NAM.

116. In instances in which the ODIHR is not observing a particular election, it may send an *election expert support team* consisting of some 2-3 election experts. They support the efforts of OSCE permanent field operations, in line with their respective mandates, to follow electoral developments (by-elections, local government elections, repeat partial elections, etc.) and to report on them through their regular reporting channels. In these cases, the ODIHR puts its electoral expertise at the disposal of resident OSCE field missions to assist them, though a separate public report is not issued.

D. Resources and accountability

117. The ODIHR funds its election observation and assessment activities from the OSCE Unified Budget, according to agreed contribution scales, and subject to oversight in accordance with the OSCE rules and regulations.⁷³ In 2006, the ODIHR Elections Department's budget amounted to approximately €4.3 million. With this budget, the ODIHR will have observed up to ten elections and assessed elections in five participating States. In comparison, the European Union, which observes elections worldwide and which contracts all observers, spent €55 million for 21 observations in 2005 and 2006, and deployed around 2,200 observers in this period.⁷⁴ It appears that the ODIHR, working within the parameters of a modest budget, achieves significant coverage of election processes in any given year within the OSCE region, in a flexible and cost-effective manner.

⁷³ Extra-budgetary funds are not used for observation activities; for election-related OSCE operations outside the OSCE region, they have been used in three cases with a specific PC Decision in each case to define the parameters of the activities (in Afghanistan twice and in the Palestinian Territories). Those were, however, not election observation missions and were carried out following explicit Decisions of the PC. For contributions related to the diversification fund, see *infra*, para. 127 of this report.

⁷⁴ This figure includes currently deployed missions.

118. The *ODIHR Director*, as the person appointed by the participating States to lead the institution for a fixed term and to be responsible for its mandated activities, is effectively accountable to the Permanent Council for the delivery of the ODIHR election observation mandate and the consistency of budgetary planning with OSCE rules and regulations. The ODIHR thus operates in full transparency vis-à-vis participating States. It discusses its plans and activities early on with delegations in the context of the budget process. The ODIHR Director and ODIHR staff frequently brief delegations in Vienna in a variety of formats. The ODIHR is also open to visiting delegations from participating States, who frequently make use of this possibility to learn about the ODIHR's work, meet its staff and exchange views and information on the entire range of human dimension activities. The ODIHR regularly consults with other international organizations engaged in election observation.

119. The ODIHR maintains a rolling election calendar on its website, as tasked in the 1994 Budapest Summit Decision.⁷⁵ The rolling calendar informs ODIHR budgetary and programmatic planning in relation to its election activities. The ODIHR is now following electoral issues in a broader range of participating States, as evidenced by its request for up to eight election assessment missions in addition to up to ten full election observation missions in 2007. Recognizing the reality of finite resources, the ODIHR is constantly assessing where its observation activities can maximize the value added in a manner consistent with the imperative of responsible spending.

120. Given that ODIHR EOMs are intensive operations that are deployed and dismantled in a compressed time frame, in a variety of infrastructural and economic conditions, and in the context of an often unpredictable electoral calendar, the planning of budgetary expenditures will always have to accommodate unforeseeable factors; with regard to expenditures, the ODIHR is, as any other OSCE institution and field operation, fully accountable to the OSCE participating States. As a regular practice, ODIHR spending is subject to internal and external audits.

121. In order to allow the ODIHR to deliver its mandate in a responsible, accountable, and effective manner, OSCE participating States invest human and financial resources into the ODIHR's election observation efforts. It is therefore incumbent upon the ODIHR Director to appoint professional and qualified individuals who are ready to assume their responsibilities in line with the ODIHR's mandate and who are committed to upholding its widely reputed credibility. For the bulk of its human resources deployed for observation purposes, the ODIHR remains in the hands of participating States.

122. The *head of an election observation mission* is appointed by the ODIHR Director based on his/her delegated authorities stemming from the ODIHR's election observation mandate. The head of an EOM is therefore directly accountable to the ODIHR Director and reports regularly to, and interacts frequently with, the ODIHR's Elections Department. While the visibility of an election observation may draw significant public attention to this function, and the requirements for this position include political judgment, it is a technical, rather than political, role, which is formalized in the applicable OSCE rules and procedures for short-term assignments. His or her main tasks are to oversee the orderly deployment of observers; to maintain close contact with the host-country authorities, political parties and

⁷⁵ The rolling calendar is updated regularly on the basis of information received from States.

civil society throughout the process; and to consolidate draft interim, preliminary, and final reports.

123. With regard to the appointment of qualified *core-team staff*, the ODIHR follows clear procedures.⁷⁶ For this purpose, the ODIHR maintains a database to which interested experts can submit résumés; it selects core staff on the basis of applicants' professional background, past experience, and availability for deployment, often on short notice.⁷⁷ Core-team members are hired on expert contracts (Special Service Agreements) ranging on average from two- to twelve-week periods, depending on the modality for observation (full observation mission, limited observation mission, assessment mission, election expert support team). For every single EOM, and exceeding the normal transparency requirements for short-term assignments, the ODIHR posts the names, functions, and nationalities of core-team members on its website.

124. The entire core team undertakes assignments within the framework of the ODIHR's mandate and its methodology. It discharges its duties under the oversight of the ODIHR and the management of its Elections Department. This implies that members of an EOM, whether its head or individual observers, are not independent satellites but represent a direct outgrowth of the Office's mandated activities. EOM staff must strictly endeavour not to be perceived as representatives of any country or of any political group. There are no "national delegations" within the ODIHR's observation and assessment activities. Over the past decade, OSCE States have invested in a structured methodology in order to arrive at a collective and comprehensive assessment of an election process. The ODIHR underscores that this is an integrated activity supported by participating States; an undue focus on citizenship issues is therefore unwarranted.

E. 'Geographical' composition of EOMs, working language and training initiatives

125. The ODIHR has made special efforts to further enhance the geographic diversity of its observation missions. With regard to *core teams*, in 2000, members originated from 11 participating States. This number has trebled in 2006. *Long- and short-term observers*, on the other hand, are seconded by participating States, which thus determine the overall composition of each mission; all their costs (travel, accommodation, daily allowances, interpreters, vehicles, and drivers) have to be covered by their seconding government. The ODIHR alone cannot address the issue of the "geographic composition" of its missions, however this term may be defined. It is incumbent on the participating States to second qualified individuals to support the broad range of OSCE activities, including election observation. This is a re-

⁷⁶ For each observation mission, the following positions are contracted: head, deputy head, election analyst, political analyst, legal analyst, media analyst, statistical analyst, co-ordinator of long-term observers, logistician, parliamentary liaison officer, and finance officer. In addition, the posts of gender analyst, national minorities' analyst, and security officer may be contracted on a case-by-case basis. If no core-team member is specifically recruited for this purpose, these areas are covered by other members of the team. Gender issues are reflected in the reports as a rule, following the specific task outlined in the 2004 OSCE Action Plan for the Promotion of Gender Equality: "The ODIHR will continue to assist participating States in promoting women's political participation. It will continue, as a part of its Election Observation Mission, to monitor and report on women's participation in electoral processes. When possible ... the ODIHR will commission and publish reports specifically analysing the situation of women in electoral processes" (MC.DEC/14/04, Annex, para. 44(d)).

⁷⁷ Recruitment criteria for individual missions include relevant expertise and comparative experience. In addition, the head of an EOM needs to have good leadership and communication skills, and a demonstrated familiarity with the principles of the OSCE human dimension. Diplomatic and language skills are regularly emphasized.

sponsibility that participating States have not shared equally during the last decade of the ODIHR's long-term election observation efforts.

126. In recent years, a practice has emerged that avoids the over-representation of observers of any given participating State. In order to ensure that missions have a reasonably diverse composition, the ODIHR has advised participating States that it will only accept up to 10 per cent of the total number of requested observers from any one participating State. The ODIHR has thus been striving to diversify the composition of the body of its long- and short-term observers. As a result, the number of participating States seconding observers to EOMs has been increasing. On average, EOMs so far deployed in 2006 have included observers from over 40 countries, thus continuing a positive trend, given the figures for 2005 (34), 2004 (35), and 2003 (29).

127. In addition, the ODIHR assists a number of governments in the deployment of observers to OSCE observation missions through a *Fund for Enhancing the Diversification of Election Observation Missions*. This fund comprises voluntary contributions from OSCE States and is designed to broaden the composition of EOMs, hence benefiting those countries that do not regularly second observers. Since its establishment in 2001, the ODIHR has financed the participation of 839 short-term and 129 long-term observers.⁷⁸

128. In recent years, the ODIHR has supported national training initiatives and has stressed the importance of such efforts. In particular, it has presented an extra-budgetary project on election observer training to assist States to train election observers and to enhance the capacity of international observers taking part in ODIHR election observation missions. The project will initially focus on training short-term observers and will be implemented in co-operation with the OSCE Academy in Bishkek.⁷⁹

129. While the OSCE recognizes six official languages for its intergovernmental level, English has emerged as the working language of the Organization and thus also of the ODIHR and the ODIHR's operational activities, including EOMs.⁸⁰ This language regime certainly does not exclude the use of any other language; often, host countries have underlined the importance of local languages. In any case, the ODIHR strives to recruit experts with knowledge of the language of, or broadly used in, the country they work in. It does, however, not intend to use language as a criterion that could exclude a large pool of other available expertise.

130. With regard to CIS countries, further efforts are being undertaken to integrate observers with an insufficient working knowledge of English. In all cases, observers are deployed in international teams of two persons that are assigned interpreters for local languages. In

78 Though supported so far by only 11 participating States and the European Commission, the fund has considerably enhanced representation of election observers from the 20 States that are currently eligible: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Georgia, Kazakhstan, Kyrgyzstan, the former Yugoslav Republic of Macedonia, Moldova, Montenegro, Uzbekistan, Romania, the Russian Federation, Serbia, Tajikistan, Turkmenistan, and Ukraine. A list of all countries that have benefited from the fund is annexed to this report.

79 By the end of 2006, the ODIHR Elections Department will have conducted training for about 50 short-term observers from the 20 participating States eligible for the diversification fund. In 2007, two training sessions will be conducted. The project will be implemented in co-operation with the OSCE Secretariat's Training Section. Support for national training efforts will continue.

80 The Supplementary Document to give effect to certain provisions contained in the Charter of Paris for a New Europe (1990) stipulates that the Director of each institution will determine its working arrangements (Part H, point 8).

order to be maximally inclusive, the ODIHR routinely translates its publications, including elections-related reports and handbooks, into other relevant languages, including, in pertinent cases, Russian. In addition, STO briefings conducted in CIS countries are regularly interpreted into Russian.

F. 'Equal treatment'

131. After the fall of the Berlin Wall in 1989, the CSCE's participating States reached agreements that established a new foundation for building democracy throughout a newly unified Europe. In 1990, they undertook to "*build, consolidate and strengthen democracy as the only system of government of our nations*"⁸¹ and added to this project their "*conviction that 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 ... setting up the lasting order of peace, security, justice and co-operation*".⁸² CSCE States took a historic step when they provided a set of criteria for democratic elections more advanced than those undertaken by any other intergovernmental agreement to date. For those States emerging from an authoritarian past, this represented a starting signal to immediately move towards established political norms for democratic governance. The original *raison d'être* for the ODIHR was thus to ensure that these commitments were attainable in the foreseeable future, and to help in speeding democratic transition in instances where the remnants of autocratic rule continued to be an obstacle to democracy.⁸³

132. Over the past decade, the ODIHR has, just as the entire OSCE, focused much effort, including both monitoring activities and technical assistance, on countries in transition in Central and South-Eastern Europe, Eastern Europe, the Caucasus, and Central Asia. Far from being an arbitrary choice, this geographic focus was fully intended by participating States, and has often been commended. The suggestions that the ODIHR's activities are "out of balance", as they excessively focus on certain regions, are therefore unfounded. On the contrary, being well aware that States have also expressed their firm agreement that commitments apply equally to all participating States across the region, the ODIHR has, in recent years, expanded its activities across the region more than any other operational part of the OSCE.

133. Participating States have duly recognized that OSCE commitments are binding on all in an equal manner. In 1998, ministers encouraged the ODIHR, "*given sufficient resources, to expand its focus to all States in the OSCE area*".⁸⁴ They noted that the ODIHR can play a key role in assisting States to strengthen judicial structures and electoral systems, and NGOs to develop the capability of addressing human rights and the integration of national minorities into mainstream society, a recommendation the ODIHR has duly followed, within its budget restraints. The ODIHR is therefore adamant to avoid any perception of "geographic bias". A focus on certain countries can be justified, not out of geography, but out of the real situation on the ground, which continues to differ dramatically across the region. The ODIHR will therefore continue to operate with this combination of foci, where it is justified, while re-

81 1990 Charter of Paris for a New Europe.

82 Copenhagen Document, 1990.

83 This is the specific mandate given to the ODIHR in para. 5c of the Helsinki Document (Decisions VI, 1992), which tasked the ODIHR with fulfilling the objectives defined in the Programme of Co-ordinated Support to recently admitted States.

84 CiO's Progress Report, Annex 2 (VI.5) to the 1998 Oslo Ministerial Declaration.

minding all States of their commitments and providing advice and assistance wherever pertinent.

134. The OSCE and its missions and institutions do not have a one-sided geographic focus. Tools were, however, jointly developed for specific purposes, from assisting with democratization to providing early warning and post-conflict institution-building and rehabilitation. Spreading institutional responses in an arithmetically equal manner across the 56 States can hardly be reconciled with the imperative of creating a more effective OSCE or that of spending resources in a more efficient manner. When the Panel of Experts recommended “*equal treatment of all participating States*”,⁸⁵ it could not conceivably have suggested the deployment of identical missions to elections in each participating State. This interpretation would render observation a mechanical pro forma exercise and hence miss the point of assisting societies in their transition to, and consolidation of, democracy. Instead, the Panel of Experts’ recommendations guide our understanding of equal treatment as an imperative to hold all OSCE States accountable to the same commitments and standards.

135. The ODIHR can play a useful role in helping States in further developing their electoral practices, both by eliminating long-standing defects and reacting to new challenges and innovations. It has adapted its methodology in order to attend to electoral challenges that arise both in transition democracies and in established democracies. Since the latter usually have well-tested electoral practices that enjoy the overall confidence of their electorates, as well as a free and robust media and a civil society that identify electoral shortcomings for public debate, assessment missions can review the overall legal and administrative framework for elections at greatly reduced human and financial cost. Since 2002, the ODIHR has been deploying election assessment missions on the premise that an election will meet OSCE commitments, but that the ODIHR may comment on specific issues in line with best electoral practice for implementing OSCE commitments.⁸⁶

136. The ODIHR has never been provided with the budgetary resources to deploy needs assessment missions to all participating States’ elections. Spreading the ODIHR’s resources thinly across the OSCE region in an ill-conceived effort to apply an identical routine to all States would significantly reduce the effectiveness of this activity. Should States nevertheless consider it appropriate to enhance the ODIHR’s needs assessment activities, the Office is prepared to respond accordingly and to undertake NAMs to more, or all, upcoming elections in the OSCE region, resources provided.

G. Reporting and recommendations

137. In line with international best practice, the ODIHR’s methodology offers findings that are non-politicized, impartial, and of a concrete nature. These findings are made public in a transparent and timely manner. The ODIHR reports its findings through periodic interim reports during the pre-election period, a statement of preliminary findings and conclusions delivered on the day after Election Day and a final report at the very completion of the

⁸⁵ *Common Purpose*, para. 24(c), note 61 of this report.

⁸⁶ Since 2002, EAMs have been, or are being, deployed to, *inter alia*, the United States (2002 and 2006), Canada (2006), Bulgaria (2005 and 2006), the Netherlands (2006), Italy (2006), the United Kingdom (2005), Slovakia (2004), Spain (2004), Romania (2004), Scotland and Wales (2003), Northern Ireland (2003), France (2002), and Turkey (2002).

process when results are official and those elected installed into office. All reports are available for all participating States as well as to the public.

138. Election observation missions have a duty to be transparent and respectful of the host country's right to information. The ODIHR has the explicit mandate (Helsinki Summit 1992) to report publicly on its activities. By the time an EOM issues its *Statement of Preliminary Findings and Conclusions* (henceforth referred to as the "preliminary statement"), it has on average been deployed for some 6-8 weeks in the respective country and is ready to report on key findings and conclusions. In order to be transparent, respond to public demand, and provide visibility for this important endeavour, observers issue a preliminary statement, usually on the day following Election Day.

139. The ODIHR never announces or comments on election *results*. Instead, it focuses on the electoral *process*. The ODIHR only comments on whether results have been reported honestly, accurately, and in a timely manner. The preliminary statement is issued on the day after the polling, never before, in order to include information on all aspects of the vote and the count. It is called "preliminary" because it may be issued prior to the final tabulation of results and before the official announcement of results and expiry of the complaints and appeals process. The statement is a summary of key findings and conclusions on the legal framework, the election administration, the campaign and the media, as well as the Election Day voting and counting processes.⁸⁷ It assesses the degree to which OSCE commitments and other universal principles were upheld, how well the domestic law was implemented, and whether any reported irregularities or violations of the law could pose a threat to the integrity of the process. This is a fact-driven exercise; a politically or diplomatically negotiated text would not serve the purpose of identifying pertinent problems in the electoral process.

140. The preliminary statement includes both the long-term observation analysis, and the analysis of Election Day reports provided by short-term observers, including those from the various parliamentary assemblies joining in the observation. Its findings are not based upon mere impressions but on the analysis conducted by the observation mission in the pre-election period, and on the basis of short-term observer (STO) reports, with filled-in checklists completed during their visits to polling and counting centres on Election Day. STO reports enable a statistical profile of findings at the polling-station level, which are collectively represented in the preliminary statement. STOs are further debriefed by the responsible long-term observers in their area of deployment, which takes place prior to the release of the preliminary statement. In addition and in accordance with the Code of Conduct, observers have to attend a debriefing prior to their repatriation.

The Declaration of Principles for International Election Observation states that "international election observation missions are expected to issue timely, accurate and impartial statements to the public... , presenting their findings, conclusions and any appropriate recommendations... Missions should announce publicly their presence in a country, including the Mission's mandate, composition and duration, make periodic reports as warranted and issue a preliminary... statement of findings and a final report".

141. The ODIHR's *Final Report* then draws on the findings of the entire EOM, including the

⁸⁷ In addition, the statement concentrates on candidate/party registration, voter registration, election disputes, participation of women and national minorities in the electoral process, and often also on the tabulation of votes.

integrated work of the core team, LTOs, and STOs; it goes into further depth than the preliminary statement, thus reflecting the extent to which the electoral process was carried out in a manner that enjoyed the confidence of the candidates and the electorate, as well as the degree to which political will was demonstrated by the authorities to conduct an election in line with OSCE commitments.⁸⁸ The ODIHR also offers a set of recommendations to align the election process more closely with OSCE commitments.

H. Co-operation with partners

142. The early legacy of parallel press conferences, competing for media attention, and delivering diverging assessments on the ground has long been overcome. This situation had enabled national authorities to engage in forum-shopping and play observation bodies against each other in order to distract from electoral shortcomings. The ODIHR has therefore come to value its co-operation with parliamentary assemblies and has embraced the tasks assigned by the 1994 Budapest Summit Document: namely, to “*consult all relevant organizations in order to develop a framework for coordination in this field [of elections]*”.⁸⁹ It has built a practical framework for co-operation with other international bodies such as the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE), the European Parliament (EP) and, on occasion, the NATO Parliamentary Assembly (NATO PA), as well as with the Council of Europe’s Congress for Local and Regional Authorities of Europe (CLRAE). As a matter of regular practice, the ODIHR maintains contacts with CIS observers with a view to exchanging preliminary findings. The OSCE can look back on the successful establishment of a framework of co-operation with those parliamentary assemblies that fully subscribe to the ODIHR election observation methodology as elaborated in 1996.⁹⁰

143. Parliamentary bodies have an important role to play in co-operating with the ODIHR to deliver its mandate through their regular participation in the overall Election Day observation. The ODIHR values the specific experience brought by elected parliamentarians and their contribution to the delivery of preliminary findings. The ODIHR formulates the presentation of the findings in close co-operation with the OSCE PA, and, should they participate, with the PACE, the EP and on occasion the NATO PA and the CLRAE.⁹¹ In accordance with the 1997 Co-operation Agreement, the OSCE Chairman-in-Office regularly appoints the President of the OSCE PA or another high-level OSCE PA representative as Special Co-ordinator to lead the short-term OSCE observers and to deliver the preliminary statement in conjunction with other appropriate officials, including the head of the ODIHR EOM.⁹²

88 The final report comprehensively describes the political context; legislative framework; the performance of the election administration; voter and candidate registration, the election campaign; the media; the voting, counting, and tabulation processes; the complaints and appeals process; and the announcement of the results.

89 Decision VIII, para. 12.

90 The ODIHR has always welcomed contacts between ODIHR EOMs and other organizations in the field. Although others have, on occasion, expressed aspirations to develop their election observation practice in line with ODIHR methodology, differences in method and approach still seem to prevent closer co-operation, as evidenced by different observation conclusions and the interpretation of the same facts in different ways. See note 70 of this report.

91 The participation of these international parliamentary bodies depends on acceptance of an invitation by the authorities of the country in question.

92 The 1997 Co-operation Agreement was signed by the OSCE Chairman-in-Office and the President of the OSCE PA.

144. The Co-operation Agreement has thus served its purpose in shaping the *de facto* institutional co-operation between the ODIHR and the OSCE PA and other parliamentary bodies. This agreement works well, given goodwill on all sides. As the ODIHR values the wide array of experiences of parliamentarians, and with a view to further improving the implementation of the 1997 agreement, an expert consultation mechanism was recently initiated by President Lennmarker of the OSCE PA and the ODIHR Director. Beyond the improvement of co-operation on the ground, the ODIHR also believes that parliamentary bodies have a significant long-term role to play, as they, in many cases, monitor and report on developments through committee or working-group structures.

I. Follow-up and post-election dialogue

145. The participating States of the OSCE have committed themselves to follow up on recommendations made in ODIHR election observation reports. The term “*follow-up on [election] recommendations*” was for the first time underlined in an official OSCE document at the Ministerial Meeting in Oslo in 1998⁹³ and reiterated at the Istanbul Summit of November 1999.⁹⁴ The 2002 Ministerial Meeting held in Porto also called upon OSCE States to strengthen their response to the ODIHR’s recommendations following election observation.⁹⁵ The collective message from these decisions is that once ODIHR recommendations have been provided, ignoring such recommendations would run counter to these political commitments. Ignoring or rejecting such recommendations would call into question the political will of a participating State to fulfill its commitments on genuine democratic elections. Effective follow-up aimed at tackling shortcomings identified during an election maximizes the value of election observation, and could prevent the same problems from recurring repeatedly in successive elections.

146. The 2003 Ministerial Council in Maastricht tasked the ODIHR with considering ways of improving the effectiveness of its assistance to participating States in following up recommendations made in ODIHR election observation reports and of informing the Permanent Council on progress made in fulfilling this task. In a similar vein, the Panel of Eminent Persons reported in 2005 that “*ODIHR should be encouraged to pay more attention to post election follow-up through dialogue and practical cooperative support. In addition, after consultation with the states concerned, ODIHR should report to the Permanent Council on election follow-up.*”⁹⁶ At a 2005 meeting on elections, some States called for a more conscientious and systematic approach to ensuring follow-up.⁹⁷ Specific ideas included requiring States to report to the PC six to nine months after an election on how they plan to implement recommendations and to outline a strategic plan with the PC and the ODIHR. Thus far, such designs for systematic and consistent follow-up have not been further elaborated in detail.

147. The ODIHR is currently reviewing ways to incorporate consistent follow-up efforts in its methodology. However, in order to encourage participating States to follow up on the ODIHR’s recommendations, the political body of the OSCE, the Permanent Council, is to

93 CiO’s Progress Report (Annex 2, VI(4)) to the Oslo Ministerial Declaration 1998.

94 Chapter III, *Common Response*, para. 25, note 61 of this report.

95 Decision No. 7, Election Commitments, p. 47.

96 Para 24.d, *Common Purpose*, note 61 of this report.

97 Cf. *Final Report of the Supplementary Human Dimension Meeting on Challenges of Election Technologies and Procedures* (Vienna, 21-22 April 2005), 12 July 1995, p. 64.

remain engaged. The role of the CiO is also critical in this regard, as s/he should remind States of the need to implement commitments. For follow-up to be effective, the respective OSCE States have to muster the political will to improve the process and bring it into line with international standards. Reluctance of some States to implement ODIHR recommendations has demonstrated that this political will may be lacking. In such cases, weaknesses previously identified tend to be repeated in subsequent elections.

148. A number of countries are working with the ODIHR on domestic electoral reform. The ODIHR's ability to follow up is enhanced by a specific invitation that allows the Office to support the efforts of the authorities in the recipient State with the provision of know-how. In discharging follow-up functions, the ODIHR takes an inclusive and transparent approach that involves the entire political spectrum and recognizes the role of civil society. The Office is, however, cautious not to provide technical assistance immediately prior to an election, which might endanger its role as a neutral observer. It is most useful when States signal their willingness to engage in follow-up dialogue just after the ODIHR report on the previous election is released. Positive precedents have been recently set in this respect.

In September 2006, the ODIHR signed an MOU with the Albanian Ministry of Interior that defines the modalities for the provision of expertise to the Ministry's General Directorate in the modernization of the civil registration and address systems. The MOU constitutes concrete follow-up to recommendation No. 18 of the ODIHR Election Observation Mission Report (parliamentary elections of 3 July 2005), which states that "*work on updating civil registers and... voter lists will require a long term commitment if Albanian authorities want a fully functional system of civil registration (and consequently of voter registration) to be in place for the 2009 elections*".

149. The scope of the follow-up depends on the intentions of the authorities of the recipient participating State to improve the election process. This assistance has included expert visits, provision of legal commentary, and roundtable meetings. Thus far, the ODIHR's assistance has primarily focused on improvement of the legal framework for elections. Such follow-up exercises have been conducted in a number of OSCE States. Since 1998, the ODIHR has been reviewing electoral legislation, in most cases jointly with the Council of Europe's *Commission for Democracy through Law* (Venice Commission).⁹⁸ In most instances, these reviews have contributed to the improvement of the legal framework for elections and have brought the respective laws closer to meeting OSCE commitments. On several occasions, follow-up has continued beyond the improvement of the legal framework to include the quality of the civil registry and of the voter lists, the performance of the judiciary, law enforcement agencies, and the media. Success has always been a result of cooperative efforts of both authorities and the opposition at critical moments.

150. A few OSCE States have proposed that the ODIHR conduct a comparative review of the election-related legislation of each participating State. The ODIHR could see merit in such an initiative; given the complexity of electoral legislation in most participating States, the volume of such research would, however, engage a significant number of experts in a multi-year effort, exceeding all human and financial resources that are currently available to the ODIHR. At present, the ODIHR reviews, upon request, around a dozen election laws each year in relation to OSCE commitments. Its experience with individual legal reviews, which are published on legislationline.org, add considerable resources that participating States can

98 Since 2000, the ODIHR has reviewed over 80 electoral laws.

draw on in a comparative effort. Other organizations have also provided collections of election-related legislative sources.⁹⁹

J. The way ahead: further strengthening the ODIHR's election-related activities

151. The preceding sections of this chapter described the ODIHR's mandate on election observation, as well as the methodology and practice the ODIHR has developed in implementation of this mandate over the past decade. This is in response to numerous questions received from participating States in the course of preparing the present report. The ODIHR considers that its election-related activities are fully in line with the mandate bestowed upon it by participating States. They have been commended by the OSCE's highest political bodies and a large majority of participating States on many occasions. This work is consistent with relevant rules and procedures, and delivers an important service to participating States and the international community at large.

152. The ODIHR applies modern concepts of public management that include continuous improvement in order to make the work flow more efficient and transparent, and to take advantage of lessons learned and good practices developed elsewhere. In order to live up to the high expectations of States in this regard, as well as to follow the recommendations imparted by the Panel of Eminent Persons, the following 12 areas have been identified as ways in which the ODIHR's election-related activities can be further enhanced, and the ODIHR can become more effective in assisting States to live up to their own commitments.

The ODIHR is actively pursuing work with regard to further improving its operational activities and performance in accordance with its mandate. The ODIHR's ongoing efforts can be **summarized under 12 headings**.

I. *Make follow-up more effective*

Election observation is not an end in itself; it is intended to assist OSCE States with the implementation of their commitments. States therefore continue to identify follow-up to the ODIHR's election-related recommendations as an important concern for stronger attention. In this context, the strengthening of the role of the PC is a key element. Often, the ODIHR's election reports, including interim reports issued before Election Day, are discussed in the PC under "current issues". These deliberations are, however, not systematic. An open discussion on concrete follow-up to the ODIHR's election recommendations should systematically be included in the PC agenda as a distinct agenda item. The 2003 Maastricht Ministerial Council expressly called for such follow-up. In addition, an effective follow-up strategy to ODIHR recommendations could include the following elements:

- ▶ Publishing and widely disseminating EOM reports to invite public participation in follow-up efforts, including more active participation of domestic observer groups, both partisan and non-partisan;

⁹⁹ One very comprehensive compilation is available at www.aceproject.org, which provides comprehensive and authoritative information on elections, including relevant legislation, promotes networking among election-related professionals and offers capacity development services. Administration and Cost of Elections Project (ACE) is a joint endeavour of seven partner organizations, all providing targeted technical assistance in elections management.

- ▶ Further increasing the visibility of EOM recommendations to a particular participating State on the OSCE's website;
- ▶ Seeking a role for parliamentarians in the context of follow-up to recommendations, including through the OSCE PA;
- ▶ Continuing high-level discussions with senior officials in host countries on ways to improve the election process and to address ODIHR recommendations;
- ▶ Conducting expert roundtables on ODIHR recommendations with election stakeholders (authorities, election administrators, political parties, civil society, international organizations, and NGOs);
- ▶ Reviewing laws (in co-operation with other international organizations, especially the Venice Commission), followed by consultation to improve election legislation and ensure compliance with international standards and best practices;
- ▶ Intensifying dialogue with OSCE field operations on targeted technical-assistance projects, as well as with national authorities to identify suitable implementation agencies;
- ▶ Releasing country-specific reports on the status of implementation of recommendations within 12-18 months, access permitting;
- ▶ Encouraging States to invite the ODIHR for post-election dialogue, thereby intensifying visits by the ODIHR Director and other ODIHR staff, to present and discuss findings and conclusions;
- ▶ Increasing observations of local government elections and referenda, as well as possibilities to observe by-elections, partial and repeat elections in participating States prior to the next cycle of national elections to check progress to date, resources permitting.

II. *Improve the delivery of the **observation methodology***

The ODIHR's methodology, outlined in this report and elaborated in the ODIHR's *Election Observation Handbook*, has enjoyed a high reputation for the past decade and continues to be a benchmark for other organizations. It is the result of years of practical experience, lessons learned, and continuous efforts to seek effective, credible, and transparent solutions. In light of increased interest by States in the ODIHR's methodology, the ODIHR has made a particular effort recently to identify areas where the delivery of the methodology can be made more efficient and standardized. As a consequence, the ODIHR will:

- ▶ Further refine the methodology as necessary and anticipate developments in the electoral field to meet new and emerging challenges, especially new voting technologies;
- ▶ Publish guidelines on media monitoring, as well as an LTO handbook;
- ▶ Consider drafting guidelines for observation of voter registration, as well as with regard to campaign funding regulations;
- ▶ Revise and update existing ODIHR publications on pertinent issues, including on the participation of national minorities and on resolving election disputes;
- ▶ Hold regular briefings for delegations of participating States on aspects of the methodology;
- ▶ Solicit more structured feedback on the organization of EOMs from STOs and LTOs;

- ▶ Initiate regular meetings with international organizations involved in election observation to review current practice.

III. *Develop ‘geographical scope’ in ODIHR election activities*

In recent years, the ODIHR has expanded its election-related activities across the entire OSCE region. The ODIHR’s election missions are hence the most geographically diverse operational activities of the OSCE. The fact that all OSCE commitments are equally binding on all participating States is a firm foundation for all activities. While continuing to respond to concrete needs and requirements and focus on the situation in each State according to its merits, the ODIHR will further develop targeted activities across the entire OSCE region. The ODIHR will:

- ▶ Assess mission capabilities and, resources permitting, enhance its capacities to attend to a broader range of States, particularly through an increase in the number of election assessment missions to longer-standing and transition democracies, funded by the OSCE Unified Budget;
- ▶ Consider requesting a substantial and proportionate increase in the OSCE Unified Budget, which could permit the deployment of a needs assessment mission to each OSCE State with an election for state office in any given year.

IV. *Further diversify participation of observers/experts for EOMs*

In recent years, significant progress has already been made in order to increase diversity of participants in election-related activities. It is important to avoid a perception that observers are “representatives” of their home country or that they pursue agendas other than objectively observing an electoral process and correctly reporting about it, in line with the Code of Conduct. OSCE States are well aware that increased diversity is in their hands through the system of secondment. To assist countries that cannot second observers, the ODIHR facilitates increased diversity proactively. These efforts could be boosted by:

- ▶ Increasing the number of observers funded by the extra-budgetary ODIHR Fund for Enhancing the Diversification of Election Observation Missions;
- ▶ Regularly reaching out to participating States to remind them that a broad and diverse composition of election missions is only attainable through their support;
- ▶ Maintaining and regularly updating a comparative table showing participating State support;
- ▶ Highlighting the participation of men and women in all aspects of election observation, with a view to further enhancing gender balance;
- ▶ Strengthening the training of observers (see VII below);
- ▶ Continuing the trend of diversifying the composition of core teams.

V. *Further increase transparency of recruitment*

The ODIHR follows all relevant rules and procedures in contracting short-term experts for its election observation mission core teams, including the heads of mission as leaders of the core team, through Special Service Agreements. Unlike in any other part of the OSCE, such contractors are publicly identified on the Internet as soon as they are deployed. Due to the expansion of election-related activities and in an effort to strengthen the confidence among participating States that the identification and recruitment of such experts follows the highest professional standards, a number of measures will be taken, which include the following:

- ▶ Further developing the publicly accessible election expert database with a view to establishing an open roster for heads of mission;
- ▶ Enhancing accessibility of a roster for core-team positions;
- ▶ Increasing knowledge about the roster through wider dissemination and its advertisement in relevant periodicals to attract qualified applications;
- ▶ Exploring possibilities, including identification of adequate funds, to introduce an open and competitive mechanism that will allow the ODIHR to recruit heads for its election observation missions and other core personnel;
- ▶ Reiterating requests to OSCE States to encourage competent professionals to apply in order to reach out to such individuals who have hitherto not participated in election observation missions due to non-transparent or restrictive secondment policies;
- ▶ Encouraging States to introduce transparent and competitive procedures for the identification and selection of STOs and LTOs, and to keep it informed about their practices in this regard.

VI. *Establish a **practitioners network** among election observers*

In order to better capture practical knowledge from election observation practitioners, the ODIHR could benefit from a network of experts who have served in observations throughout the years. They have helped develop and enhance the methodology and have contributed to the ODIHR's performance in this area. In order to maintain an enhanced and more structured network and allow the ODIHR to maximize past experience in future activities, the ODIHR will:

- ▶ Promptly explore modalities to establish a practitioners network among ODIHR election observation experts, which should serve as a standing feedback mechanism designed to improve the delivery of election observation conducted by the ODIHR, to identify lessons learned, and to propose innovations;
- ▶ Provide opportunities for periodic interaction with national election administrators and domestic observer groups.

VII. *Develop public **outreach and training support***

One critical factor in increasing the participation of observers from countries that have been underrepresented so far is the capacity of potential observers to participate in such missions effectively. The necessary skills include specific observation expertise, but also linguistic proficiency, general adeptness, and the ability to work in a diverse team and comply with the high professional standards and the relevant codes of conduct. In several countries, targeted training is provided at the national level, which visibly and significantly improves the performance of observers in the field. The ODIHR has regularly supported training efforts over the years by making members of its Elections Department available for training. An important factor in providing training for observers is to ensure that recruitment is connected to training programmes, i.e., that people who are trained are also actually deployed, and that people who are deployed have received training, and have actively participated in it. In order to assist States with these efforts, the ODIHR will:

- ▶ Maintain a training programme for international election observers to complement States' efforts and other ODIHR ad hoc efforts in this regard;

- ▶ Further develop and implement the existing extra-budgetary programme on observer training;
- ▶ Encourage States to establish national training programmes for observers;
- ▶ Assist States with the development of training curricula and modules for election observers;
- ▶ Include a focus on relevant linguistic terminology in its own training effort and work with relevant training partners in this regard;
- ▶ Enhance co-operation with the OSCE Training Section and the OSCE Academy in Bishkek.

VIII. Develop a stronger capacity on the use of information technology and on the observation of electronic voting

For the ODIHR to assert its leading role in the field of election observation, it must also include the emerging area of electronic voting and the use of information technology in its monitoring of elections. While other organizations have been focusing on electronic voting as such, only scattered knowledge exists about how to observe such innovative processes. In order to cope with the challenges posed by the observation of new voting technologies, the ODIHR has developed an extra-budgetary project. Pertinent issues were discussed at the SHDM on Election Procedures and Technologies in 2005, as well as at an expert meeting in October 2006 in Warsaw. As a result of these discussions, the ODIHR will:

- ▶ Set up an Expert Panel on Observation of Electronic Voting and the Use of Information Technology in Elections;
- ▶ Make the Panel's expertise available to participating States, OSCE field operations, and other observer organizations. Experts from the Panel will give advice and mediate, upon request; members will serve in their personal capacities as experts and will not represent any organization or participating State.

IX. Enhance linguistic inclusiveness to allow equal and full participation of observers from throughout the OSCE region

The ODIHR's working language is English, just as it is across the OSCE's institutional structures. As an operational activity of the ODIHR, election observation missions also function in English, although the knowledge and use of relevant local languages is encouraged. As part of a wider skills set necessary to support election activities, linguistic abilities are one of the factors in the selection of professional experts for observer missions. In addition, translators and interpreters are provided wherever they are needed. Responding to some information that participants in the ODIHR's election-related activities continue to face linguistic challenges, the ODIHR will:

- ▶ Conduct an impact and needs assessment study among observers across the OSCE region on the provision of training materials, briefing documents, reports, etc., from a linguistic point of view in order to identify existing shortcomings and develop appropriate responses;
- ▶ Review the work with interpreters in view of improving communication between observers and citizens from host countries, including by compiling a glossary of terms specific to each election;
- ▶ Continue, and strengthen where necessary, efforts to provide translation of briefings and reports into languages widely used in the area of observation;

- ▶ Provide final reports in all six official languages, as they become PC documents for discussing follow-up.

X. *Further enhance ODIHR-wide coherence, broadening the context of election observation and assistance for overall democratization activities*

While election-related activities are arguably one of the most visible sectors of the OSCE's work, they constitute an integral part of the ODIHR's broader mandate on democratic institutions and human rights. In order to make even more effective use of the resources available to the ODIHR and to deliver even more effective assistance to States, the ODIHR will:

- ▶ Enhance the contribution of all its programmes to the ODIHR's election-related activities;
- ▶ Follow up with technical assistance from the field of democratization (civil registry reform, parliamentary support, party development) to the ODIHR's election-related activities;
- ▶ Enhance the relevance of human rights monitoring (freedom of assembly and association, freedom of expression, monitoring of trials, places of detention) to the electoral context.

XI. *Further enhance co-operation with parliamentary observers*

The ODIHR has been tasked with developing a framework for co-ordination in order to facilitate the participation of parliamentary bodies in election observation. The Co-operation Agreement of 1997 signed by the OSCE Chairman-in-Office and the OSCE Parliamentary Assembly continues to provide basic parameters for co-operation between the ODIHR and the OSCE PA. A practice has emerged with other relevant parliamentary assemblies that provides a good basis for effective and smooth co-operation. In order to respond to the increased interest among parliamentarians of OSCE participating States to participate in election observation, more efforts are necessary to provide for adequate preparations and co-ordination mechanisms. While parliamentarians regularly participate in observation as short-term observers, special arrangements may be necessary to take into account the special needs and competencies of parliamentary observers. In this context, the ODIHR will:

- ▶ Continue to co-operate with the OSCE PA on the basis of the existing Co-operation Agreement and enhance its contribution to the established dialogue;
- ▶ Involve parliamentarians who are interested in election observation beyond their deployment on Election Day by actively reaching out to them and inviting them to the ODIHR for specific briefings on a regular basis;
- ▶ Help develop tailor-made briefing modules that take into account the specific skills and expertise of parliamentary observers;
- ▶ Identify ways in which parliamentarians can play an enhanced role in promoting systematic follow-up to the ODIHR's recommendations;
- ▶ Seek to support the OSCE PA's efforts and those of other parliamentary bodies in promoting co-operation between parliaments on electoral issues.

XII. *Share expertise with other regions and organizations*

In the past, election-related activities outside the OSCE region resulted from ad hoc arrangements and did not follow regular procedures and methodologies for observation.

While OSCE Partners for Co-operation have expressed interest in some level of involvement in the OSCE's election-related activities, recent years have seen an unprecedented growth of the global democracy movement and the consolidation of democratic principles within the United Nations, as well as in a number of other regional organizations or frameworks. The ODIHR will therefore:

- ▶ Consider possibilities for enhancing collaboration with Partners for Co-operation;
- ▶ Create a programme to regularly deploy a small number of guest observers from OSCE partner countries, and funded through extra-budgetary contributions, as a capacity-building exercise;
- ▶ Consolidate contacts with relevant international governmental and non-governmental organizations;
- ▶ Reach out to the global development of democracy promotion and make OSCE expertise, in particular on election observation, available to other organizations. Such a programme would have to be established as a new activity, and would have to depend on the availability of extra-budgetary contributions.

Overall, and wherever possible within the purview of the ODIHR's mandate and resource allocation, measures are being taken to swiftly and continuously progress in these 12 areas; however, active co-operation with States is a prerequisite to maximize their impact.

IV.

IMPROVING THE EFFECTIVENESS OF THE ODIHR'S ASSISTANCE TO PARTICIPATING STATES

A. The ODIHR's mandate to assist participating States

153. The ODIHR's overall task is to help ensure that OSCE commitments in the human dimension are implemented in the participating States. To that end, it is mandated to gather and analyse factual information on the state of implementation and to conduct programmes that assist States to develop and uphold a democratic culture that will respect and promote the ideals expressed in those commitments. Generally speaking, the ODIHR's assistance to States falls into four categories: (i) disseminating knowledge of the commitments; (ii) monitoring and reporting on implementation of commitments; (iii) providing technical assistance to enhance their implementation; and (iv) organizing and holding human dimension meetings to allow for collective review of implementation.

154. In its 15 years of existence, the ODIHR has grown and adapted to the rapidly evolving nature of the OSCE as a flexible and results-oriented organization. The ODIHR has been actively involved in all significant developments within the OSCE since its establishment and has become a cornerstone of human dimension work. The ODIHR has played an important role in bringing the core principles of democracy and human rights, including transparency and accountability, to the attention of the wider public. This has been facilitated by the ODIHR's close connection with both the political bodies and structures in Vienna and the other institutions and field operations. Its work, in particular in election observation, has raised the profile and visibility of the Organization, arguably more than most other activities that the Organization has been engaged in. This carries a particular responsibility: the credibility of the OSCE as a whole tends to be influenced by the ODIHR's performance in accordance with the high standards it has set for itself.

155. The human dimension encompasses the entire range of human rights, rule of law, democracy and tolerance and non-discrimination issues. Discharging the function of assisting 56 diverse countries spanning the Northern Hemisphere of the globe, and doing so in a way that is efficient, effective, and balanced, is a daunting task. It would be tempting, yet questionable, to quantify success in this field by the number of projects carried out, by the number of participants in seminars, or the number of publications produced. It is more difficult to judge how the ODIHR's efforts have contributed to preventing conflicts and diffusing ten-

sions, as the results of such work often only take effect in the long term. Often, success can be gauged in indirect ways only.

156. Of course, there are situations where the ODIHR has been able to mediate between political forces or offer concrete solutions to urgent questions. Its advice usually enjoys high standing in debates, particularly in countries in transition. Its election observation reports have served as an objective and common point of reference for electoral contestants to navigate their way through an election. The general response the ODIHR receives, paired with the increasing demand for its advice and involvement, indicates that the ODIHR serves the participating States well in what it has been built for.

157. This overall satisfaction with the accomplishments of the past 15 years should not make the ODIHR and its staff, or OSCE States, complacent. As any international institution, particularly as a pioneer in what was often uncharted territory for the international community, the ODIHR continues to learn its lessons and acknowledges that processes always lend themselves to improvement. The ODIHR has opened itself to change in order to maintain its flexible and relevant edge.

158. The ODIHR was designed as an institution with wide operational autonomy in order to protect it from daily political interference or from succumbing to a politicized approach in its activities. In fact, nothing would harm the ODIHR more were it to provide grounds for the accusation that it lacks independence from political pressure or that its findings and advice have been motivated by anything other than serving the OSCE community as a whole in the spirit of the commitments undertaken by all. The report of the Panel of Eminent Persons has reinforced the conclusion that the very structural setting for the ODIHR is fundamental to the implementation of its mandate. Institutions can only be efficient and effective if they retain their relative autonomy under the general leadership and guidance of the Permanent Council.

159. The very essence of an institution in this Organization is that it is free from polarization and not subject to political pressures, but rather that it can focus on the reliable, predictable, and long-term implementation of its mandate and tasks. The ODIHR reports to participating States on the implementation of its mandate and the use of resources provided for that purpose; it has done so diligently and with increasing transparency made possible in particular through technological advances. In fact, the ODIHR has probably been the most closely observed and scrutinized part of the OSCE in recent years.

160. Assistance provided can take the form of direct technical assistance within the OSCE framework (see below), but it can also be channelled, sometimes more effectively, through other more specialized development-oriented international partners. Such assistance is often time-sensitive, as windows of opportunity for change tend to be limited. The ODIHR has therefore also understood its role as a conduit and facilitator for such assistance.

161. However, for any technical assistance to be meaningful, a willingness to implement central OSCE commitments on human rights and democratic rule is essential. Rhetorical expressions of allegiance to all commitments cannot suffice. The international community has, therefore, developed ways of establishing the facts behind any particular government's

assertions. As the ample body of commitments relating to implementation demonstrates, the OSCE has always understood itself as a forum that takes the verification of effective implementation seriously, through unbiased monitoring and reporting. The ODIHR has a particular role in this, and has been equipped with a specific mandate in this regard. The institutions alone, however, cannot substitute for an effective peer-review system that is based on the understanding that implementing human dimension commitments is the collective responsibility of all OSCE States.

162. Commitments must be known by those who stand to benefit from their implementation. As the participating States recognized in Helsinki more than thirty years ago, commitments undertaken within this framework are only as good as they are known to the wider public and accessible to citizens who want to see their governments abide by their own rules. Thus, the ODIHR's assistance in implementing human dimension commitments has included the compilation and publication of all relevant undertakings by States, as well as their dissemination in several languages. In 2005, the ODIHR published the second edition of the *OSCE Human Dimension Commitments*, both in a chronological and a user-friendly thematic version in both English and Russian. Other language versions are currently under preparation. For the implementation of OSCE commitments to be more effective, it is essential for the OSCE and its participating States to make its body of norms and values available to the largest circle of readers possible by disseminating the relevant materials even more widely.

163. The ODIHR's general monitoring mandate encompasses the entirety of the human dimension. In practice, the ODIHR focuses on areas that are not already covered by the mandates of either the High Commissioner on National Minorities or the Representative on Freedom of the Media. Also, where the OSCE has deployed large field operations with a human rights monitoring mandate, the ODIHR refrains from duplicating such efforts. It does, however, play a subsidiary and supporting role in both cases and liaises closely with the respective partners. Also, within the general human dimension framework, the ODIHR seeks to identify, in close co-ordination with the Chairman-in-Office, areas and issues that should be brought to the attention of the OSCE community within its focus on comprehensive security, early warning, and conflict prevention. Moreover, where valuable work is being carried out by other organizations, such as the Council of Europe or the United Nations, the ODIHR tries to avoid duplication. That is not to say, however, that serious human rights issues cannot be addressed at the same time by a variety of actors and institutions. On the contrary, issues at times require consolidated and co-ordinated efforts of the broader international community to receive the appropriate attention and be addressed effectively.

164. Systematic work with civil society is key to the ODIHR's work across all of its programmes. Monitoring of, and assisting the implementation of, participating States' human dimension commitments are among the ODIHR's core activities. This has necessarily involved monitoring the capacity of human rights defenders and national human rights institutions to operate, especially in challenging circumstances. The ODIHR has also helped build the capacity of human rights defenders through education and training and is committed to enhancing its activities through a new focal point for human rights defenders and national human rights institutions.

165. The ODIHR has been called upon to engage in the monitoring of areas that have received particular attention from OSCE States. Such specific focus areas include elections,

trials, torture, trafficking in human beings, tolerance and non-discrimination, discrimination against Roma and Sinti, and gender equality. Participating States have thus chosen to highlight a number of important areas in the human dimension for which they have agreed to specific provisions for enhanced transparency on implementation of commitments. Serving the participating States at the early stages as a clearing-house, the ODIHR later developed specific expertise and methodologies in these areas in order to increase its effectiveness. Election observation has become the most visible activity;¹⁰⁰ trial monitoring is another area in which the ODIHR, in conjunction with work done in field operations, has developed a considerable body of experience and practice.

166. In recent years, the OSCE has focused increasingly on the need to address manifestations of intolerance and discrimination, in particular the rise of hate crime, and has developed an Organization-wide response for countering these phenomena, which occur across the entire OSCE region.¹⁰¹ The ODIHR was chosen by OSCE States to play a central role in this context, and it has developed a targeted programme on tolerance and non-discrimination.¹⁰²

167. The question of how the ODIHR could work in a concrete way and on a comparative level to ensure the implementation of commitments in the field of tolerance and non-discrimination has been put forward by a number of States. When first conceptualizing its new tasks in this area, the ODIHR commissioned a study on the activities of international organizations in this field; it concluded that one of the ODIHR's main comparative advantages is its ability to provide technical assistance and support to OSCE States in implementing not only OSCE commitments but also other international standards and recommendations of other international organizations.¹⁰³ The ODIHR has subsequently designed tools to support States through expert-to-expert technical-assistance programmes.¹⁰⁴

168. Violations of human rights and fundamental freedoms and various manifestations of hate continue to pose a challenge to human dignity and thus the OSCE's understanding of collective security. The ODIHR's programme activities to help combat discrimination and manifestations of aggressive nationalism, racism, chauvinism, and xenophobia cut across the areas of education, legislative assistance, law enforcement training, and civil society capacity-building. At the same time, many of the programmes have been developed in such a way that they address the specificities of different forms of intolerance and discrimination. In light of the increasing number of hate-motivated murders and violent attacks against people perceived to belong to certain groups, there is a clear need for participating States to strengthen their responses.

100 Statistical data of hits on the OSCE website provides a clear picture of where the media and public interest in the OSCE's activities is strongest. A summary of the statistics for the OSCE public website for the first quarter of 2006 shows strong interest in the ODIHR's election observation activities. Visits to the OSCE website peaked on two occasions during the first three months of the year: the number of visits per day topped 9,000 on 20 March (the release of the EOM preliminary statement on the Belarus presidential election), and 7,400 on 27 March (the release of the EOM preliminary statement on the Ukraine parliamentary elections).

101 See note 40 of this report.

102 Cf. the task contained in Decision No. 4/03 of the 2003 Maastricht Ministerial Council (para. 7).

103 *International Action against Racism, Xenophobia, Anti-Semitism and Intolerance in the OSCE Region: A Comparative Study* (September 2004). The study is available on the ODIHR's website at www.osce.org/odihr.

104 Cf. Annex to the 2005 ODIHR report *Combating Hate Crimes in the OSCE Region: An Overview of Statistics, Legislation and National Initiatives*, available on the ODIHR's website.

169. The OSCE's response to the challenges of intolerance and discrimination has not been limited to tasks assigned to the ODIHR. Following a number of high-level conferences on the subject, the OSCE decided to highlight the political importance of the issue by establishing three Personal Representatives (PRs), each with a focus on a particular aspect of discrimination and xenophobia. Since their initial appointment by the then-Chairman-in-Office, Bulgarian Foreign Minister Solomon Passy, in December 2004, the ODIHR has undertaken continuous efforts to support them in fulfilling their mandate. Since their reappointment by the Belgian Chairmanship, the ODIHR has given input on the operational arrangements and modalities for country visits developed by the Chairmanship to support increased coordination between the Chairmanship, PRs, the ODIHR, and other OSCE institutions. The ODIHR has accompanied the PRs on most of their country visits and has organized numerous joint events and meetings with civil society.

170. As in other areas, the question of how effective the PRs and the ODIHR's work has been, and how effectiveness can be increased, is difficult. It could not be expected of the ODIHR or the three PRs to produce a demonstrable impact on the situation of discrimination, racism, and xenophobia in little more than two years since their establishment. Any such attempt to show a direct and immediate effect on the problem would lack sincerity and would be of little value. Moreover, as there are a considerable number of international organizations, governments, and NGOs involved in this field, it would be practically impossible to connect positive development with the activities of any single actor. In line with the recommendations of the Panel of Eminent Persons, the ODIHR has been making effective use of the data and existing analytical capacities of other organizations and research institutes.

171. At the same time, the ODIHR has been trying to develop indicators for assessing the effectiveness of its work, and has incorporated lessons learned and advice from professionals from across the sector in the design of its Tolerance and Non-discrimination Programme. Specific aspects of the OSCE as a regional security organization have been factored into programme development.

172. If the activities of the Personal Representatives were even more closely aligned with the various tasks given to the ODIHR, the PRs could play a greater role in enhancing and complementing the work of the ODIHR in supporting States in implementing their commitments. In order to improve the effectiveness of ODIHR assistance to States in this area, it may also be time to introduce ODIHR visits as a useful means to gain in-depth insight into particular problems, conflicts, or issues in a given country and be organized in close co-operation with field operations and the OSCE Secretariat. Along with the feedback from tailor-made presentations to OSCE delegations in Vienna, country- or issue-specific panels could provide ODIHR with additional analysis, trends, and developments, on the basis of which it could optimize its assistance to States.

173. Overall, whenever the ODIHR has been accused of bias in its actions or statements, such allegations have not been substantiated and tend to originate from governments that have difficulties implementing OSCE commitments credibly and effectively. The ODIHR painstakingly tries to avoid any perceptions that its work is biased against, or in favour of, any country or group of countries. It has, in this context, expanded its operational activities to countries across the entire OSCE region. In fact, the ODIHR is more operational across the

region and in more countries than any other OSCE body or structure. The ODIHR strives to maintain effective and constructive relations with all 56 States.

B. Effective human dimension meetings

174. One way in which the ODIHR assists participating States in implementing their OSCE commitments is by hosting the Human Dimension Implementation Meeting (HDIM) every year in Warsaw,¹⁰⁵ as well as by supporting the Chairmanship in organizing three Supplementary Human Dimension Meetings (SHDMs) in Vienna and a Human Dimension Seminar in Warsaw. The ODIHR has also provided assistance with regard to a growing number of additional human-dimension-related conferences held by OSCE States, often based on decisions of Ministerial Councils.

175. While the ODIHR plays a key role in preparing and conducting the HDIM, it remains a forum owned and shaped by the participating States. The topics and detailed agendas of human dimension meetings are determined according to the modalities adopted in 2002 by the Permanent Council in co-operation with the Chairmanship and the delegations. The degree to which these meetings satisfy expectations directly correlates with the efforts on the part of States to prepare the event thoroughly and make it the forum it was intended to be by attending at a sufficiently high political, as well as expert, level.

176. The HDIM has become the largest regional human rights conference in Europe. It provides an opportunity for the exchange of ideas and suggestions on topics of particular relevance. Presentations, interventions, and discussions cover an enormous range of issues, some referring to encouraging achievements, others to areas of concern. The most recent HDIM, which took place in the first two weeks of October, was the fourth to be organized under the modalities adopted in 2002. These allow for a more specific thematic focus, as three specific topics are selected each year for review and a forward-looking discussion. The strong and active involvement of States, international organizations, OSCE institutions, and representatives of civil society is a pre-requisite to a successful HDIM.

177. It was therefore encouraging to see that the 2006 HDIM attracted over 1,000 participants, which represents an increase compared to previous years.¹⁰⁶ Of these, over 400 were representatives of more than 300 NGOs, who made use of the opportunity to contribute to the discussions on an equal footing with government representatives, thus enriching the debate and making exchanges more relevant and constructive. Forty-one representatives of 17 international organizations were present, making valuable contributions on the work done by their organizations in the human dimension field and thus facilitating a co-ordinated approach of international actors. Relevant reports and studies produced by partner organizations, primarily the UN and the Council of Europe, were routinely presented and discussed at the meeting.

105 Cf. PC Decision No. 476, *Modalities for OSCE Meetings on Human Dimension Issues*, 23 May 2002: "During each year in which a Review Conference does not take place, the ODIHR will organize a Human Dimension Implementation Meeting (HDIM) of all the participating States, at its seat, to discuss implementation of OSCE human dimension commitments. The HDIM will last 10 working days, unless otherwise decided by the participating States."

106 For instance, in 2001, there were a total of 475 participants at the HDIM. Figures have been rising steadily in the past four years.

178. The regular participation of staff from other OSCE institutions and structures, and practically all OSCE field operations is also of great value for these discussions. Almost all participating States attended, many of them represented by larger delegations, including experts from capitals who are essential for a focused debate.¹⁰⁷ It is therefore clear that the OSCE's human dimension events continue to be relevant and pertinent. Complementing the HDIM in Warsaw, the three SHDMs, and the more technical, forward-looking Human Dimension Seminars represent excellent opportunities for politicians and diplomats, experts and field workers, academics and civil society activists to engage in constructive and result-oriented debate. Enhanced focus on follow-up to the recommendations gathered at these meetings is, however, still necessary.

179. The shortening from three to two weeks in the 2002 modalities has led to stringent limitations on speaking time in order to give everyone a chance to contribute; parallel side events have proven to be a valuable tool to deepen informal discussions on specific issues and situations, and their number has increased significantly over recent years. If the HDIM is to play a more visible role in discussing implementation of election commitments, as well as in following up on ODIHR observation reports, it is essential to allow more than the existing limited time slot for such a discussion. At present, the subject of elections and democratic institutions is awarded only three hours out of 10 working days.

180. In order to further increase the output of human dimension meetings, the ODIHR suggests a more intense focus on reviewing compliance across the range of the human dimension in the entire region. The question of whether focused and selective questionnaires could contribute to such a goal should be further investigated and discussed.¹⁰⁸ Any further shortening of the HDIM may mean that States would only focus on the more egregious cases, thereby transforming the HDIM into an occasion for "naming and shaming" a few, while being silent on less attention-grabbing shortcomings in other States. Rather, consideration should be given to not only a more thorough drawing-up of conclusions but, even more importantly, to a methodological follow-up to the HDIM, especially to the recommendations made. For example, the choice of the subjects for the three special days could be more directly linked to subsequent decisions by the Ministerial and Permanent Councils. For its part, the ODIHR will strive to process recommendations and take them up more systematically in its work with, and assistance to, OSCE States.

181. The suggestion, made by the Panel of Eminent Persons, to hold the HDIM "*outside Warsaw every second year in order to raise its profile and increase the sense of ownership among participating States*"¹⁰⁹ merits serious consideration. The benefits of ownership are, however, clearly outweighed by the increased costs involved in the logistical and technical preparation. Considerable effort would have to go into these aspects at the expense of preparing thorough substantive input; this would neither raise the profile nor heighten the effectiveness of the meeting. The ODIHR also has to maintain its day-to-day operational capacity

107 Four hundred sixty-five representatives of 53 OSCE participating States (no representative of Moldova, Monaco, or Turkmenistan) were in attendance, as well as five Partners for Co-operation (Afghanistan, Japan, Republic of Korea, Mongolia, and Thailand) and four Mediterranean Partners for Co-operation (Algeria, Egypt, Israel, and Morocco). In addition, 29 representatives of six OSCE institutions and 63 representatives of all 18 OSCE field operations participated in the meeting.

108 See the discussion paper by the Centre for OSCE Research, *Options for a General OSCE Human Dimension Monitoring Instrument*, p. 30.

109 *Common Purpose*, para. 25, note 61 of this report.

during the two weeks of the HDIM. Lessons learned from the experimental holding of an SHDM in a venue outside of Vienna suggest that moving the largest and longest meeting, the HDIM itself, to another location is not advisable. While the readiness and ability of States to participate in such an event appear limited,¹¹⁰ the holding of SHDMs in other locations may raise public profile and contribute to regional ownership but must be thoroughly prepared and adequately funded and attended.

C. The ODIHR's programmatic approach to technical assistance

182. While in its early years the ODIHR focused primarily on the organization of human dimension meetings and on monitoring the implementation of commitments through, for instance, the observation of elections, participating States have increasingly sought technical assistance from the ODIHR to meet their commitments. Since 1998, the ODIHR has been systematically providing technical assistance to a growing number of OSCE participating States.

183. Naturally, the diversity of challenges faced by participating States also affects the focus, duration, and modalities of ODIHR projects and programmes. The ODIHR, with the support of OSCE States, has responded to this with great flexibility, tailoring assistance to the field context in order to maximize its effectiveness. Some activities are of a regional or trans-border character, many address post-conflict needs, several are generic and general, whereas others are customized to meet a unique challenge. Also, in terms of target groups, partners and techniques, the ODIHR has developed a broad variety of approaches in order to maximize the impact of its field activities.

184. Technical-assistance projects serve participating States because they are a vehicle for providing ODIHR expertise directly in the field. They also constitute a useful source for learning from practices in the field and gathering additional expertise. These lessons are fed back into the ODIHR's overall planning process for future activities. This process also enables lessons learned in one part of the OSCE to be shared, via the ODIHR, with other participating States. Furthermore, successful project work is one of the elements that may enhance political momentum for reform within a particular participating State. Several years of hands-on experience with project implementation has given the ODIHR considerable knowledge of the operational side of field activities, as well as invaluable practical feedback for its more standard-related work on human dimension commitments emerging from the Warsaw and Vienna meetings. The implementation of projects in the field has thus become one of the ODIHR's primary tools for bringing life to abstract human dimension principles, which serves its overall mandate and meets its responsibility towards the Organization.

185. The ODIHR carries out its core mandate through programmes on elections, democratization, human rights, tolerance and non-discrimination, as well as through a special Contact Point for Roma and Sinti Issues. These programmes are described and justified in the Programme Outline and in the annual Unified Budget document. They form the basis of the ODIHR's operations. The various OSCE mechanisms, action plans, and specific recommendations emerging from human dimension meetings complete the foundation on which the ODIHR's activity is built. Technical-assistance activities are conducted either on the basis of

110 Only 24 participating States chose to be represented at the SHDM held in Tbilisi on 3-4 November 2005.

memoranda of understanding¹¹¹ or upon mutual agreement through a consultation process with host-country delegations or capitals. Where applicable, the ODIHR works with OSCE field operations, but it also carries out activities in countries not hosting OSCE field presences.

Following the continuous expansion of the ODIHR's activities, the Office reached an average of 130 individual projects per year with a total annual average value of over €4 million between 1999 and 2002. Such quick expansion into this type of activity involved certain risks, especially in relation to the organizational capacity to manage projects efficiently and transparently.

186. The ODIHR also uses extra-budgetary contributions to further promote compliance with OSCE commitments through monitoring and assessments and subsequently provides participating States with corresponding advice and technical assistance, analysis and specialized expertise, material for training, curricula and handbooks, as well as targeted capacity-building, assessment, and training methodology. This approach enables the ODIHR to combine constructive assessment with concrete help on how to remedy shortfalls. In addition to the ODIHR's budgetary resources, extra-budgetary contributions allow the Office to assist in a flexible, effective, and timely manner.

187. This consideration and the need for more consistent, longer-term engagement and continuity led the ODIHR to consolidate its project-related work into more comprehensive, and therefore more effective, programmes. Learning from its experience in the 1990s, the ODIHR recognized that many projects have a more lasting effect when embedded in longer-term programmes and can be better evaluated, adjusted, and followed up as part of a more comprehensive thematic approach. This development also emanated from recommendations received from States, donor and recipient countries alike, as well as from OSCE field operations.

188. Since 2004, the ODIHR has focused on targeted institution-building and capacity-building programmes. It has broadened its planning into a multi-year outlook, while maintaining the possibility for shorter-term projects when a rapid response to emerging needs is required. This programmatic shift provides greater continuity in assistance, as well as the chance to build upon existing work in a broader framework and to link related political and developmental challenges. It is also better adapted to ensuring sustainability of the results of its engagement.

189. In managing its technical assistance, the ODIHR has also taken account of ongoing OSCE-wide developments and reforms, in particular programme-related aspects of the Integrated Resource Management Agenda, implementation of the OSCE-wide programme/project planning cycle, and Doc.In. In 2006, the ODIHR introduced the Performance-Based Budget Process within the OSCE as a pilot institution and contributed its broad experience of work in the human dimension to that initiative. The ODIHR has paid close attention to integrating all these innovations into its work, further refining them where greater benefit was to be obtained. For example, the ODIHR is now applying its own tailor-made evaluation methodology to programmes financed by extra-budgetary contributions.

111 Memoranda of understanding on specific programmes or on general co-operation have been signed with Albania, Armenia, Azerbaijan, Croatia, Georgia, Kazakhstan, Kyrgyzstan, Romania, Tajikistan, and Uzbekistan.

D. Methodological approach

190. Since 2003, special care has also been taken to ensure that the ODIHR's programming is based on careful needs assessments, intensive planning, and extensive consultation with relevant host countries, OSCE field operations, other international organizations, civil society actors, and potential donors in order to identify the ODIHR's added value and to avoid duplication of efforts. In planning its activities, the ODIHR also takes into account other factors, including responses from the OSCE in previous years, continuous demand from field operations for ODIHR expertise, and increasing requests for close co-operation with the Secretariat and other institutions. The ODIHR is thus able to determine the nature of the needs of the OSCE States and respond with tailor-made programmes and policy interventions. Such an approach strengthens the stakeholders' roles and encourages their ownership, responsiveness, and responsibility in the process, thus making the programmes more sustainable.

191. Only after completing all these steps does the ODIHR compile a comprehensive programming document in consultation with recipient States. The detailed outlook of programme activities is presented in a specific document designed for recipient countries, donors, and partners.¹¹² Whereas the predecessors of this document contained a large number of individual project proposals, it is now categorized as a programme in order to synchronize it with the Unified Budget planning process. It also gives both providers and users of extra-budgetary contributions a better overview of the longer-term context and purpose of individual projects.

192. The ODIHR's office-wide comprehensive planning methodology includes continuous evaluation of developments and results. The concept allows for an annual review of all ongoing or discontinued activities, projects, or programmes. In cases where the requirements or situation change, this methodology and co-operation with host-country stakeholders and donors allows the ODIHR to amend its programmes promptly in accordance with their needs. It is designed so that the ODIHR can make use of the expertise and capacity accumulated within the Office, the analysis of best practices and lessons learned, and enhanced co-operation with all parts of the OSCE, including the field operations.

193. While the existence of legislative parameters is not a sufficient guarantee for the effective implementation of OSCE commitments, the provision of a legal framework for domestic action is clearly a necessary point of departure. The ODIHR has always placed particular emphasis on legislation; recent years have seen a strengthening of this legislative-assistance role across a variety of fields spanning the human dimension.

194. One of the most important factors contributing to sustainability — in particular in an institution-building and governance reform context — is to ensure local ownership. While this is widely recognized in the world of development co-operation, it was less the case in earlier generations of democratization and post-conflict reconstruction efforts. In the past, the ODIHR has occasionally been criticized because “*a high percentage of project funding is*

112 The document *Democracy and Human Rights Assistance, OSCE/ODIHR Programmes Funded Through Extra-budgetary Contributions* is distributed periodically to OSCE delegations.

used to pay (Western) experts, travel expenses and administrative costs”.¹¹³ The ODIHR reacted to this in different ways: (i) increased use of consultancy that utilizes relevant reform experiences from countries in democratic transition; (ii) increased use of in-house expertise relevant to an OSCE context; and (iii) assistance to field operations and other partners for carrying out project activities on the spot.

195. Planning and programming of all activities now includes an enhanced element of gender mainstreaming, following the guidance provided by participating States in the *Action Plan for the Promotion of Gender Equality*, adopted by the 2004 Ministerial Council in Sofia. Promoting gender equality clearly cuts across all programmes in the ODIHR’s work.

196. Within the area of technical assistance, the ODIHR has, of course, also developed significant expertise in providing assistance to OSCE States in order to follow up on ODIHR recommendations on elections, to improve their election processes, and to comply with their commitments by responding to precise technical-assistance requests. Each request is thoroughly reviewed to assess whether a project is feasible; whether resources, financial and human, are available; whether the ODIHR has the in-house expertise or should bring in external expertise; whether the time frame for implementation is adequate to avoid conflict of interest and collision with the deployment of an election observation mission; and whether the project overlaps with existing programmes of other organizations; and whether co-operation with partners could reinforce the ODIHR’s assistance.

E. The ODIHR within the wider OSCE framework

197. The ODIHR is embedded in a network of structures and procedures based on rules laid down by the participating States. The ODIHR is an integral, yet distinct, part of the intergovernmental arrangement that emerged from the CSCE’s transformation into the OSCE in the early 1990s. It is the responsibility of all parts of this system to maximize the effectiveness of the OSCE as a whole and to co-operate within the system in search of the common good of effective implementation of OSCE commitments undertaken by States. The ODIHR’s effectiveness therefore also depends on the smooth operation of the OSCE system. The relationship with the other institutions, the Chairmanship and the Permanent Council, the field operations, and the Secretariat are therefore of utmost relevance for any discussion of the effectiveness of the ODIHR’s assistance.

198. Internal relationships are best structured by assigning roles and responsibilities in an unambiguous fashion that guarantees transparency. The ODIHR has therefore worked to further clarify and improve its existing relations of a political, operational, technical, and bureaucratic nature in the past few years. This is a process familiar to all international structures. It needs to be maintained and serviced, just as is the case with any complex international machinery. Participating States saw early on that the ODIHR’s effectiveness could only be assured if it were involved actively in the activities of the Permanent Council and the field operations. Far from being a quasi-academic institute on the sidelines, States wanted the ODIHR to be fully part of the day-to-day work of the OSCE’s main bodies.

113 Randolph Oberschmidt, “Ten Years of the Office for Democratic Institutions and Human Rights — An Interim Assessment”, in *OSCE Yearbook 2001* (Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), Nomos 2002), at 390.

199. Formally reporting to the Permanent Council at least three times a year and offering additional opportunities for informal briefings and consultations, the ODIHR, on a day-to-day basis, works most closely with the CiO. This relationship ranges from the provision of background materials for the Chairman's official visits and the offer of specifically solicited advice and reporting, to close co-ordination on implementation meetings and other special events in the human dimension. As a corollary, the CiO clearly has a special role to play in encouraging States to take advantage of the assistance that the ODIHR offers.

In the 1994 Budapest Document, States encouraged the CiO to "inform the Permanent Council of serious cases of alleged non-implementation of human dimension commitments, including on the basis of information from the ODIHR" (Dec. VIII, para. 6).

► Field operations

200. Field operations are deployed in a variety of contexts. Some larger missions operate within larger international presences as part of a broad international engagement in a post-conflict environment. More staff may be working for their human rights/rule of law and democratization departments than for the entire ODIHR. Also, elections have been organized and/or supervised by these large missions, where the ODIHR had no place to observe. At the same time, the OSCE maintains operations that consist of little more than small liaison offices, where one or two international staff are explicitly designated to deal with the human dimension.

201. In this context, one fundamental issue of organizational coherence should not be neglected: namely, that all field operations bear an inherent role and responsibility to assist their host countries to fulfil their human dimension commitments.¹¹⁴ Monitoring and reporting on human rights, rule of law, and the state of democracy are therefore implicitly included in each mission's mandate. The OSCE can only function credibly and efficiently if its logic of comprehensive security with the human dimension at its core is reflected in every single activity the Organization undertakes.

202. In general, OSCE staff in field operations regard the ODIHR as an external resource for substantive expertise that can complement their own strengths: the relationship they have developed with local counterparts and the ability to focus on one single country or context. The relationship with field operations thus goes significantly beyond co-operation in planning and implementing projects, which was one of the key outcomes of discussions with the field operations over recent years. The ODIHR's work encompasses a much larger range of interaction with States, which often cannot be apportioned into projects. The ODIHR can offer more than projects: external experts and its own expertise, materials for training as well as training itself, analysis, and advice. This was recognized by the Panel of Eminent Persons, which recommended that: "*Field operations should receive more specialized support, particularly in relation to all phases of capacity-building projects, from OSCE Institutions including more effective use of short-term staff visits.*"¹¹⁵

114 Cf. Chapter IV, para. 3, of the 1993 Rome Ministerial Council Document ("*Further emphasis will be given to human dimension issues in mandates of CSCE missions*"), as well as Decision VIII, para. 11, of the 1994 Budapest Document ("*ODIHR will be consulted on a CSCE mission's mandate before adoption and will contribute to the follow-up of mission reports as decided by the Permanent Council*").

115 *Common Purpose*, para. 42(g), note 61 of this report.

203. As the Ministerial Council in Oslo recommended in 1998, OSCE missions should be instructed to identify actions that should be undertaken by the host State to improve compliance with human dimension commitments, and suggest how the ODIHR might bring its expertise to bear. To this end, the ODIHR should assist missions in enhancing their reporting on human rights and the appropriate lines of communication between the ODIHR and the missions should be further developed.

204. At the request of field operations, the ODIHR has been organizing, since 2004, quarterly training courses in Warsaw for new human dimension officers in field operations. The purpose is to introduce new mission members to the human dimension and the ODIHR, as well as to provide hands-on training for mission work. The training curriculum is flexible and adjustable to the participants' profiles. As such, it is specifically designed for human dimension officers, complementing the more general induction training in Vienna. Often, participants have spent some time in the field prior to the training, which ensures that the training meets the needs in the field and enables the sharing of information among participants. The training is open to international and local staff, including longer-serving mission staffers, who can often contribute by bringing in their specific expertise. These training events have been attended by some 100 participants annually from all field operations across the OSCE region.

205. The enhanced focus on programming and project development in co-operation with the field operations and its newer role as training provider are illustrative of the ODIHR's function as OSCE competence centre in the human dimension. Given the political choice to prevent the OSCE from becoming a "career organization" by limiting the time staff can serve, lessons learned and good practices — in particular those in the field — risk being lost or forgotten. An increasing number of ODIHR staff combine their practical experience in field operations with a qualitatively enhanced focus on supporting field operations. Over the years, this has meant that the ODIHR has become a depository of successful strategies, methodologies, structures, and projects in the human dimension.

206. The relationship of the ODIHR with field operations is shaped by the respective mandates, comparative advantages, and capacities. This does not necessarily mean that the ODIHR plays a bigger role in smaller missions and a more marginal one in larger missions, especially those in South-Eastern Europe. Experience has shown that it is precisely those larger missions with full-fledged programmes on human rights, rule of law, or democratization that need an outside reference point, a depository for lessons learned, a resource centre that can bring in knowledge from other field operations.

207. In close collaboration with the Conflict Prevention Centre and especially its Project Coordination Cell, the ODIHR can be used for safeguarding missions' expertise in the human dimension for the benefit of the whole organization. The Office thus plans to further expand on this relay and exchange function, which has come to be most appreciated by OSCE staff in the field, who are often not in a position to do research and comparative analyses themselves. Due to these efforts, the effectiveness of the OSCE's assistance to States will continue to improve.

208. In 1999 in Istanbul, OSCE States decided to “*dispatch delegations from the OSCE institutions, with the participation of other relevant international organizations, when appropriate, to provide advice and expertise for reform of legislation and practices*”. In fact, the earliest field operations deployed by the CSCE had precisely that temporary fact-finding and reporting character for specific crisis situations. The ODIHR suggests re-examining these early experiences in order to develop temporary, highly focused, and flexible tools for the OSCE to remain a relevant actor in times of crisis. Whether or not such a mechanism is called “rapporteurs”, “short-term advisory missions”, “democratization teams”, or “thematic missions” with a specific fact-finding task and in a sub-regional context¹¹⁶ is a question that should not obscure the general purpose of such an innovation.

► Secretary General

209. Within the wider structure of the OSCE, the relationship with the Secretary General, as the chief administrative officer of the organization, and with the Secretariat is a critical element for the ODIHR’s effectiveness in implementing its mandate. While the OSCE Secretariat started out as a purely administrative service to the political bodies and the field operations, with the Conflict Prevention Centre standing as a separate entity, the functions and responsibilities of an enlarged Secretariat were consolidated and the role of the Secretary General strengthened. The ODIHR wholeheartedly supported and welcomed this process, as it, like the other OSCE institutions, can only benefit from more efficient, professional administrative back-up, as well as from targeted efforts to co-ordinate and systematize work Organization-wide.

210. The centralized functions of the Secretariat serve the OSCE’s purpose and increase its overall effectiveness when exercised in due recognition of the degree to which the OSCE is a decentralized entity. The relationship between the Secretariat and the ODIHR is therefore built on the original mandate and role of the ODIHR as a distinct institution. Operational autonomy represents an indispensable requirement for the ODIHR to work effectively, that is, in a flexible, quick, focused, and meaningful manner. Recommending a stronger and more visible role for the Secretary General, the Panel of Eminent Persons underlined that this would not involve subordinating the existing institutions to the Secretariat. The various entities should continue to operate according to their respective mandates.¹¹⁷

211. In recent years, relations between the ODIHR Director, the heads of the other two institutions, and the Secretary General have become tighter and more coherent. Frequent meetings and other contacts ensure high-level co-ordination among the institutions and enable the operational structures of the OSCE to serve and advise the CiO and the Permanent Council in an increasingly effective manner. Close co-operation exists on all substantive and administrative levels.

116 CIO.GAL/172/06, 30 October 2006.

117 The Panel stated that “*the different Institutions should retain their ability to make independent evaluations and take programmatic initiatives in accordance with their respective mandates*”. (*Common Purpose*, para. 8(g), note 61 of this report). With regard to external relations with relevant partner organizations, the Panel recommended, for instance, that the Secretary General be “*the central point of contact for other international organizations and NGOs for all aspects of operational issues relevant beyond the mandate of individual OSCE structures and Institutions*” (*id.*, para. 37(h)).

► Permanent Council

212. In Budapest in 1994, participating States decided to enhance the ODIHR by increasing its involvement in the work of the PC. This involvement goes beyond the regular reporting of the ODIHR to the PC and constitutes an element of the OSCE-wide effort to provide early warning, as well as to inform States about serious cases of non-implementation of human dimension commitments. An enhanced focus of the Permanent Council in the follow-up to the ODIHR's election-related recommendations would also constitute another way of intensifying the ODIHR's involvement there.

213. In order to improve the effectiveness of the human dimension dialogue taking place in the Permanent Council, the Panel of Eminent Persons recommended the establishment of a *Human Dimension Committee* as one of three pillars, each representing one of the three security dimensions developed by the OSCE.¹¹⁸ Such a Committee structure, subordinate to the Permanent Council, the Panel argued, would allow for more open exchanges, would focus the agenda of the PC, and would raise its profile as a forum for political dialogue and transparent decision-making.¹¹⁹

214. A Human Dimension Committee could indeed strengthen the effectiveness of reviewing the implementation of human dimension commitments, provided certain prerequisites were fulfilled. Based on the recognition of the importance of informing citizens about the range of OSCE activities, this Committee should be regularly opened to the public in order to allow effective participation of civil society organizations.

215. As rightly noted throughout the consultation process on the implementation of the first paragraph of Ministerial Council Decision 17/05, a Human Dimension Committee will not duplicate, weaken, or substitute any existing review mechanisms, bodies, or procedures. Regular sessions of a Human Dimension Committee in the framework of the Permanent Council could, for instance, not substitute for the high-profile mutual exposure of policy makers, diplomats, and civil society for which the HDIM and the SHDMs are widely known and appreciated. Rather, they should contribute to a more timely, focused, and comprehensive response of States, individually and collectively, to identified successes, shortcomings, and new challenges, and to a more focused and systematic follow-up to their recommendations.

216. It has also been suggested that, if a Human Dimension Committee were to be established, the HDIM could be reduced to a maximum of five days. Yet, if the OSCE wants to strengthen the effectiveness of its implementation of human dimension commitments and allow for thorough review of the progress of each country, shortening the time available for such a review appears counter-intuitive. If the HDIM is to provide a focused review, sufficient time must be devoted to it. If the HDIM were to be shortened to one week, for instance, governmental and non-governmental representatives alike may limit themselves to highlighting the most egregious cases of non-implementation, while time for a thorough discussion of the situation in all OSCE States would be lacking. Should such a Committee be established, the Human Dimension Implementation Meetings and the relevant modalities should

118 *Id.*, at para 32.

119 Cf. Draft MC Decision on Improvement of the Consultative Process, CIO/GAL/172/06, 30 October 2006.

be reviewed after a period of two years in order to maximize the effectiveness of the OSCE's human dimension review mechanism.

217. An OSCE Human Dimension Committee would be welcomed by the ODIHR, as it would enable it to participate more effectively in the work of the PC. In the wider context, it could also serve as a counterpart to the Human Rights Council established within the United Nations as a result of wide-ranging reform efforts to raise the credibility and profile of the UN's human rights machinery. As a standing body, the Council, which replaced the Human Rights Commission in 2006, is intended to facilitate in-depth consideration of human rights issues, to serve as a forum for peer review among member states, and to evaluate the fulfilment of human rights obligations. If the OSCE were to upgrade its own work on the human dimension to a standing Human Dimension Committee, closer co-operation with the Human Rights Council would seem advisable.

F. Working with Partners for Co-operation and within the wider international architecture of human rights and democracy

218. From the outset, the ODIHR was tasked with developing close relations with partner organizations in the international community to benefit from their work and knowledge and to share its own views and experiences. A decade and a half ago, few would have imagined how effectively and closely the various actors in the field would co-operate, not least due to technological progress and the emergence of a highly qualified pool of professionals in the fields of human rights and democratic reform.

219. First and foremost, the ODIHR has developed a constructive working relationship with the *Secretariat of the Council of Europe*. The ODIHR Director and the Secretary General of the Council of Europe regularly consult and co-ordinate directly, including during visits to Strasbourg or Warsaw, respectively, and advisors have a good, close working relationship with their relevant counterparts. The *European Commission for Democracy through Law* has become a close partner, evidenced by a number of joint reports, opinions, and recommendations, in particular with regard to electoral reform, frequent expert-level co-ordination meetings, as well as excellent high-level relations. This good practice is based on issue-driven, informal consultations and closer co-operation on joint activities. The Council of Europe's *Commissioner for Human Rights* is a third close partner of the ODIHR, and good staff-level co-operation exists.

220. The ODIHR also continues to have close relations on all levels with the *United Nations* and its agencies. The interaction is frequent, both in formal frameworks such as the various interagency meetings and processes, as well as informally, primarily in the field and in the context of political consultations. The ODIHR shares a special relationship with the *OHCHR*, based on a Co-operation Agreement setting out regular consultations, as well as joint work and initiatives. This is also the case for the *UNDP*. The ODIHR has closely followed the reform processes within the UN, in particular where they relate to the international human rights protection mechanisms.

221. In April 2004, the UN Human Rights Commission resolved to enhance the role of regional organizations and arrangements that assist in the promotion and consolidation of de-

mocracy. It encourages regional and cross-regional organizations and arrangements to initiate partnerships to assist in disseminating knowledge about the role of democratic institutions and mechanisms “*in facing the political, economic, social and cultural challenges in their respective societies*”.¹²⁰ The ODIHR stands ready to actively engage in this partnership with its focus on the OSCE region, and maintains, in this context, close relations with relevant UN partners in Geneva and elsewhere.

222. In the field of migration management and border services, the ODIHR has a long history of fruitful co-operation with the *International Organization for Migration*, both with its Technical Co-operation Centre and with IOM field offices in the countries of Eastern Europe and Central Asia. The ODIHR also co-operates with a number of other organizations, not least with the *European Union* and its various bodies and institutions. The European Commission has, for instance, adopted the ODIHR’s methodology for its election observation missions.¹²¹ The Commission is also a significant contributor to a variety of ODIHR assistance projects in transition countries. The *European Monitoring Centre on Racism and Xenophobia*, the *European Commission against Racism and Intolerance*, and the *UN Committee on the Elimination of Racial Discrimination* are primary partners of the ODIHR within its Tolerance and Non-discrimination Programme. This programme has also supported the OSCE Secretary General in contributing to the *Alliance of Civilizations* initiative. With respect to electoral issues, the ODIHR is in contact with the *Commonwealth of Independent States*.

223. The ODIHR has been called upon to contribute to co-operation with *Mediterranean and Asian partners*. This relates mainly to providing expertise beyond our area, liaising with related partners in those countries, and promoting knowledge about, and visibility of, the OSCE and its standards through seminars or conferences. The ODIHR is considering enhancing existing co-operation with partners during election observation missions.¹²² This has already been tested in practice and could be developed further. It has been suggested that activities in partner States could include organizing briefings, workshops, and presentations by OSCE institutions on the main fields of activities of the Organization, including human rights and democratic institutions.¹²³ The ODIHR, however, has to consider serious resource constraints (time, financial, and human resources) and would preferably develop a framework and well-planned objectives and methodology for such involvement beyond the OSCE region.

224. It is also time for the OSCE, in particular within the human dimension, to reach out more proactively to the wider global network of organizations and initiatives seeking to promote democracy and human rights around the globe. On a global level, both the *International Conference of New and Restored Democracies*, under the aegis of the United Nations, and the *Community of Democracies* are arrangements that could benefit from the relevant experiences of the OSCE.

120 UN Commission on Human Rights, 55th Meeting, Resolution 2004/30, 19 April 2004.

121 See para. 106 of this report.

122 See the recommendations concerning future applications for partnership, PC.DEC/430, 19 July 2001, as well as Chapter III. J(12) of this report.

123 In 2003, the Permanent Council (PC.DEC/571) decided to explore new avenues of co-operation and interaction with its Partners for Co-operation and to explore the scope for wider sharing of OSCE principles and commitments.

225. On a regional level, the *African Union*, the *Organization of American States*, and others have adopted a considerable body of both political and legal commitments on what is referred to in the OSCE as the human dimension. Many have also begun to conduct election observation and are engaged in electoral assistance. The ODIHR has been requested frequently by relevant partners to provide advice and expertise. While the ODIHR sees considerable potential in such a form of co-operation, it cannot expand these activities without the provision of commensurate resources.

OSCE States should enable the ODIHR, as well as the other institutions, to be effective. Three steps should be taken in this regard: first, States should demonstrate the necessary political will to prepare the ground for effective assistance work; second, States should provide an enabling environment for the ODIHR to continue its work unhampered by unnecessary constraints; third, States should equip the ODIHR with sufficient resources to carry out all the mandates and tasks assigned to it by the States.

- ▶ The Chairman-in-Office should further encourage participating States to make use of the assistance offered by OSCE institutions;
- ▶ States should re-examine the idea of establishing a flexible, temporary, and focused mechanism to examine specific issues or cases;
- ▶ The OSCE should further engage with Partners for Co-operation and promote knowledge about, and visibility of, OSCE standards;
- ▶ The OSCE should reach out more proactively to the wider network of organizations and initiatives and use its valuable expertise to promote democracy and human rights around the globe.

The ODIHR will:

- ▶ Further identify areas and issues that should be of concern for the OSCE community, in particular by bringing them to the attention of the Chairman-in-Office, the Permanent Council, and a possible Human Dimension Committee;
- ▶ Continue to reach out to the general public and disseminate relevant materials and information on its work in the human dimension and on the OSCE human dimension commitments, including by translating the *OSCE Human Dimension Commitments* into other languages;
- ▶ If provided with adequate resources, enhance co-operation with the Mediterranean and Asian partners;
- ▶ Enhance the collection and preservation of past and present expertise. In turn, field operations are encouraged to make more use of the ODIHR as a depository of successful strategies, methodologies, and projects in the human dimension.

To enhance the effectiveness of human dimension meetings:

- ▶ States should be encouraged to prepare for the HDIM more thoroughly and attend at a sufficiently high political and expert level;
- ▶ States should focus more intensely on reviewing compliance across the range of the human dimension in the entire OSCE region, including by investigating the value and use of focused and selective questionnaires on targeted human dimension issues;
- ▶ In preparing for Ministerial Councils, the Chairmanship should consider ways to ensure specific follow-up on the forward-looking discussion during the three special days during the HDIM;
- ▶ States should consider the added value of organizing SHDMs outside Vienna with a view to raising the Organization's public profile and ownership.

The ODIHR will:

- ▶ Assist States in developing a more consistent plan to follow up on human dimension meetings, in particular with regard to the recommendations made;
- ▶ Further enhance the visibility and participation of civil society in all human dimension meetings.

CONCLUSIONS AND OUTLOOK

In more than a decade of activities, the ODIHR has proven that the OSCE needs institutions that can operate autonomously and that are accountable to the Permanent Council in terms of how they implement their mandate. This is confirmed by the visibility the OSCE has received through the work of my Office. Within the past decade, the ODIHR has demonstrated its ability to work cross-dimensionally and to bring new approaches to emerging challenges. Its conceptual capacity and operational flexibility to work across boundaries puts it at the forefront when multidisciplinary and complex issues need to be addressed. In short, the ODIHR is a nexus at which commitments in the OSCE's human dimension can be translated into reality and where real progress on the ground is achieved.

I.

As discussed in *Chapter I* of this report, the OSCE has adopted a wide range of commitments on democracy, the rule of law, and human rights that set sufficiently clear standards for the participating States. This report stresses that the OSCE community has paid attention to their implementation and collective review. It does so with the help of specific mechanisms and institutions, several of which could be further strengthened and developed.

This cannot, however, gloss over the fact that the political will of individual States to implement commitments at home and to use their influence to bring about implementation in other States remains the cornerstone of an effective OSCE. It is incumbent upon States to fill these commitments with life and to implement them for the benefit of their citizens, and for enhanced relations between them. As pointed out, the ODIHR stands ready to strengthen its own assistance to participating States to implement commitments and to help develop ideas on enhancing implementation mechanisms, from reviewing how action plans work and creating special mechanisms to ensuring more effective NGO participation in OSCE debates and more effective OSCE field operations.

Specifically, *Chapter I* concludes that:

- ▶ **States should demonstrate more focused political will to implement all human dimension commitments in good faith, bilaterally and through international fora or instruments. They should, as a matter of urgency, address the challenges in the areas outlined in this report, in particular with regard to:**
 - (1) Democratic elections;
 - (2) Freedom of assembly and association;
 - (3) Human rights and countering terrorism;
 - (4) Human rights defenders and national human rights institutions;
 - (5) Involuntary migration: the challenge of refugees and IDPs;
 - (6) Threats to the independence of the media;
 - (7) Aggressive nationalism, racism, chauvinism, xenophobia, and anti-Semitism.

- ▶ **The OSCE should enhance the use of existing procedures and instruments, in particular by:**
 - (1) Intensifying the use of peer review for more systematic review of implementation of human dimension commitments in the framework of the PC, thereby making full use of the expertise and assistance of the OSCE institutions and structures;
 - (2) Making optimal use of the role of the Chairman-in-Office in informing the PC of serious cases of alleged non-implementation of human dimension commitments;
 - (3) Reviewing the effectiveness of the Vienna and Moscow Mechanisms;
 - (4) Strengthening the effectiveness of its action plans by ensuring more systematic periodic reviews, which could lead to an annual review at the Ministerial Council.

- ▶ **All 56 States should ensure that the public is provided with maximum access to information about human dimension commitments.**

II.

Chapter II highlights that the existing *acquis* could be supplemented and defined more concretely in a number of areas, particularly in those pertaining to “Copenhagen Plus” commitments and to those that relate to fundamental ingredients of democratic constitutionalism: the restraints, counterweights, and balances of powers of government. The ODIHR stands ready to work on the formulation of commitments to supplement the existing ones, if so requested.

Chapter II recommends that:

- ▶ **States should consider the value and need for supplementary commitments in the areas identified in this report:**
 - (1) Elections: transparency, accountability, and public confidence;
 - (2) Democracy and the rule of law, including the separation of powers, democratic law-making and in the area of administration of justice;
 - (3) Countering terrorism;
 - (4) Prevention of torture;
 - (5) Consolidating commitments on non-discrimination.

- ▶ **States should examine concrete follow-up to this in preparation for the Ministerial Council in Madrid in 2007.**

III.

Major progress has been made in the conduct of elections in South-Eastern Europe, Central Europe, and the Baltic States. The experience made over the past decade highlights that the conduct of democratic elections can only be established and maintained through a genuine political commitment. The ultimate responsibility in this regard lies with participating States. As the OSCE's main institution in the human dimension, the ODIHR is ready to do its part to further improve its operational activities and performance in accordance with its mandate. As in any other area the ODIHR engages in, this is also the case with regard to our election-related activities. A number of steps have already been taken. Considering the questions posed and suggestions made, and following consultations with OSCE States, the ODIHR presents, in *Chapter III*, a package of measures to further enhance its election-related activities, and makes concrete proposals for furthering the effectiveness of its assistance in this regard.

Specifically, the ODIHR will:

- ▶ Make **follow-up mechanisms** more effective;
- ▶ Improve the delivery of the **observation methodology**;
- ▶ Further **diversify participation** of observers/experts for EOMs;
- ▶ Develop the “**geographical scope**” of its election activities;
- ▶ Increase the **transparency of recruitment**;
- ▶ Establish a **practitioners network** among ODIHR election observation experts;
- ▶ Develop public outreach and **training support**;
- ▶ Develop a stronger capacity on the **use of information technology** and on the observation of electronic voting;
- ▶ Enhance **linguistic inclusiveness** to allow equal and full participation of observers from throughout the OSCE region;
- ▶ Enhance **ODIHR-wide coherence**, broadening the context of election observation and assistance for overall democratization activities;
- ▶ Further enhance co-operation with **parliamentary observers**;
- ▶ **Share expertise** with other regions and organizations.

In order to achieve concrete results in these areas, continued co-operation with, and support by, OSCE States is key, including the provision of the necessary human and financial resources.

IV.

One of the conclusions of *Chapter IV*, which deals with ways to strengthen the ODIHR's assistance efforts, is that States should enable the ODIHR, as well as the other institutions, to be effective. Three steps should be taken in this regard: first, States should display the necessary political will to prepare the ground for effective assistance work; second, States should

provide an enabling environment for the ODIHR to continue its work unhampered by unnecessary constraints and excessive controls; third, States should equip the ODIHR with sufficient resources to carry out all the mandates and tasks assigned to it by the participating States.

Specifically, *Chapter IV* comes to the conclusion that:

- ▶ The Chairman-in-Office should further encourage participating States to make use of the assistance offered by OSCE institutions;
- ▶ States should re-examine the idea of establishing a flexible, temporary, and focused mechanism to examine specific issues or cases;
- ▶ The OSCE should further engage with Partners for Co-operation and promote knowledge about, and visibility of, OSCE standards;
- ▶ The OSCE should reach out more proactively to the wider network of organizations and initiatives and use its valuable expertise to promote democracy and human rights around the globe.

For its part, the ODIHR will:

- ▶ Further identify areas and issues that should be of concern to the OSCE community and bring them to the attention of the Chairman-in-Office, the Permanent Council, and a possible Human Dimension Committee;
- ▶ Continue to reach out to the general public and disseminate relevant materials and information on its work in the human dimension and on the OSCE human dimension commitments, including by translating the *OSCE Human Dimension Commitments* into other languages;
- ▶ If provided with adequate resources, enhance co-operation with the Mediterranean and Asian partners;
- ▶ Enhance the collection and preservation of past and present expertise. In turn, field operations are encouraged to make more use of the ODIHR as a depository of successful strategies, methodologies, and projects in the human dimension.

In order to enhance the effectiveness of human dimension meetings:

- ▶ States should be encouraged to prepare for the HDIM more thoroughly and attend at a sufficiently high political and expert level;
- ▶ States should focus more intensely on reviewing compliance across the range of the human dimension in the entire OSCE region, including by investigating the value and use of focused and selective questionnaires on targeted human dimension issues;
- ▶ In preparing for Ministerial Councils, the Chairmanship should consider ways to ensure specific follow-up on the forward-looking discussion during the three special days during the HDIM;
- ▶ States should consider the added value of organizing SHDMs outside Vienna with a view towards raising the Organization's public profile/ownership.

The ODIHR will:

- ▶ Assist States in developing a more consistent plan to follow up on human dimension meetings, in particular with regard to the recommendations made;
- ▶ Further enhance the visibility and participation of civil society in all human dimension meetings.

A Human Dimension Committee should be welcomed as an additional forum for peer review, allowing for a more standardized manner of monitoring, reviewing implementation, preparing and following up on human dimension meetings. It should, however, not be seen as an alternative to the HDIM or the SHDMs, but rather as an additional element in making these regular mandated meetings more relevant, focused, and better prepared.

* * *

The present report is limited to the tasks received from the 2005 Ljubljana Ministerial Council. Beyond that, it is for the OSCE community as a whole to consider how to renew our commitments to democratic governance and the concept of comprehensive security in order to consolidate progress across the whole OSCE region and prevent the erosion of the rule of law and human rights. To make the right choice, OSCE participating States need to muster the courage to assume their common responsibilities in an imperfect world.

The challenge ahead of us is to live up to the aspirations of an earlier generation and the spirit of the OSCE's achievements, which continue to inspire so many in our countries and beyond. The OSCE and its participating States are particularly called upon to lead the way and demonstrate that despite the difficulties, credible collective action in the human dimension is successful. Mutual trust, as well as confidence in the institutions and jointly developed procedures, is an essential prerequisite to undertake this work.

ANNEX 1 *OSCE/ODIHR Explanatory Note on Possible Additional Commitments for Democratic Elections, 11 October 2005***Office for Democratic Institutions and Human Rights****OSCE/ODIHR EXPLANATORY NOTE ON POSSIBLE ADDITIONAL COMMITMENTS FOR DEMOCRATIC ELECTIONS****11 October 2005****I. OVERVIEW**

Since 1975, the Human Dimension of the Conference on Security and Cooperation in Europe¹ has been active in creating norms and commitments related to human rights and democracy — the human dimension — which encompasses a broad array of fundamental freedoms, including democratic elections.² Since its adoption in 1990, the Document of the Copenhagen Meeting of the Conference on the Human Dimension (the 1990 Copenhagen Document) has been the primary document setting forth OSCE commitments to support, protect and promote democratic governance and human rights, including those that are necessary for achieving democratic elections.

Since 1990, OSCE participating States have been active on an ongoing basis in developing norms for democratic elections, and they have built upon the Copenhagen Document through a succession of Declarations and Decisions.³ The Budapest Summit duly emphasized an election as a process, and decided that the ODIHR should play an enhanced role in election monitoring before, during and after elections. It also underlined the importance of free and independent functioning of the media.⁴ The Lisbon Summit Declaration cites the issue of electoral fraud in the context of a cross-dimensional regional security issue.⁵ The Is-

1 The Conference on Security and Co-operation in Europe (CSCE) was renamed the Organization for Security and Co-operation in Europe (OSCE) in 1994.

2 See *OSCE Human Dimension Commitments*, 2nd edition, Vol. 1 (Warsaw, OSCE/ODIHR, 2005).

3 In the Charter of Paris for a New Europe, it is stated that “we undertake to build, consolidate and strengthen democracy as the only system of government of our nations”. Furthermore it states “democratic government is based on the will of the people expressed regularly through free and fair elections”, and “everyone also has the right...to participate in free and fair elections.” The Budapest Summit Declaration (paras. 8 and 14) states that “democratic values are fundamental” to OSCE participating States and these values are “a primary goal of CSCE action”. The Lisbon Summit Declaration (para. 4) recognizes the “democratization process” and management of “democratic gains” through “further development” and co-operation “in strengthening democratic institutions”. The Istanbul Summit Declaration (para. 26) states that OSCE participating States are committed to free and fair elections as “this is the only way in which there can be a stable basis for democratic development”. The Istanbul Charter for European Security (para. 19) states that “democracy is the core of the OSCE’s comprehensive concept of security”.

4 Concluding Document of Budapest, Decisions, Chapter VIII, para. 12.

5 Concluding Document of Lisbon, Declaration, para. 9.

Istanbul Summit Declaration⁶, followed by the Porto and Maastricht Ministerial Decisions, emphasized the importance of follow-up to ODIHR recommendations.

In the context of Supplementary Human Dimension Meetings in 2004 and 2005, OSCE participating States have now entered into a discussion on whether the existing commitments could meaningfully be supplemented through the development of additional commitments, otherwise described as “Copenhagen Plus”. The record of implementation of the Copenhagen Document and post-Copenhagen Declarations and Decisions to date, would indicate that this discussion on additional commitments on democratic elections to supplement existing ones is appropriate.

To be consistent with the OSCE’s “process” oriented approach, the starting point for the “Copenhagen Plus” discussion is essentially and fundamentally a re-commitment to the 1990 Copenhagen Document and post-Copenhagen Declarations and Decisions. The “Copenhagen Plus” discussion further provides participating States of the OSCE an opportunity to enrich, reinforce and amplify OSCE election-related commitments, with a focus on principles not expressly stated in the 1990 Copenhagen Document.

The Copenhagen Document encompasses a broad range of commitments beyond its paragraphs 6, 7, and 8, which solely address electoral matters. A focus of “Copenhagen Plus” exclusively on electoral matters should not be misinterpreted as a de-emphasis of the broad range of commitments in the Copenhagen Document, as it would be impossible to achieve democratic elections without due respect for the unhindered exercise of human rights and fundamental freedoms.⁷

Furthermore, in the OSCE context, the adoption of new documents does not detract from or invalidate existing documents. OSCE documents have always been intended to build on each other, forming the “OSCE *acquis*”⁸, and commitments undertaken in earlier documents remain as politically binding norms for OSCE participating States.

Ministerial Council Decision No. 5/03 of 2 December 2003, recognized “in particular the need for *confidence* by the electorate in the entire process, for *transparency* of election procedures, and for *accountability* on the part of authorities conducting elections...” and tasked the Permanent Council, “drawing on expertise from the ODIHR, to consider the need for additional commitments on elections, supplementing existing ones ...”.

The ODIHR confirms that three basic principles integral to the democratic election process — **transparency, accountability and public confidence** — could usefully serve as the basis for additional commitments to supplement the existing ones. The “Copenhagen Plus” discussion should also address perceived and real challenges to transparent and accountable elections, in order to ensure broad public confidence, that have arisen in the context of new voting technologies.

6 Charter for European Security, Istanbul, para. 25.

7 This is illustrated by para. 5 of the Copenhagen Document. These para. 5 commitments are important to the realization of the election commitments reflected in paras. 6, 7, and 8 of the Copenhagen Document.

8 *Op. cit.*, note 2, p. xvii.

II. BACKGROUND

In recent years, OSCE participating States have sought to draw upon the extensive OSCE/ODIHR election observation experience by requesting a review of “best practices”.⁹ In 2002, the ODIHR submitted to the OSCE Permanent Council the document on *International Standards and Commitments on the Right to Democratic Elections: A Practical Reference Guide to Democratic Elections Best Practice*. This document was the basis for a subsequent 2003 document *Existing Commitments for Democratic Elections in OSCE Participating States: A Progress Report*, which was considered by the OSCE Ministerial Council.

The July 2004 OSCE Supplementary Human Dimension Meeting, convened by the Bulgarian Chairmanship, was devoted to “Electoral Standards and Commitments”. Ambassador Ivo Petrov, Chairman of the Permanent Council, noted that there now was an important opportunity to examine “the need for additional commitments on elections”.¹⁰ Participants in the 2004 SHDM meeting generally agreed that there was a need for additional commitments to address ongoing and emerging challenges, including new voting technologies, “particularly as they relate to transparency, accountability and developing public confidence in such systems”.¹¹

In March 2005, OSCE Chairman-in-Office and Slovenian Foreign Minister Dimitrij Rupel stated, “bearing in mind the fact that the OSCE Copenhagen Document is almost 15 years old, I see merit in considering whether additional commitments are needed”. In April 2005, the OSCE Supplementary Human Dimension Meeting was devoted to “Challenges of Election Technologies and Procedures”. As a result of the concluding SHDM recommendations, the Slovenian Chairmanship proposed that the ODIHR would convene an expert meeting to consider the need for additional commitments.¹² This meeting of experts took place in Warsaw on 6-7 September 2005, and subsequent views for possible additional commitments for democratic elections are reflected below.

III. POSSIBLE ADDITIONAL COMMITMENTS FOR DEMOCRATIC ELECTIONS

OSCE participating States could further enhance their commitment to democratic elections through additional commitments to supplement the existing ones. The additional commitments could focus on three principles which are implicit, but not expressly stated, in the 1990 Copenhagen Document: **transparency, accountability and public confidence**.

These three principles are integral to one another. Transparency and accountability contribute directly to increasing public confidence in the respective government’s ability and intention to deliver a democratic election process. Each of these principles is important for realizing the will of the people through democratic elections. These principles are also par-

⁹ Considerable work on “best practices” for elections has also been undertaken during this same period by other institutions, including the United Nations, and specific to the OSCE area, by the Venice Commission of the Council of Europe, the Commonwealth of Independent States (CIS) and the Association of Central and Eastern European Election Officials (ACEEEO).

¹⁰ Final Report of OSCE Supplementary Human Dimension Meeting on “Electoral Standards and Commitments”, Vienna, 15-16 July 2004, p. 1.

¹¹ *Id.*, p. 2.

¹² Final Report of OSCE Supplementary Human Dimension Meeting on “Challenges of Election Technologies and Procedures”, Vienna, 21-22 April 2005. Letter of 1 July 2005 from Ambassador Lenarčič, Chairman of the OSCE Permanent Council, to Ambassador Strohal.

ticularly relevant, and necessary, to address issues arising from the emergence of new voting technologies.

A. TRANSPARENCY

Transparency of the election process is fundamental to democratic elections. It is the people's right to know that an electoral process honestly respects their will, and transparency is the means whereby this right should be fully assured. A second core element of transparency is the right of the electoral competitors to seek political office. Transparency provides the basis for electoral competitors to ensure that their right is respected, and the basis to seek redress if it is abridged.

A possible additional commitment on transparency should make clear that transparency applies to all elements of the electoral process, including issues arising from the use of new technologies in elections. Issues related to voting technology are increasingly important, as illustrated by the OSCE 2005 Supplementary Human Dimension Meeting on "Challenges of Election Technologies and Procedures" and Recommendation Rec (2004) 11 by the Committee of Ministers of the Council of Europe on e-voting. As noted in the Supplementary Human Dimension Meeting, the concern exists that there is "a real or perceived lack of transparency" with new voting technologies.

Voters must be sure that the secrecy of casting their vote, and the accuracy of recording their vote, is not compromised generally, as well as by the introduction of new voting methods. Therefore, the decision to introduce new voting technologies must be fully transparent, and preceded by a broad discussion and public hearings. The actual implementation of such election technologies should be equally transparent, in accordance with strict technical standards, which can ensure broad public confidence in the election results.

Ultimately, any new voting technology must be perceived by voters as, and in fact be, transparent, verifiable, accountable, reliable, secure, and provide for a possible manual recount of the votes. Voting systems should go through rigorous examination by independent testing laboratories to guarantee that they do indeed meet these standards. Procedures should be in place to ensure that software cannot be changed after certification, and that it can be verified before and after an election. The codes used in electronic voting equipment must be publicly accessible, at least to the competent electoral authorities.

Vendors or manufacturers of election equipment should not be engaged in politics and should be prohibited from making contributions to political parties or individual campaign funds. Further, any aspects of the election process that are carried out by the private sector should be fully supervised by governmental / electoral authorities, and ultimate responsibility for the integrity of the election process should rest strictly with the authorities.

The issue of technology in elections could be addressed in an additional commitment on transparency, and provide that *electronic voting and any new voting technology should permit verification by domestic stakeholders, access for (international and domestic) observers and must be carefully designed and carried out in order to preserve ballot secrecy and accountability, while safeguarding against fraud and undue influence on a voter. Any new voting tech-*

nology must be perceived by voters as, and in fact be, transparent, verifiable, accountable, reliable, secure, and provide for a recount of the votes.

This is also an issue of accountability and any commitment addressing new voting technologies could also require participating States to *establish a clear division of responsibilities between vendors, certification agencies and election administrators to fully ensure transparency, accountability and an effective response in case of technological malfunction or failure.*

Proceedings on complaints and appeals for violations of electoral rights, including within the election administration and in the courts, should be transparent. The legal framework should provide a clear and understandable complaint and appeals process that defines the role and jurisdiction of each level of election commission and court. Procedures for filing and deciding cases should be simple and accessible. Effective remedies for violation of rights must be readily available. Hearings and proceedings on complaints and appeals must be transparent and open to the public and observers. Decisions on complaints and appeals should be written and provide an explanation of the supporting law and facts. A possible additional commitment on transparency could require participating States to *ensure that the law provides a simple and clearly defined process, including public hearings, for considering and resolving electoral complaints and appeals in a fully transparent and effective manner, within reasonable time limits established by law.*

Further, an additional commitment on transparency could address the role of money in political campaigns and provide for regulation of campaign contributions and expenditures. An additional commitment on transparency could require that *campaign finance be transparent, requiring full and timely disclosure, before and after elections, of sources and amounts of financial contributions and the types and amounts of campaign expenditures.*

Election observation directly contributes to transparency and public confidence (See public confidence below).

B. ACCOUNTABILITY

Accountability constitutes a fundamental principle of democratic governance. This is particularly relevant in the electoral process, where it also serves as a counterweight to the potential advantages of incumbency. An additional commitment on accountability, therefore, should recognize that a key element of the commitment is the requirement that all organs and officers of State authority and administration, including among others election administration, police, prosecutors and the judiciary, are accountable for their actions and inactions that affect the achievement of democratic elections.

Accountability therefore must extend beyond the primary bodies of election administration. The administration of democratic elections requires a range of State institutions, at all levels of government, to conduct electoral-related activities. This includes institutions at the regional and local levels and not just the national level. Thus, the word “State” must be understood to include regional and local institutions as well.

Certain minimum conditions and legal guarantees for candidates and the electorate must be in place as a basis for democratic elections. Parties and candidates must be able to freely

present their views to voters. There must also be an effective means of redress against administrative decisions and effective remedies against violations of human rights, including electoral-related rights. These principles establish a strong basis for accountability in the electoral arena, including accountability of election authorities concerning their administrative actions.

An additional commitment on accountability could therefore require that *election authorities and all other State authorities, bodies and officials must act at all times in a politically impartial manner, and state resources must not be used for the electoral advantage of any political contestant.*

Another important area of accountability involves the State and public media (State media). State media has the responsibility to provide balanced and impartial information to the electorate, including information on the election process and not just coverage of candidates and political parties. There must be complete neutrality on the part of State media. Although the State media must remain neutral, it must be proactive in providing objective, balanced, and informative material to the public. An additional commitment on accountability could require *the State media to be equitable, balanced, objective, impartial, and informative in its overall coverage, including the content, of the election process.*

Accountability must also address the requirement of providing effective guarantees for candidates and voters. Universal and equal suffrage is a fundamental human right, which can be facilitated and safeguarded through an accountable electoral process. Accountability requires all necessary measures and guarantees for universal and equal suffrage, including accurate voter registration for eligible individuals.

However, social, cultural, physical conditions or other circumstances can make it difficult or de facto impossible for some segments of society to meaningfully exercise this basic human right. Thus, it is necessary to take further measures in order for this right to be fully realized in society. It is appropriate to ensure, in a pro-active and non-discriminatory manner, that universal and equal suffrage for eligible individuals includes: women; minorities; disabled persons; internally displaced persons, as well as other citizens that may be temporarily abroad; military personnel including conscripts; and other groups that may be vulnerable to disenfranchisement or coercion.

The rights of candidates must also be protected. Participation in elections cannot be limited to the right to vote and must include a meaningful opportunity to be elected to public office. This obviously prohibits legal discrimination. However, often legal provisions that are non-discriminatory on their face value, result in *de facto* discrimination in their application. The primary manner in which this may be accomplished is through administrative procedures that are designed or applied in a manner to prevent a candidate's registration or the registration of a political party. All unnecessary obstacles to registration must be eliminated in order to ensure that candidate and political party rights remain paramount over administrative procedure. The State should be held accountable for protecting the rights of candidates and political parties. Further, any limitation of voting or candidate rights must be proportional to the offence or mental incapacitation as determined by a court.

Accountability requires prosecution of persons who have committed electoral offenses. Failure to prosecute offenses encourages disregard of electoral rights. Prosecutorial accountability is crucial to protecting the rights of candidates and voters and ensuring that elections are administered fairly and in a non-discriminatory manner. Police accountability to act impartially toward all political contestants must include acting affirmatively to ensure that electoral-related rights are protected and promoted without discrimination.

An additional commitment on accountability could provide that, should there be a violation of the law, *an offender must be held legally accountable for the violation and sanctions imposed according to the law. Legislation must provide for sanctions for violation of electoral rights and law and be clear as to what conduct constitutes a violation. Punishment must be proportional to the offence.* It is important that the law provide deterrents to protect electoral rights, and persons guilty of unlawful actions or omissions, should bear responsibility in accordance with law. In order for this to be realized, *the law must clearly designate which State authorities have responsibility to the full and timely investigation of election violations in order to hold perpetrators accountable.*

C. PUBLIC CONFIDENCE

Public confidence is one of the fundamental requirements of a democratic society. There are many factors that can influence public confidence in elections. These factors encompass all aspects of the election process, beginning with the choice of the election system¹³, drafting of legislation, guaranteeing the rights of voters and candidates to receive and impart information, and ensuring full participation in elections without discrimination.

In order for citizens to have broad public confidence that government is actively pursuing a policy that achieves these goals and not being complacent in the face of unexecuted legal provisions, participating States *should ensure that all State authorities, including regional and local as well as national authorities, demonstrate the necessary political will to conduct competitive elections and guarantee both voter and candidate rights.* Participating States should be prepared to deliver a democratic process conducted in accordance with OSCE commitments and other international standards. Participating States should also take necessary actions to address recommendations made by the OSCE/ODIHR to improve the framework for democratic elections. Public confidence is enhanced when citizens are assured that the State is actively trying to improve election processes and displays a demonstrated will to realize democratic elections.

It is important for a State to be committed to an open and transparent legislative process when choosing an electoral system and rules for conducting elections. Legislation should be formulated and adopted at the end of a public procedure. It is important that different views and public opinions are considered when enacting electoral legislation. An additional commitment to enhance public confidence could recognize that *comprehensive and inclusive public consultations should be held, with consideration to broad views and opinions, when deciding important issues such as the choice of election system and election-related legislation.* It is important that these consultations be timely, inclusive and devote adequate time to discussion of key issues addressed by the election legislation.

¹³ The rules that transform votes cast for parties and candidates into seats.

It is also just as important to inform and educate the public, as it is to listen to the public. Since 1975, it has been fundamental in the OSCE that human rights begin with an empowerment element based on the “right to know your right”.¹⁴ An additional commitment on public confidence could recognize that *comprehensive and timely voter information and education is a primary responsibility of the public authorities to ensure participation and full regard for voting rights for all citizens.*

A consistent point reflected in numerous OSCE/ODIHR reports is the important role that election administration bodies have in creating public confidence in the election process. Elections should be administered by persons who: represent various political interests and segments of society; are capable of acting in a professional, independent and impartial manner; and are knowledgeable (or willing and able to acquire the necessary knowledge) in election administration. Consistent with these fundamental concepts, an additional commitment on public confidence could require that *the bodies responsible for the administration of elections are composed of respected and qualified individuals who are appointed according to law, enjoy broad public trust and perform their duties in a professional, impartial and accountable manner.*

Election observation directly contributes to public confidence. It is important that there be public confidence in the entire election process and not merely that the votes have been counted and reported accurately. Observers, both domestic (partisan and non-partisan) and international (from any other participating State and any appropriate private institution and organization) play an instrumental role in ensuring that relevant information on election processes are made public.

An additional commitment on public confidence could require that participating States *guarantee full and unimpeded access to all stages of the election process to domestic observers (both partisan and non-partisan) and international election observers.* This access should extend beyond observation of national elections. As an additional commitment on observation to enhance public confidence, participating States could *invite observers from any other OSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of all electoral proceedings, including local elections and referenda, to the extent permitted by law.*

Public confidence in elections can be enhanced if positive efforts are made to include civil society and voters in the development of public policy issues related to the participation of citizens in democratic elections. These efforts can include outreach to segments of society that have been under-represented, or face obstacles to full participation in political processes, particularly women and minorities. An additional commitment on public confidence could require member States to *encourage and facilitate the active participation of women, as well as persons belonging to minorities, in public life, and to that end, in the election process.*

14 *Op. cit.*, note 2. The media can also play an important role in enhancing public confidence by providing relevant information to voters concerning elections.



Office for Democratic Institutions and Human Rights

631/05

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) presents its compliments to the Delegations of the OSCE participating States and has the honour to request Delegations to provide information regarding the legislation and other pertinent regulations, with regard to access of representatives of other participating States, international organisations as well as domestic partisan and non-partisan groups wishing to observe the electoral process. The responses requested from participating States should include information on the modalities of invitation, accreditation, and the rules for access to polling stations or other premises relevant to the conduct of elections, to election-related materials, and to all participants in the electoral process including the authorities.

Given the increased interest among participating States in following the implementation of this commitment, the OSCE/ODIHR stands ready to review pertinent information and make it available to participating States as well as the general public.

The OSCE/ODIHR takes this opportunity to state its willingness to work constructively and comprehensively with all participating States, with the aim of assisting participating States and to implement their OSCE commitments. While the commitment to invite observers to an election is an important step in enhancing the transparency and credibility of an electoral process, the full range of commitments must also be taken into account in this respect.

The OSCE/ODIHR avails itself of the opportunity to renew to the Delegations of the OSCE participating States the assurances of its highest consideration.

Warsaw, 16 November 2005



To the Delegations of the
OSCE participating States
Vienna



Office for Democratic Institutions and Human Rights

62/2006

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) presents its compliments to the Delegations of the OSCE participating States and has the honour to refer to Ministerial Council Decision No. 17/05 in which the ODIHR was tasked to *submit, for discussion, to the next Ministerial Council, a report on:*

- Implementation of existing commitments,
- Possible supplementary commitments,
- Ways of strengthening and furthering its election-related activities,
- Improving the effectiveness of its assistance to participating States, taking into account and answering questions put by participating States and in close consultation with them.

In preparing this report, and to facilitate the consultative process, the ODIHR encourages participating States in a first step to submit, in writing, questions relating to the above four issues. In order to allow for timely preparations of the report for the 2006 Ministerial Council in Brussels, participating States are requested to provide such questions not later than 10 April 2006. The questions received will provide a basis for subsequent informal consultations with participating States throughout the year. The ODIHR will also make use of the regular Human Dimension meetings in 2006, in particular the Human Dimension Implementation Meeting, as well as other occasions for formal consultation with governmental and civil society representatives from all participating States.

The Office for Democratic Institutions and Human Rights avails itself of this opportunity to renew to the Delegations of the OSCE participating States the assurances of its highest consideration.

Warsaw, 2 November 2006



To the
Permanent Delegations
of OSCE participating States



Office for Democratic Institutions and Human Rights

257/06

Note Verbale

The OSCE Office for Democratic Institutions and Human Rights presents its compliments to the Delegations of the OSCE participating States and, referring to its Note Verbale 62/06 of 2 February 2006 (ODIHR.GAL/6/06), thanks the participating States for their numerous and pertinent questions, demonstrating the interest of States for the ODIHR, and the human dimension as a core of the OSCE's purpose.

The questions received so far cover a multitude of issues, ranging from some technical and operational aspects of election observation missions and of other election-related activities to broader questions, such as the state of implementation of HD commitments, the adequacy of the OSCE's respective monitoring and review mechanisms, including the mandated HD meetings, the relationship of the ODIHR to other parts of the Organization as well as to other Organizations, and the timeliness of possible new commitments to be undertaken by the OSCE community, in particular in order to make the implementation of earlier commitments more effective.

The ODIHR is grateful for this strong interest and will take into account and answer questions in preparing the report to the Ministerial Council according to MC Dec 17/2. In order to maximize the transparency and inclusiveness of the process, the ODIHR will proceed to consult with all participating States over the coming months, in particular in direct contact with Delegations, and organize consultations with all Delegations at the appropriate time.

In order to clarify a number of points arising from the questions received, and in preparing for consultations, the ODIHR would like to raise some questions to participating States. Delegations are requested to kindly provide answers, if they so wish, if possible within four weeks. These questions are annexed to this Note.

The OSCE Office for Democratic Institutions and Human Rights avails itself of this opportunity to renew to the Delegations of the OSCE participating States the assurances of its highest consideration.

Warsaw, 30 May 2006

To the Delegations
of the OSCE participating States
Vienna



1.

Given that the participating States have taken on the duty to implement all human dimension commitments in good faith, what are seen as the most effective mechanisms put in place by participating States to fulfil their commitments undertaken in the OSCE framework? What are, specifically, mechanisms to ensure maximum access of the public to decisions taken by the OSCE?

How can the participating States best comply with their responsibility of holding each other accountable on human dimension standards? Would the introduction of mandatory written reports by the participating States on implementation of OSCE commitments contribute to a fuller implementation of such responsibilities?

More specifically, through which measures could a systematic follow-up to commitments and undertakings contained in OSCE documents of broad and fundamental nature such as Action Plans be ensured, both at the national and at the OSCE level? Should methodologies be developed in this regard?

How do the participating States see their implementation of the specific commitments to collect and maintain reliable information and statistics about hate crimes and to report periodically to the ODIHR?

2.

Should participating States commit themselves to more explicit obligations on critical areas in the human dimension, where shortcomings are persistent and even backwards trends have been noted? Which substantive areas are seen most relevant in this regard?

3.

The ODIHR has been mandated to observe elections and report on them in order to assist States to better implement their commitments on democratic elections. Through which measure could a more systematic follow-up to ODIHR observation recommendations be achieved? With regard to technical aspects of observation and follow-up assistance, should a questionnaire be developed for detailed and systematic participating States' input?

How are the ODIHR, and the participating States as a whole, to act in cases of persistent and open denial of the right to genuine democratic elections?

Some participating States have expressed an interest in broadening election-related activities, in particular with regard to observations in a larger number of participating States.

What would be seen as essential elements for such an effort, especially with regard to the provision of necessary additional human and financial resources? Would participating States be ready to provide a commensurate increase in the secondment of observers?

4.

In which concrete areas do you see technical assistance by ODIHR as most crucial and useful? Given that the political will is a crucial factor for full implementation of the OSCE commitments, how can technical assistance be provided, and reported on, by the ODIHR in order to ensure maximum effectiveness of the ODIHR's assistance?

ANNEX 5 *Background Note to the Informal Briefing for OSCE participating States, 22 September 2006, Vienna*

Background

The 2005 Ljubljana Ministerial Council adopted Decision MC.DEC/17/05 on 6 December calling for '*Strengthening the Effectiveness of the OSCE*'. Its para. 1 tasks the Permanent Council with continuing work on the basis of the report of the Panel of Eminent Persons and the outcome of the High-Level Consultations and reporting to the Ministerial Council in 2006 on 11 issues within the reform agenda. Para. 2 tasks the ODIHR to submit a report for discussion to the next Ministerial Council.

As set out in the preamble to MC Dec. 17/05, this tasking is also to be seen against the background of the final report of the Panel of Eminent Persons which was presented to the Permanent Council on 30 June 2005. This report made a number of suggestions on human dimension issues; it also stated, i.a., that the different Institutions should retain their ability to make independent evaluations and take programmatic initiatives in accordance with their respective mandates.

In order to respond to the tasking contained in MC Dec. 17/05 para.2, in particular to take into account and answer questions put by participating States and in close consultation with them, the ODIHR has so far requested, by way of NV 62/2006, participating States to provide questions related to these four areas. A large number of responses was received by the ODIHR; Amb. Strohal subsequently delivered an informal briefing on 7 July 2006 in Vienna.

In order to clarify a number of points arising with regard to the questions received by ODIHR and also with a view to preparing for consultations, a number of key issues were further outlined by ODIHR in NV 257/2006. In order to continue consultations on the matter delegations of participating States were invited to an informal briefing on 22 September.

The HDIM, taking place from 2-13 October in Warsaw, will also offer an opportunity for further discussions, in particular on the implementation of commitments entered into by all 56 participating States and to enhance compliance with these commitments.

Synopsis of main issues and suggestions received

In order to solicit further contributions and facilitate consultations in accordance with MC decision 17/05, the following synopsis compiles the main issues and suggestions that have so far emerged from the first informal briefing on 7 July 2006 and the written responses to NVs 62/2006 and 257/2006 provided by a large number of the participating States with regard to the four substantive areas enumerated therein. It also updates the overview that was distributed on 3 July 2006, in preparation of the first informal briefing. This list is intended to guide further work on the ODIHR report for the Ministerial Council in Brussels, without being seen as either exhaustive or precluding further additions or specifications. This synopsis shows the cross-cutting nature of the key issues and suggestions the ODIHR received and the categorization within the four substantive headings is for convenience only and does not imply a prioritisation of certain issues.

I. Implementation of existing commitments

A. The Commitment to Implement and general trends in implementation

- The extent of implementation of the existing human dimension (HD) commitments in participating States (pS);
- Identification/assessment of areas in which implementation of existing HD commitments is *improving or challenging/deteriorating*;
- Ways to (further) identify these challenges and improvements with regard to implementation of existing HD commitments;
- Causes for insufficient implementation by participating States;
- Value of additional reaffirmation of existing commitments;
- Ways to ensure synergies with other dimensions, cross-dimensionality of many HD issues
- Overall adequacy of the OSCE's respective monitoring and review mechanisms
- Effective mechanisms for pS to abide by their commitments undertaken in the OSCE framework
 - › Improve use of existing structures: enhance combination of assistance by OSCE bodies and of review process;
 - › Further adherence to existing international monitoring systems;
 - › Focus on independent, impartial monitoring of HDC implementation;
 - › Need for enhanced use of peer review for more systematic review of implementation: Role of PC (ref Budapest 1994 Dec. VIII. Human Dimension p.5);
- Ways of informing pS on the state of play of implementation of existing HD commitments; Ways to improve systematic monitoring and reporting on implementation:
 - › Periodic comprehensive review: carried out by mixed group of pS every x-number of years of the implementation of *all* HD commitments;
 - › Periodic review: carried out by mixed group of pS or special Rapporteurs on *selection* of HD themes;
 - › Assistance of ODIHR for preparation of review;
 - › Peer review should be clearly linked with HDIMs: national reporting on implementation of commitments at HDIMs;
 - › Regular/special PCs for pS to report and debate on activities;
 - › Targeted visits to address (lack of) implementation of commitments;
 - › National Reports shared with pS and NGOs;
- Role of the participating States in improving and ensuring the implementation of existing HD commitments:

- › Development of national mechanisms: National Action Plan for Human Rights Institutions and Ombudspersons;
- › Improve attention for implementation at bilateral contacts;
- › Encourage pS to report on a voluntary basis on the state of implementation while avoiding to take away resources from implementation towards reporting;
- › More extensive use of relevant material and reports in other forums to avoid duplication.
- Role of civil society in contributing and supporting the implementation of existing commitments in the HD: NGO participation in review procedures, in relevant Working Groups and (special) PC's;
- Implementation of the Action Plans adopted over the last few years by the pS and the development of further measures for systematic follow up:
 - › Create specific mechanism for implementation of Action Plans;
 - › Annual review of single-issue Action Plans at Ministerial Council and/or PC;
 - › Nomination of national contact point for implementation;
 - › Training representatives of national contact points on collection of information;
 - › Development of state-specific recommendations by experts or OSCE;
 - › Development of state-specific projects based on a systematic reporting process;
- Ways to ensure maximum access of the public to decisions taken by the OSCE:
 - › Encourage unimpeded dissemination of information about HD commitments by OSCE and its pS;
 - › Development of PR strategy for Institutions and FOs;
 - › Development of ODIHR policy on correction of factual errors in reporting;
 - › Government websites to be linked with OSCE sites: guarantee full access to all citizens;
 - › Ensure freedom for media to report on OSCE topics in all pS;
 - › Responsibility of Ministers and spokespersons to inform public on OSCE related issues;
 - › Greater access of NGOs to OSCE events, incl. PC and Human Dimension Meetings;
 - › Information through education.
 - › Assuring translation of documents and manuals in 6 OSCE languages;

B. Specific commitments

- Implementation of commitments on the prevention of torture or other cruel, inhuman or degrading treatment or punishment, as well as in the abolition of the death penalty;
- Commitments in the field of racism, xenophobia, anti-Semitism and discrimination;
- Commitment to collect and maintain reliable information and statistics about hate crimes and to report periodically to the ODIHR:
 - › Publish information and statistics on an annual basis;
 - › Establishment of National Point of Contact for Hate Crimes;
 - › Close coordination with other IOs to demonstrate objectivity and assure comparability and complementarity;

C. The Role of Institutions and OSCE instruments

- Role of the ODIHR, other OSCE Institutions, OSCE FOs and other OSCE instruments in monitoring, reporting, contributing and supporting the implementation of existing commitments in the HD
 - › Further enhance monitoring capacity of HD commitments by Missions and Institutions;

- › Necessity of bodies with clear, autonomous mandates to monitor implementation;
- › Role of Chairman-in-Office to inform (the PC) on (non-) implementation.

II. Possible supplementary commitments

- Identification of areas in which supplementary commitments are recommended/ needed, i.a., to strengthen democratic development in the OSCE area;
- Need for implementation of existing commitments prevails over the need for more explicit and new commitments/mandates; as a corollary, political will to implement existing commitments prevails over the need for more explicit and new commitments/mandates;
- Role of the ODIHR with regard to suggesting or drafting new commitments;
- Question of a need for a reaffirmation of commitments;
- Question of specific commitments on the implementation of existing commitments'
- ODIHR asked for opinion whether there is a need for new and/or reinforced commitments to address new challenges and enhance the implementation of existing commitments in the HD:
 - › Torture prevention
 - › Migration,
 - › Combating discrimination against Christians;
 - › Combating discrimination in the field of sexual orientation,
 - › Human rights defenders,
 - › HR and the Fight against Terrorism;
- Question of a “Copenhagen plus” document as developed over a number of HD events and expert consultations and presented in an ODIHR Explanatory Note on possible additional commitments on democratic elections of October 2005:
 - › Transparency and new voting methods
 - › Accountability
 - › Public Confidence

III. Strengthening and furthering election-related activities

A. *The debate about the ODIHR's election related activities*

- Ways to enhance and ensure transparency, objectivity and professionalism, while guaranteeing credibility and autonomy;
- Ways to ensure impartiality and political as well as operational independence of ODIHR's election-related activities;
- Ways to define and ensure equal treatment in election observation and follow-up activities;
- Accountability on election work to pS;
- Best practices of pS in dealing with civil society, domestic and international media during election periods.

B. *The ODIHR's mandate and methodology*

- Commitment to invite the ODIHR;
- Identification of possibilities to further strengthen observation methodology;
- Implementation of new challenges in methodology;
- Need for periodic briefings on methodology (esp. on statistical process);
- Observation Handbook and periodic updating, possible role of PC;

- Methodology of processing and analysing observation data;
- Criteria to send a needs assessment mission;
- Criteria upon which decision to deploy Observation Mission is based; Size and nature of observation missions should be commensurate to needs of pS concerned;
- Criteria to decide on scale and duration of EOM (EOM, EAM, LEOM): ensuring necessary flexibility;
- Composition and geographical equitability of EOM;
- Modalities for recruitment process for EOM (mission head and core team);
- Selection process on the basis of open roster for mission heads and experts;
- Budgetary and financial framework;
- Communication of planned observations in the Programme Outline and budget submission;
- Key constraints faced by ODIHR when deploying and conducting EOMs; ways to address/prevent these constraints;
- Observing all elections within the OSCE area: Added value of conduct of election observation should be balanced against cost (financial and human resources implication);
- Best practices with regard to preparation, conduct of election observation.

C. Geographical Composition of EOM's and working language

- Recruitment process; grounds for rejecting nominated election observers;
- Ways to stimulate 'geographical balance':
 - › Need for all pS to send observers
 - › Use of the diversification Fund and possibilities for its enhancement;
- Level of qualification/professionalism of observers; room for improvement;
- Training of observers (unified, regional and national training programmes);
- Deployment, briefing, debriefing of observers: duration, timing, content, evaluation;
- Ways to ensure compliance with the Code of Conduct by all EOM members; procedure following breach of the Code;
- Language use during EOM;
- pS whose legislation does not foresee the presence of observers.

D. Reporting and recommendations

- Ensuring and reinforcing objectivity and transparency of reporting;
- Set-up of election observation forms and processing the findings;
- Inclusion and translation of statistical findings in the reporting;
- Question of developing a grading system for elections;
- Preliminary statement: co-ordination, compilation of information and timing of release;
- Timing of press conference;
- Final report: co-ordination, compilation of information, names and functions of core team annexed, timing of release and translation of final report (6 OSCE languages);
- Option of a 'collective body' composed of representatives from pS to co-ordinate reporting with core team.

E. Follow-up and post-election dialogue

- Impact of the reports and recommendations prepared;
- Current follow-up mechanism; challenges to it and post-election dialogue;
- Role of OSCE field missions and HDIM in follow-up;
- Improving follow-up: annual follow-up missions, identification of best practices, briefing/discussion/report at/for PC, implementation of recommendations of the Panel of Eminent Persons;

- Role of pS in follow-up to recommendations:
 - › Development of co-operative country-specific feed-back mechanism to post-election follow-up: OSCE/ODIHR Follow-up Assessment Missions (ref. model of existing Need Assessments Missions);
 - › pS to address recommendations in bilateral assistance programmes;
 - › Inclusion of recommendations in Action Plans of OSCE field presences.
- Improving role of the PC in follow-up to recommendations:
 - › Increased focus on pS that fail to meet commitments;
 - › Role of CiO to inform the PC on serious cases of non-implementation;
 - › Systematic peer review needs to be strengthened; possibly on basis of ODIHR questionnaires;
 - › Review of implementation of EOM/EAM reports in special PCs; x-months after publication final election observation report;
- Use HDIM: specific time-slot dedicated to address shortcomings and successes to follow-up (side-event);
- Enhanced use of existing HD mechanisms (Moscow Mechanism);
- Connection between ODIHR elections related activities and the tasking and overall priorities of the OSCE;
- Increased focus on period between elections to assist pS improve legislation/procedures;
- ODIHR assistance with regard to review of electoral legislation and framework;
- Support for enhancing professionalism of electoral administrations, political framework and cooperation at the national level.

F. Co-operation and co-ordination with partners

- Within OSCE, with IOs, parliamentary bodies, domestic observer groups and other relevant actors in election observation;
- Co-operation and co-ordination with OSCE PA (1997 co-operation agreement) and with the CIS;
- Set-up of IEOM;
- Commonalities and differences in ODIHR observation activities and those of other international observation bodies;
- Guidelines for co-operation with other IOs;
- Involvement of the Mediterranean and Asian partners for Cooperation.

G. Areas requiring specific attention: Addressing new challenges

- Absentee voting, early voting, voting for disabled persons;
- Campaign finance
- Electronic voting technologies;

IV. Improving the effectiveness of the ODIHR's assistance to pS

A. The ODIHR's mandate to assist pS

- Relationship between ODIHR activities and OSCE priorities and commitments;
- Ways to preserve the political and operational independence of the ODIHR;
- ODIHR's accountability to pS;
- Implementation of the recommendations of the Panel of Eminent Persons;
- Role of CiO in encouraging pS to seek assistance ODIHR assistance;
- Role of civil society in ODIHR's assistance to participating States;

- Focus on assistance that is tailored to specific needs of pS;
- Single location for all Institutions;

B. Effective Human Dimension Meetings

- Ways to enhance the role of the mandated Human Dimension Events and its participation;
- Ways to enhance the effectiveness of the HDIM, i.a. by strengthening outcomes and follow-up;
- Improving coherence of OSCE activities in HD.

C. Technical Assistance: The new approach to programming

- Key elements of effective technical assistance;
- Main areas of ODIHR's technical assistance to participating states; establishment of basic list of standard offers of technical and administrative assistance;
- Financial and budgetary framework/process.
- Evaluation procedures;
- Involvement of civil society;
- Consultation mechanism on legislation: legislative support unit and database;
- Establishment of Human Dimension Committee (ref Panel of Eminent Persons);
- Ways to mainstream gender in activities;
- Ways to assist pS in implementation of Roma and Sinti Action Plan;
- Activities of ODIHR to promote human rights in the armed forces;
- Victims of Trafficking in Human Beings and the access to justice and rights;
- Enhancing the holistic approach with regard to TND;
- Fighting prejudice, intolerance and discrimination: priority setting + mechanism to collect best practices of pS;
- 3 Personal Representatives on Tolerance and Discrimination;
- Current and future assistance of ODIHR to address the specific needs of indigenous populations.

D. The ODIHR within the OSCE framework

- Co-operation within the OSCE structures to assist pS in implementing commitments: Secretariat, other institutions, field missions, PC, Partner States;
- Role of special/personal representative(s) and their future;

E. Effective Cooperation with external Partners

- Co-operation with other IOs;
- Co-operation with human rights bodies;
- Co-operation with Human Rights defenders and NHRI's
- Co-operation with civil society: political parties, NGOs, professional associations, academic institutes.

ANNEX 6: OSCE/ODIHR Election Observation and Assessment Missions, 1996-2006 (November)

Election Observation Missions	Total LTOs	Total STOs
Albania 1996 , Parliamentary Elections (2 rounds) Romania 1996 , Local Elections Russian Federation 1996 , Presidential Election (2 rounds) Bosnia and Herzegovina 1996 , Municipal Elections Armenia 1996 , Presidential Election Lithuania 1996 , Parliamentary Elections (2 rounds) Bulgaria 1996 , (2 rounds) Romania 1996 , Parliamentary and Presidential (2 rounds) The former Yugoslav Republic of Macedonia 1996 , Local Elections Moldova 1996 , Presidential Election (2 rounds)	35	1,477
Croatia 1997 , Local Elections Bulgaria 1997 , Parliamentary Elections Croatia 1997 , Presidential Election Albania 1997 , Parliamentary Elections Bosnia and Herzegovina 1997 , Municipal Elections Serbia/FRY 1997 , Presidential/Parliamentary Elections Montenegro/FRY 1997 , Presidential Elections Republika Srpska/BiH 1997 , Assembly Elections	130	1,684
Armenia 1998 , Presidential Election Moldova 1998 , Parliamentary Elections Ukraine 1998 , Parliamentary Elections Hungary 1998 , Parliamentary Elections Montenegro/FRY 1998 , Parliamentary Elections Czech Republic 1998 , Parliamentary Elections Bosnia and Herzegovina 1998 , General Elections Slovakia 1998 , Parliamentary Elections Azerbaijan 1998 , Presidential Election The former Yugoslav Republic of Macedonia 1998 , Parliamentary Elections Albania 1998 , Constitutional Referendum	110	2,077
Kazakhstan 1999 , Presidential Election Estonia 1999 , Parliamentary Elections Slovakia 1999 , Presidential Election Armenia 1999 , Parliamentary Elections Kazakhstan 1999 , Parliamentary Elections The former Yugoslav Republic of Macedonia 1998 , Presidential Election (re-run) Ukraine 1999 , Presidential Election Georgia 1999 , Parliamentary Elections Russian Federation 1999 , Parliamentary Elections	96	1,811

Croatia 2000 , Parliamentary Elections Croatia 2000 , Presidential Election (2 rounds) Kyrgyzstan 2000 , Parliamentary Elections (2 rounds) Tajikistan 2000 , Parliamentary Elections Russian Federation 2000 , Presidential Election Georgia 2000 , Presidential Election Montenegro/FRY 2000 , Municipal Elections The former Yugoslav Republic of Macedonia 2000 , Municipal Elections (2 rounds) Albania 2000 , Municipal Elections (2 rounds) Kyrgyzstan 2000 , Presidential Election Azerbaijan 2000 , Parliamentary Elections (2 rounds) Romania 2000 , Presidential/Parliamentary Serbia/FRY 2000 , Parliamentary Elections	153	2,994
Moldova 2001 , Parliamentary Elections Montenegro/FRY 2001 , Parliamentary Elections Croatia 2001 , Local Elections Bulgaria 2001 , Parliamentary Elections Albania 2001 , Parliamentary Elections (2 rounds, repeat voting) Belarus 2001 , Presidential Elections	61	1,303
Ukraine 2002 , Parliamentary Elections Hungary 2002 , Parliamentary Elections Republic of Montenegro 2002 , Municipal Elections Czech Republic 2002 , Parliamentary Elections Republic of Serbia 2002 , Municipal By-elections The former Yugoslav Republic of Macedonia 2002 , Parliamentary Elections Slovakia 2002 , Parliamentary Elections Serbia 2002 , Presidential Election (2 rounds) Latvia 2002 , Parliamentary Elections Bosnia and Herzegovina 2002 , General Elections Montenegro 2002 , Parliamentary Elections Serbia 2002 , Repeat Presidential Election Montenegro 2002 , Presidential Election	152	2,549
Montenegro 2003 , Presidential Election, Repeat Voting Armenia 2003 , Presidential Election (2 rounds) Montenegro 2003 , Presidential Election Armenia 2003 , Parliamentary Elections Moldova 2003 , Local Elections (2 rounds) Albania 2003 , Local Government Elections Azerbaijan 2003 , Presidential Election Georgia 2003 , Parliamentary Elections Serbia 2003 , Presidential Election Croatia 2003 , Parliamentary Elections Russian Federation 2003 , Parliamentary Elections Serbia 2003 , Parliamentary Elections	192	3,033

Georgia 2004 , Presidential Election Russian Federation 2004 , Presidential Election Georgia 2004 , Repeat Parliamentary Elections The former Yugoslav Republic of Macedonia 2004 , Early Presidential Election (2 rounds) Serbia 2004 , Presidential Election Kazakhstan 2004 , Parliamentary Elections Bosnia and Herzegovina 2004 , Municipal Elections Belarus 2004 , Parliamentary Elections Ukraine 2004 , Presidential Election (2 rounds) United States 2004 , Elections The former Yugoslav Republic of Macedonia 2004 , Referendum Ukraine 2004 , Presidential Election (second round re-run) Uzbekistan 2004 , Parliamentary Elections	333	5,397
Tajikistan 2005 , Parliamentary Elections Kyrgyzstan 2005 , Parliamentary Elections (2 rounds) Moldova 2005 , Parliamentary Elections The former Yugoslav Republic of Macedonia 2005 , Municipal Elections (3 rounds) Albania 2005 , Parliamentary Elections Kyrgyzstan 2005 , Presidential Election Azerbaijan 2005 , Parliamentary Elections Kazakhstan 2005 , Presidential Election	183	3,412
Belarus 2006 , Presidential Election Ukraine 2006 , Parliamentary Elections Montenegro 2006 , Referendum on Future Status Azerbaijan 2006 , Repeat Parliamentary Elections The former Yugoslav Republic of Macedonia 2006 , Parliamentary Elections Montenegro 2006 , Parliamentary Elections Bosnia and Herzegovina 2006 , General Elections Georgia 2006 , Municipal Elections Latvia 2006 , Parliamentary Elections Tajikistan 2006 , Presidential Election	210	2,580
Total	1,655	28,317

Election Assessment Missions

Serbia/FRY – Re-run of presidential election (2 rounds), 7 & 21 December 1997

Latvia – Parliamentary elections and national referendum, 3 October 1998

Kazakhstan – Presidential election, 10 January 1999

Uzbekistan – Parliamentary elections, 5 December 1999

Belarus – Parliamentary elections, 15 October 2000

France – Presidential elections (2 rounds), 21 April & 5 May 2002

Turkey – Parliamentary elections, 3 November 2002

United States – General elections, 5 November 2002

Scotland & Wales/UK – Assembly elections, 1 May 2003

Northern Ireland/UK – Assembly elections, 26 November 2003

Spain – Parliamentary elections, 14 March 2004

Slovakia – Presidential election, 3 April 2004

Romania – Presidential and parliamentary elections (2 rounds), 28 November & 12 December 2004

United Kingdom – General elections, 5 May 2005

Canada – Parliamentary elections, 23 January 2006

Italy – Parliamentary elections, 9-10 April 2006

Bulgaria – Presidential elections, 22 October 2006

USA – General (mid-term) elections, 7 November 2006

Netherlands – Parliamentary elections, 22 November 2006

ANNEX 7 *Supplementary Human Dimension Meetings/Seminars*

Supplementary Human Dimension Meetings

Democratization: Strengthening Democracy Through Effective Representation
(2-3 November 2006)

Freedom of the Media: Protection of Journalists and Access to Information (13-14 July 2006)

Human Rights Defenders and National Human Rights Institutions: Legislative, State
and Non-State Aspects (30-31 March 2006)

Role of Defence Lawyers in Guaranteeing a Fair Trial (3-4 November 2005)

Human Rights and the Fight Against Terrorism (14-15 July 2005)

Challenges of Election Technologies and Procedures (21-22 April 2005)

Internally Displaced Persons (4-5 November 2004)

Electoral Standards and Commitments (15-16 July 2004)

Human Rights Education and Training (25-26 March 2004)

Prevention of Torture (6-7 November 2003)

Freedom of Religion or Belief (17-18 July 2003)

Roma and Sinti (10-11 April 2003)

The Role of Community Policing in Building Confidence in Minority Communities
(28-29 October 2002)

Prison Reform (8-9 July 2002)

Preventing and Combating Violence Against Women (18-19 March 2002)

Human Rights: Advocacy and Defenders (22-23 October 2001)

Promoting Tolerance and Non-Discrimination (18-19 June 2001)

Freedom of Expression: New and Existing Challenges (12-13 March 2001)

Migration and Internal Displacement (25 September 2000)

Trafficking in Human Beings (19 June 2000)

Human Rights and Inhuman Treatment or Punishment (27 March 2000)

Roma and Sinti Issues (6 September 1999)

Gender Issues (14-15 June 1999)

Freedom of Religion and Belief (22 March 1999)

Human Dimension Seminars

Upholding the Rule of Law and Due Process in Criminal Justice Systems (10-12 May 2006)

Migration and Integration (11-13 May 2005)

Democratic Institutions and Democratic Governance (12-14 May 2004)

Participation of Women in Public and Economic Life (13-15 May 2003)

Judicial Systems and Human Rights (23-25 April 2002)

Election Processes (29-31 May 2001)

Children and Armed Conflict (23-26 May 2000)

Human Rights: The Role of Field Missions (27-30 April 1999)

Ombudsmen and National Human Rights Protection Institutions (25-28 May 1998)

Promotion of Women's Participation in Society (14-17 October 1997)

Administration and Observation of Elections (8-11 April 1997)

Constitutional, Administrative and Legal Aspects of the Freedom of Religion
(16-19 April 1996)

Rule of Law (28 November-1 December 1995)

Building Blocks for Civic Society: Freedom of Association and NGOs (4-7 April 1995)

Roma in the CSCE Region (20-23 September 1994)

Local Democracy (16-20 May 1994)

Migrant Workers (21-25 March 1994)

Free Media (2-5 November 1993)

Case Studies on National Minorities Issues: Positive Results (24-28 May 1993)

Migration, Including Refugees and Displaced Persons (20-23 April 1993)

Tolerance (16-20 November 1992)

ANNEX 8 *Diversification Fund — Experts and Observers 2001-2006*

	Country	Experts (2001-2002)	LTOs (2001-2006)	STOs (2001-2006)
1	Albania		3	33
2	Armenia		8	28
3	Azerbaijan		1	29
4	Belarus		8	40
5	Bosnia and Herzegovina		4	18
6	Bulgaria		11	40
7	Croatia		8	32
8	Czech Republic		8	64
9	Estonia		0	1
10	Georgia		7	45
11	Hungary		2	28
12	Kazakhstan		2	18
13	Kyrgyzstan		3	22
14	Latvia		0	17
15	Lithuania		5	20
16	Former Yugoslav Republic of Macedonia		3	34
17	Moldova		2	36
18	Montenegro			
19	Uzbekistan		3	13
20	Poland		6	108
21	Romania		10	37
22	Russian Federation	3	7	34
23	Serbia and Montenegro	1	7	35
24	Slovakia		4	39
25	Slovenia		0	6
26	Tajikistan		0	26
27	Turkmenistan		1	4
28	Ukraine		16	32
29	Uzbekistan			
	Total	4	129	839

